

# STATES OF JERSEY

## OFFICIAL REPORT

TUESDAY, 13th MAY 2008

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

## **QUESTIONS**

### **1. Written Questions**

#### **1.1. DEPUTY S.C. FERGUSON OF ST. BRELADE TO MINISTER FOR HOME AFFAIRS REGARDING THE TOWING AWAY OF VEHICLES:**

##### **Question**

Will the Minister give:

- a) the total costs of the towing away of vehicles for 2005, 2006 and 2007 as instructed by the police and on their account, by year,
- b) the total reimbursements payable by owners of those vehicles for the same periods
- c) the amount still outstanding for collection from the owners of those vehicles.
- d) The number of vehicles towed away under police instructions and orders per year for 2005, 2006 and 2007.

##### **Answer**

- a) The total costs of the towing away of vehicles for 2005, 2006 and 2007 as instructed by the police and on their account, by year follows:

<u>2005</u>	£22,405
<u>2006</u>	£27,212
<u>2007</u>	£38,840

- b) The total reimbursements payable by owners of those vehicles for the same periods.

Where a vehicle is involved in a minor traffic accident and the States Police send a recovery vehicle to the scene, the Police are not liable for the cost. The recovery company bills the owner direct.

Vehicles that have been recovered by police after being stolen or sent to DVS for examination are those in respect of which cost recovery has, in the past, not been made from owners. However, following a review of the States of Jersey Police's vehicle recovery policy, it has been identified that current legislation was not being used to its full extent to recover the cost in this category of vehicle recoveries. It was also established that whilst the audit trail under the current system identified and verified each request by police for a vehicle to be recovered, it sometimes did not distinguish the category of recovery and therefore those liable for the cost. As a result, the States of Jersey Police do not have figures available for cost recovery from vehicle owners for the years in question. A new draft police vehicle recovery policy has been developed which will address these issues.

- c) The amount still outstanding for collection from the owners of those vehicles.

Not available for the reasons previously stated.

- d) The number of vehicles towed away under police instructions and orders per year for 2005, 2006 and 2007 follows:

2005 - 373

2006 - 453

2007 – 647

## **1.2 DEPUTY S.S.P.A. POWER OF ST. BRELADE TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING TAXI DRIVERS AND GST:**

### **Question**

Will the Minister advise whether taxi drivers on a Private Hire company plate controlled by a company owing 30 or more plates with a turnover of more than £300,000, will have to levy GST, even though they may or may not own the vehicle they drive and , if so, does the Minister not consider that, given many Public Rank taxi drivers as well as Private Hire taxi drivers are self-employed and will be GST exempt as their turnover will be less than the de minimis £300,000 this could disadvantage company plate drivers?

### **Answer**

The legal requirements to register for GST are the same for taxi drivers as they are for any other business activity – if they make supplies in the course of, or furtherance of, business in Jersey and their taxable turnover exceeds £300,000 per annum - they must register. This applies whether they are “owner drivers” operating as sole proprietors or whether they are structured as a corporate entity. As a result most self-employed taxi drivers will not be required to be registered for GST.

Taxi companies with a taxable turnover in excess of £300,000 p.a., just as any other registered business, will have to account for GST on fares collected but will be able to offset the GST charged on expenditure (vehicles purchase; repairs/servicing and fuel costs). The non registered taxi driver will not have to account for tax on fares but will not be able to recover any GST on their expenditure (and as a result some may apply for a voluntary registration). Since the majority of their operating expenses are likely to suffer GST which they cannot recover unless they are registered (and charge GST), they are likely to have to reflect these costs in fares which match those of the registered taxi driver.

I am aware that the taxi drivers held a meeting in April 2008 and as result some have approached the Income Tax Office with their concerns. Although they came to the table very late I understand the dialogue is ongoing and each application is being dealt with on a case by case basis.

## **1.3 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING CANCER CARE IN JERSEY:**

### **Question**

1. Is the incidence of cancer in Jersey high in comparison to other Channel Islands, European Union (E.U.) countries and the USA per head of population and if so, what is planned to address this situation?

### **Answer**

The overall age-standardized cancer incidence rate for Jersey was 431.3 per 100,000 population in 2003-05. This rate is similar to the overall rate for Guernsey and the South West Region of England and the 25 EU countries. It is higher than for England & Wales and Europe as a whole and lower than overall rates for Scotland, France and USA.

As to specific cancers with relatively high incidence rates in Jersey, lung cancer remains one of the biggest cancer challenges. As well as high local incidence, it also has a high mortality rate. This is the Island's legacy from cheap cigarettes. Head and neck cancer is also relatively high in incidence here – the main risk factors being smoking and drinking. The Health and Social Services Department has been working to reduce tobacco and alcohol consumption on the island to try to prevent some of these cancers. It is envisaged that anti-smoking legislation introduced last year - together with services provided free to help people to stop smoking - will be helping to turn the tide and help reduce cancer incidence in the future.

Melanoma (skin cancer) has a higher incidence than would be expected which is probably related to outdoor lifestyles and a good diagnosis service. Melanoma is a cancer that can be treated if caught in time and causes few deaths. The Medical Officer of Health will be working with the Dermatology Service at the General Hospital towards improving understanding of the pattern of incidence of this cancer in Jersey.

Work is also planned to establish a Jersey Cancer Strategy Group to take forward work initiated in partnership with colleagues at the South West Cancer Intelligence Service (part of the SW Public Health Observatory).

### **Question**

2. What analysis, if any, has been conducted to identify any correlation between levels of cancer in the Island and emissions from Bellozanne Incinerator and the Nuclear Reprocessing Facilities in Northern France, and what measures, if any, are planned for monitoring these areas in the future?

### **Answer**

Modeling of emissions from Bellozanne based on real-time weather data indicates that most of the Island is affected by these emissions. However, epidemiological studies examining the impact of emissions from incinerators on people working at or living near them have not demonstrated a causal relationship to any specific disease. A recent large study carried out in the UK investigated the incidence of cancer near municipal solid waste incinerators and found that the increased incidence of certain cancers (all cancer, stomach and lung) was more likely to be associated with the socio economic factors of the area than the incinerator. Incinerators built since 1996 are subject to tighter regulations on emissions and levels of pollutants from incinerators are now much lower than before.

The Health and Social Services Department already undertakes sampling of local marine and agricultural produce for radioactivity. These results are published in an annual report 'UK Radioactivity in Food in the Environment', which is available on the Health Protection web site. The reports have shown that the levels of radioactivity on and around Jersey are very low.

In the first week of May 2008 our Health Protection Unit, in conjunction with the radiological branch of the HPA in UK have installed a long term monitor for air-borne radiation in St Helier.

### **Question**

3. Is the Minister confident that any leak or incident from Nuclear facilities in France will be made known to the Jersey Authorities under the current monitoring systems, in order to sufficiently protect the population of Jersey?

### **Answer**

There are two parts to this answer.

Firstly, under the World Health Organisation (WHO) International Health Regulations 2005 it is a requirement for Public Health Emergencies of International Concern to be notified to WHO. This follows directly the experiences from the Chernobyl Reactor event in 1986. The WHO will then, through a system of focal points in the international jurisdictions, alert governments to the event/s. An incident at one of the French nuclear facilities would require the French Authorities to notify WHO of the event through this procedure. For Jersey, other UK Crown Dependencies and Overseas Territories the WHO focal point is the UK Health Protection Agency Centre for Infections at Colindale. The contact focal point for the UK with Jersey is Public Health Services of the Health and Social Services Department.

Secondly, the above system is somewhat bureaucratic, given what may be a short time frame for an impact on Jersey. States Ministers and officers have been working with French colleagues in La Manche to improve collaboration on international issues affecting both jurisdictions - particularly Emergency Planning and the development of the nuclear site at Flamanville and the existing facility at La Hague. Senior Officials at La Manche have confirmed that in the event of an incident, Jersey would be notified directly.

### **Question**

4. How closely does Jersey follow National Health Service policies in relation to the funding and availability of new cancer drugs?

### **Answer**

The Health and Social Services Department funds and provides all new cancer drugs which have been approved by the UK / NHS National Institute for Health and Clinical Excellence (NICE), and which can safely be delivered on the Island.

### **Question**

5. What is the annual expenditure for cancer drugs?

### **Answer**

The annual expenditure by the Health and Social Services Department specifically on cancer drugs (as opposed to drugs to treat patients who have cancer) for the last 3 years is approximately as follows: 2005 - £771,504; 2006 - £851,492; 2007 - £1,059,910. This is an overall figure taken from the pharmacy IT system for all issues of drugs classified in BNF Chapter 8 (Malignant Disease and Immunosuppression) excluding sections 8.2.1 (antiproliferative immunosuppressants) 8.2.2 (corticosteroids and other immunosuppressants) and 8.2.4 (other immunomodulating drugs) where the majority of use would be for non cancer treatment. This is the best indicative figure obtainable within the time available. It does not include other drugs which are used in cancer patients (e.g. filgrastim, erythropoietin (EPO), antiemetics etc). These figures include treatments for private patients as well as public. Additionally, this does not include figures for any primary care prescribing by GPs (e.g. anastrozole for breast cancer or bicalutamide for prostate cancer).

### **Question**

6. What is the total estimated spend from private health care on cancer drugs in Jersey each year?

### **Answer**

In order to provide a detailed estimate, the finance staff within the Department would have to compile the data by sorting through all private patient invoices which involve cancer treatments. This will take approximately six months. Perhaps the Deputy would advise me of whether he is sufficiently enquiring on this point so that we can justify deflecting finance staff from their core duties at this time? (The finance staff within the Department are under a considerable amount of pressure at this time due to a number of vacancies).

### **Question**

7. Will the Minister advise what actions are being taken to ensure that cancer sufferers in Jersey have the best chance of survival and recovery?

### **Answer**

It will always be a challenge for a small Island such as Jersey to do all that is reasonable to ensure cancer patients have an equivalent standard of care, and outcomes of treatment, to those expected in larger, developed nations. As noted below (Q8), our arrangements for access to tertiary care are well developed and robust.

The Department is a partner organisation within the SW Cancer Intelligence Service (see Q1). A key role for the Cancer Intelligence Service is to examine cancer survival rates which includes comparing Jersey with the SW Region. Although Jersey has very small numbers to analyse, our cancer survival rates are similar suggesting our patients are receiving an equally good service.

Jersey needs to improve its coverage rates for breast, and cervical screening as there is a wealth of evidence that early diagnosis of cancer leads to the best chance of being cured. As soon as funding is identified the Department will be embarking on a new screening programme for bowel cancer which is already available in some parts of the UK – bowel cancer being another common cancer where there is a great opportunity to save more lives through earlier diagnosis.

### **Question**

8. Is the Minister willing and able to offer patients who revert to France as a last resort for cancer treatment a full refund of their expenditure and if so, can he advise how many such cases there were in 2007?

### **Answer**

No. There are already suitable arrangements in place. Consultants who care for individual cancer patients will (where appropriate) determine any referral to a tertiary centre. Jersey has well developed clinical links with UK centres and there is sufficient capacity in our referral system so the question of 'last resort' does not apply.

The Department does not have any arrangements for reimbursing the costs of overseas treatment. Patients are at liberty to seek medical treatment in France or elsewhere should they choose to do so - but costs incurred would be their own responsibility.

### **Question**

9. What extra demands in terms of cost are expected to achieve a stand still position for Jersey in terms of cancer drugs in the next 5 years?

### **Answer**

Annual expenditure for cancer treatments is increasing at approximately somewhere between 10 and 20% per annum. In order to continue to provide all treatments approved by NICE/NHS, there is no reason to assume that this pattern will not continue given the likely number of new and more expensive treatments being approved in the coming years. Indeed, it is possible that we may observe an annual increase of around 15% - taking also into account the growing proportion of older people in our population and the higher incidence of cancers in older age groups.

### **Question**

10. Does the Minister have benchmark figures to assess how the number of bed days taken up with cancer patients in 2007 compares to other Channel Islands, E.U. Countries and the USA?

### **Answer**

The Department does have benchmark data which is based on a primary cancer diagnosis (ICD-10, Disease Codes C00 – C97). The latest data for Jersey (year 2007) is 407 patients, accounting for 642 ‘hospital episodes’ and 3315 bed days. The assessment of this benchmark data will form part of the work of the South West Cancer Intelligence Service in the coming months.

## **1.4 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER TO THE MINISTER FOR SOCIAL SECURITY REGARDING REMOVAL OF COSTS FOR PRESCRIPTIONS:**

### **Question**

Has the new measure to remove costs for prescriptions increased the numbers of prescriptions from tourists to Jersey taking advantage of the lack of a charge?

### **Answer**

The Health Insurance (Jersey) Law 1967 provides financial assistance for GP medical services and subsequent prescriptions arising. Only insured people are eligible for this support and the eligibility criteria requires a person to be ordinarily resident in Jersey and entered into the insurance scheme for at least six months.

Visitors to the Island may not access the scheme and are required to use the visitors’ clinic should they require urgent and necessary GP services. Under this service, overseas visitors are charged for GP services and private prescriptions are issued.

Under the Health & Social Services (H&SS) and UK reciprocal health agreement, UK visitors may attend the visitors’ clinic and receive a prescription at no cost to the UK visitor. However the cost of this consultation and any subsequent prescription is then recharged to the UK by H&SS.

## **1.5 DEPUTY S.S.P.A. POWER OF ST. BRELADE TO THE MINISTER FOR PLANNING AND ENIRONMENT REGARDING MOTORHOMES AND CARAVANS:**

### **Question**

1. Can the Minister confirm that before a motorhome can be registered in the Island, in accordance with the Planning and Building (Jersey) Law 2002, a copy of the relevant permit, issued by the Minister for Planning and Environment must be sent to the Driver and Vehicle Standards Department and to the person wishing to register the vehicle or import the vehicle?

2. Can the Minister confirm that once the vehicle is registered, that he can attach any condition restricting where the motorhome can be stationed or used?
3. Can the Minister advise whether there exists a policy regarding the use of and parking of such vehicles exceeding 2.3 metres in width?
4. Can the Minister confirm how many permits have been applied for to import motorhomes/caravans since the end of 2002 and how many permits have been issued under the Planning and Building Law 2002?
5. Can the Minister confirm how many meetings, if any, his Department has had with the Driver and Vehicle Standards department to discuss the number of motorhomes/caravans currently imported into the Island and registered since 2002?
6. Will the Minister undertake to find out how many vehicles, either caravans, motorhomes or dormobiles are in the Island and will he undertake to ensure that these vehicles are parked on private property, either the property of the owner or on private property that the owner has access to for parking and storage by agreement?"

### **Answer**

1. The relevant permit is sent to the applicant. Whilst there is no requirement in the Planning and Building (Jersey) Law 2002 to notify the Driver and Vehicle Standards Department, this is done in any event as a matter of good practice.
2. The Minister for Planning and Environment can attach a condition under the Law to the importation of a caravan. The Law requires that any such condition "shall fairly and reasonably relate to the importation of the caravan or the use of the caravan on the Island."
3. No such policy exists within the remit of the Minister for Planning and Environment. The width of vehicles is a matter for the Driver and Vehicle Standards Department. It is understood that the main criteria used by that Department in issuing any size exemption permit for any vehicle is whether granting such a permit is in the public interest as a whole and not just to the individual making any application. Permits issued for an oversized motor home are granted on a restricted movement basis from the docks to the owner's home and vice versa and to a garage for servicing, but not for general circulation within the Island.
4. Since 2002, a total of 152 permits have been issued for motorhomes and 19 for caravans. Anecdotally, the Department is aware that many of these vehicles are routinely kept out of the Island and only brought back for repair or sale.
5. Whilst no such meetings have been held within this timescale, officers of each Department are in regular contact.
6. The Minister for Planning and Environment is aware that there are currently 692 motor homes and 128 caravans licenced in the Island. The duty of the Minister in this matter is to properly control the importation of such vehicles. It is not for the Minister to enforce a particular storage regime on the owners of such vehicles, unless there is a particular planning reason to do so. If, as is inferred by the question, there is perceived to be a mounting problem with the improper storage of caravans on public land, then that is a matter for the relevant States Department or Parish which administers such land.

## **1.6 DEPUTY S.S.P.A. POWER OF ST. BRELADE TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING AQUASPLASH OPERATIONAL COSTS:**

### **Question**

1. Following his comments to the Education and Home Affairs Scrutiny Panel and the 2007 report on funding the Aquasplash pool, can the Minister confirm the total amount of taxpayers funds by year since inception that have been disbursed to the operators of the Aquasplash complex and the operational costs of that swimming pool since it opened?

### **Answer**

The total amount of taxpayer's money that has been paid to the operator since the pool opened in July 2003 is-**£1,170,000**

The operational cost of the pool since the pool opened in July 2003 is has follows:-

July 2003 to end year 2004 £1,755,000 less income \* £1,370,000 net operating cost £385,000

2005 £1,175,629 less income \*£965,159 net operating cost £210,470

2006 £1,289,461 less income \*£1,014,005 net operating cost £275,456

2007 £1,258,472 less income \*£959,712 net operating cost £298,760

*\* Please note the income includes a annual subsidy payment made by the developer CTP of approx £100,000 per annual*

### **Question**

2. Can the Minister supply the attendance and usage figures for the Aquasplash pool by year since it opened?

### **Answer**

The attendance figures are as follows:-

2003	July to December Total visits	92,824
	a) Pay and Play/Members	68,315
	b) Swimming Lessons	24,509
2004	Total Visits	247,871
	a) Pay and Play/Members	126,398
	b) Swimming Lessons	121,473
2005	Total Visits	274,724
	a) Pay and Play/Members	123,107
	b) Swimming Lessons	151,617
2006	Total Visits	288,922



Staff	841,648	@	70%	589,153		
Non Staff	448,670	@	70%	314,069	Total	300,421
				<u>903,222</u>	Pool	210,294
<b>Income</b>						
Pay & Play	251,000			251,000		
Active	481,660	@	65%	313,079		
				<u>564,079</u>		
				<b>Pool Net Operating Cost 2005</b>		<u><b>339,143</b></u>

**2006**

Staff	854,000	@	70%	597,800		
Non Staff	405,000	@	70%	283,500	Total	303,929
				<u>881,300</u>	Pool	212,749
<b>Income</b>						
Pay & Play	212,958			212,958		
Active	515,320	@	65%	334,958		
				<u>547,916</u>		
				<b>Pool Net Operating Costs 2006</b>		<u><b>333,384</b></u>

**2007**

Staff	888,400	@	70%	621,880		
Non staff	438,100	@	70%	306,670	Total	290,800
				<u>928,550</u>	Pool	203,560

<b>Income</b>				
<b>Pay &amp; Play</b>	<b>173,000</b>			<b>173,000</b> *pool closed
				<b>maintenance</b>
<b>Active</b>	<b>555,411</b>	<b>@</b>	<b>65%</b>	<b>361,017</b>
				<b><u>534,017</u></b>
				<b>Pool Net Operating Costs 2007</b>
				<b><u>405,533</u></b>

\* It is estimated that 70% of staff and non-staff costs are attributable to the pool. The other 30% are towards non-pool costs. It is estimated that 65% of income from the Active Card for Les Quennevais are attributable to the pool. The remaining 35% is for non-pool activities.

### Question

4. Can the Minister supply the inclusive operational costs, the attendance and usage figures for the Fort Regent pool in the three immediate years prior to its closure?

### Answer

The attendance figures per annum are as follows:-

2000 126,361

2001 124,980

2002 122011

2003 99,562 \* Closed to public in July

\* Club usage only to December 2003

The net operational costs for the following years:-

2001 £385,000

2002 £424,000

2003 £480,000 \* no public pay and play after July 2003. Therefore reduced income.

## 1.7 DEPUTY S.S.P.A. POWER OF ST. BRELADE TO THE MINISTER FOR TREASURY AND RESOURCES BY REGARDING GST SUB ITEMISATIONS ON TILL RECEIPTS:

### Question

Following the narrow defeat on 29th April 2008 of P42/2008 (the Draft Goods and Services Tax (Amendment) (Jersey) Regulations 200-) would the Minister give an undertaking to the Assembly that he will bring in GST sub-itemisation on every sale receipt where GST is levied on behalf of Treasury by the 1st January 2009, and if not, why?

**Answer**

On a point of clarification I have taken “sub-itemisation” to mean that all registered retailers would be required to identify the GST content of a supply and display the amount of tax separately on all receipts issued.

With the tax only having been in operation for a week I would not at this stage give an undertaking to the Assembly to bring in this requirement for all GST registered retailers by 1st January 2009. What I can do is give an assurance that the issue will form part (included in the terms of reference) of the post implementation review of GST. This will be carried out later in this year (October) in time for any recommendations to be included the budget statement scheduled for December. I consider it vital after just one week since the new tax was introduced that we allow all concerned (both businesses and consumers) some period of consolidation before imposing any further changes particularly at the retail level. This time period will also allow us to gather more robust statistical information on which to base future policy decisions.

**1.8 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING INCREASES IN INDIRECT TAXATION**

**Question**

Does the Minister accept that following the introduction of GST on 6th May Islanders will see a 53% increase in indirect taxation, totalling over £130 million in 2008 made up approximately of the following:

Impôts	£53m (2006)
Stamp Duty	£23m (2006)
Island Rates	£ 9m (2006)
	= £85m
GST	+ £45m (est. full year 2008)
	= £130m

What justification has the Minister to offer to residents for such an increase in indirect taxation at a time when the economy is growing along with income tax receipts?

**Answer**

While the calculation is not quite accurate (it compares 2006 revenue for Impôts, stamp duty and Island rates with a 2008 figure for GST) the Deputy is correct to identify that the introduction of GST will mean a significant rise in indirect tax for Islanders.

It is surprising however that after numerous States debates on the subject of 0/10 that the Deputy is asking at such a late stage what the justification is for such an increase. Most States members will

not need reminding that the move to 0/10 is critical for the Island if we are to sustain the economic success we have all become accustomed to. The whole purpose of the States Fiscal Strategy is to reduce corporate tax (direct taxation) to keep the finance industry competitive and at the same time meet international requirements on corporate tax. This requires Islanders to pay a little more tax now in order to prevent having to pay significantly more tax in the future.

GST is an indirect tax and the main measure for achieving this. GST was chosen for a number of reasons and in particular because it is paid by everyone whatever their source of income and because it does not impact on the competitiveness of the economy (it excludes exports and includes imports).

The Deputy implies that because the economy and tax receipts are growing there is no need to introduce GST. This seems to be based on the premise that if we have an increase in tax revenue it is alright to spend it. However, this is not sound economic management because it means that the combination of States tax and spending policy would be to add more to demand in the economy at time of strong economic growth and little or no spare capacity. The outcome of such an approach would be inflationary which would be against the States economic objectives and to the detriment of all Islanders and businesses.

## **1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING TAX RECEIPTS FROM INTERNATIONAL BUSINESS COMPANIES:**

### **Question**

1. Will the Minister explain to members why the tax receipts from International Business Companies (IBCs) and Exempt Companies (ExcOs) (estimated as £61m for 2006) are not included in Figure 2.2 of Jersey In Figures 2007, "Sources of income tax receipts", when they were in previous editions (e.g. Jersey In Figures 2005, p.4)?

### **Answer**

The aim of 'Jersey in Figures' is to provide a summary of a wide range of information that is produced annually about Jersey. As such, the data and charts included in the publication, produced by the Statistics Unit, do vary from year to year. This year, in figure 2.2, "International Business Companies and Exempt Companies" are included under the heading of "Companies" as this is how the data is presented in the 2006 Financial Report and Accounts.

### **Question**

2. Will he inform members what the level of these tax receipts were in 2006?

### **Answer**

The tax receipts from International Business Companies in 2006 were £62 million and from exempt companies £10.5 million.

### **Question**

3. Will he further inform members what are the estimates for coming years, and especially will he explain what the impact of the zero/ten proposals will be on these receipts?

### **Answer**

In 2007 and 2008 the estimated receipts from the exempt company are £11.7 million for each year. In 2009 all tax receipts from the exempt company will disappear completely due to the move to 'zero/ten'. The International Business Company estimated receipts in 2007 are £65 million, for 2008 are £66.6 million and for 2009 are £68.3 million. These International Business Company receipts will gradually reduce over the period 2010 to 2013 with a probable final total net loss estimated at £16 million, due to the impact of zero/ten. Members will appreciate that the net loss is relatively small since in most cases the lost IBC receipts will be replaced by tax receipts from those companies assessed at the 10% rate.

These estimates come with the caveat that there was no examination of every single case and every single sector, so must be treated with a degree of caution. It will only be in 2013 that the full and complete effect of the zero/ten legislation will be known.

### **1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING FUNDING OF FINANCE INDUSTRY AND JERSEY FINANCE LIMITED:**

#### **Question**

1. Will the Minister inform members why he considers that it may be necessary to spend the £199,000 proposed in his draft 2009 Business Plan to directly market the Island's finance industry, when his department already funds Jersey Finance Ltd (JFL) £1million to market and promote the sector?
2. Will he also state whether this sum is proposed for the setting up of a permanent representative post in India or China?
3. Will he further inform members whether he or JFL has drawn up a detailed business plan to examine any such proposal and, if so, will he release it to members?

#### **Answer**

The Deputy should be well aware of the need to promote the finance industry as he has just been scrutinising JFL. He should also be well aware of the importance of a healthy and successful finance industry to the economic health of the Island.

Currently most onshore and offshore jurisdictions are spending increasing sums on promotion of their finance industries. In particular, whilst complete data is not available it is clear that substantial sums are being spent by Jersey's major competitors including Singapore, Hong Kong, Switzerland, Ireland, Luxembourg and Isle of Man. In particular, Singapore has the most comprehensive promotion of their jurisdiction particularly including substantial funding available for those seeking to obtain relevant qualifications to work in their finance industry. Middle East locations such as Dubai, Qatar and Bahrain are also putting very significant sums which dwarf the amount that Jersey spends as they seek to establish competing centres.

Also a significant proportion of Jersey's tax revenues are derived from business generated from the UK. Recent UK initiatives have had the potential to undermine some of those income streams and demonstrate a measure of vulnerability in the sectors affected. It is therefore an opportune moment to renew our efforts in terms of diversifying the sources of business and to target directly other geographical markets. Much of this activity will relate to the financial services industry but not exclusively so.

There is no doubt that the finance industry and therefore the Jersey economy is likely to face a period of sustained challenges from a wide range of world events. Therefore we are considering all the options in order to keep the economy on the best possible footing.

The sum stated in the draft business plan is not proposed specifically for the setting up of a permanent post in China or India but other marketing and promotional initiatives. However these options are actively being considered along with other activities which would promote the industry.

Jersey Finance have submitted business propositions which are being considered in detail in order to evaluate what proposals are most appropriate and to ensure that the Department gets the best value for money. These are weighted along with all proposals put forwards by the different areas of the Department to decide how money is allocated. However, it is currently too early to state what the final plan will be for next year as we are considering the implications of the London Business School's independent review of the finance industry - which has just been completed.

We hope that all States members will attend the special briefing laid on for them in order that they can make an informed decision as to what we will need to do in order to preserve the tax revenues that we all rely on to enjoy the excellent services provided by the Jersey Government. We will of course keep States members informed of developments when it is appropriate to do so.

#### **1.11 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING AVERAGE TAX BILL FOR INDIVIDUAL RESIDENTS:**

##### **Question**

1. Does the Minister accept that Jersey households will pay, on average, an additional £1,000 tax in each full year of GST, and if not what figure does he suggest?

##### **Answer**

As I do not know how the Deputy reached the figure of £1,000, he will need to give me full details of his calculations, supported by evidence, to enable me to give a definitive answer to this question. However, I dispute that this is an accurate figure for Jersey households. It is a fact, for example, that following the increase in tax exemption limits announced by me at the Budget last December, many low to middle income earners will see a cut in their income tax bills, not an increase. Some current taxpayers will fall completely out of the tax net in the future. I acknowledge that some high earners will see an increase in their tax bill but this is a deliberate part of my fiscal policy, as it is right and proper that the higher earners pay more in tax through the 20% means 20% legislation.

##### **Question**

2. Alternatively, does he accept that the average tax bill for individual residents will rise by 13% following the introduction of GST as follows:

Income tax:

Salary & wage earners	£171 m
Self employed & investments	£ 35 m
Other Indirect Tax	£ 85 m

Total £291 m

GST raised = £38 m (£45 m less £7 m finance sector) / £291 = 13% increase?

**Answer**

The tax bill of individual residents will not rise by an average of 13%, firstly because many individuals in Jersey in the low to middle income earnings bracket will see a reduction in their income tax bills because of increased exemption thresholds, and secondly because, in addition to the finance industry, tourists and people on business in the island will make a significant contribution to the yield from GST.

**Question**

3. If not what figure does he have for the average percentage tax rise for individual residents?

**Answer**

I have no such figure that would be of any meaningful use, as individuals and individual households vary so much in their individual circumstances, as evidenced by the wide range of individual and different scenarios outlined in the 20% means 20% examples issued a couple of years ago.

**1.12 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR HOUSING REGARDING FINDINGS OF HOUSING NEEDS SURVEY 2007:**

**Question**

Does the Minister accept that the findings of the Housing Needs Survey 2007 recently published by the Statistics Department are the most rigorous ever produced and form a sound basis for the planning and delivery of homes in the coming years?

Will the Minister explain to members why the potential shortfall in 2, 3 & 4-bedroom accommodation, first identified in 2004, has not been properly addressed by his department resulting in an increase of two-thirds in the shortfall? Does the Minister accept that this failure has contributed substantially to the unsustainable price rises in this sector?

Does the Minister accept the findings of the survey of an over-supply of 1-bed flats in the (under-55) market? Further will he inform members what number and proportions of 1-bed accommodation units are under construction or have planning permission for 2008 and 2009? What measures will the Minister take to address this issue?

**Answer**

I do accept that the findings of the Housing Needs Survey which was carried out independently by the Statistics Unit are most certainly robust. The data collected will in my view be an invaluable tool for the planning and delivery of homes particularly over the next 2 – 5 years.

I wholeheartedly disagree with the Deputy's suggestion that the shortfall in 2, 3 & 4 bedroom accommodation has not been addressed. The Planning Minister and I work closely on these issues, for it is the Planning process which delivers new homes and new opportunities. I am delighted that two Propositions will shortly be debated by the States, regarding Lifelong Homes and Jersey Homebuy. I am also delighted that in 2007, the States agreed to give States Tenants an opportunity

over a ten year period to buy a home. I would suggest that the findings of the survey report completely vindicate the decision of this Assembly last year.

The Planning and Environment Minister and I enjoy an excellent working relationship and much has been achieved since 2004 in delivering sufficient homes to meet the level of need indicated in 2004.

### **1.13 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING FINDINGS OF HOUSING NEEDS SURVEY 2007:**

#### **Question**

Does the Minister accept that the findings of the Housing Needs Survey 2007 recently published by the Statistics Department are the most rigorous ever produced and form a sound basis for the planning and delivery of homes in the coming years?

#### **Answer**

The recently published Housing Needs Survey is the latest in a series of surveys aimed at establishing potential housing requirements, based upon peoples expressed aspirations. With each survey refinements have been made to improve the value and accuracy of information obtained, and the findings of the 2007 survey are the best indication to date of potential housing requirements. As such they will be invaluable in informing major pieces of work such as the Island plan review, shared equity 'Homebuy' and the retirement homes proposition.

The Statistics Unit conducted and analysed the survey and is very pleased with both the level of response and quality of the information received. The survey is the most rigorous so far, in terms of:

- Accuracy: This is due to the fact that it had a very high statistical sample of just over 10,000, and a superb response rate of 56%;
- Representation: The survey had a very good response rate from across all tenures;
- Issues Explored: The survey not only detailed supply & demand analysis in terms of type, size and tenure of dwellings but also: affordability, first-time buyers'; and older persons' housing

It must be remembered when using the survey results that they represent a snap-shot in time. The aspirations of households in late 2007 may alter, due to changing economic circumstances or households changing their minds, so they will need regular monitoring and review. For the time being, we will need to decide what needs to be done to meet these aspirations, some of which may not be realistic given some households' current size or income levels.

Will the Minister explain to members why the potential shortfall in 2, 3 & 4-bedroom accommodation, first identified in 2004, has not been properly addressed by his department resulting in an increase of two-thirds in the shortfall? Does the Minister accept that this failure has contributed substantially to the unsustainable price rises in this sector?

#### **Question**

Will the Minister explain to members why the potential shortfall in 2, 3 & 4-bedroom accommodation, first identified in 2004, has not been properly addressed by his department resulting in an increase of two-thirds in the shortfall? Does the Minister accept that this failure has contributed substantially to the unsustainable price rises in this sector?

## Answer

It is important to recognise that the planning system sets out, through the Island Plan process, to ensure sufficient land is available to meet future housing requirements of all types.

To date planning policy has only attempted to control the size of units for need housing. The size of homes provided in private developments is generally dictated by the market, and the Department has no powers, under current planning policy, to prescribe the type of homes the private sector provides.

The Department does not accept that the Planning Department has failed to address the shortfall in family homes provision identified in the 2004 housing needs survey, nor that such an alleged failure led to the potential shortfall identified for the next five years.

The 2004 housing need survey identified a total requirement of 2400 homes in the qualified sector over the period 2005 to 2009 (based on a net annual in migration of 200 households per year and the housing qualification period reducing to 10 years). The indications are that the overall supply of new homes has been generally sufficient to meet the identified overall requirements for new homes. If we combine the net completions of new homes between 2005 and 2007 with homes under construction at the end of 2007 it totals some 2500 and this took no account of other outstanding permissions which had yet to commence.

Regretably, there are no accurate figures on the size of homes completed or under construction during that period. However, 'Planning for Homes 2006' did look at a sample of completions from 2005 and the first half of 2006, which indicated a good spread of 1-, 2- and 3- bedroom completions. However, it also revealed the prominence of completion of 1-bed homes (boosted by the completion of the Spectrum development) and the limited number of 4- and 5-bedroom family homes completions. A similar exercise was carried out in the same document for outstanding commitments as at mid-2006. This indicated healthy supplies of 1-, 2- and, notably, 3-bedroom homes in the pipeline. Again, there were only limited numbers of larger 4- and 5-bedroom homes amongst the outstanding commitments.

In the light of the above, it would appear that any shortfall in provision for previously identified housing requirements for the period 2005 to 2009 is likely to be concentrated in the larger 4- and 5-bedroom family home market.

It is important to recognise that the current housing needs survey looks into the housing requirements over the next 5 years from 2008 to 2012 and this reflects changed economic and political circumstances and the different and changing aspirations of those surveyed. It is too simplistic, therefore, and incorrect to imply that the identified requirements for different sizes of homes over the next 5 years represents a failure of the planning system to provide for such homes in the previous 5 years. It is more likely that the majority of the newly identified requirements represent new demand.

The previous round of the housing need survey was conducted in late 2004 and had followed 18 months which had seen falling employment as well as several years of real term fall in the Island's economic performance.

The latest round (late 2007) has come after two years of increased employment (especially for locally-qualified people), average earnings increasing faster than inflation and strong real term growth in the economy. It was for this reason that the need for a new housing needs survey was identified in order to capture these changing circumstances.

It is true that the shortfall has increased compared to previous round of the survey. However, the increase in the shortfall and in the price of owner-occupier properties is more likely to be a reflection of improved economic circumstances, changing demographics, changing market conditions and increasing confidence among potential buyers in the Island, than a lack of supply in previous years.

The latest housing need survey included questions related to shared equity Homebuy schemes and this may well have led to an increased demand from potential first time buyers who would otherwise not have contemplated home ownership as a realistic option in previous surveys.

It is also interesting to note that recent average building rates for the period 2005-2007 are around 595 units per annum, which compares very favourably with the long term average rate (1986-2004) of 410 units.

Does the Minister accept the findings of the survey of an over-supply of 1-bed flats in the (under-55) market? Further will he inform members what number and proportions of 1-bed accommodation units are under construction or have planning permission for 2008 and 2009? What measures will the Minister take to address this issue?

### **Question**

Does the Minister accept the findings of the survey of an over-supply of 1-bed flats in the (under-55) market? Further will he inform members what number and proportions of 1-bed accommodation units are under construction or have planning permission for 2008 and 2009? What measures will the Minister take to address this issue?

### **Answer**

It is true to say that a *potential* surplus of 1-bed units has been identified, but this is dependent on the complementary availability of larger units. Some of those wishing to move from 1 bedroom accommodation may for example be on lower incomes and unable to move to larger accommodation. Some of these households may be able to take advantage of the proposed Homebuy scheme being put forward by the Planning Department and soon to be debated in this house.

It is difficult to anticipate precise numbers for permissions of 1 bedroom accommodation that will come forward over the period 2008-9. This is due to the fact that future applications cannot be predicted, whilst some applications have not yet been determined. However, taking preliminary figures from the end of 2007 there were a total of 1031 homes with outstanding permissions and an additional 739 homes were under construction. The detailed analysis of these gross numbers has yet been completed by the department and so specifics on the breakdown of 1 bedroom accommodation cannot be given at this time. However, looking at recent trends, approximately 40% of all new housing has been for 1 bedroom accommodation and 60% for 2 bedroom and above.

In the past the planning department has only applied a tenure mix policy to those sites which have been specifically zoned for 'Category A' housing, in order to ensure that the right type of need accommodation was being built. This mix had been based upon previous housing needs survey information and the requirements of the Housing Department for social rental accommodation. As stated above, for all private sector accommodation approved by the planning department, it is the market that has decided what tenure and size mix to apply to each individual site.

The review of the Island Plan will look into potential future policies that could address this situation, in order to encourage the private sector to apply suitable tenure and size mixes to new developments to more readily reflect identified demand.

#### **1.14 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR HOUSING REGARDING HOUSING FOR OLDER PERSONS IN HOUSING NEEDS SURVEY 2007:**

##### **Question**

Does the Minister accept the statement that “over the next five years there is a potential total demand for 305 older persons’ housing units” on page 29 of the Housing Needs Survey 2007, along with potential supply of 125 units?

Does the Minister accept the findings expressed on pages 29 to 31 that this basic need for some 200 such units can be stretched by some second-order interpretation of hypothetical “inclination” rather than need?

Will the Minister explain to members why he has been insisting that he has a proven and urgent need for 400 such units? Does he still maintain his position, and if so, will he produce his evidence for members so that the assembly can properly assess this need?

##### **Answer**

Yes I do accept the statement which concludes that there is an overall indicated demand for some 305 older persons homes. The potential supply figure of 125 units, as is clarified later in the report is affected by two things; firstly the loss of 33 older persons units at Ann Court; and secondly the net loss over the next 10 years of 100 bed-sitter units as we progress with our refurbishment programme and they are either demolished or converted into more appropriate 1 bedroom life-long homes.

I do not accept that the findings on pages 29 to 31 of the report can be interpreted quite as loosely as the Deputy suggests. The findings on page 29 – 31 actually conclude that there are some 160 households who have expressed a latent but real need for older persons accommodation but did not indicate that they were planning to move on the basis that that sort of accommodation does not exist.

#### **1.15 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE CHIEF MINISTER REGARDING HOUSING NEEDS SURVEY AND IMMIGRATION:**

##### **Question**

1. Does the Chief Minister accept that even on a net nil migration scenario, the data presented on page 15 of the Housing Needs Survey 2007 indicates that 42% of inward-migrants are J-category, accounting for 16% of housing demand in the owner/occupier sector, where a potential shortfall is clearly identified?

##### **Answer**

The findings of the Housing Needs Survey are fully accepted, including the profile of inward migrants and their expressed intentions with regard to property purchasing. It is worth noting that the profile of inward migration is based on the actual movement of respondents into the Island, while the profile of leavers is based on expressed intentions of respondents.

## Question

2. With incoming J-cats outnumbering leavers by 2 : 1, and labour market figures showing net immigration of over 700 over the past 2 years, 250 of whom are J-cats, what impact does the Chief Minister anticipate on house prices should this level of immigration continue?

## Answer

As to house prices in Jersey, they are determined by the complex interaction of a whole host of factors that influence the level of demand and supply for housing. The sole effect of “j” category licences would be impossible to quantify in this interaction. Clearly the recent rise in house prices has been the result of a number of different factors including the strong economic performance that has led to significant growth in employment and earnings for local and non-local people alike. In addition the availability and cost of credit has been favourable in recent years for those taking out mortgages, although clearly this situation has changed more recently with the onset of the credit crunch. Confidence in the Jersey housing market has also been high given these trends and this has given a further fillip to housing demand.

Demand for housing from the existing population has also been rising as a result of natural growth in the population and a falling average household size due to factors such as the rising divorce rate and demographic changes. Inward migration will also add to demand in the Island but J category purchases make up a small proportion of the house purchases, 8% in 2007 and are not therefore a big influence on the overall level of house prices in the Island.

It is also by no means certain that the current level of inward migration will continue this year as our economic prospects are more uncertain with the onset of the credit crunch.

## Question

3. Will the Chief Minister state whether he intends to take any action of the issue of immigration; if so, what measures, and if not, why not?

## Answer

Currently the Island operates a system of controls which can be applied to restrict access to housing, being the Housing Law, and to employment, being the Regulation of Undertakings and Developments Law. These laws are together applied to manage inward migration by a single office, being the Population Office, and directed by a co-ordinated political grouping, the Migration Advisory Group. These are new developments introduced since Ministerial Government. In due course, these controls will be replaced by more refined migration controls as described in the consultation document with the first stage being to co-ordinate the necessary information and the second stage to manage migration. Nevertheless, the key question is always about how controls are applied, in order to secure a balance between economic growth and demand on our resources over the medium term.

## **1.16 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR SOCIAL SECURITY REGARDING BENEFITS FOR DISABLED PERSONS**

### Question

1. Will the Minister confirm that the additional benefits attached to meeting the needs and costs of a disabled person in Household A given in his answer to question 3845 on 29th April, will be completely withdrawn when the annual household income exceeds £27,000?

## **Answer**

The Deputy does not make it clear from his question as to the identity of household A.

On the assumption that the household that he is referring to is the household referred to in h(1) of the answer given on 29th April, namely

*married couple, living in a one-bedroom states flat. One individual is disabled and receives the level 3 personal care component. The partner cares for the disabled person (rent of £143.50 pw)*

Then

If the couple had an unearned income of up to £27,000 per annum (approx £520 pw), they would receive some Income Support.

If their income was all earned income they would be able to earn up to £30,600 per annum (approx £590 pw) and receive some Income Support.

Above these income levels, the couple would not receive Income Support, although if they were in receipt of benefits replaced by Income Support, they would receive protected payments for a number of years.

For comparison purposes, an individual working at the minimum wage for 40 hours per week would earn £232 per week (£12,064 pa). The average full time wage in Jersey is £580 per week or £30,160 per annum.

## **Question**

2. Can the Minister inform members how many households will see such support withdrawn?

## **Answer**

There are 15 households, comprising a working age couple with one receiving the highest level personal care component living in rented accommodation and the other acting as a full time carer. Of these 3 have a total household income in excess of £27,000 per annum and are in receipt of transitional support for at least 4 years.

## **Question**

3. Will the Minister explain why Invalid Care Allowance has been included in the income calculation for income Support?

## **Answer**

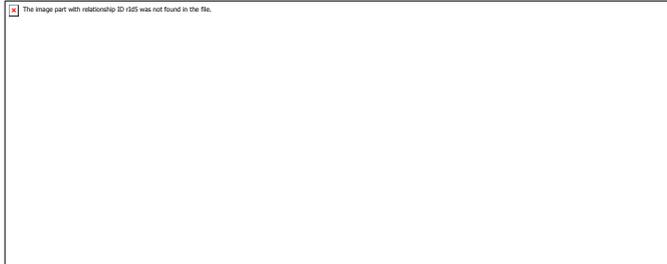
Invalid care allowance has been included in the income calculations for income support in the same way as all other sources of income, including pensions and other contributory benefits. One of the issues identified with the previous system was the inconsistent treatment of income between different benefits. Under income support, all household income after disregards (with the exception of charitable income) is included in the calculation of benefit.

**1.17 DEPUTY S. PITMAN OF ST. HELIER TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING ABSENTEEISM THROUGH SICKNESS WITHIN THE YOUTH SERVICES SINCE 2005:**

**Question**

Would the Minister inform Members of the level of absenteeism within the Youth Service through sickness per year since 2005 and advise how much of this, if any, was stress-related?

**Answer**



\*Stress Related column is the % of time sick that was recorded as either Psychiatric or Mental Health (code 10) or Anxiety Stress Depression (code 13).

Please note it is the % of the sickness absence attributable to these Reasons not a % of working time.

The stress related figure for 2006 was generated by two members of staff.

This figure for Dec 07 does look low and this due to a long term sick member of staff leaving in Dec 06. Since this is only a small group of staff (about 16 FTE) any changes (such as long term sick staff leaving) can lead to large fluctuations in the figures.

In some cases the medical certificates only give the ailment code as the reason for sickness. Ailment codes have been developed by Social Security and we are not privy to the code descriptions. Unless the line manager is aware of the staff member's reason for absence this has to be entered under "miscellaneous."

**1.18 DEPUTY S. PITMAN OF ST. HELIER TO THE MINISTER FOR HOME AFFAIRS REGARDING DETAILS OF WORKING GROUP OVERLOOKING POLICE INVESTIGATIONS INTO HISTORIC CHILD ABUSE:**

**Question**

Would the Minister provide details of the qualifications and experience of the individual members of the Working Group overlooking the police investigations into historic child abuse police investigation and advise who appointed these individuals?

**Answer**

It is not correct to say that there is a working group overlooking the police investigation of the Historical Abuse Enquiry. Rather, in accordance with best practice, States of Jersey Police commissioned an independent review of the investigation by a senior team of UK experts. The review team recommended that the Senior Investigating Officer follow best practice by appointing an Independent Advisory Group (IAG) of local people who could act as 'critical friends' during the enquiry.

Independent Advisory Groups came about in the aftermath of the Macpherson Enquiry into the death of Steven Lawrence. The concept underlying such groups is that they can advise the police on any specific community issues and concerns. The representatives sitting on the IAG can also be a conduit for any community concerns to be taken up and for reassurance to be given if necessary to others from the community that the investigation is thorough and appropriate. The role primarily is to advise as to culture and community sensitivities.

Where similar groups have been set up elsewhere, the selection has always been with the police consistent with the notion of the separation of powers. This is the case here.

The individual members of the Independent Advisory Group are:

Rev Geoff Houghton – Minister for Trinity church, Vice Dean

Carol Canavan – retired local lawyer

Kevin Keen – Businessman and Chair of Chamber of Commerce

Stephen Regal – Jewish council and advisor to States of Jersey Police on diversity

Emma Martins – Data Protection Commissioner

The group has met regularly and the Senior Investigating Officer confirms that he values their support.

#### **1.19 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR HOME AFFAIRS REGARDING PASSING OF ROUTINE INFORMATION TO MEDIA BY SoJ POLICE:**

##### **Question**

Would the Minister advise members how frequently the States of Jersey Police produce press releases for the local media, the level of detail and the approximate quantity provided and approximately how many hours per week are employed in preparing this material?

##### **Answer**

The States of Jersey Police currently employs one full time civilian media and public information officer on a Civil Service grade 9.

It is the policy of the States of Jersey Police that press appeals should be as detailed as possible in order to bring witnesses forward and to be open with the media. Information is held back in a press release only if it operationally sensitive or confidential. It is hard to calculate the amount of time spent on this task per week as it fluctuates according to the number and type of incidents the Force attends but annual figures are given below.

In addition, the media relations officers' role includes maintaining the States of Jersey Police website and the production of community safety publicity. During an operational event the press officer is required to act as a "buffer" between the media and operational officers thereby enabling investigators to concentrate on their core task.

The press officer works Monday-Friday office hours and otherwise, on occasions, as directed. Out of hours media handling is dealt with by the Duty Officer, normally of Inspector rank.

The following statistics indicate recent levels of releases:

- In 2007 approximately 190 formal media releases were made. It should be noted that this total does not include individual email or phone replies to media which come in throughout the day. In 2007 the States of Jersey Police Press Office answered 6,494 calls directly and in addition responded to numerous messages.
- So far this year, the force has sent out 64 releases to the media, plus a further 50 relating solely to the ongoing Historical Abuse Enquiry.

## **1.20 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING RECYCLE OF SOLID WASTE:**

### **Question**

Would the Minister advise, with regard to solid waste, how high a percentage is possible to recycle before the residue becomes unsuitable for disposal by incineration?

### **Answer**

For the purposes of this question it is assumed that the Deputy is referring to standard mass burn incinerators of a similar nature to those currently operating at Bellozanne.

The operation of a standard mass burn incinerator is designed around the energy content (Net Calorific Value - NCV) of the waste to be disposed of. The incinerator will normally be referred to as being capable of processing "x tonnes per hour" at the specified NCV. The effect of changing the NCV of the waste will be to change the amount of waste that the incinerator can process which will increase or decrease the throughput in tonnes per hour depending on whether the NCV rises or falls.

Recycling has the ability to change the NCV of the waste being sent to the incinerator for processing. The removal of high Calorific Value (CV) arisings such as plastics and tyres will effectively lower the NCV of the residual waste, which will result in the incinerator being able to process a greater quantity (by mass) of waste. Conversely the removal of low CV arisings such as glass and wet green waste will increase the NCV of the residual waste and reduce the capacity (by mass) of the incineration plant.

From the explanation above it can be seen that recycling can and will have an effect on the amount of waste that an incinerator can process as recycling will not only reduce the quantity of residual waste, it will also influence the incineration plant capacity as the NCV varies. It is for this reason that mass burn incinerators are popular and successful as they can process waste over a range of NCV and can be run at a lower than specified capacity if required to do so. This flexibility is one of the reasons that mass burn energy from waste plants offer a robust solution against a changing waste arising.

In summary there is no definite answer to this question as providing that the waste is within the normal CV ranges of residual waste, an incineration plant can be turned down or ultimately switched off to cater for the input variations influenced by recycling. However it must also be emphasised that the maximum waste input to the incinerator cannot be exceeded

It is, therefore, very important to consider the recycling rate, NCV and maximum residual waste arisings when specifying the capacity requirements of an incineration plant.

**1.21 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR TO THE MINISTER FOR HOME AFFAIRS REGARDING PHOTOGRAPHIC AND VIDEO MATERIAL AT DEMONSTRATIONS:**

**Question**

To what use was the photographic and video material obtained by the police at two recent gatherings in the Royal Square, namely the demonstration against GST and the 'Time for Change' rally, put?

**Answer**

There was no gathering of photographic or video material by the States of Jersey Police at the GST rally.

The Time 4 Change rally was an event which passed off peacefully and needed no police intervention. However, as is always the case when policing such events the Police have a capability for optical evidence gathering and officers on duty did record some images for evidential and/or intelligence purposes. The filming was all done overtly in a public place; consequently laws relating to covert investigations were not applicable.

The purpose of the filming and the use to which it was put was to monitor compliance with the conditions imposed by the Parish in relation to visual displays and to provide a record for the purposes of the historic abuse enquiry.

As stated in answer to a similar question from the Deputy at the last sitting, the Police have an obligation to maintain public safety and keep the Queen's peace in all such instances, as well as to prevent and detect crime. They are required where applicable to comply with all relevant statutes namely the Regulation of Investigatory Powers (Jersey) Law 2005, Police Procedures and Criminal Evidence (Jersey) Law 2003, and the Data Protection (Jersey) Law 2005 with regard to the collection of evidence and intelligence and then the storage, retention and dissemination of material. Thereafter the Attorney-General's guidelines on disclosure in prosecution cases are applied. Over-riding these statutes and guidelines are the Human Rights (Jersey) Law 2000 and the European Convention on Human Rights as they apply to the right of freedom of expression, the right to a fair trial, and the right to life.

**1.22 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR TO THE CHAIRMAN OF THE ENVIRONMENT SCRUTINY PANEL REGARDING STUDY INTO PROVISION OF PUBLIC TRANSPORT SERVICES:**

**Question**

Will the Panel be undertaking a study into the provision of public transport services? If so, what is the time frame and will this include a study of the tendering process for such services ?

**Answer**

The Environment Scrutiny Panel will be conducting a full review of any proposals for public transport services contained within the Integrated Travel & Transport Plan. No firm date has yet been given by Transport & Technical Services to the Panel for the publication of its final strategy. The Panel contributed to a draft plan last year. The Minister has asked that scrutiny consider the tendering process for the bus contract and the Panel are awaiting further documentation which will enable it to take a view.

**1.23 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING TAX RATES FOR DIFFERENT SECTORS OF THE ECONOMY:**

**Question**

Following earlier questions on the effective tax rates for different sectors of the economy, can the Minister state

- (a) whether there has been any change to OXERA estimates of effective tax rates for residents given in 2002/3, as follows:

low earners (on marginal rate) average effective tax rate = 8%

middle to high earners (on full rate) = 14%

and, if so, what change there has been, and to what extent such change has been the result of “fiscal creep” or the “20 means 20” policy?

**Answer**

There has been no update of the original tax take model with more recent tax data and more recent demographic data. To do so would be a considerable undertaking.

**Question**

- (b) what estimate he has for the equivalent effective company tax rate for the finance sector? In particular, does he accept the following as a reasonable approximation for comparison purposes:

Total profit of financial institutions = £1,314 m

Total company taxation (all sectors) = £192 m

of which % GVA of finance sector x 52%

= £ 99.8 m

Finance sector effective rate ( = 99.8 / 1,314) = 7.6%

**Answer**

It is difficult to give an effective tax rate for the company finance sector that in any way would be a particularly meaningful figure as there are such major differences in the tax rate applied to different firms in the finance sector. In particular, there is a complex mixture of Income Tax companies, such as banks in the finance sector, and International Business Companies, especially those International Business Companies in the finance sector. However, from publicly available information it is possible to calculate a rather crude approximation of the *average* tax rate of this sector at any particular point in time. In the 2006 Annual Report and Accounts the tax yield from financial intermediation is given as £138.9 million. This represents a mixture of tax being paid on profits earned in 2004 and 2005. As an approximation, the annual finance sector survey reports profits of the finance sector for 2005 to be approximately £1,054 million. These two figures are derived from two different data bases, and there is no

guarantee that the two bases match. Notwithstanding this limitation, the average tax rate would be expected to approximate 12% - 14%. But I must stress that this average is made up of very different tax rates applicable to different firms and even different profits of the same firms. These tax rates vary from around 0.5% to 30%, on which see my answer (c) below.

## Question

- (c) If not, what figure for the effective tax rate for the finance sector does he have? Further, will he state what impact the zero/ten proposals will have on this effective tax rate?

## Answer

As stated above a rough approximation of the current *average* rate is 12-14%. This is not a particularly meaningful figure, however, as it is not a good indication of the tax rate applying to any particular firm, nor indeed to any particular activity within the finance sector. However, to disaggregate this analysis any further would take an inordinate amount of time, effort and resource cost. And even then the calculated figures may not be particularly meaningful due to the huge variations in the tax rates applied to various companies, especially International Business Companies in the finance sector. By way of illustration, the tax rates range from 2% up to 30% in some instances, with rates as low as 0.5% on some international profits, and some of these varying rates applying to the profits of the same International Business Company. Post 0/10 implementation I would expect that the average effective tax rate for those activities that fall into the 10% category, i.e., certain financial services companies, to be 10%. However, the tax base will not be the same as that used by the survey to report on profits, as certain finance sector profits will not be subject to the 10% tax rate. For all of these reasons it is not possible to produce an estimate of the effective rate of tax post 0/10 without incurring excessive cost, and even then the figure wouldn't be meaningful. Furthermore it must not be forgotten that the prime reason for introducing 0/10 was to respond to competitive pressures, from other jurisdictions such as the Isle of Man and Guernsey. Any attempt to increase the effective rate of tax above that in competitor jurisdictions, would lead to business going elsewhere resulting in not only unemployment and lower incomes, but also a decline in tax revenues.

## 2. Oral Questions

### 2.1 Deputy I.J. Gorst of St. Clement of the Minister for Economic Development regarding the creation of a Jersey Bank Depositors' Compensation Scheme:

Has the Minister any plans to create a Jersey Bank Depositors' Compensation Scheme, and if not does he have any proposals to both protect depositors and maintain competitive advantage?

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

Fortunately, Sir, bank failures are extremely rare events. In fact there has never been a bank failure in Jersey since the introduction of the Top 500 rules. All banks in Jersey are well-regulated and each is a subsidiary or branch of a larger banking group which ranks in the top 500 banks worldwide and therefore each Jersey bank has a larger parent company in the U.K. (United Kingdom) or elsewhere. The recent failure of Northern Rock has emphasised the advantages or perhaps disadvantages of having a Depositors' Compensation Scheme. The E.U. (European Union) is currently exploring the need for an E.U.-wide scheme under the heading of the reviewing of their response to potential future cross-border banking collapses and we are monitoring this closely to see whether there is a need for action in Jersey. There is no evidence to suggest that the lack of a Bank Depositors' Compensation Scheme reduces Jersey's competitive positioning. Indeed, there is a distinct possibility that the very significant costs of introducing such a scheme would act as a

disincentive to Jersey. In fact, banks may consider not establishing in Jersey because of the costs. My view is, is that we should continue to rely on tough regulation and not deal with issues or regulation of dealing with the stable door after the horse has bolted.

**2.1.1 Deputy I.J. Gorst:**

I am sure the Minister is well aware of the Isle of Man Depositors' Compensation Scheme which, to me, appears to be a common sense and cost effective approach. Bearing in mind his answer some moments ago that European Communities will be addressing this subject potentially with a Europe-wide solution, I wonder if he could look at that and the feasibility of introducing a similar scheme to the Isle of Man Depositors' Scheme which is cost effective and a common sense approach to this issue.

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

I will say that we will keep the matter under review, however the advice that has been received is, is that because of our tough regulatory arrangements and only introducing or allowing the establishment in Jersey of banks in the top 500 that it would be... that it is effectively not necessary. But I am happy to keep the matter under review. I am aware of the Isle of Man scheme: of course the Isle of Man financial services industry is somewhat different from Jersey's.

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

Is the Minister saying it is not necessary because if a bank fails, and despite his optimistic thinking banks have failed, like Northern Rock, and others are possibly teetering, is he saying people's money will be safe? Can he give a categorical assurance to the people of the Island that people's deposits are absolutely iron clad in these top 500 banks?

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

The key to ensuring confidence in the banking system is effectively good banking regulation, and that is what we do have in Jersey. The issue of the Northern Rock collapse; there is a U.K. depositors' scheme, it is a limited scheme but the existence of that scheme did not stop the queues of people attempting to withdraw their money from Northern Rock, which effectively meant that the Government had to step in and act as a guarantor beyond all guarantors. So the very existence of a banking deposit compensation scheme does not necessarily solve the problem. The depositors' scheme, I am advised, in the U.K., payments have been made to savers but not for banking collapses but as a result of failed Credit Unions.

**2.1.3 Deputy R.G. Le Hérissier:**

Can I press that, Sir? We can therefore take the Minister's assurance that all deposits by Islanders are absolutely safe?

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

Depositors in the Island can rely upon the strength of the banking system in Jersey and can rely on the fact that there is a tough regulation in terms of 500 banks, the quality of banks that exist in Jersey, and they should take considerable comfort from that. I would also point out that we are not, in fact, alone in dealing with a depositors' scheme. Northern Rock was active in Guernsey and effectively the U.K. Government underwrote the depositors in Guernsey too.

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

The Minister referred to tough regulation. Can he say which part of the regulation would apply to banks so that people could get their money bank?

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

I explained that the tough regulation is that we only allow in the Island the setting-up of banks that fall within the Top 500 rule. That is a tough regulation. Many people have questioned that policy

over a period of years, but I think that policy has stood the Island in good stead, has ensured that we have not seen... and I would remind the Deputy, we have not seen a bank collapse in Jersey since the introduction of that rule. That is the confidence that Jersey depositors can take.

**2.1.5 Deputy I.J. Gorst:**

While I appreciate the Minister's responses and the tough regime that the J.F.S.C. (Jersey Financial Services Commission) put on allowing banks in the Island, and Deputy Le Hérisse's contention that we should be able to say that depositors are 100 per cent guaranteed, I appreciate that that is not within the remit or the ability of the Minister to grant that. However, does he not agree that in these much changed circumstances, and much changed economic climate, it is incumbent upon us as a jurisdiction to ensure that we do have every piece of armoury at our disposal to encourage depositors within the Island and, not least, encourage local savers to deposit their money with their Island banks?

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

The fact is that the nature of the financial services industry in Jersey is that most of the deposits that are made by Jersey depositors are effectively lent back to the corporate centres of what are some of the world's leading international banks. I am happy to review again the Isle of Man scheme but it does come with a cost, and there is obviously a trade-off of cost versus, I think, the better situation of ensuring tough regulations so the banks... effectively the Northern Rock situation, notwithstanding Northern Rock was a particularly difficult issue because they effectively were not insolvent but they had difficulties in meeting their short term liabilities with their lending structures. Those kind of deposit taking banks do not exist in Jersey and so therefore there can be confidence taken from that, but I will review again the issue of the Isle of Man depositors' scheme, and if there is something that is appropriate, that is balanced, then I will look at it and bring forward proposals to the Assembly.

**2.1.6 Deputy A. Breckon:**

Can the Minister confirm that there is no basic guarantee for depositors, even up to £30,000, which is about the U.K. level? There is no guarantee in Jersey?

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

No, there is not, and there is not in Guernsey either, and such a deposit scheme does exist in the United Kingdom but it was of little apparent use to those people concerned with deposits in Northern Rock. So, one does need to put, I think, the whole spectre of the Northern Rock banking collapse... it has effectively provided some important lessons to governments; and also the use of a depositors' scheme, while it appears that such a scheme was in place it did not appear to have any confidence building with the depositors of Northern Rock. So I think there are lessons there and there are obviously lessons in the whole regulatory environment in the banking sector which is, of course, under review both in the United Kingdom, and I keep in close contact with the Financial Services Commission here. But there are no issues in Jersey at this present time and Members should draw comfort from that.

**2.1.7 Deputy I.J. Gorst:**

Again, I thank the Minister for his responses to the question there. He did touch upon one subject, and that is that Guernsey does not have a Depositors' Compensation Scheme either. Can he at least undertake to raise this issue with his new counterpart in Guernsey because I believe that this is another issue that could have a pan-Channel Islands solution?

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

I warmly agree with that comment. I am looking forward to working with Deputy Carla McNulty Bauer. I am going to be meeting her in the next few days, I hope, and putting forward a Channel Islands agenda for economic matters. It is certainly an excellent idea to work together, and if we

could find a solution - a pan-Channel Islands solution - that is a good thing and I will certainly promise to put that on the agenda with my discussions with her.

## **2.2 Deputy G.P. Southern of St. Helier of the Assistant Minister for Planning regarding the shortage of 2, 3 and 4-bed housing in the Island:**

In the light of the findings of the 2007 Housing Needs report pointing out the shortage of 2, 3 and 4-bed housing in particular, will the Assistant Minister inform Members what estimates she envisages for the provision of such housing arising from the White Paper, *New Development Guidelines for Town*?

### **Deputy A.E. Pryke of Trinity (Assistant Minister for Planning):**

Just to say that the Minister sends his apologies, he has been involved in an accident over the weekend, so I am answering these questions at short notice. The recently identified brown field sites will provide a significant number of out-of-town housing units for other than exceptional circumstances. The Minister and I believe that we should discourage further development on green fields in the countryside. Consequently we need to balance a housing supply. The new development guidelines for the town consultation document is designed to encourage developers to concentrate their efforts in providing new housing in St. Helier rather than on a green field site. The key however is that all new homes must be of high standard. I am pleased to say that from the meetings that the Minister has had and attended recently, the proposal is already working and there are plans emerging for a significant number of high quality homes and apartments in town. This of course needs to be combined with significant public investment in the infrastructure of the town and this must come from the £50 million to £70 million projected receipts from the Esplanade quarter, should this find favour with Members. The *New Development Guidelines for Town* document is not designed to provide a specific number of units, rather it is designed to provide a shift in focus. The Housing Needs Survey identifies shortages, some of which may be resolved by shifting, by example, from rental to shared equity. However, for accurate matching of supply with demand we need a piece of further analysis taking into account no new housing, either planned or under construction.

### **The Bailiff:**

I am sorry, Assistant Minister, your time has expired now.

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

Will the Assistant Minister assure Members that there will be a renewed emphasis on the building of houses, 2, 3 and 4-bedroom houses which are the shortage area, rather than the current domination of flats, one and 2-bed?

### **The Deputy of Trinity:**

Yes, Sir, I can assure him and I know the Minister is asking his department to work with the Statistics Unit to provide a list of type of homes that are going to be needed over the 5 years, taking into account what he has just said.

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

Would the Assistant Minister share the confusion of all other Members with the statement of the Minister for Housing that he is moving ahead at Salisbury with one-bedroom flats when that need was not defined clearly in the social needs report? Is the Minister and the Assistant Minister, Sir, are they being guided by the intuitive and anecdotal planning of the Housing Minister or by the Social Needs Housing Survey?

### **The Deputy of Trinity:**

I cannot answer for the Minister for Housing, I can just say that the Housing Needs Survey shows that there is a potential surplus of one-bedroom apartments but then you have also got to take into account that it could be a potential surplus but depending on the complementary availability of larger accommodations for those people to move in to. So, it is not just surplus of one-bedroom apartments, there are other factors to take into account.

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

Does the Assistant Minister accept that the provision of high quality housing in St. Helier requires good amenity space and good parking space for that housing, and that means relatively low density housing rather than the high density which appears to be promoted in the new guidelines?

### **The Deputy of Trinity:**

As in any planning, it is not one specific area. It is a multitude of things, like amenity space, car parking, which all have to be taken into account. An amenity space is important if we are to encourage young families, people to move into town. That is highlighted in our consultation document and I urge the Deputy perhaps to respond to that.

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

Excuse me, but I am getting very confused. In the *J.E.P. (Jersey Evening Post)* last night, in the article that Deputy Le Hérisier referred to, the Housing Department are saying that, and I quote: "They still require one-bedroom flats despite what the Housing Needs Survey says." In an answer to a written question today the Planning Minister says that it is indicated that there are healthy supplies of one, 2 and notably 3-bedroomed homes in the pipeline. So on the one hand the Housing Department is saying there are not enough one-bedroom homes and the Planning Minister is saying there is a healthy supply. I am totally confused. Could the Assistant Minister clarify the situation please?

### **The Bailiff:**

The Assistant Minister cannot be called upon to answer for matters in the *Jersey Evening Post*, Deputy but [Laughter] if she is willing to answer the question in a different context that is acceptable.

### **The Deputy of Trinity:**

There are just a couple of points. I think the Housing Needs Survey has estimated the potential housing requirements for the next 5 years, and that is where another piece of research work of exactly what type of houses are needed in town, whether it is 2, 3, 4-bedroom houses, *et cetera*. That piece of work needs to be done as a follow-up from Housing Needs Survey, and also looking hand in hand with the White Paper that is out now on *Guidelines for Town*, both of those are very important to look for the future for the next 5 years.

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

Does the Assistant Minister accept that the bringing-up of children in flats or 3-bedroom flats, without sufficient amenity space, is a recipe for social problems later on?

### **The Deputy of Trinity:**

It is a very good point and the Minister and I have been talking a lot about the importance of amenity space. I would agree with the Deputy that amenity space, whatever we are going to do in town - the regeneration of town - amenity space for our young children is important and the right amenity space, and I would stress that.

### **2.3 Deputy J.A. Martin of St. Helier of the Minister for Social Security regarding the phasing-out of Income Support protection payments in October 2008:**

Will the Minister please advise the Assembly when he will be informing those who are receiving income support, how much they will receive when the department starts to phase-out protection payments in October?

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

As planned, in July.

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

In the *Guide to Transitional Benefits* recently published by his department, he refers to the sum of £22.5 million to allocate to transition funding, and talks about 4 groups of people for whom that transition funding will be phased-out over the coming zero to 4 years. Can he state how many people at this stage will be losing all of their transition allowance in October of this year? How many?

**Senator P.F. Routier:**

I am unable to give the Deputy that answer. All the information with regard to transition is being collated during this month and I will be reporting to the States at the next sitting, giving a full breakdown of transition arrangements which will come into place.

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

In that case, Sir, if he cannot do that, can he state to the House how he can possibly have produced an estimate of £22.5 million for the overall transition protection with various percentages of reduction come October onwards, without knowing how many people are going to be affected and by what degree? He surely cannot have calculated the £22.5 million without knowing. Can he reveal what he knows?

**Senator P.F. Routier:**

We have a budget of £22.5 million to allocate to transition. We will be assessing each individual groups of people and their needs and we will be making a decision about transition and I will be making an announcement about that at our next sitting.

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

Is the Minister confident that the new low income support system is meeting the needs of the well-off, particularly in the urban areas, and will he undertake when he reports back to the States to give a detailed account of how much care and back-up the Parishes are continuing to provide to those people who feel that they are not receiving what they require from income support?

**Senator P.F. Routier:**

I am not sure whether I heard the Constable correctly.

**The Bailiff:**

I think you mean the less well-off, I think, rather than the well-off?

**The Connétable of St. Helier:**

Sorry, Sir, yes. [Laughter]

**Senator P.F. Routier:**

I hope so, Sir. The income support system is bedding-down, I believe, very successfully. We are getting a lot of good reports and thanks from a number of people about how the income support system is supporting them. If the Constable has any indication where he feels it is not doing what it is hoped to do, I would hope that he would come and mention it to me.

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

The Minister said July. I have concerns; is it going to be the first week? I really am concerned it is going to be after our last sitting and many Ministers and States Members are going to be away all of August. Can he confirm it will be very early on because my memory was May? When people received their first letter, Sir, they were told they would be updated in May to what they would be receiving or losing in October. Now we have moved to July. I think it is a very small... if it is late July, if we need to change anything it is leaving it very, very late.

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

As I mentioned earlier, I will be making a statement to the States at our next sitting about how transition will be working. We will be informing people in a phased period over July because we cannot do it all in one hit as there are 8,000 households to... well, there are not 8,000 people in transition but the number of people in transition will need to be written to individually so that cannot be just done automatically in one hit. But it will be done as soon as we possibly can. But States Members will be aware of what is happening with transition at our next sitting.

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

The Minister seems to indicate that he is not sure that the £22.5 million will be sufficient to cover transition because he cannot relate it to the table of those whose transition support is getting phased-out on table 2, is that the case? Does he know whether the £22.5 million is an accurate and sufficient figure?

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

The £22.5 million is the money I have available and it will be sufficient to meet the needs of the planned transition?

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

Supplementary to that, Sir. In that case, he must now be able to fill in figures from his table because he must have made the calculations. Why can the Minister not reveal how many people by what degree are going to be affected come October?

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

I will be making that statement at our next sitting.

#### **2.3.7 Deputy J.A. Martin**

On transition, nobody is supposed to be any worse off. I have had a few reports since the supposed up-rated G.S.T. (Goods and Services Tax) rates that because some people are getting more than they will be getting after transition cut-off that their rate has been upgraded but that no more money has gone in the bank. Can the Minister confirm if this is correct or not?

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

I am unable to confirm one way or the other. I would need to have a look at the detail of that.

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

If the Minister could let me know later; in the coffee room would do.

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

We will meet in the coffee room later.

#### **The Bailiff:**

I think if the Minister is going to be asked to give information he should give it rather more widely than in the coffee room. **[Laughter]**

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

Sorry, Sir. I was being a bit flippant. No, please, if he could come back to the House when he is... I have had a few people report this since G.S.T. and obviously I cannot understand why because we were all told people will be protected and if they add a certain amount before the rises all of their money should have gone up by 3 per cent - I know not the rental part.

**Senator P.F. Routier:**

If the Deputy gives me the exact detail of what she has been shown I will obviously look into it.

**2.4 Deputy I.J. Gorst of the Minister for Transport and Technical Services regarding changes to the waste strategy and the proposed Energy from Waste plant in the light of the Juniper report:**

Will the Minister be making any changes to the waste strategy and the proposed energy from waste plant in light of the recent published Juniper report?

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

I think it is a great shame that the Juniper report was not available to Members at least a year ago. The waste strategy has been in place since 2005 and regrettably this report has all the hallmarks of a last minute effort bringing professional consultants to the Island only for a matter of a few weeks expecting them to grapple with a very complex subject. Nevertheless I think that they have done the best job in the circumstances and every time I read this report I am hugely encouraged because on virtually every page it confirms the key aspects of the waste strategy, although Juniper of course do, as they were under remit to do so, provide alternative suggestions. But, for example, Juniper confirm that there was no merit in trying to extend the lifetime of the current incinerator at Bellozanne and that it was appropriate to replace it, and they also, as another example, agreed precisely with the department's view of what constitutes the definition of proven technology. I find the Juniper report, albeit I believe they could have had much more work applied to it, entirely supportive of the current waste strategy and in that light, of course, I will not be making any changes in the light of the report.

**2.4.1 Deputy I.J. Gorst:**

I just wondered whether the Minister was going to answer my question or he was going to continue to denigrate professional consultants. It seems the Minister will pick which professionals he chooses to...

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

That is most outrageous. On a point of order, Sir, on a point of order, I do wish the Deputy would listen, I did not denigrate the consultants.

**The Bailiff:**

Minister, would you please sit down. Minister, will you please sit down so the Deputy can continue his question and complete it.

**Deputy I.J. Gorst:**

Thank you, Sir. The Minister obviously seems to have been reading the report rather selectively. While I see that the report in large body does agree with certain elements or concur with certain elements of the waste strategy, there are other issues which it raises which I feel the Minister needs to address. It says: "And I asked the Minister whether he will be addressing these issues and whether his department will be, for example, carrying out a formal risk analysis of the consequences of wrongly predicting the quantity and nature of waste over the lifetime of the plant. Will he also ask his department to carry out a proper comparative evaluation of the options?"

Thirdly, will he be providing the financial case for his chosen approach?" Perhaps he could try and answer these questions, Sir.

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

First of all, I did the Deputy the courtesy of not simply saying, no, as he is sitting down. Secondly, I utterly reject his assertion that I am denigrating the consultants. Quite the contrary. I have said that these were highly professional consultants who simply were not accorded enough time by the Environment Scrutiny Panel to do a proper job of work. Thirdly, I will not go into the detail of all the various aspects that the Deputy has asked me to investigate but I can assure him that the department will provide a comprehensive response to the report.

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

Does the Minister accept that as was in the Juniper report, the proposed energy from waste plant is excessively large for the needs of our population now and for the near foreseeable future? Does the Minister also accept that to have an incinerator - an energy from waste plant - that is too large will, in fact, deter our ability to increase recycling initiatives?

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

This is a complex matter and the time I have available simply does not do justice to it, but in very broad terms, the cheapest way to dispose of rubbish in an Island like Jersey is mass burn incineration. The waste strategy has proposed an alternative approach which includes a very substantial amount of reuse and recycling to be developed over the next few years. I need to remind Members that the more recycling that we undertake the more expensive the whole waste disposal issue becomes. My department is working hard on deriving the most balanced and the most economic approach for the Island over the next 30 years and I am satisfied that is the conclusion that we will come to.

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

The Minister will be aware that the presentation of the Juniper report was poorly attended, not least because it was on a Friday evening. Does the Minister think there will be merit in asking the Juniper consultants to come to the Island again to present their findings to a greater number of States Members, at which time he could possibly also describe his response to the report at the same meeting?

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

I am not sure that there is any particular merit in asking Juniper to come back and make the same presentation, while there may be merit for the Environment Scrutiny Panel to commission more extensive work. The fact of the matter is that the Juniper consultants refuse to commit themselves to certain specific elements such as they would not name a target percentage figure for recycling. Nevertheless they did say that the Transport and Technical Services targets were entirely sensible and understandable in the light of the very specific problems that pertain to waste disposal on an Island. I really have no view. Juniper are the consultants for the Environment Scrutiny Panel, and it is a matter for that Panel to decide whether to bring them back or not.

**2.4.4 Deputy J.A. Martin:**

Can the Minister inform the House and assure the House really, that the energy from waste plant that he is already planning... sorry, his department is planning, is not already too far down the line to be reconsidered and if this is the case is he not just wasting our time in saying he will look into these things? I really need a timetable on how far we are down the line with this massive energy from waste plant, Sir.

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

The Deputy raises a very fascinating question, Sir, as to who is wasting whose time. I make no further comment upon that other than to say that we are at the end of a very comprehensive tendering process that has extended over not just months, but years. A waste strategy that has been consulted time and again for at least 7 years and was confirmed by this Assembly in 2005. I am afraid we are no longer drinking in the Last Chance Saloon. The tender process has come to a conclusion. There is absolutely no chance that any new companies can be involved in that, we are reaching a conclusion. It will be then up to the States to decide on the conclusion and I can only say that Members should devote a considerable amount of their time to this issue because if they make the wrong decision the consequences for the Island could be extremely expensive indeed.

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

Can the Minister explain why he does not accept that an increase in recycling rates to perhaps 60 per cent would not result in a smaller energy from waste plant being required? There are many Members who feel that the Minister is taking the wrong course of action in the way that he is moving forward, and can he explain why he is so insistent on moving forward with a large energy from waste plant when increased recycling could drastically reduce the size of the plant required?

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

First of all, Sir, I am not insistent on pursuing a large energy from waste plant, and that entire subject has been reviewed in the light of the Housing Needs Survey, information that was not available to the Juniper consultants. In respect of recycling figures that are in the realms of 50 to 60 per cent, these can only be achieved when household food waste becomes part of the waste disposal process. That can be done in a number of ways, but mostly it is either some form of composting or anaerobic digestion. Both of which require specific and relatively expensive plant to deal with that issue. Both of which produce a compost residue. Now, I have no issues with the validity of that type of process, except for one. That is that the States rejected it and I do wish that Members would stop blaming everything on me and take some responsibility of the decisions they have made earlier but have now forgotten. The issue with what you do with food waste compost is where do you put it? The States quite wisely decided they did not want to take any risk with some of the highest quality agricultural land on the planet, in case of any suggestion of pollution or otherwise. That is the current state of affairs and I am simply following States policy.

**2.4.6 Deputy I.J. Gorst:**

The Minister asserts that the more recycling and reuse the Island achieves the more expensive it becomes. Does he, however, not agree that increased recycling and reuse is the right thing to do, and therefore his department should be encouraging it. It was, after all, the vision of the waste strategy. Finally, Sir, he says that he has come to the end of a long tendering process; can he confirm to the Assembly, Sir, that the procurement unit has been fully involved and signed-off and agreed with all that tendering process?

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

Of course the tendering process has been carried out properly. But if I was to make any further comment on that I would make this one. That is, if this Assembly, as it is entitled to do, throws out the results of that tendering process that outcome will very seriously undermine the credibility of this Island in the international tendering situation. That is a fact, and one of the facts that have dogged the Jersey tendering process was the failure by our sister island to go through with a tendering process that they held on almost exactly the same topic. We have a credibility issue at stake.

**2.5 Deputy S.C. Ferguson of St. Brelade of the Minister for Transport and Technical Services regarding the extension of the central reservation at Bel Royal:**

**Deputy S.C. Ferguson:**

Would the Minister explain what consideration, if any, was given to the requirements of the emergency services before the central reservation at Bel Royal was extended, and advise whether discussions were held with those services before construction commenced?

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

It is with regret that I have to inform the Deputy and Members that during the initial design phase for the new junction layout at Bel Royal, the emergency services were not consulted as is the normal practice. However, I should emphasise that the issue of emergency service access was not overlooked and was considered in detail by the project design team on several occasions. Nevertheless, those outcomes should have been consulted directly. Subsequently, when the new road layout was under construction it became apparent that the emergency services and other motorists were voicing some concerns. As soon as the failure to consult the emergency services was discovered meetings were arranged with the fire and ambulance services to review the scheme to ensure that emergency vehicles had adequate room to pass stationary traffic. The emergency services have now confirmed that, subject to the lowering of approximately 10 metres of curbing, they are content with the new layout and are satisfied that their response times would not be reduced. The Transport and Technical Services Department is now conducting an investigation as to why such an important piece of consultation did not take place during the design phase when it is clearly included in the design teamwork schedules.

**2.5.1 Deputy S.C. Ferguson:**

In view of this, and the fact that the emergency services were not consulted before construction commenced, does the department not see any conflict between allowing emergency vehicles and mothers with prams to use the same central reservation? Was the previous arrangement not inherently safer?

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

I cannot speculate on hypothetical cases. What I can say is that the entire improvements have been consulted in terms of best safe practice and that, frankly, is the best we can do. Similarly, we have consulted with the emergency services who have agreed with what has been proposed. I wish to make it quite clear to Members that if the emergency services had offered any serious resistance to what has been put forward I would have stopped the works and ordered an immediate redesign of the project. That is not the position I find myself in.

**2.5.2 The Deputy of Trinity:**

Just to clarify a point, if the Minister could, when he mentioned about lowering the pavement. Is he talking about the pavement in the central reservation or is he talking about the pavement on the seaside and landside?

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

The area in question is the central reservation, and the Deputy of St. Brelade, Deputy Ferguson, has quite rightfully spotted it is used, and not only by parents with buggies and prams but also by young children who want to take their bicycles out on to the front. The area has been specially strengthened to take the weight of the heaviest emergency services vehicles. The curb that will be lowered in height will be the southern section of the central reservation which will allow emergency services vehicles to mount it, drive along it and then demount it further on. I have to say in response to the Deputy of St. Brelade, Deputy Ferguson, I can see no circumstances where an emergency services vehicle is likely to collide with any member of the public. They have entirely professional drivers.

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

Many members of the public have expressed concern about the money apparently being spent on the reorganised layout at Bel Royal. Would the Minister confirm the reasons for the changes in light of the fact that there did not seem to be a problem before?

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

There have been at least 10 injury accidents at that section of Bel Royal over the last 3 years. There are issues with the inbound eastern bend with what I might describe as boy racers who have very powerful turbo charged cars, and do what is known, as I understand, putting the foot to the metal as they go past the garage, and then encounter either serious oversteer or understeer problems as they fail to negotiate the bend at speed resulting in crashes 50 to 100 yards up the road. The bend is being restructured so that type of behaviour will no longer be possible. Even those people who are irresponsible enough to travel along at speed on Victoria Avenue will at least be going in a straight line. Numerous other safety changes have taken place which include people whose home exits exit out on to that road and also we are taking account of potential danger of fuelling operations at the garage. A vast number of safety improvements have been undertaken.

**2.6 Deputy S. Power of St. Brelade of the Minister for Treasury and Resources regarding the way in which Police overtime costs, as result of the investigations relating to Haut de la Garenne and historical child abuse, would be met:**

Would the Minister confirm how much he has had to provide to meet the States of Jersey's Police additional overtime costs in the current financial year 2008, as a result of the investigations relating to Haut de la Garenne and historical child abuse? Is he able to disclose the provision he is making for 2009 and 2010 to meet these ongoing costs?

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

As Treasury and Resources Minister, I have no funds at my disposal to provide for overtime costs or any other expense, whether related to Haut de la Garenne or any other unexpected event. Departmental budgets are expected to provide for normal contingencies. However, the particular circumstances of the Haut de la Garenne investigations and their potential cost implications means that it is likely that some departments would be unable to meet such costs from their normal budgets. Accordingly, all departments have been asked to provide the Treasury with quarterly returns of expenditure incurred as a result of the investigations related to Haut de la Garenne and historical child abuse, together with projections of what the full year costs are estimated to be for 2008. Aside from transferring money from other departments, my only course of action open is to take a request to the States for additional funding in 2008. The first quarter returns from the departments have all been received but have not, as yet, been examined to ensure that they are reasonable. Once that exercise has been carried out the total expected cost to date will be reported to Ministers at their council meeting on 12th June. At some stage, thereafter, they will also be asked to approve a report and proposition from me which I would then lodge 'au Greffe' requesting from the States sufficient additional funding to meet relevant projected overspends in 2008. The department has, as yet, received no indication of any likely costs for 2009 and beyond.

**2.6.1 Deputy S. Power:**

I wonder if the Minister for Treasury and Resources would indulge me in a clarification on that very good answer. Can I take it then from the Minister for Treasury and Resources that if the quarterly returns on a departmental basis are insufficient to meet the extra costs of the Home Affairs Department because of the 2 investigations referred to, that he will bring a projet to the Assembly to meet the shortfall on that this year? Can he clarify that?

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

That is correct, Sir. Of course it would not just be necessarily the Home Affairs Department. There are other departments incurring costs as a result of this inquiry, but they certainly would be the main ones.

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

What checks and balances has the Minister, perhaps in co-operation with his colleague in Home Affairs, put in place to ensure that the costs are indeed managed, and that they are not runaway?

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

That issue is not unique to the Haut de la Garenne inquiry, but any expenditure incurred by any department has to be approved by the accounting officer of that department. That accounting officer is personally responsible for the spending of his department. It is up to him to ensure that all expenditure incurred is reasonably and justifiably incurred. That expenditure is then reviewed by my department but the onus remains very much with the accounting officer of the department concerned.

## **2.7 Deputy G.P. Southern of the Assistant Minister for Planning regarding the terms of reference for the Jersey Retail Study into the impact of a third supermarket:**

Will the Assistant Minister inform Members of the terms of reference for the Jersey retail study currently being undertaken by DTZ for the Planning and Environment Department into the impact of a third supermarket?

### **The Deputy of Trinity (Assistant Minister for Planning):**

Since the adoption of the new Island Plan 2002 a number of significant issues and changes have arisen which require particular aspects of the Plan to be reviewed, and if necessary changed to reflect the new circumstances and objectives. Retail plays a significant part in the economy of Jersey and has specific land issues related to it, some of which are controlled by policies in the Island Plan. DTZ are leading specialists in retail planning and they have been commissioned to provide a comprehensive appraisal of retail provision and future retail requirements in Jersey. DTZ were not tasked specifically to consider the impact of a third supermarket operator but rather to consider all aspects of retailing. The DTZ report will probably be available in June and the Minister is more than happy to share this with the Deputy and other Members at that time. In the meantime, he has tabled copies of the specific DTZ brief and a copy is on Members' desks.

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

I thank the Minister for her answer. Could I ask further; the second of these items says: "These projections should be for 15 years from 2009 for each of the population growth scenarios that the States of Jersey are now considering." Could she state whether these scenarios are the scenarios referred to in Imagine Jersey exercise and do they refer to a range of up to 625 heads of household or up to 625 inward migrants.

### **The Deputy of Trinity:**

That is a very specific question, Sir, and I think I would need time to get the answer and come back to this House because I do not want to give any false information.

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

Thank you. If I may, Sir, further on? Could the Minister state whether the survey, which she describes as comprehensive, does it address the potential for the size of the workforce required for a potential third supermarket operator and what size would that be? Would that be an additional 200 fairly low skilled jobs, an additional 500 or what? What projections are being made for the additional labour required in this comprehensive survey?

**The Deputy of Trinity:**

I am sorry, Sir, again that is a very specific question and I will come back to the House with that answer.

**2.7.3 Deputy R.G. Le Hérisier:**

Would the Assistant Minister not acknowledge there is total confusion about this issue? For example, the questioner who one would have thought would be committed to cheaper food on this Island seems to be preoccupied with the extension of the low cost labour force. Is this not yet another further study to defer and defer and defer?

**The Deputy of Trinity:**

This study is important as it will form part of the Island Plan review, which you know has got many different parts to it and the D.T.Z. are leading specialists and these results will be important.

**2.8 Deputy G.C.L. Baudains of St. Clement of the Minister for Transport and Technical Services regarding combined speed humps and pedestrian crossings:**

Further to my written question of 29th January regarding combined speed humps and pedestrian crossings, will the Minister agree to cease installing these and make provision for removing the duality of those in existence?

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

In my response to the earlier question I think it would be helpful to Members if I inform that I said this: "Although some of these crossings are unlit they are all within the town area where there is street lighting and the department has no record of any accidents on these crossings. Moreover, there is little doubt that the raised humps are effective at slowing down traffic speeds and the shared space principle within the town environs has appeared to work very well, especially for pedestrians." Given the above, I have no specific safety concerns for those crossings currently in place and in the light of that information, Sir, I am sure the Deputy will not be surprised when I say that I do not intend to cease installing those crossings and I will not be making provision for removing the ones that are already there.

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

It does seem to me that, albeit unintentionally, the Minister is possibly missing the point. First of all, Sir, if I may ask a 2-part question? It does seem to me that some of the speed humps may not be complying with the Highway Road Humps (Jersey) Regulations 2002. Could he ensure that in fact they do comply, especially with regards to height? The second part of my question is, Sir, I am concerned about safety because a driver approaching a pedestrian crossing would normally look at both sides of the road to see if anybody is about to cross, whereas a driver approaching a speed hump will not be looking at the side of the road, he will be looking at the speed hump in front ignoring temporarily the side of the road, Sir. But clearly the 2 are incompatible and my fear, Sir, is that it is only a matter of time before somebody looking at a speed hump knocks down somebody stepping on to the pedestrian crossing. Will the Minister not reconsider the potentially dangerous habit of combining pedestrian crossings and speed humps in light of those comments that I have made?

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

The Deputy's exposition of drivers' scanning habits and observational characteristics are utterly fascinating, but I do not think can form part of a sensible response today. I will of course ask my officers to check the compliance of the crossings and I would be most grateful for the Deputy, who clearly has already had his tape measure out, if he would give my department some advance knowledge of which particular humps we should address ourselves to first.

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

I remember the Minister making a statement in this House to the effect that newly-elected deputies were regularly coming to him asking for such matters to be reviewed upon election, in other words, safety in Parish roads. Does the Deputy believe that there are numerous places around the Island, particularly in the rural Parishes where there is the need for speed bumps in order to police the roads adequately?

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

Regrettably life itself is an accident waiting to happen and **[Laughter]** the roads of the Island are no exception. They would, of course, be much safer if every single road had railings with limited exits and crossing points but is this really the sort of world we wish to live in? I think not.

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

Would the Minister confirm whether the speed bumps installed at the harbour are in conformity with his department's policy on the design of speed bumps?

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

I am not sure that the speed humps at the harbour have anything to do with the Department of Transport and Technical Services. The Harbours Department are notoriously protective of their own territory and I very much suspect this is a unique design developed especially for harbour users. **[Laughter]**

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

The Minister did ask if we knew of any speed bumps that needed to be checked, whether we could let him know. I have had reports that the new speed bumps at the Weighbridge are at a height that causes problems to vehicles with either a long wheelbase or with vehicles that are seated at a lower level - those around the Weighbridge. So could the Minister just check those, Sir?

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

Certainly, Sir, I am sure that we can very swiftly look for any signs of paint or metallic residue that have been left on the humps.

## **2.9 Deputy S. Power of the Minister for Treasury and Resources regarding the re-use of the Bellevue site at Les Quennevais for Housing:**

Would the Minister explain why it is taking so long to progress the ultimate re-use of the Bellevue site at Les Quennevais for housing for those in their retirement who want to downsize to a much needed 2-bedroom accommodation?

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

Could I ask the Assistant Minister, Deputy Le Fondré who has responsibility for housing matters to deal with this issue, please?

### **Deputy J.A.N. Le Fondré of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):**

As the Deputy is aware, the department has been working on this matter for some time and has prepared a number of different schemes, each one of which has now been evaluated. I would say, Sir, in general, Property Holdings seeks to obtain value for sites, however unless the scheme was to prove unviable the main criteria in this case is the fulfilling of the relevant social need. We have been in discussions with Housing, Health and Planning regarding the most appropriate sizes and mix of units on the site. The key issue appears to be whether it is appropriate to provide one or 2-bedroom units to meet the needs of the ageing population and/or which would be more appropriate

on this site. At the end of the day houses have a life of over 50 years and it is better to get the planning right up front before making a decision which will last the rest of our lifetimes. It has taken longer than we would anticipate to resolve the issue but we hope that a scheme will be ready for a planning application quite shortly. I would note that there will be a presentation to all of the relevant parties before that is done.

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

I would just like to ask the Assistant Minister, we have all been invited this evening to see some lifelong retirement dwellings. It has been reported to us that all new-builds' lifetime home standard in the U.K. will have to comply with these standards by 2016. Are any of the plans on this site we are discussing now going to meet these requirements?

### **Deputy J.A.N. Le Fondré:**

I would probably like to come back and confirm definitively to the Deputy, but my understanding would be firstly that will be a matter for the detailed planning application. Where we are at the moment is at the step before of seeing the type of units and what type of units can go on to the site. But I would basically give my understanding that it would have to comply. But that is subject to a confirmation, Sir.

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

Surely if we are considering one and 2-bedroom apartments, the important factor is the residual value. What is the differential between one and 2-bedroom flats? As I understand it this is the return to the taxpayer.

### **Deputy J.A.N. Le Fondré:**

In general, Sir, the indicative figures of putting one-bedroom units on the site would result in a deficit to the public, while a 2-bedroom scheme would result in a reasonably positive return. In broad terms, the cost of adding an additional bedroom to an apartment is in the order of about £10,000 a unit, but the increase in value is fairly significant. I do have some indicative figures so I can give them to the Deputy and to the Assembly. I would add a caveat that these are high-level at this stage, it is very much indicative numbers but as a ballpark figure the residual value on a predominantly one-bedroom scheme would end in a loss as it were to the public of in the order of £600,000 to £640,000 as compared to a positive value of between £2.3 million to £2.8 million for a 2-bedroom scheme.

### **2.9.3 Deputy S. Power:**

I wonder, could the Assistant Minister clarify - could I clarify to the Assistant Minister and could he respond - that in the 2 years that I have held a surgery at Communicare, with the Housing Minister and the Assistant Housing Minister, all of the people that have visited the surgery have indicated a need for 2-bedroom accommodation? I might also point out to the Assistant Minister that the same people come back every month looking for a progress report on this development. Can the Minister indicate as strongly as he possibly can that the development will be largely biased in favour of 2-bedroom accommodation to sell and 2-bedroom accommodation to rent?

### **Deputy J.A.N. Le Fondré**

That is the key issue, as I said previously, that we have been trying to identify and it is probably one of the reasons why... because obviously it is that balance between social need and also the financial impact to the public. I have to give a personal view on this point; I think the results of the Housing Needs Survey and anecdotal comments I have heard previously would indicate from a personal perspective a preference for 2-bedroom units. I think that is a discussion that is being had and needs to be finalised. My understanding is that it is fairly close to being finalised, Sir.

## **2.10 Deputy J.A. Martin of the Deputy Chief Minister regarding the introduction of the population register:**

Can the Minister give the Assembly an update as to when the population register will be introduced and inform us whether original timescales will be met?

### **Senator T.A. Le Sueur (The Deputy Chief Minister):**

I think Members will be aware a consultation document on the population register was issued in December 2007. I understand that the Migration Advisory Group will publish its report within the next 2 weeks on the public consultation and its response. The intention remains to introduce the population register along with the rest of the migration policy by the end of 2009 as originally scheduled.

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

Is the Assistant Chief Minister aware of the most recent furore around identity cards in the U.K. whereby the proposal to outsource identity cards is met with horror because it would be relatively straightforward to forge the fingerprints attached to them. There is no public body associated with that? The progress of identity cards in the U.K. is stalled; likewise is our own scheme - which mirrors the identity card scheme - also stalled?

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

The Deputy Chief Minister is aware of the furore in the U.K. but I would be very chary about comparing like with unlike. They are not totally similar but certainly the concerns expressed in general terms about the U.K., I think, have been reflected in the comments received by the Migration Advisory Group. When that report is published I am sure that the reports will be highlighted there and it will be for that group to recommend to the States what action they should take as a result of that. But my understanding is that the intention of the Migration Advisory Group is to keep any requirements as simple as possible and not to try to have a complicated all-singing, all-dancing register which might incur the sort of concerns that the Deputy expresses.

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

Just a quick one. Can the Minister then confirm if the timescale is going to be late 2009 for the population register? In the review of the Island Plan remit in Jersey 2035 there was going to be a debate in early January or February 2009; is that still on? Will we have the debate on the population to be before we know what the population is? That is my question.

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

As I understand it, the timetable is that a report will be published later this year but a debate would be held early in 2009 with the intention that following that debate or debates - because I think there would probably be a debate in 2 parts - following that debate early in 2009 the details could be worked out during the year so that the thing could be implemented by the end of 2009.

## **2.11 Deputy R.G. Le Hérissier of the Minister for Education, Sport and Culture regarding staff on long-term sick leave:**

How many staff within the department are currently on long term sick leave and what procedures are in place to manage this situation?

### **Senator M.E. Vibert (The Minister for Education, Sport and Culture):**

Education, Sport and Culture have 10 members of staff on long term sick leave at present. This represents less than 0.005 per cent of the total head count of 1,847 for the department. In line with agreed procedures, these members of staff have been referred to Capita Health Solutions or are under the care of the appropriate medical authority and will be referred to Capita at a later date.

Capita Health Solutions provide employees with support and guidance regarding their condition and support for their return to work. The department receives a report from Capita with advice regarding the employee's condition and circumstances and in most cases recommendations on a return to work programme. Line managers are encouraged, where appropriate, to keep in contact with the employee while they are on sick leave. Human Resources are also in contact with these members of staff either personally or by mail, depending on the employee's personal circumstances.

**2.11.1 Deputy R.G. Le Hérisier:**

Could the Minister explain the policy where, for example, there is a situation where a person may be involved in possible disciplinary matters and is at the same time on long-term sick leave? What policy is adopted to ensure that at some reasonable time the procedure can go forward?

**Senator M.E. Vibert:**

The policy is that while someone is on sick leave then all possible disciplinary action is suspended and that is in line with the agreed procedures of the States. Of course, while on sick leave, eventually that has to be renewed by a doctor's certificate and so on. Eventually, of course, the person concerned, if such a person is continuously on sick leave, they go down to half pay and then eventually nil pay on the sick leave, but it is not possible to take disciplinary action against the person while they are on sick leave.

**The Bailiff:**

I am afraid, Deputy, that we are not quorate, so I must ask whether at least one Member in the precinct could return to his or her seat so that questioning can continue? Deputy Ferguson.

**2.11.2 Deputy S.C. Ferguson:**

Given that it is roughly a year since the hypothetical case of discipline and suspension sick leave has been going on, what steps is the Minister taking to solve that particular problem?

**Senator M.E. Vibert:**

In this hypothetical case which people keep referring to... well hypothetically the person concerned is no longer on sick leave and the disciplinary process is in train.

**2.11.3 Deputy R.G. Le Hérisier:**

Can I therefore assume - and I do thank the Minister for that reassurance - that all witnesses and all relevant people in this hypothetical case will now be available to give their evidence?

**Senator M.E. Vibert:**

I am not prepared to comment further, Sir.

**2.12 Deputy R.G. Le Hérisier of the Minister for Home Affairs regarding the introduction of mandatory criminal record checks for persons applying to work in care homes:**

Is it intended to introduce mandatory criminal record checks for persons applying to work in care homes and if so, when?

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

This answer mainly affects Health and Social Services. While the Chief Officer of Home Affairs is leading a corporate initiative to provide for a small agency to act as a designated authority under changes due to come into force under the Safeguarding Vulnerable Persons (Jersey) Act, the responsibility to vet staff rests with employers and the departments concerned. I am advised that currently the management staff of homes registered under the Nursing and Residential Care Homes

(Jersey) Law 1994 are subject to police checks as well as the directors of private homes. When the U.K. Act comes into force in October 2009, the scope of the new independent safeguarding scheme will go much wider than the current arrangements. The new scheme will be introduced in phases and will require those who wish to work with vulnerable groups to be registered with the independent safeguarding agency. Certain employments will be classified as regulated. Regulated activities include frequent intensive or overnight contact for any activity in a specified setting such as care homes. In the U.K. anyone providing a regulated activity must be registered with the independent safeguarding agency after October 2009. Jersey is working in parallel with the implementation of the U.K. Act which is to be introduced, as I have said, in phases. The first phase will require all new workers or those changing jobs to register with the independent safeguarding agency. Thereafter a further timetable will be announced for the checking of existing staff and continuous checking arrangements. Again, Sir, Jersey will seek to work in parallel as each phase is introduced.

**2.12.1 Deputy R.G. Le Hérissier:**

Can I therefore draw from the Minister's answer that all persons working in care homes are subject to a mandatory police check? Secondly, Sir, where there are concerns on behalf of the management of such a care home, those concerns are conveyed always to the relevant U.K. professional body?

**Senator W. Kinnard:**

I think that has to be a question more rightly directed to the Minister of Health and Social Services. I have given the answer that I am advised that currently the management staff of the homes that are registered under the Law are subject to police checks as well as the directors of private homes. I have no further information because obviously it is the detail of Health and Social Services.

**2.12.2 Senator J.L. Perchard:**

Just to avoid any confusion, will the Minister confirm that it is a well-established practice that all staff working in children's residential care homes, as well as the Greenfields secure units, are subject to mandatory criminal record checks?

**Senator W. Kinnard:**

I am advised so.

**2.12.3 Deputy R.G. Le Hérissier:**

Just to clarify, Sir, so the Minister hereby clarifies that care workers on the front line are not, at the moment, subject to mandatory checks?

**Senator W. Kinnard:**

I really do not think that that is a question I can answer and I am not the Minister of the department concerned and as I have said - I will say it again - it is the responsibility of the employers and the departments concerned to check their own staff.

**3. Questions to Ministers Without Notice - The Minister for Treasury and Resources**

**3.1 Deputy S. Pitman of St. Helier:**

Would the Minister advise the House how many 1(1)(k)s are presently in the Island and how their income tax is negotiated and monitored by the department?

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

I do not know the number of 1(1)(k)s in the Island although we know the number that are approved each year, we do not know when (k) residents leave the Island. So any figure would have to be very approximate. As far as the tax receipts from them are concerned, that is now a matter of the

Income Tax Law and under the Income Tax Law they are obliged to pay Jersey tax on all their Jersey income for the first million pounds of income at the rate of 20 per cent, thereafter for the next half million it is 10 per cent and thereafter it is at a reduced rate of one per cent if my memory is correct.

**3.1.1 Deputy S. Pitman:**

Would the Minister provide the approximate amount that he has just mentioned of 1(1)(k)s; would he endeavour to find and publish that information for Members?

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

I will endeavour to produce and publish an estimate of the current number of 1(1)(k)s in the Island for the benefit of Members although I also draw Members' attention to the fact that after a 1(1)(k) resident has been in the Island for a number of years they would achieve residential qualifications in their own right.

**3.2 Deputy G.P. Southern:**

I am tempted by a supplementary on the last question, but never mind. In response to my written question today the Minister for Treasury and Resources has estimated at £16 million the loss due to the move to Zero/Ten of income revenue from international business companies. Can he state how it is that a reduction of rate by 50 per cent from 20 per cent to 10 per cent can produce only a reduction in income of 25 per cent, around a quarter? What is the tax situation for I.B.C.s (International Business Companies)? What will the tax situation be on Zero/Ten? What effective tax rate are I.B.C.s currently paying?

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

A number of questions rolled up together there. But certainly international business companies come in a variety of shapes and sizes and there is no one standard average rate of tax paid by companies. Each company will have its own particular effective rate. Because that rate will be less than 20 per cent but more than zero, then clearly when a regular rate of 10 per cent comes in the tax receipt will vary accordingly. As far as the timing is concerned, as the Deputy is probably aware, any new I.B.C.s are no longer able to be produced, but existing I.B.C.s can continue in existence until 2011. So the revenue from them will disappear gradually and the tax that they are paying now under the I.B.C. regime will be replaced by tax at the flat rate of 10 per cent thereafter.

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

Goods and Services Tax again I am afraid, Sir. As Members are aware, Sir, road fuel comprises of 3 components; the fuel itself, the impôts duty and the Jersey road tax. Will the Minister inform Members why Goods and Services Tax is charged on all 3 elements?

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

It is commonplace that Goods and Services Tax, like any consumption tax, is charged on the final selling price of any goods which includes, as the Deputy says, the cost and the duty and the profit element which is charged by the garage. All of those are part of the components of the cost and all those components are eligible and liable to G.S.T. as they would be elsewhere in the world. Our regime is no different from that elsewhere.

**3.3.1 Deputy K.C. Lewis:**

Supplementary, Sir? To put G.S.T. on the road fuel and the impôts duty and the road tax is surely triple taxation and is surely immoral and possibly illegal. Does the Minister not agree? I may also have an opinion from the Attorney General, if you will oblige, Sir?

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

Firstly, Sir, I do not believe that there is any element of road tax in the cost of fuel. The cost of fuel comprises the raw material, the impôts duty on it, the profit margin of the garage and then, now from 6th May, the G.S.T. I do not regard that as illegal. Those laws, both for the impôts duty and the imposition of G.S.T., were passed by this House and I have full confidence that they are totally legal. If the Attorney General wishes to amend my view...

### **3.4 Deputy R.G. Le Hérisier:**

Would the Minister not acknowledge that he has replaced thought for the day with exemption for the day? Having spread considerable confusion and despondency among the population with his exemption policy, could he inform us what other exemptions he has up his sleeve?

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

I have no exemptions up my sleeve. What we are doing is responding to genuine public concern at the introduction of a new tax in respect of details around that tax. I have always tried to make it clear that it is unlikely we have got the tax absolutely spot-on in the first day and it is as tax gets used and devolves we will find areas in which it needs to be revised. Although that major revision will take place in the autumn once the tax has been set in for a few months and settled down, but I will tell you some immediate issues which I felt would be unwise or unrealistic and maybe unfair on consumers to wait until that time. One such item is the provision of goods for people with disabilities and when this was brought to my attention I raised it urgently with the G.S.T. Department and officers concurred with the view that we should do something straight away. When these occasions arise my view is that it should be dealt with sooner rather than later in the interests of the consumers.

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

Supplementary, Sir? Would the Minister not accept some of these arguments apply to exemption from G.S.T. for food price?

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

I think, Sir, the exemptions that we are talking about in terms of the directions which the Comptroller of Income Tax has allowed to apply are very much at the margins of policy where there are to some extent grey areas. For example, goods for the disabled - medical supplies as well as being vehicles. So there are grey areas in which the Comptroller has discretion. In terms of general policy on G.S.T. that is a matter for this House to decide and we will decide that, as I say, once we have had a review of G.S.T. which will take place in some months' time once the tax is bedded into place. It may well be that the Deputy could then raise his issues at that time.

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

I am very grateful to the Minister for his quick movement on the raising of G.S.T. on the disabled vehicles, but the announcement he made this morning, I think, said electrical vehicles. Well, could he please confirm that it would also include specially adapted petrol/diesel vehicles as well?

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

I did not use the word electric vehicles, that was used by the media, but I can confirm that it applies to any vehicles which are used by people who are disabled.

### **3.6 Senator L. Norman:**

This morning the Minister lodged the proposition P.68 which, if adopted, would require the States to pay Parish rates but this would be balanced by an increase in the Island-wide rate. This would mean the rate payers of St. Helier would be significantly better off, the rate payers in St. Saviour would be marginally better off and the rate payers of the 10 other Parishes would be significantly worse off. Does the Minister consider this to be fair and equitable?

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

The issue of the States paying Parish rates is not a simple matter as the report of the working party makes quite clear and there is, on the one hand, the desire for equity that the States would be treated just like any other property owner. The reality is, Senator Norman rightly says, that it will shuffle the revenue and expenses around and that there will be certain winners and certain losers. That is a decision which ultimately this House will have to make, Sir, and that is why I have lodged the proposition for discussion and in due course the House will decide whether this is a good idea or not.

**3.6.1 Senator L. Norman:**

The Minister did not answer my question. Does he consider his proposition and the effect of his proposition to be fair and equitable?

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

On the one hand, yes, Sir, and on the other hand, no. **[Laughter]** It replaces one inequity by another potential inequity.

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

Can the Minister explain to Members how monies that were already allocated from a car park trading account in 2002 by the then Public Services Committee to bring forward the provision of a pedestrian crossing can then become subject to the Public Finances (Jersey) Law 2005 which I understand does not allow monies for pedestrian crossings or pedestrian facilities to be taken from the car park trading fund? Is it possible, please, to have this explained?

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

That sounds like a matter of interpretation of laws which I am not prepared to give an answer off the cuff. It strikes me that if a new law comes in which supersedes an existing law then the new law takes precedence and if the Public Finances (Jersey) Law 2005 did make that change - and I cannot confirm at the moment whether it did or not - then that is a consequence which perhaps was unforeseen but unfortunately now does exist.

**3.8 The Deputy of Grouville:**

In a written answer this morning, the Chief Minister wrote that incoming (j) cats. outnumber leavers by 2 to one and it was revealed in an answer previously given by the Deputy Chief Minister that there is no monitor for (j) categories leaving the Island. Would the Minister not agree - or Deputy Chief Minister not agree...

**The Bailiff:**

Deputy, is this a question for the Minister for Treasury and Resources?

**The Deputy of Grouville:**

Oh, is he the Minister for Treasury and Resources now? **[Laughter]** Okay, so I will wait for the next quarter of an hour, shall I? Okay.

**3.9 Deputy G.P. Southern:**

Just quite distracted there. The Minister, in his answers to my earlier written question, suggested that tax return of £138.9 million from the finance sector on a basis of profits approximately £1,054 million, but he says that the figures are derived on 2 different data bases and therefore his wording says: "The average tax rate would be expected to approximate to 12 to 14 per cent." Is the Minister really saying to Members that he cannot state what the average tax rate is for the finance sector in this Island based on profits declared? He must know the profits declared, he must know the tax coming in, will he state categorically what the average tax paid by the finance sector is?

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

I can certainly give a mathematical answer to the Deputy and the mathematics as he explained them are very simple. But the difficulty with giving a simple mathematical answer is that there is a danger that it is misleading and misunderstood. I would not want the Deputy or other Members of the House to misunderstand the accuracy or the content of a simple figure which says a mathematical average is whatever it is - 12.735 per cent - when the reality is that the information is created from a variety of sources from a variety of businesses paying tax at different rates and it is very difficult to get one meaningful figure. So, I think my answer was designed to ensure that Members did not read too much into one particular figure.

**3.9.1 Deputy G.P. Southern:**

If I may, a supplementary, Sir? The Minister has failed to answer my question. Is he saying that in terms of macro economics, he cannot give a figure on average for what the finance sector is paying to his coffers? Because he can certainly do that for individual tax payers on average on marginal rates and on maximum rate.

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

In terms of macro economics, I could give a figure subject to a range of error. If the Deputy wants to have that figure he could have it, but I suspect it is not particularly meaningful and the figure would probably be something like 13 per cent plus or minus one per cent.

**3.10 Senator J.L. Perchard:**

The Minister has accepted in time past that under Zero/Ten locally owned companies trading on Island will be disadvantaged compared to those non-locally owned companies trading in Jersey and has agreed to look to bring some proposals forward on a deemed rent principle. Can the Minister update the Assembly as to when he will be firming-up on these proposals and bringing them forward to the House to be debated?

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

Yes, Sir, I think I previously indicated that I propose to bring forward those proposals in the budget in December, the 2009 budget as part of the Income Tax Amendments at that time.

**4. Questions to Ministers Without Notice - The Deputy Chief Minister**

**4.1 The Deputy of Grouville:**

Hopefully I have got the Minister in his rightful role now. Okay, I will start again. In a written answer the Chief Minister said that (j) Categories outnumber leavers by 2 to one. In an answer to Deputy Pitman, he said that there is no monitor at present for (k) categories leaving the Island. Would he not agree this gives a distorted representation of the Island's population and is there going to be any research or mechanism to research people leaving the Island and their reasons why, especially local people?

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

While at the current time (j) categories coming in may exceed those leaving the Island, I do not believe that this gives a distorted figure of the Island's population. The Island's population, other than at census times, is calculated by the Statistics Unit on the basis of statistical information received from a variety of sources and that is cross-checked in order to get as good an estimate as is possible, so I do not think that it is fair to say that the lack of comprehensive details of which (j) categories have left the Island or which (k) categories have left the Island is relevant to that statistical information.

**4.2 Deputy G.P. Southern:**

Following up to that question, later on in his answer to the same question, the Chief Minister refers to 8 per cent of house purchases being down to (j) cats, whereas the demand revealed in the Housing Needs survey shows that they contribute to 16 per cent of the demand for housing. Can the Assistant Chief Minister clearly express whether 8 per cent is the correct figure or 16 per cent as revealed in the new Housing Needs survey?

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

Once again, Sir, I think the Deputy is guilty of trying to compare apples with pears. The 8 per cent figure quoted represents properties purchased by (j) cat. residents, the 16 per cent represents the demand for properties which (j) Category people might like to purchase. They are 2 different items and come out with 2 different figures.

**4.3 Deputy G.P. Southern:**

Does the Assistant Chief Minister not accept the laws of supply and demand, that that demand from (j) cats. causes house price inflation?

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

The Deputy Chief Minister does accept that there is an economic link between supply and demand and that over time those 2 figures might well get closer together.

**4.4 Deputy K.C. Lewis:**

As been discussed many times, Sir, a large number of Jersey people who are Jersey born of Jersey parents and Jersey grandparents, have the stamp in their passport stating that they do not have the right to work in the European Union. They may of course work there but they do not have the right to work or a right to housing. They are in fact an indigenous people and many countries in the world, for instance, New Zealand, Australia and North America have indigenous people and most of these indigenous people do not have the same rights as their countrymen of European origin. Their respective governments compensate them with a reduction in income tax. This...

**The Bailiff:**

Deputy, you must come to a question.

**Deputy K.C. Lewis:**

I believe this should also be implemented in Jersey, Sir. Does the Assistant Chief Minister not agree?

**The Bailiff:**

Deputy, Deputy Chief Minister, please.

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

Whether as Assistant or Deputy Chief Minister, no I do not agree, Sir. I think the issue of the right to work and the content of a Jersey passport has been discussed *ad nauseam* in this House and I do not see any point in going further into the matter at this stage.

**4.5 Deputy R.G. Le Hérisier:**

Would the Deputy Chief Minister agree that the current tendency to place most items from the Council of Ministers' Agenda on the B Agenda is leading to a lack of transparency in Government and is one which he would wish to reverse?

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

No, Sir, items come on the B Agenda because we discuss policy on an ongoing basis. While that policy is policy under formulation it rightly goes under a B Agenda. Once the policies have been completed then it is normal practice for that to be transferred from the B Agenda to the A Agenda.

What it may indicate at the moment is there is a lot of policies still in the course of formulation, there is very little being finalised.

**4.5.1 Deputy R.G. Le Hérissier:**

Supplementary, Sir? Would the Deputy Chief Minister acknowledge that the cost, for example, of the Haut de la Garenne investigation can hardly be classified as policy under development?

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

I have no indication at the moment to suggest that it might be a B item, Sir.

**4.6 Deputy G.P. Southern:**

Yes, would the Deputy Chief Minister liaise with the Treasury and Resources Minister to publish a list of the total amount of income tax paid by (k) categories in the Island updating the £11.7 million figure that was received some 5 years ago which we are still working on?

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

I can certainly ask the Treasury and Income Tax Departments to update those figures and I think that would be done as a matter of course, recognising, as I say, that there are grey elements around the edges, but I am certainly prepared to give the Deputy and the House more up to date information than they currently have.

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

**5. Statement by the Chairman of the Health, Social Security and Housing Scrutiny Panel regarding the New Directions Health and Social Services policy document**

**The Bailiff:**

If there are no other questions for the Deputy Chief Minister we will move on to statements on a matter of official responsibility, there being no personal statements and I ask the Chairman of the Health, Social Security and Housing Scrutiny Panel to make his statement.

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

The Health, Social Security and Housing Panel had arranged to scrutinise New Directions commencing in February 2007. Unfortunately the Minister for Health and Social Services took an extended medical absence and the situation was further aggravated by the change of Minister for Health and Social Services in September 2007. The incoming Minister asked for time to reconsider New Directions and further delays arose because of the intervention of the Haut de la Garenne issue. After a succession of delays it was hoped that the document would be placed before the Council of Ministers on 8th May. It now transpires that this has been further delayed. This has been a major disappointment to the Panel which felt that it was logical to start its work with a scrutiny of the policy which was going to drive the future work of the department. This is now highly unlikely and the Panel intends, although late in the day, to commence a study of the issues surrounding long-term care of the elderly. The Panel would like to stress that it has received excellent co-operation from the officers of Health and Social Services. Nevertheless it is extremely disappointed that this scrutiny is unlikely to take place before the end of the current session. Do I need to say that again, Sir?

**The Bailiff:**

No, I think we are not quorate, I am afraid. I must ask one Member at least, in the precinct to return to his or her seat.

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

Maybe we could ask the Members in future, Sir, to have a look around before they leave the Chamber?

**The Bailiff:**

I think that would be very helpful, Deputy. Now, are there any questions for the Chairman of the Scrutiny Panel? No?

**PUBLIC BUSINESS**

**6. Committee of Inquiry into the Operation of Third Party Planning Appeals (P.35/2008)**

**The Bailiff:**

Well, we come next to Public Business but before we move there I can draw Members' attention to the fact that a proposition - Projet 70 - has been lodged by Deputy Southern, "Goods and Services Tax Receipts", and I hope that that will shortly be on Members' desks. The first item of Public Business is Projet 35 - "Committee of Inquiry into the operation of third party planning appeals" in the name of Deputy Scott Warren and I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion (a) to establish Committee of Inquiry in order to examine the operation of third party planning appeals in the Royal Court for the first 12 months since its introduction and if necessary make recommendations for the future; (b) to present its report to the States Assembly by autumn 2008; (c) to appoint the following persons as members of the Committee of Enquiry: (i) Mr. Roland Anthony, (ii) Advocate Christopher Gerard Pellow Lakeman, (iii) Deputy Roy George Le Hérisier, (iv) Deputy Sean Seamus Patrick Augustine Power, (v) Deputy Celia Joyce Scott Warren; (d)(i) to agree that the committee shall appoint a chairman and deputy chairman from within its number, (ii) in accordance with standing order 146(5)(b) and (c), (1) the deputy chairman shall, if required, preside in the absence of the chairman and (2) the quorum of the Committee shall be 3.

**Deputy P.N. Troy:**

Before the Deputy starts, Sir, as a builder and developer can I asked to be excused from this debate, Sir?

**The Bailiff:**

Very well, Deputy. Deputy Troy declares an interest and withdraws.

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

"The debate has been had", these words spoken by Deputy Judy Martin in conversation with me several days ago should be remembered throughout this debate. "The debate has been had." This debate is not about the merits of third party planning appeals. That decision has already been taken on 2 separate occasions by 2 separate States Assemblies. The decision to enact the provision in the Royal Court was taken by this States Assembly. This is why, Sir, in my opinion, States Members have a duty to ensure that the provision is working effectively. Not to do so, Sir, does the public a disservice. For this reason I am asking Members today to support a Committee of Inquiry into the operation of third party planning appeals. Members will note that the proposed Committee of Inquiry would examine the first 12 months of operation of third party appeals in a Royal Court from the end of March last year. It is important that I explain why I believe there is a need to establish a Committee of Inquiry now. In his comments, the Minister for Planning and Environment writes that: "For the present there is little to evaluate" and under Financial Implications, Sir, he states: "While I support the principle of a Committee of Inquiry into the matter of third party appeals, the department cannot afford to meet the cost from its 2008 budget." Sir,

£250,000 was allocated to the Planning and Environment Department in 2008 for an estimated 30 third party appeals. This is a lot of money to allocate to a department for a provision that is not operating as expected. There have, Sir, only been 7 requests for an appeal by third parties done, I should add, Sir, in the appropriate manner since the provision came into force. Taking the Minister's first point, Sir, that there is little to evaluate, I agree that there is little visible evidence. The fact that there is so little evidence leads me to ask the question why? £250,000 is a large sum of money to allocate to provision that is either not working effectively or else is not needed. We need to get answers. I suggest that the amount needed to establish this Committee of Inquiry is minute by comparison with the amount that the Planning and Environment Department has been allocated for this provision. We need answers. Is the small number of third party appellants due to a much improved law in which all neighbours and all third parties are content? The fact that there are now open meetings where people can have their say on an application is a vast improvement within this Planning Law. In the Royal Court a new modified procedure was introduced without the need for lawyers. However, it is my understanding that an architect, surveyor or planning consultant or a person approved by the Judicial Greffier will need to attend. There will therefore be some cost to the appellant. Sir, I ask is the fear of incurring costs in the Royal Court, even under the modified procedure, acting as a deterrent? Members should, Sir, also be aware that there is no guarantee regarding whether a planning appeal will be heard under the ordinary or under the modified procedure until affidavits have been done and received by the Master of the Court and he then will make that decision. So, Sir, I ask, does the thought of taking an appeal to the Royal Court deter people? Would people have preferred an independent body such as the original Appeals Commission? We have changed from full-scale to limited third party appeals since the Appeals Commission was scrapped. I understand that the number of first party planning appeals to the Royal Court varies each year from between 4 and 9 and attempted first and third party appeals over the past year together add up to 16. The lady who attempted the first third party appeal withdrew her appeal for fear of costs. The case was to have been heard under the ordinary procedure in which case she could have faced not just her own legal costs, but also the applicant's costs. It is my understanding that had this lady continued and lost her appeal, she might not have had to pay costs, however the problem was that there was no certainty. The appeal was withdrawn by the lady because of the fear of costs. This lady has since told me that she is concerned that, regarding her case, she does not feel that the law functioned as was intended. You will see from the comments from the Minister for Planning and Environment that there were other reasons why the remaining appeals did not succeed. In addition, 6 would-be third party appellants wrote letters to the Minister requesting an appeal but when advised that this had to be done in the prescribed form under the Royal Court rules and they should contact the Judicial Greffier, they did not proceed and, Sir, I believe we need to know why. Another question that a Committee of Inquiry would seek to answer is why these people did not continue with their third party appeals - I think that is a bit repetitive. Was it a lack of time to do so? Was it the thought of a court process? We need these answers. During the debate on P.210 of 2004 the Attorney General delivered a relevant speech in which he expressed his concern about trying to adopt a user-friendly approach in Royal Court procedures. The major part of his speech was as follows, and I quote: "The fact is that most planning appeals are valuable. Most planning matters are valuable. The more value they carry the more likely it is that lawyers are going to be involved. The reality is that the neighbour - third party - who wants to appeal may want to take it forward on their own because it may have an effect on the value of their own property, but it is likely to have a much more substantial effect on the value of the property which is the subject of the application. So the chances are that in any case a lawyer is going to be retained by the person who is making an application for a planning permission because it is a valuable thing. He is going to want to protect it and any system that is developed with the Royal Court to make it more user friendly is, I think, honestly going to have to recognise the practicalities of lawyers being likely to be involved, particularly if they are any major sort of development application." A third party who may wish to appeal receives a development control practice note within 7 days of a planning consent instructing him or her to consult a lawyer or other suitably

qualified professional and that a third party appeal must be lodged with a Judicial Greffe in accordance with the rules within 14 days of the service of the notice. This is a very short time span. In contrast an applicant has 28 days from notification of the Minister's decision in which to lodge an appeal to the Royal Court if he or she is aggrieved by the planning decision. The timetable for third parties to appeal is half of that allowed for applicants, first parties. So, my next question is does this sound a user friendly and easy system? Or rather, does it deter people? I believe that answers are needed. The Appeals Commission was scrapped because the perceived costs were causing an unacceptable delay to bringing into force the Planning and Building Law.

**Senator J.L. Perchard:**

Excuse me, Sir. Maybe the proposer would like to stick to the proposition, Sir. She did tell us at the outset that this was nothing to do with third party planning...

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

This is not to do with whether we believe in third party planning appeals, this is to do with whether the effect in the law is working and this is relevant and I will continue, Sir. Even though my glasses have got steamed up. However, the last year has shown that there is not a mighty influx of appeals, in fact, far from it from either first or third parties. Therefore another question to ask would be is there a better way forward for hearing appeals for all would-be appellants? Excuse me, Sir, my speech has dropped. The Royal Court applies the narrow test of reasonableness and considers points of law. A member of the Planning Department attends on behalf of the Minister and puts the case for the Minister. Is there a way that could allow the full merits for the case to be considered. Is there a way forward without involving paying high salaries to independent commissioners? I, Sir, do not have the answers but I believe that we, and by that, I mean the people of Jersey, need them and deserve them. This Committee of Inquiry should be able to provide answers in a fairly short period of time. It has been said to me, Sir, by one Assistant Minister of a very large department, that the money to hold a Committee of Inquiry would be better spent within his department. [Laughter] I am not looking at anyone. I will say in reply that £250,000 has gone to the Planning Department's budget for third party appeals, which cannot be costing anything approaching that amount. I appreciate, Sir, that the Planning and Environment Department can quite easily reallocate and spend these funds elsewhere. Members will know that this department is strapped for cash but I hope Members will also agree with me that this is not a satisfactory state of affairs. We need answers and we need them as soon as possible. After the first person to attempt a third party planning appeal had to withdraw her case, I requested a meeting with the Minister for Planning and Environment, the former Solicitor General and others. The lady who had withdrawn the case also attended. Sir, I asked the former Solicitor General if there is any way in which a third party appellant can lodge an appeal in the Royal Court and be certain that he or she would not incur costs, to which the former Solicitor General replied that, no, there is not. It is clear that costs were not the reason for all the other third party appeals not proceeding within the Royal Court process. During the debate on P.210 in 2004 in the States, brought by Senator Philip Ozouf, the then President of the Environment and Public Services Committee, he emphasised that the most important issue within that proposition was the repealing of the Planning Appeals Commission. He spoke of the law remaining unimplementable - I am not sure that is a word, Sir, but that is the word he used - due to resource restraints. He also stated that, and I quote: "The Royal Court has shown that they are willing to change their arrangements and they are willing to put in place arrangements that do meet the needs of applicants." At that time, Sir, third party appeals were a full-scale provision within the law and the law was awaiting enactment. This Committee of Inquiry would obviously not be anything like the scale of the recent inquiry into Bel Royal, St. Lawrence issues on which, I understand, Sir, there were files, a massive amount of files. Obviously there would be some background reading. The Minister was consulted about the members of the list on the proposition today for the proposed Committee of Inquiry and he was content with those people - Deputy Sean Power was included - to have a representative of the

Planning Department and, obviously he does have some knowledge from Ireland, of planning appeals and how they work there. Deputy Roy Le Hérissier has taken a keen interest in constitutional matters and was a former chairman of the Privileges and Procedures Committee. Advocate Christopher Lakeman and Mr. Roland Anthony would come under the Committee as independent members. Members will have received profiles for Advocate Lakeman and Mr. Anthony and I thank all these people for allowing their names to be put forward. All legal issues, I should stress, however, Sir, would be addressed to the Attorney General and the Solicitor General. I also hope that the Bailiff and others with an interest in the good working of these procedures, would wish to give evidence to a Committee of Inquiry if it is supported today. Although, Sir, I would be a member of that inquiry, I do not propose to chair the Committee of Inquiry. To sum-up, Sir, many questions remain unanswered regarding the first year of operation of third party planning appeals to the Royal Court. Under financial manpower implications, Members will have seen the total sum of £15,000. I believe, Sir, this is a small amount in comparison with £250,000 that has been allocated to the Planning Department to cover expenses for third party appeals during 2008. The third party appeal provision, Sir, was supposed to provide an accessible means of appeal to all, whether wealthy or not. I urge Members to support this Committee of Inquiry and States Members will then be in possession of a report and any recommendations by this autumn. Thank you, Sir.

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

I have no problem at all with examining the operation of third party planning appeals, but I would like the proposer to explain to me, as we have moved to a system of Ministerial government and scrutiny, why this cannot be and should not be undertaken by the relevant Scrutiny Panel, where there has been no question of having to find money from anywhere else, because Scrutiny have got a budget for this. I would have thought it is exactly the sort of thing Scrutiny should be doing. **[Approval]** I cannot understand it and I look forward to an explanation, otherwise I am afraid this will not get my support as to why the bodies that the States have set up to do things like this, which is Scrutiny, should not be doing it. The proposer did not mention this at all in her opening speech, and I did listen to it all. We had a lot of detail but, really, this is a matter for Scrutiny. Scrutiny should be undertaking this and then there would be no problem whatsoever and I just do not understand why that is not happening, Sir.

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

I would have thought any Committee of Inquiry's integral ingredient should be the impartiality of its Members. The Deputy has conveniently forgotten to speak on her proposition this morning and has spoken on her problems with the current process. She has already got an opinion. I understand our other 2 politicians on her proposed committee have voiced opinions on this subject as to how they would like to see the original proposition supported. So, this Committee of Inquiry, or the membership of the committee that has been proposed, really, Sir, they are hand-picked, hand-selected people with an opinion, who will support the Deputy's own view on what should happen and I think any report produced by this committee - this named committee - would be quite likely to take the view that the Deputy has expounded this morning, while making her proposition.

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

I did support third party appeals but I have had hardly any conversations with the Deputy on the issue of how the system has worked and I think that is a totally unwarranted allegation that the Senator has made, Sir. We are coming to it with an open mind and the Deputy of St. Saviour, Deputy Scott Warren, well knows that if we come to the conclusion that it is the end of the road in a pragmatic sense - let alone a philosophical sense - for third party appeals, it will be the end of the road. She is quite prepared for that conclusion to emerge among other conclusions that might emerge. So, therefore, Sir, the Senator is making a totally unwarranted allegation, although I have got no problem if he wishes to rake over the pedigree or lack of pedigree of every member of that committee. He is well entitled to say so. Sir, on the issue that Senator Vibert has raised, he raises a good issue but the reason it has not gone to Scrutiny, as we well know, the Panel it would likely go

to is the Environment Panel and we are told that they are very busy and pre-occupied with other matters and, although a direct approach has not been made, I think the issue is that Deputy Scott Warren is very wed to this issue; she wishes to see it through to the end and she wishes to be guaranteed that there will be a proper study done to bring it to a proper conclusion and that we will not be waiting around for ever and ever and that is why she wishes to do it through this mechanism. Yes, it could have been done by Scrutiny but this is a much more guaranteed way of ensuring that there is an impartial look at the issue and not the kind of unwarranted interpretation of the matter placed upon it by Senator Perchard.

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

Originally I probably would not have supported this proposition but I am going to support it today because it has become clear to me that what we thought was going to happen has not transpired. What we thought we were putting in place was a system whereby people did not have to employ lawyers and go to enormous expense to argue a case in court but it does appear, from the process that has happened so far, that in fact that risk still exists. That one party will be there with their lawyer and the only way that you can get a reasonable - monetary-wise that is - access to the process is by not going with your own lawyer, so you are at an immediate disadvantage. The moment you do take a lawyer with you, of course, you not only have to pay for your own lawyer, you might end up, if you lose the case, paying for everything. It is not, as far as I can see, the process which we had in mind when we initiated it and, for that reason, I would in fact like it to be looked at. My own personal impression - and, of course, without the work having been done, I am not in a position to know precisely - my own impression is that the system simply does not work. There are other issues as well. I reject also the comments made by Senator Perchard. I may have a view about some of the members that are proposed to the Panel but I do not see that that makes any difference to the issue at all. I would also endorse what the previous speaker has said in that the Scrutiny Panel that would normally be dealing with this, if it was indeed a Scrutiny Panel issue, would be the Environment Scrutiny Panel and endorsing the comments of Deputy Le Hérisier, I am not quite sure what they are doing these days. I think they are monitoring U.F.O. (Unidentified Flying Object) exhaust emissions or something, I am not quite sure [Laughter] but I really cannot imagine that, if they got onto this, that there would be any result, certainly, in the near future because it does appear that reports from that particular Panel, unfortunately seem to take about 18 months in gestation.

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

I should admit that I was not a great fan of the third party appeals process and I think I may well have voted against it but, nevertheless, there is some merit in allowing an appeals procedure for any number of judicial processes. But, in saying that, the Assembly should not lose sight of the fact that, of course, before you even get there, a full planning process has already taken place, with applicants' proposals being criticised by any objectors who wish to make their objections felt and those will have been considered. So, currently then, if there is a sense of grievance, there is a fortnight for someone who almost certainly will have been a prior objector, to put their case to the Royal Court. Here the question arises of are Royal Court costs a deterrent? Well, it puts one in the sort of rather philosophical view of thinking of how much money is an innocent man prepared to spend on defending himself? Fortunately this is not quite as serious in that context but, nevertheless, litigation does cost money. That is a recognised feature but, by the same token, perhaps the costs of litigation should act as a level of deterrent because the last thing that would be appropriate in these cases is for endless vexatious appeals being made by those competent to make them simply because it was a cheap and easy thing to do. The costs of litigation miraculously concentrate and focus the mind of those who seek to appear before the Royal Court as to whether or not they are prepared to accept what the costs may turn out to be. Now, I am sure that there may well be qualifying property holders who have had and will have genuine appeal cases, cases that they feel strongly about. But let us not forget that in most cases these people will be property

holders concerned about the threat to the value of their property. I do find it somewhat strange and these days property is in the higher realms of ordinary values, that people are not prepared to spend some money on defending their property if that is indeed the way they see it. So I think the question of costs can be looked at in a number of ways. Perhaps there is merit in having a deterrent value. Perhaps there is merit in people considering just how much they are prepared to spend on defending what they see as their own personal property issue. Unfortunately we only really have a limited number of cases that have emerged so far, on which to form any sensible view. To me, that does not necessarily indicate that the appeal procedure is either working or not working. Appeals have taken place. Some people have withdrawn from the appeal procedure but we have, in fact, literally, a handful of instances on which to base any level of analysis. I think it has to be accepted, it must surely be dangerous to attempt to make a serious review with an intention to change the law in some way, on the basis of what is, it has to be said, extremely limited evidence, and one of the issues that I would simply put to Deputy Scott Warren is that this is in fact far too early a moment in time to have a review. We simply do not have enough evidence to sensibly review. Now, I have nothing to say about the panellists, other than they all appear to be entirely worthy people, but does this Panel need funding from the States? How urgent is this matter? How much evidence, as I have indicated, will the Panel have to review? This is not a Ministerial line, but I do agree with the Minister for Education, Sport and Culture. It seems very much, to me, that this is a matter for Scrutiny and not one that realistically should have come before the Assembly in the first place. What have we discovered in the course of the debate? That the Environment Panel, who were considered to be the appropriate Panel, have said: "No thank you, this is not an issue that we wish to consider or devote our funds to", although I am sure that that Panel, along with many others, have plenty of funds still available that could simply be handed over, should the Scrutiny side feel that this is an appropriate measure, could be given to Deputy Scott Warren to fund the Panel. I do not believe that, at this current point in time, the money should be coming from departments. The Environment Scrutiny Panel's reaction, Sir, is in itself, something of a statement. It is saying, and this is an issue that I have carped-on about on a regular basis, it is saying: "This matter is not one of our priorities. We have more important business to deal with" and if only this message got through to more Members of the Assembly. I do not decry for a moment Deputy Scott Warren's right as a Member of the Assembly to bring forward any proposition, the same as for any Member, any proposition to the States but, nevertheless, I think that this really should have been a matter more thoroughly explored on the Scrutiny side, probably with a discussion with the Chairmen's Panel, probably with a sensible request to Scrutiny for the funding and not to a States Department and I really see no real reason why this had to come forward as a proposition to us today. It is a matter of establishing priority and, with great regret, I have to tell the Deputy, in my view this matter is in any event a low priority if one considers its position within the overall process. Indeed, it is a small feature of the planning process itself and, while I fully endorse the good intentions of the Deputy, I simply cannot support the funding proposition that is being put forward and I do not see that we have enough evidence, indeed, to analyse appropriately to even form definitive views on whether this law is in fact succeeding or not.

#### **6.1.6 Deputy S. Pitman:**

As it stands, Sir, third party planning appeals give no certainty to many applicants because of the costs. I am involved in a case at the moment where a prominent developer has plans for a building which will block a significant amount of light into the house of a constituent of mine, who feels helpless to stop this because he cannot afford to pay the Royal Court costs. I believe that this proposition, if successful, will potentially result in giving the little person fair access to a means of appeal and I will be supporting it, Sir.

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

I supported the third party planning appeal when it came to this House last year. I have 2 parishioners at the moment that are seeking assistance with this matter and are both very concerned

about the costs that they may incur and they are people who can ill-afford the sort of representation that may be required so they are holding out for assistance from this process. I do think it should be reviewed to make sure that it works. Whether it is the right time or not is another matter and I think Deputy de Faye alluded to that. Deputy Le Hérisier was suggesting that Scrutiny were not an appropriate body to look at this because he seemed to think that they were not capable of looking at this adequately. I think that is a damning reference to Scrutiny. I think this is something that Scrutiny could easily and should be looking at. The fact that they suggested... I do not know whether they have been approached already or not, but it would appear that the workload would not accommodate it or not, so they have suggested that it is not a priority and I think that the Deputy should take that into consideration. The fact is that those that we empower with reviewing such items do not think it a priority. They should be the body, I think, that should be looking at it but they do have the budget to deal with it and I think somebody else referred to that. I could not support this proposition on the basis that we have then got to find other public funding to support it when Scrutiny is well funded to look at these issues. I think the Deputy needs to have a long chat with Scrutiny and establish fully as to whether or not they are prepared to look at this and what the timescale might be because if the timescale may be in 6 or 7 months' time, I think possibly my parishioners could live with that and maybe others too but if we were to rush this through as a review Panel now, rather than using the resources we have currently got, I think that would be folly and I think it would be abusing the trust the public put in us in managing the funds that they give us. They have given us the money for scrutiny purposes. The Scrutiny Panel exists already; they should be the body looking at this. Even if they were to set up a separate Panel to do it now, Scrutiny could do that within their current resources and that is what we should be looking at; not setting up the sort of Panel that the Deputy is suggesting. I do have sympathy with her cause. I have always supported it and I think it is a thing that we should have. I think it should work as effectively as possible. It may not be working as effectively as it could be at the moment and we may be able to prove that by some kind of review but I think that is a matter for Scrutiny. I would urge the Deputy to maybe withdraw this proposition and talk to Scrutiny and get a timetable as to when they could look at it, Sir, thank you.

**Deputy R.G. Le Hérisier:**

Can I clarify at all? No way did I suggest Scrutiny was incapable of doing it. It was a timetabling issue to which I was referring. Thank you, Sir.

**6.1.8 Senator S. Syvret:**

Scrutiny cannot do everything. They have their own agenda, they have their own set programmes of work and their own ideas as to how they would prefer to carry out their particular responsibilities. You have to ask yourself, therefore, why it should be argued that a Committee of Inquiry is somehow utterly redundant and pointless, now that we have Scrutiny because it was always a very clear feature of the debates on the reform of government that the Scrutiny Panels would pretty much be the masters of their own destiny and that they would decide what they wanted to scrutinise and when they wanted to scrutinise it and it would appear that they do not particularly want to scrutinise this particular task. If that were a valid argument; that Scrutiny exists, so why have a Committee of Inquiry? If that were a valid argument, then why indeed did we bother having a continuation of a Committee of Inquiry Law in the new States of Jersey Law to work and operate in parallel with Scrutiny on those occasions upon which it is needed? Occasionally it is needed and this is one such occasion because, really, what we are dealing with here is an ability of this Assembly - the Legislature - to hold, in effect, the ruling grouping - the government - to account. Back-benchers are able to do that through the kind of proposition the Deputy has brought forward. If we always simply dismiss such propositions as some Members on the Ministerial benches have done, then we run the risk of always obstructing and thwarting the abilities, the powers, the opportunities of back bench Members to get their issues, their campaigns carried forward on behalf of their constituents. I thought Deputy De Faye's comments were most

interesting in that he was suggesting that there was something very advantageous about the cost of litigation being a deterrent. A deterrent, I guess, against the vexatious applicants and things of that nature. But, really, in reality, what are we dealing with? We are dealing with a situation where developers - the applicants - people who are very, very wealthy land, property owners, speculators, developers, rather like Senator James Perchard here, have immense power of resources in their hands. They can use systems, the apparatus, the planning processes and ultimately the court to their great advantage simply because they can afford to and the average Joe cannot. That is why we need to support properly the entire concept of third party planning appeals and that is why we need this Committee of Inquiry to do it because, at every stage, when this Assembly has debated this subject, the powers that be have always opposed it, tried to sabotage it, tried to thwart it in one way or another. Fortunately they have by and large failed but they carry on trying. They carry on trying to sabotage it. They carry on trying to basically stop placing this mechanism - an effective mechanism - into the hands of ordinary people, people who are not resourced. It is no good, I am afraid, as Deputy de Faye said, simply pointing at the existing planning processes and procedures and saying: "Well, is there any need for third party appeals because there is all this long chain of processes and events that have to take place before planning permissions get carried?" Well, there are 2 quite obvious flaws with that argument. As we all know, and there are some very topical issues at the moment, notwithstanding all of that process, planning decisions can be wrong: catastrophically wrong in many cases. One cannot look at the planning process as some kind of a panacea that makes sure we always get just and correct decisions. Again, I would also make the point that the planning processes - the planning apparatus, again - is of its nature, a system geared to favour those with resources. If you own land, if you own property, if you can employ an architect, you can employ lawyers, you can commission repeated, revised applications which you submit and resubmit and resubmit then you have that power to make the system work to your advantage. Again, the ordinary person whose life and whose home may be catastrophically blighted by some planning decision just does not have those kinds of powers, those kinds of resources. Sir, I say that if this Assembly is serious about not becoming like the House of Commons and instead, being capable occasionally of saying no to the Executive, holding the Executive to account and imposing the will of the Assembly upon the Executive, then we must support the Committee of Inquiry proposition today.

#### **6.1.9 Deputy J.J. Huet:**

Very briefly, I have served on the Planning Committee twice since I have been in this Assembly and I have seen developers run rings around the Planning Committee and they have won time and time again. Now, if the developers can beat the Planning Committee, what chance does the little man ever have? He has no chance whatsoever. Sir, I could quote you case after case where I have seen rules and regulations put down and the developers break it and the developers get away with it. They can afford it. The little man cannot afford it and maybe, as you said, to stop everybody but Joe Blogs taking it to court, one could put a small amount as a start-off, which would get rid of your vexatious people. But it would be a small amount that the average person, if they really believe what is true, will do it and that should be right because I do not believe that we should go against them. The little man stands no chance without this. Thank you, Sir.

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

Yes, I will be brief. I would like to start and applaud Deputy Scott Warren for bringing this back yet again. She is being accused of being too involved, married to something that she was elected for 9 years ago, in 1999. Now, we have passed it and we have passed different things for third party appeals so I would really hope that, if - I think he did speak, I may have missed it - when Senator Perchard did speak, he made some very, I thought, wrong assumptions about the people that would be working on the Committee of Inquiry. Now, as usual, we have also had from the Ministers: "Well, now, when it suits, why do you not send this to Scrutiny?" Well, the people who would be scrutinising it are the Environment Scrutiny Panel. They are telling you they do not have

time to do it. Myself, Sir, I am on 2 main Panels, which are one looking into long-term care and housing issues and income support, employment under the Economic Development Scrutiny Panel; and Jersey Finance Limited, Immigration Sub-Panel under Deputy Ryan's chairmanship; and now bull semen under Deputy Ryan's chairmanship, Sir. Now, you can send this back and you can ask if Scrutiny can do it. The answer is no. We are told by Deputy de Faye that there is not enough evidence yet to have a Committee of Inquiry. Why is there not enough evidence? Because people are afraid not to go to Planning? I mean, the inquiry maybe also should be looking into where this £250,000 has gone for third party appeals because do not give me a Planning Department that is strapped for cash when everything, bar putting in a drawing pin on the wall, has to be approved by the major Mr. Hopkins and Architects, you know? I really do not swallow this one, Sir. Just driving in today, just really get this into perspective; I heard one of the B.B.C. Radio Jersey reporters say: "I was very annoyed, I was away the other week and all I could get was medium wave and had to listen to the States and I missed the phone-in" and he said: "Why? Because there are certain things in there that they will discuss" and we will, probably for hours and hours it will be anywhere else, delivered by the local council. The Deputy has asked him for £15,000 to look into a matter that we have agreed to, apparently allocated £250,000 and we are back to the debate, if it does not suit us, try and get Scrutiny to do it. Senator Syvret has already made a good point. I will also just remark, we had the Minister for Economic Development very angry the other day because we had not called him in personally on the Jersey Finance Limited. He told me Scrutiny was just about holding the Ministers to account. Now, where does that leave the people that we want to come in and ask why, in confidence, they know they are protected? Deputy Scott Warren might be able to go into this a bit more because I think there is an issue about protection of people who are just the ordinary people coming in and giving evidence. Because she did want to do this as an unfunded working party and was given some legal advice that there could be an issue with people coming into that working party. Deputy Scott Warren will go on and hopefully explain that a bit further. So, what am I saying, Sir? It is quite easy; the Executive wants a Committee of Inquiry. She has got 5 able bodied people to work on it and she is asking the States for £15,000. Now, unfortunately, it seems that I think the Minister for Treasury and Resources did miss a trick. If he cannot allocate it from, perhaps, the Scrutiny budget, because, he says, in his own minutes, that it must come under Standing Order 153, to give direction and he says it will have to come from the Planning Department's budget. But, I do not know if this can be got around. If we cannot find £15,000 to do a Committee of Inquiry that should be delivered by the end of 2008, there is something seriously wrong. Remember, this has been going on now for over 7 years since we voted it into the States. Thank you, Sir.

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

Some point of clarification; because everybody is mentioning the possibility of Scrutiny. The Environment Panel did not want to scrutinise this because one of the main reasons was time allowed. They did not have the time. There were other reasons they did not want to do it but also I went to the Scrutiny office and I asked whether this was a subject that could come under Scrutiny and I was told, I think some soundings were taken and no, there was no-one available... it was not able to be put to the Scrutiny Panel. Thank you, Sir.

**Senator M.E. Vibert:**

Sorry, I have already spoken but I would like to invoke Standing Order 79(1), which, as I understand it, any Member of the States may propose, without notice, that the debate on any proposition be suspended and that the States request the relevant Scrutiny Panel to consider having the proposition referred to it because I have heard all sorts of things so far but what I have not heard from is the Environment Scrutiny Panel. There is no comment here. It seems to me that this group of people could be set up as a sub-panel and deal with it under Scrutiny. It would solve the funding problem and I would like to invoke that Standing Order, Sir.

**Senator S. Syvret:**

I might like to suggest that, Sir, is an abuse of process. I think the matters before the Assembly are perfectly clear. The Members either agree with the proposition or they do not. [Approbation] I think to try and delay it is quite, quite inappropriate and unnecessary.

**The Deputy Bailiff:**

Now, is the proposition of Senator Vibert seconded? [Seconded] Well, Standing Order 79(1) provides that any Member of the States may propose, without notice, that the debate on any proposition be suspended and that the States request the relevant Scrutiny Panel to consider having the proposition referred to it. It seems to me that is an unfettered right, the wisdom of any such proposition is a matter for Members to decide when they consider whether to agree to it.

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

This has been considered because the Panel... maybe not formally but it has been considered. I am speaking the truth when I say that that Panel and no other Panel wanted it. There were... certainly the Scrutiny office...

**The Deputy Bailiff:**

If I may, that is a point to be made on what, hopefully, will be a short debate on whether the matter should be referred to the Scrutiny Panel. If it is the case that they said that they do not want it, that may or may not influence Members in the way they vote. So I accept the proposition and now that will be our debating Senator Vibert's proposition that the debate on this, the main proposition be suspended and the matter of the relevant Scrutiny Panel be requested to consider having it referred to it. Does any Member wish to speak on Senator Vibert's proposition?

**Senator S. Syvret:**

Could I urge Members to be very concise and I do not think we need a great deal of speeches on this matter. Members will either agree with Senator Vibert's proposition or they will not. For my part I will certainly be voting against it. It is simply clearly a device to try and obstruct and thwart the chances of the Deputy's proposition succeeding and it should be dismissed. It seems to me quite clear that the option, really, the real decision before Members is whether they wish to support the Deputy's proposition to establish a Committee of Inquiry or not. This is nothing but more obfuscation and prevarication.

**Senator M.E. Vibert:**

As the Senator Syvret has had a second speech, may I briefly say something? [Laughter]

**The Deputy Bailiff:**

No, I am sorry, Senator, I should have allowed you the opportunity, I think, to have developed your argument on the proposition, briefly.

**6.2 Senator M.E. Vibert:**

Very briefly, despite what has just been said, it is not an attempt to... I think that if we have got a system of government, I would want to know why that system of government is not being invoked. I want Scrutiny to be a part of that government. I have not seen, and I do not doubt Deputy Scott Warren's word at all, I have not seen any comment - there is nothing in here from the Environment Scrutiny Panel. I do not know if there are any Members in the House. I would have expected a comment, a written comment to be there and I would have expected Deputy Scott Warren, in her opening speech to say why it was not being done by Scrutiny. That is all I am seeking. Now, I believe that it should be done by Scrutiny and it can be carried out just as quickly with a sub-panel of the same people and can be sorted out. I am just trying... that we operate, I believe, as we should.

**6.2.1 Deputy A. Breckon:**

Just to correct Senator Vibert on an issue; you cannot have a sub-panel involving members of the public, unfortunately, so you could not have the same members so, factually, that is incorrect. Now, just to say, Sir, in the absence of the chairman of the Panel and also, I believe Deputy Le Claire was also a member, the Constable of St. Helier I believe is also a member. He is not in the House. Oh well, he has just come in. Deputy Scott Warren, who is... I believe that the Panel have considered this but the wider issue is, it is something this House agreed to do a while ago and there has been an issue of funding. An interim measure was put in, in that the Royal Court would be the place that people could go and I believe it is right that that gets wider investigation and the Committee of Inquiry could do so. I believe that what is being used is a process to sort of frustrate that and I think the Committee of Inquiry still has a use in our system and this is an issue.

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

To my mind this is a clear ruse to try and manipulate this House into deciding what shall and shall not be on a Scrutiny Panel's agenda. The easiest way to stop Scrutiny working is to pile them with work, simple. Yet, if they are too busy to lift their heads then that is what would happen and this is a case of manipulation of the process. It also tramples on the rights of Back-Benchers. It effectively says that the only way to bring anything to the House is through a Scrutiny Panel, provided Ministers do not accept it, through a Scrutiny Panel. Back-Benchers have no rights to bring their own motion. That is an absolutely ridiculous situation we have put ourselves in. We should reject this out of hand.

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

I want this third party planning issue reviewed as much as anybody. I am fearful if we do not go down the route that Senator Vibert is suggesting, that this proposition may be lost. I think it is important that it is not, that it has the opportunity to be heard and I think, through the Scrutiny process that could happen. As Senator Vibert was saying, we have had no indication of Scrutiny yet, in this House anyway, as to whether they would consider reviewing this and what their timetable might be. There have already been suggestions that this is too soon anyway. If they are able to review it in 6 or 7 months' time, I would be content with that because there is more of a chance then of getting the hearing that is required, to make sure this review process works properly and that third party planning appeals can work properly. I think this could be the way of achieving that. Deputy Southern suggests a way of derailing it. I do not believe that at all. I think what Senator Vibert is suggesting makes absolute sense. There should have been more reference to Scrutiny in the projet. There has not been. I was going to suggest, maybe in a reference-back, perhaps Scrutiny could come back with a comment. So, that is why I am prepared to support this because I think it has legs; I would like it resolved and I think the Scrutiny process is the way to resolve it. Thank you, Sir.

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

With due respect to the Environment Scrutiny Panel, Sir, I would suggest that if they are not noted for the speed with which they work. I am not being funny, I mean it is a fact that the Waste Report has taken probably a couple of years and I am concerned that if this is referred to a Scrutiny Panel, well, possibly 2 things will happen; one of which we will wait a couple of years before it is completed, if not longer and, secondly, when the report is finally published, it will simply be rubbished by the Council of Ministers, as every other Scrutiny Report is.

#### **6.2.5 Connétable J.L.S. Gallichan of Trinity:**

I will be brief but if my memory serves me right, I believe the Deputy Duhamel, at the last sitting of the States, invoked this right as well, when he pulled-in the fishing net size for the Scrutiny Panel to look into. Now, if they are that busy, I would have thought this is far more important than the size of the fishing nets that were being used at low water. I am sorry but I do believe this is a matter that Scrutiny could have looked at if they wished so. I think they should do, Sir.

### **6.2.6 Senator W. Kinnard:**

I feel very sorry for poor Deputy Celia Scott Warren because she has put an awful lot of work into this and I do believe that what is going on here is something of a ruse to knock this off the agenda for debate. [Approbation] I do have to remind Members, and I am on the other side of the fence, officially, as it were, that Scrutiny has, within its power to decide what it wishes to scrutinise and when it wishes to scrutinise it and long may that be the case. We have had very clear indications from the Deputy that the Environment Scrutiny Panel has not wished to look at this particular issue. I think it is regrettable that we have not had members from the Environment Scrutiny Panel here in the debate this morning to comment for themselves on that particular issue. I am glad to see that finally the Connétable of St. Helier has returned to the House and perhaps we may hear from him on this. I would like to say, Sir, that this matter has been going on for a great number of years and I myself have always supported the notion for third party appeals and I am frustrated, even from the other side of the fence, if you like, frustrated that this matter has seemed to have taken so long to be looked at and to really get an idea of whether or not the way in which the process is working, is working as it should be. I wholly support the Deputy and I will be giving her my support in the debate and I will not be supporting the proposition of my colleague, Senator Vibert. Thank you, Sir.

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

It would be useful for us all, I think, if we could establish whether or not the Environment Scrutiny Panel would want to receive this to look at. My understanding is that Deputy Scott Warren is on that Environment Panel and that would be indicative to me that they probably do not want to receive it. I think, really, Sir, it is time that we moved on. I am a supporter of this proposition. I think we voted £250,000 to Planning, to carry out a function of third party appeals. I think it is important that we know that we are getting value for money; that it is working. There is some suggestion it is not. I am concerned about that and I think we should support Deputy Scott Warren in this matter. It is clear to me, Sir, that the Environment Scrutiny Panel do not want this and, on that basis, Sir, I think we should move on as quickly as possible. Thank you.

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

It is unclear to me that the Environment Scrutiny Panel do not want to do this as there has been no formal comment from anyone on the Panel and I would like to take this opportunity, Sir, if I may, of asking, through the chair, whether the Chairmen's Committee have formally discussed undertaking a review of the third party planning appeals or is it news to all of Scrutiny?

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

Sorry, Sir, but apart from the last speaker, everything that I was going to say has been said.

### **6.2.9 Connétable K.A. Le Brun of St. Mary:**

As the chairman is not here and I am on the Environment Scrutiny Panel... it had been discussed and felt that this was not the appropriate way forward. Not having sufficient time to take this because it will not be a short process... it will be a long process to go through, naturally. In reply to the Connétable of Trinity, who said regarding the fishing one that that was going to be a short, sharp, sweet one - which we can do... but certainly, when it goes down, even allowing for Deputy Baudains' comments as well - which I rather disregard with the contempt they deserve - we would not have sufficient time to do a thorough investigation. We have a lot of things on our list. We are still awaiting the transport review to come forward, with bated breath, and we have got a lot of other things on at the present time as well. It was decided the most correct and better way forward was to support Deputy Scott Warren in her proposition, Sir. Thank you.

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

Could I seek clarification from the Constable? Is he saying that they do not want to review it or is he suggesting that there is possibly a timetable, in which case, what would that timetable be?

### **The Connétable of St. Mary:**

Sorry, it was a question that we did not have the time to do it at this precise time and therefore this was the more opportune way to bring it forward and to bring it back so that there is some concrete conclusion arrived at. This was the best method and means of doing it.

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

It seems clear to me from the mood of the House that we do need an inquiry of some form into third party planning appeals. It is really a question of whether that is better done by a Committee of Inquiry or a Scrutiny Panel. Now, I have appeared before many Scrutiny Panels which sometimes comprise members of one particular Panel or sometimes a mixture from various Panels or scrutiny. sub-panels can be formed, I believe, from cross-Panels rather than just within the one particular Panel. I make those preparatory remarks, Sir, by suggesting that if a sub-panel were set up, then clearly there are 3 Members of this House who are already willing and anxious to serve on a sub-panel because they put their names forward to this Committee of Inquiry and if they are prepared to serve on a Committee of Inquiry, this strikes me as logical, if nothing else, that they would also be prepared to serve on a sub-panel of what could be called an environmental sub-panel, to do exactly the same job which could then be funded in the appropriate way through the Scrutiny process, rather than through this convoluted method of having to fund it through the Planning Department. While I am on my feet, Sir, it was suggested that I could have directed the Scrutiny Panel to fund the Commission of Inquiry out of the Scrutiny budget rather than out of the Planning Minister's budget. I would be happy to do that, Sir, if it were within my power, but I believe that, as a Minister, I have to move money around where needs be within the department and, within the Ministers' budgets, I do not think I have the power to control the Scrutiny budget. If I have got that power, then I shall happily use it. [Laughter]

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

I have to say I do find this to be the most extraordinary debate we have seen for some time. The combined earning power of this Chamber means that, as we roll through, minute by minute, the cost of the combined salaries is a pretty extraordinary figure and we have probably done more than £20,000 worth, debating a £15,000 worth subject. I have heard, I have to say, some of the most extraordinary pronouncements and shroud-waving going on from various quarters of the Assembly. Of course I understand it is election year and we all want to get in early but some of the comments being made are just simply blatantly incorrect. The Third Party Appeals Law, Sir, is not under threat. We are discussing here a Committee of Inquiry to possibly see how it is working and decide whether we want to do that or not but some Members seem to be under the impression that the Law is under threat. The Law is in place and it is functional and working and we know that because some of the appeals have been heard by the Royal Court. We have also been seeing some extraordinary diversions as to whether or not the Environment Scrutiny Panel does want to deal with this, does not want to deal with this. Why are some of them not here? What have they done? What are the priorities? I have to say, Sir, I do not believe this is a matter for the Environment Scrutiny Panel; they deal with planning. This is a matter to do with how the Royal Court is functioning and, effectively, is much more an analysis of how the judicial process is operating. It has nothing to do with planning at all. It is planning appeals. Appeals are part of the judicial process, so I suggest that, apart from anything else, we are pointing the finger at the wrong Scrutiny Panel and I just find it extraordinary that no States Members have rumbled that up to now. Now, is this a ruse, as Senator Vibert has been accused of making? No, it is not. This is not a ruse at all, Sir. This is a reminder to this Assembly that you cannot have your cake and eat it. This is, yet again, the Assembly pretending that it wishes to have one approach to costs and keeping costs in check but, as soon as an opportunity turns up, spend a bit more money, off we go again. Now, Members, I think, need to remind themselves, they have put their Ministers under some pretty tight shackles in respect of spending but here we are, deciding that we can simply allocate this to either one department or funding from all departments. I have to say to Members this is not an acceptable

and responsible approach. You cannot insist that Ministerial government has to keep tight to budgets and then suddenly impose extra spending on Ministerial government. It is simply unacceptable. Now, this may only be a so-called small amount. That is not the point. It is the point of principle that counts and I have no idea how much this inquiry may cost by the time it is finished. Every time we hold an inquiry, they are notorious for over-spending. So, is this £15,000 or £150,000? I simply do not know. There is no indication. Either way, it is utterly inappropriate for Members to continue to pillory the department on spending and then impose further the spending on departments, in this case, a particularly cash-strapped department; the Planning Department. When, by contrast, we know that Scrutiny have so much money they do not know what to do with it and the history of Scrutiny so far has been regular amounts being paid back into the Treasury because they were not able to spend it over the year. Massive under-spends. Now, if Scrutiny cannot find £15,000 I think they should look to themselves very seriously because they are the motivators of insisting on spending limits for the departments and yet they are wriggling-out of this on the basis they do not know, despite the fact that it is so worthy, apparently, it has to be done at very short notice. I think Ministers are being put under really unreasonable pressure by the Assembly on this matter and many others. Members should really look to themselves today and assess just what level of hypocrisy they are promoting, insisting that spending limits are adhered to and yet, once again, pushing yet another measure through that requires more spending by a system of pre-allocated budgets. This is simply an improper approach. It is quite right that we should refer it back to Scrutiny and Scrutiny should determine which is the appropriate Panel to deal with it. It certainly is not the Environment Panel, in my view, because this is a matter that relates much more closely to legislation and the judiciary than it does to planning. Now, I certainly support the Minister for Education, Sport and Culture.

**6.2.12 Deputy S. C. Ferguson:**

I would like to correct a fairly common sort of misunderstanding. The Chairmen's Committee co-ordinates the workings of Scrutiny. It does not dictate topics to Panels and neither should it. The Panels are independent and decide on their own topics. This particular refer-back to Scrutiny, yes, it does appear to be a standard delaying tactic and I do not feel it has got any merit and I urge Members to reject it. Now, referring to Deputy de Faye and Scrutiny's under-spend, yes, it has under-spent. We happen to be fairly frugal in the way we spend money but there is also the point that the Ministers started with a fully-fledged system. They just carried on as a precedent of a Committee but without the Committee, which is also a questionable value. Scrutiny started from a blank piece of paper. But I think the Scrutiny members here have made a point that it is not a question of money. It is a question of time. There has been a terrific amount of new legislation. There have been a terrific amount of policies to be looked at. On top of this we have also been trying to co-operate with the Council of Ministers and have a proper look at the business plan. If this was referred back to Scrutiny then it would not be able to be dealt with this side of the summer, and possibly not then because it would be in the middle of election time. I do not think this is satisfactory because there are people in the community who are being terrorised by developers who are - as Deputy Huet has already said - running rings round the planning department. I think we need to decide on this today. I would urge Members to reject this particular reference to Scrutiny.

**Senator J.L. Perchard:**

Can I just ask for a point of clarification from the chairman of the Chairmen's Committee, Sir? She did say, I think, just a moment ago that the Chairmen's Committee have not discussed a review of third party planning appeals or having a review undertaken. Can she confirm that the Environment Scrutiny Panel has declined to undertake a review of third party planning appeals and can she produce the minutes of that decision for Members to view?

**Deputy S.C. Ferguson:**

No, as I have already said the Chairmen's Committee does not dictate topics to Scrutiny Panels and neither should it. The Senator should remember that from his time within Scrutiny. So this will not have come up at a meeting, and it has not, so I cannot provide that information.

**6.2.13 Senator P.F. Routier:**

I think this debate takes the biscuit. I do not think we have had such a daft debate for many a year. I am going to support Deputy Scott Warren's desire to have a review of the planning appeals system. She has identified a group of people who are willing to do the job; 3 of them are members of Scrutiny. They have got the time, they are willing to do it and they are able to do it. How they can achieve that is by becoming a sub-panel of Scrutiny. They can achieve that by being a sub-panel of Scrutiny. They too with other members...

**Deputy G.P. Southern:**

A point of order, Sir, if the Minister will give way. Technically a sub-panel cannot co-opt members of the public so the Panel represented there cannot be a sub-panel of Scrutiny.

**Senator P.F. Routier:**

Before I spoke I made an inquiry of the Greffier to find out if members of the public were able to be co-opted as a member. They could possibly be co-opted on to the committee as I think it says a non-member, does it? They can be co-opted to take part within the process certainly. I think the Greffier might...

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

Yes, they can do it on P.A.C. (Public Accounts Committee).

**Senator S. Syvret:**

During this unprocedural interlude could I just offer the observation that I think the Assembly is once again making a complete spectacle of itself?

**Senator M.E. Vibert:**

Thank you for that very useful observation.

**The Deputy Bailiff:**

I think the position is that people who are not members of the States cannot be members of the sub-panel because the relevant rule refers only to Members.

**Senator P.F. Routier:**

Yes, Sir, the note I received from the Deputy Greffier said could possibly co-opt a non-member.

**The Deputy Bailiff:**

They would not I think have a vote on the conclusions of the sub-panel.

**Senator P.F. Routier:**

No, but they could take part in the process.

**The Deputy Bailiff:**

It is a matter for the sub-panel as to how they manage their process.

**Senator P.F. Routier:**

I am not trying to be obstructive in this at all. I am trying to be helpful to ensure that this does happen because I think the nitty-gritty of it is that we are concerned about who is going to pay for this. I think that is probably what it is all about. There is a way forward for this review to carry out. There was a concern raised I think in an earlier speech about there might be some people wanting to have the protection of a Committee of Inquiry system so that they can give evidence in a

confidential manner. A sub-panel can also go in to camera to receive evidence from various people. I do think this is a positive way forward for Deputy Scott Warren to ensure that she can achieve what she wants to achieve. As she has identified there are a group of people who are willing and able to carry out this work. I would suggest that it would be far better to take that route rather than to try and get the money from elsewhere. I will support this proposition as we are, in this part of the debate, on the understanding that I feel that we are able to move forward in finding a way to get this review undertaken.

**6.2.14 Deputy C.H. Egré of St. Peter:**

I would just like to take this opportunity to remind this Assembly and the Executive that when we are dealing with Scrutiny we are dealing with a group of people who have very little support. You all have your own officers. You all have your own civil servants. In Scrutiny we have a very limited number of officers. When somebody blithely says: "Let us set up a sub-panel" that is fine for States Members but we require that officer support. For example, my own officer dealing with the J.E.B. (Jersey Enterprise Board) which is a very complex review that we are doing has just taken on the task of also dealing with the Bovine Semen Import Review. This is an awful lot of hard work for individual officers. My officer is not unique. So I will just remind people when they go ahead and say: "Throw it at Scrutiny" it is not as simple as they think. **[Approbation]**

**6.2.15 Deputy J.A. Martin:**

Can I ask for a point of clarification, please? My understanding of this co-opting and sub-panels maybe you could inform me, Sir. The people who put their names forward in the House, there is only one member on the Environment Panel and that is Deputy Scott Warren. My understanding - and this is what I want clarified, Sir - is that you cannot co-opt but you must have a member who has direct connection with whichever Panel, so if it is Environment it will be Deputy Scott Warren. My second question would be about the members of the public. If we work to Scrutiny standards could we not need ending up having an advocate - it may not be the one who has put their name forward - as a legal adviser costing thousands more, Sir, than this advocate is being... **[Approbation]** to give free legal advice. I presume that is why the member has put his name down to be on the Committee of Inquiry. So there are 2 points there, Sir. It is about this understanding of Ministers of our Scrutiny process. You cannot co-opt. You have to set up a sub-panel but the sub-panel must have at least one member who is directly in contact with the main Panel and they are the only person allowed to speak in this House on that subject. Sub-panel members are not. There is much misunderstanding across this House of what Scrutiny is able to do, so over the lunch - and I am not presuming yet, Sir. It is obviously not for me...

**The Deputy Bailiff:**

I hope that his debate can be brought to an end before lunch. **[Approbation]**

**Deputy J.A. Martin:**

I would, Sir, thank you.

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

I wanted to clarify a comment which was made and to say that at present no third party planning appeal has gone through the Royal Court process. It has got to the court. Affidavits have got as far as the court but the first lady withdrew her case because of fear of costs. I believe another one there was a time problem of bringing in the provision and acting on it and the people who wanted to lodge an appeal. I have chatted about this with the principal planner yesterday because I was unable to contact the Judicial Greffier and certainly the Master of the Court I have been unable to contact. Nobody has gone through the process and either won or lost a case. Sir, I would also like to say that in my opinion I appreciate we are short of money and £15,000 is a lot of money but, Sir, it is not as much as ongoing £250,000 per annum for an ineffective... if it is ineffective in the Law as is possibly the case now, it is not as much as £250,000.

**Senator J.L. Perchard:**

Can I ask the last speaker a point of clarification?

**The Deputy Bailiff:**

If you must, yes.

**Senator J.L. Perchard:**

Yes, I feel I must. There is something that we need to clear up. Could she confirm as a member of the Environment Scrutiny Panel whether the Panel has been formally requested to undertake a review of this type and could she produce the necessary minutes?

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

This was discussed. I do not know whether it is minuted. It was discussed during a Panel meeting. I think at that stage it was going to be a working party but they knew of the ongoing problems with people possibly being sued. It was made very clear to me - the Environment Panel - that one of the main reasons was the amount of work that that Panel has. There were other reasons at the time they did not want that but the main one I believe is work. I then went and asked the Scrutiny office. I received feedback from the Scrutiny office that, no, there was not another appropriate Panel who would, I presume, have the time and want to do this work.

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

As a remaining Scrutiny member from this relevant Panel I think I should say a few words. I think most Members are agreed that if they support this review being carried out, what they really care about is what is - I hesitate to use the words better, simpler, cheaper - the best way of getting this work done. We have members of the public willing to take part. We believe that the mechanism is there for the process to take place. I am not persuaded by Deputy de Faye that the Environment Scrutiny Panel is the wrong Panel. It seems to me that is the right Panel within its remit. It does seem to me that if the States agree with the proposer of this debate within a debate that it should be dealt with by Scrutiny then the Panel that I sit on will need to convene. The chairman is clearly out of the Island at the moment on States business but I would assume the procedure will be that the Panel will meet to discuss whether it can take the matter on. Certainly if that is the view of the States that the Panel ought to be doing it, given that at the last session they agreed to take on a matter to do with low water fishing, they might have trouble saying they do not have time. I certainly support the carrying out of the inquiry into the process. I support the main proposition. But equally if this is referred to Scrutiny I will certainly do my best to provide an input. Clearly I think we need to hear from the proposer of this motion why the States should be opting for a Scrutiny sub-panel review rather than a Committee of Inquiry.

**6.2.18 Deputy I.J. Gorst:**

Very quickly. We do seem to be dragging it out and I am standing to do exactly that. A Committee of Inquiry is a legitimate part of government. Therefore, we should have no problem with putting this, as the Deputy has proposed, to a Committee of Inquiry. Why do we have to keep scurrying around saying we cannot have a Committee of Inquiry for this or that or the other? We had a Committee of Inquiry in the recent past which is still going for Goose Green. The Deputy has proposed a Committee of Inquiry for this. If Members do not like this proposal they should vote against it in principle not whether it should go to Scrutiny or a Committee of Inquiry, Sir.

**The Deputy Bailiff:**

Does any other Member wish to speak? I call upon Senator Vibert to reply.

**6.2.19 Senator M.E. Vibert:**

Can I say I propose this way because I do support the Committee of Inquiry or an inquiry into this issue but I do not support and cannot support the unilateral taking away from Planning and

Environment of £15,000 from their allocated budget. I think we would have got a lot further and a lot quicker if we had had, as States Members, either comments from the Environment Scrutiny Panel on this proposition or in Deputy Scott Warren's proposition some comment from them about the situation. It is only through this debate that I found out the position of the Environment Scrutiny Panel because we were not given that information. I am sorry, I am critical about that because that information should have been provided. Very quickly, Sir. It seems to me that we have 3 States Members who are willing to undertake this inquiry. My understanding is that although they would not be members of a Panel, you can have non-States Members sitting with the Panel. So we have a way of carrying out this inquiry. Scrutiny have the funds because as a member of P.P.C. (Privileges and Procedures Committee) I can assure you that there is no suggestion that Scrutiny are going to spend all their funds this year, by any stretch of the imagination. So it seems to me a very clear way of getting on with it, keeping within what the government has set out to do, Scrutiny and Executive. I am proposing this as a positive way forward. You have heard from a member of the Environment Scrutiny Panel - the Constable of St. Helier - that they would consider it. I am sure they would come to the sensible decision to appoint those 3 members as the sub-panel to do it. They can buy-in officer time and we can get on with it and get it done and bring this to a close. I make the proposition.

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

Can I just clarify because I must clarify something? If you have co-opted members on - because it does run with the working party - firstly, is there a risk of anyone being sued and is it for people coming, freely giving, able to talk without the risk of being sued? I understand the people co-opted do not have a vote, is that correct?

**The Deputy Bailiff:**

Sorry, it sounds rather like a second speech but the position is that the members of the sub-panel would be the 3 States Members. You cannot have under the rules non-members as members of a sub-panel but there is nothing so far as I am aware to prevent them sitting alongside and being present at all discussions if that is what the sub-panel wants. But they will not be members of the sub-panel and, therefore, cannot vote on the decisions of the sub-panel.

**Senator M.E. Vibert:**

Can I ask for the appel, Sir?

**The Deputy Bailiff:**

Yes, the appel has been asked for. Very well, the appel is asked for in relation to the proposition of Senator Vibert that this matter be referred under Standing Order 78 so as to request the chairman of the relevant Scrutiny Panel to report back next time on whether the Panel wishes to have the matter referred to them. So it is pour or contre Senator Vibert's proposition. The Greffier will open the voting.

<b>POUR: 9</b>		<b>CONTRE: 32</b>		<b>ABSTAIN: 0</b>
Senator L. Norman		Senator S. Syvret		
Senator T.A. Le Sueur		Senator W. Kinnard		
Senator P.F. Routier		Senator B.E. Shenton		
Senator M.E. Vibert		Connétable of St. Ouen		
Senator J.L. Perchard		Connétable of St. Mary		
Connétable of Grouville		Connétable of St. Clement		
Deputy P.J.D. Ryan (H)		Connétable of St. Helier		
Deputy G.W.J. de Faye (H)		Connétable of Trinity		
Deputy of St. John		Connétable of St. Lawrence		
		Connétable of St. Brelade		
		Connétable of St. Saviour		

	Deputy A. Breckon (S)		
	Deputy J.J. Huet (H)		
	Deputy of St. Martin		
	Deputy G.C.L. Baudains (C)		
	Deputy C.J. Scott Warren (S)		
	Deputy R.G. Le Hérisssier (S)		
	Deputy J.A. Martin (H)		
	Deputy G.P. Southern (H)		
	Deputy S.C. Ferguson (B)		
	Deputy of Grouville		
	Deputy of St. Peter		
	Deputy J.A. Hilton (H)		
	Deputy J.A.N. Le Fondré (L)		
	Deputy D.W. Mezbourian (L)		
	Deputy of Trinity		
	Deputy S.S.P.A. Power (B)		
	Deputy S. Pitman (H)		
	Deputy A.J.D. Maclean (H)		
	Deputy K.C. Lewis (S)		
	Deputy I.J. Gorst (C)		
	Deputy of St. Mary		

**Senator S. Syvret:**

I will propose the adjournment unless the matter has been pretty much done and dusted and we might move to the vote with a short summing-up.

**The Deputy Bailiff:**

Do any Members wish to speak on the main proposition now?

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

I wish to sum-up.

**The Deputy Bailiff:**

You will, of course, Deputy, yes, but does any other Member wish to speak?

**The Deputy of Trinity:**

Yes, please, Sir.

**The Deputy Bailiff:**

Very well, anyone else? There are just 2 speeches. Do Members wish to continue or to adjourn?

**Senator S. Syvret:**

For my part, Sir, I would say that we should continue because we will have 2 speeches and if we come back this afternoon then we will have another 8.

**The Deputy Bailiff:**

There are 3 speeches, I have seen the Connétable of St. Saviour as well, so it is 3 speeches.

**LUNCHEON ADJOURNMENT PROPOSED**

**Senator L. Norman:**

I propose the adjournment please, Sir.

## LUNCHEON ADJOURNMENT

### PUBLIC BUSINESS (resumed...)

#### 6.3 Connétable P.F.M. Hanning of St. Saviour:

I hope everybody enjoyed their lunch because they certainly needed the break. This morning's debate I thought was everything that the Jersey public dislikes about the States. We want people to be interested in the States and be involved and I think all we have done is ask people to turn their radios off. We have a simple situation here. We have not been able to resolve it. There seems to be a problem with third party appeals, albeit small in number. Why do we not do something about it? A way to resolve this problem has been proposed. Very few of the Members appear to be against it. They nearly all appear to be in favour of looking at a method of solving the problem. I feel that somewhere this problem has to be examined. Now if the cost falls on one committee - I say a committee that is set up - or a Scrutiny Panel, it may be simplistic but I think to the man in the street they really do not care. Where the cost falls is irrelevant. It is for us as a House to sort that out. Whether the scrutiny comes out of the Scrutiny budget, whether Treasury pay or whether Planning pay, it is only going to be paid for once and if the House wants it to be done then it should be done. We are not proposing money that has not been budgeted because if there is money in the Scrutiny budget for this sort of thing and it is done by a Committee of Inquiry so be it. The public do not care which way we shuffle it. If we need the inquiry let us do it. Let us decide now. The public do not mind how we shuffle the beans. I think we have just got to make sure we do not waste any more time.

#### 6.4 The Deputy of Trinity:

I will be brief. As it said in the comments from the Planning and Environment Department, we do support the proposition. Just a recap. A lot has been mentioned about the public and the right to appeal. Since the new Planning Law that came into effect in the middle of last year, the public have had open access to our public hearings, be it Ministerial or be it the Applications Panel. Objectors in their droves have been coming putting their objections to the Panel and the Minister. I speak for the Panel that we have heard it. When you look at the list of third party appeals I only question that perhaps is it too early because none of the appeals - there have been 7 - have gone through to court. It is a shame really that if this proposition is passed that there is not one application that has gone through the whole course. But be that as it may we support the proposition and, like the previous speaker, it would be nice if the money did not come out of our planning budget as we all know that we are very tight for cash because you want to give a good service and, as we know, applications do take a length of time. If this proposition is passed I think we will be in negotiations with Treasury to see if perhaps it can come out of the Treasury budget. That would be good but if not then we have to meet it.

#### 6.5 Deputy S. Power:

I would like to make 3 points. The first point I would like to say is that in the Planning Department's document regarding the appeal process and the number of people who use the system there are 7 appeals and 5 were withdrawn. I would suggest that this is not a valid sample and it is probably indicative of the fact that the third party appeal process is not working in that not one of them got to the Royal Court. So I suggest we are dealing with a number of issues here this afternoon. One is definitely a financial issue in that the planning appeal process has been enabled as a piece of legislation and it is not working. One of the reasons it appears to be not working is that it does not have any funding. I would also suggest to Members that the fate of the original planning appeal... this morning's debate almost followed the fate of that one in that we were side-swiped into a debate on a proposition which I think was unnecessary. I would also like to think that

if this proposition to support a Committee of Inquiry is successful then one of the things that it may have to look at is whether it is appropriate entirely that a planning appeal process does in fact go to a Royal Court. I would contend that while there is a Planning Applications Panel and there is an appeal to the Minister, third party appeals are largely an appeal against an already granted permission and we do not have a well spelt-out, definitive way of dealing with that. I would also like to suggest that the system that we have at the moment in third party appeals is not well defined. It is not user friendly and the prospect of using the Royal Court would probably scare an awful lot of people off. I also agree with what was said this morning. I do not think this is correct territory for the Environment Panel as it overlaps a lot of judicial and legal work and not so much environment and planning work. So I hope Members realise where we are on this debate and that if there is anyone in the Chamber who can concede that the third party appeal process is working then I think they have missed something. I again praise Deputy Scott Warren for what she has done and for the work she has put into this and I hope today Members will support this proposition.

**The Deputy Bailiff:**

Does any other Member wish to speak? Very well, I call upon Deputy Scott Warren to reply.

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

I thank all Members who have spoken in this debate. I would like to thank the Greffier and Deputy Greffier of the States, the Director of Planning and the Principal Planner, but also the Minister for Planning and Environment, for help and advice over the last year, and the former Solicitor General for their assistance. Sir, I will not go through every single speech and just quickly touch on a few of what I think are the main things. If anyone feels I have left anything out, please say. Regarding Senator Perchard’s concern about the impartiality of the proposed members of the Committee of Inquiry, I think I have to remind all Members we are not debating the merits of third party appeals. The provision is already in the Law. So it is really that these people I propose as members, are there to assure or bring a report of having seen how this provision is operating and functioning. Deputy de Faye has said that he believes cost should act as a deterrent. I do wonder, Sir, if he would think similarly if he wanted to lodge an appeal with only limited financial resources. Several Members have mentioned the little man - or woman I would say - versus applicants and particularly developers; people who can afford to appeal and can afford court costs. The Deputy of Trinity is right that the Law is better and obviously this will also be an aspect within any Committee of Inquiry; the Law is better - much better - than the previous law. However, we do need to know, Sir, why no third party appeal has yet gone right through the Royal Court process. We also, Sir, need to find out the reason that there are so few appeals being lodged to date. We need to get answers, Sir. I have some more notes but I am going to scrap that. I think this has been discussed sufficiently. **[Approbation]** I urge Members to support this Committee of Inquiry and, Sir, I ask for the appel.

**The Deputy Bailiff:**

The appel is asked for in relation to the Deputy’s proposition. I invite Members to return to their seats. The Greffier will open the voting.

<b>POUR: 38</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator L. Norman		Senator M.E. Vibert		
Senator W. Kinnard		Senator J.L. Perchard		
Senator T.A. Le Sueur		Deputy G.W.J. de Faye (H)		
Senator P.F. Routier				
Senator B.E. Shenton				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of St. Helier				

Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

## **7. Family Nursing and Home Care Debt (P.46/2008)**

### **The Deputy Bailiff:**

Very well, we come next to Projet 46 - "Family Nursing and Home Care Debt" - lodged by the Minister for Treasury and Resources. I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion to take responsibility for the pre-1987 P.E.C.R.S. (Public Employees Contributory Retirement Scheme) past service debt currently attributable to Family Nursing and Home Care, such debt having a capitalised value of £3,052,444 as at 31st December 2007, to agree to make payments to P.E.C.R.S. of £7,463 monthly subject to annual indexation until 31st December 2083 or such earlier time as that debt is satisfied, to assume the same obligations in relation to the debt currently attributable to Family Nursing and Home Care as for its own share of the debt under P.190/2005 and to reduce the grant payment to Family Nursing and Home Care by £89,556 per annum subject to annual indexation.

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

I think all Members here will appreciate the valuable contribution made by the Family Nursing and Home Care services. **[Approbation]** If they have read my report they will have seen that while the States pays just under 80 per cent of their running costs, the other 20 per cent has to be found by contributions, fundraising and other means. A few years ago in 2005 the States restructured its pension fund to eliminate what has been known as the pre 1987 debt. The intention was to pay off that debt in a structured way over 82 years. The Family Nursing and Home Care are members of that pension fund and they enjoy the same rights and entitlements as States employees. But by an

accounting quirk it means that Family Nursing now have on their balance sheet a liability of £3 million. It is a liability which would be due over the next 82 years so it is not an immediate liability but nonetheless it is a liability. They appreciate this and they have accepted that. It would be all right except for the fact that this makes the association technically insolvent because their liabilities would exceed their current assets. That is a situation which is very difficult, therefore, for them to go to charitable institutions and ask for funding. So they have suggested, and I have agreed as Minister for Treasury and Resources, and the trustees of the Public Employees Contributory Pension Fund have also agreed, that it would be a simpler solution to restructure this arrangement to move the liability from the balance sheet of Family Nursing and transfer it to that of the States who in fact saddled Family Nursing with this liability in the first place. The effect to Family Nursing is cost-neutral because it means that they still effectively carry on paying year by year but it is done by means of reducing their grants by the same amount as they would be paying otherwise to the pension fund. It is cost-neutral to the States because we simply receive that money and do not have to give Family Nursing the same level of grants. All it means is a transfer between Health and Social Services and the Chief Minister's Department. Without these arrangements Family Nursing will find it difficult to raise money from the charitable sector where they need that money. Without that very valuable support that they receive from charitable trusts and the like they would not be able to continue. So not only is this proposition in their interests, it is also in the States interests because without Family Nursing we would have a far greater burden to carry ourselves. So, Sir, in not only commending the work of Family Nursing, can I also commend to the House this proposition to move the debt from their balance sheet to ours; a transfer which, as Minister for Treasury and Resources, I am pleased to accept as well. So I make the proposition.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? Very well, all those in favour of adopting the proposition, kindly show. Those against? The proposition is adopted.

**8. Channel Islands Lottery: allocation of a percentage of profits for 2007-2008 (P.47/2008)**

**The Deputy Bailiff:**

We come next to "Channel Islands Lottery: allocation of a percentage of profits for 2007-2008" - Projet 47 - lodged by the Minister for Economic Development. I will ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to agree in accordance with the provisions of Regulation 4(5) of the Gambling Channel Islands Lottery (Jersey) Regulations 1975 that all moneys outstanding to the credit of the Channel Islands Lottery (Jersey) Fund which have not already been set aside by the Minister, representing 8 per cent of the total Jersey portion of the profits of the Channel Islands Lottery from 2007 and 2008, should be paid to the Association of Jersey Charities for the benefit of the community and the charitable needs of the Island.

**The Deputy Bailiff:**

Do I understand, Deputy, as Assistant Minister you will be acting as rapporteur on this one in the absence of the Minister?

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

Absolutely right, Sir. Sir, this proposition asks Members to agree that the 2007 and 2008 profits from the Jersey portion of the Channel Islands Lottery should be transferred to the Association of Jersey Charities. This is of course for the benefit of the community and the charitable needs of the Island. The Association now represents approximately 248 Jersey charities and undertakes a

valuable function by considering and allocating funding to the most worthy of projects. In doing so the Association continues to fulfil a vital social need. With Members' agreement the 2007 profits which amount to £358,000 would be made available immediately. The 2008 profits would be transferred once the States Treasury has finalised the 2008 year-end accounts. In both 2007 and 2008 it is also intended that 20 per cent of the Jersey profits will be retained. This is with the full agreement of the Association of Jersey Charities and these funds would be transferred to the accumulated fund in order to maintain a contingency for the Association. Sir, I propose the proposition.

**The Deputy Bailiff:**

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

**8.1.1 Deputy R.G. Le Hérisier:**

I sometimes wonder why these things come to the States but having come can I ask the rapporteur, Sir, does he have a copy of the criteria by which these funds are dispensed or dispersed by the Association of Jersey Charities?

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

I should say that I am the chairman of a local charity but obviously I have no pecuniary interest myself and I am very happy to support this proposition.

**8.1.3 Deputy G.P. Southern:**

Yes, just a question in passing; £358,000 seems to me that it is rather a lot of effort for little net profit. Why so little? Is this the normal sort of range of figure?

**The Deputy Bailiff:**

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

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

To answer Deputy Le Hérisier's question, he is absolutely right in some respects. In terms of bringing propositions such as this to the States it is probably not the most appropriate way of dealing with it. In fact we are dealing at 2-year tranches to try and reduce the pain as much as possible. As far as criteria for the Association of Jersey Charities, they do have a set criteria when considering applications for funding from charities, they in fact have to be members of the Association. There are currently about 248 members. The amount of money that any one charity can be awarded in any one year is £20,000. The finer details are then considered by the panel as to the merits, the business plan relating to what the funds are for and so on. If the Deputy would like more detail, Sir, I am sure I can furnish that for him in due course. I thank Deputy Scott Warren for her support. Deputy Southern says why so little. I think £358,000 is quite a good sum of money to be awarding towards good and worthy causes in the Island. I think we should be certainly thankful for that. In fact this year it is an increase on the previous year. It was £325,000 in 2006. We certainly hope that with the possibility of moving to a national lottery in 2009 there is every chance that this sum could significantly grow and indeed the economies of scale will make it far more efficient in terms of operating the lottery. But I certainly feel that we should be very thankful for the funds that we are able to put towards those good causes. Sir, I maintain the proposition and ask for the appel.

**The Deputy Bailiff:**

The appel is asked for in relation to projet 47. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 33</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator W. Kinnard				

Senator P.F. Routier				
Senator B.E. Shenton				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

## **9. Working Party to Review Appropriateness of Departmental Structure (P.49/2008)**

### **The Deputy Bailiff:**

We come next to Projet 49 - "Working Party to Review Appropriateness of Departmental Structure 2 - lodged by Deputy Baudains. I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion: (a) to agree that a working party should be established to investigate the appropriateness of the internal structure of each department to the States to ascertain whether it is fit for purpose and to report back to the States with its findings within 6 months; and (b) to request the Privileges and Procedures Committee in consultation with the Council of Ministers to bring forward for approval by the States the proposed membership of the working party which should comprise States Members who are Ministers or Assistant Ministers and Members who are not.

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

First of all I think it is incumbent on me to pay credit where credit is due. I would like to thank Deputy Gorst for his input in this matter, Sir, because he and I are making a good start anyway. **[Approbation]** He and I are of similar opinion regarding public service efficiency, Sir, and we have worked together on this issue. However, whether he still agrees with me when I have finished speaking remains to be seen, but we will hope for the best. Sir, first of all I thought given the fact

that I deferred this at the last sitting I think it probably might be better if I address the comments of the Council of Ministers first. In my view there is no point in going through the rationale and details supporting the proposition if Members are distracted by lingering doubts as to the usefulness of the working party. Well, Sir, what do those comments say? For a start I think it is disappointing to see a negative attitude to something which after all is designed to get better value for taxpayers' money. The first paragraph of the Council of Ministers' comments, Sir, suggest a working party will simply duplicate the work done by the Comptroller and Auditor General. I have to say if that were so I would not be bringing this proposition. Members will recall, as I said at the last sitting, the Chief Minister was concerned about this matter of overlap and persuaded me to defer the proposition so I could have sight of the Comptroller and Auditor General's report. Sadly that examination did not occur. I had a telephone call from the Chief Minister the following day to apologise saying that unfortunately it was not his report to release which was fair enough, Sir, and really not an issue because I was able to advise the Chief Minister that I had a meeting planned with the Comptroller and Auditor General the following Thursday. Sadly life is never easy and that meeting was cancelled so I immediately telephoned Senator Walker asking whether there was any way in which I could have sight of the report. Curiously he advised me he did not have the report which I found somewhat at odds with the previous comments. Now the Deputy Chief Minister invited me over the weekend to defer the proposition yet again until Members had a chance to see the Comptroller and Auditor General's report in order to make sure that this working party was not a duplication of effort. That report is, I believe, due out shortly. But unfortunately such a deferral would mean my proposition would not be debated by 3rd June at the earliest. Then assuming it was adopted P.P.C. would need a couple of weeks to create the working party; early July before work would start. Then we have the summer recess, the elections in October. I really cannot think of a better way, Sir, of ensuring that nothing happens until this time next year if ever. The cynical side of me suggests this may be convenient for some people but unfortunately the public may be less sympathetic. We need simply, Sir, to start now. For that reason I pestered the Comptroller and Auditor General regarding his report so I could assess what overlap, if any, existed. Fortunately we finally made contact yesterday. We had a long conversation. The outcome is, yes, there could be overlap but also there is work that has not been done and is not likely to be done without a working party and perhaps more importantly the fact that a working party of politicians would be able to bring pressure. Pressure, Sir, to ensure that any recommendations either by the Comptroller and Auditor General or by the working party are progressed rather than what usually happens, and we are aware of the situation that has happened in the past where a report is duly filed on a shelf, carefully avoided by those who find the task of implementing its recommendations somewhat too onerous. Just to quickly address the rest of the Council's comments, Sir. Their second paragraph where unfortunately they appear to misunderstand the role of the P.A.C. They are the Public Accounts Committee, Sir, charged with looking at accounts. They are not responsible for the actual structure and accountability; why one person should be the foreman and the next person should be the manager and so forth. Neither are they Scrutiny Panels. We have had a discussion this morning - rather too long in my view - about the possibility of Scrutiny Panels doing certain work but, of course, Scrutiny Panels do not have a pan-public service remit so the issue of the efficient structure effectively ends up falling between several stools. In my view, therefore, Sir, it is quite appropriate that P.P.C. should be the body to nominate members for that working party. Just to conclude on that subject, Sir, the Council goes on to suggest that my proposition has significant financial implications. Well, I have to say this is always a good ploy. I remember Members being told that about the Corporate Management Board, that keeping minutes would involve substantial costs until of course we found that minutes were kept already. Today the suggestion is equally erroneous. Surely we can all recall the angry men - perhaps not as angry as they used to be - and leaders of industry who over the years have offered to tell us what went wrong and where we continue to go wrong. There has been no shortage of that advice, Sir. Therefore, it is not my intention that any such advice which, after all, will not involve hours and hours of work as it might be if they were employed as consultants, it is not my intention to be remunerated. To me it is quite

simple. If somebody does not feel able to give an hour or 2 of time, we will find somebody who can. The matter of officer support may be a requirement but it will be the only one. Following discussions with the States Greffier, Sir, it was thought this input would be minimal. Frankly the only officer support I envisage will probably come with compiling of the ensuing report. I, therefore, totally refute the substantial extra costs referred to by the Council. So the case for a working party, Sir. I have already referred to the angry man and chiefs of industry and they - right down to the chap in the pub - all believe their Island costs more to run than it should do. Does it? Does it not? We need to know. Of course this Assembly and previous Assemblies have responded. We have had the Fundamental Spending Review. Previously committee presidents got together and tried to cut back on their budgets. I know the Minister for Treasury and Resources in a former guise did sterling work in cutting-back the amount of money that presidents were spending. But unfortunately all the processes we have employed so far are flawed. Flawed, Sir, because putting off capital spending is not a saving. In fact it is more likely to cost extra in years to come. Cutting back on maintenance as the Housing Department fought to do, that is not a saving. Postponing maintenance does not mean you put your coat of paint on next year. It means you have to replace the doors, windows, soffit boards and everything else; no saving whatsoever. This lack of ability to reduce our public expenditure has troubled me for some time, as I know it has other Members as well. We have all tried in our individual ways to scrutinise, to probe, to try to get to the bottom of it but our efforts have been mainly in vain. It is probably one of the things that has frustrated me the most during my time in this Assembly because I see inefficiency. I ask questions, I cajole presidents and now Ministers but nothing really changes. The catalyst came, Sir, when I think it was earlier this year the Chief Minister made a statement, something along the lines of that we should all be infinitely grateful for our Civil Service because it was so marvellous. Well, Sir, statements like that, especially from the head of Human Resources, made me realise that really there was no real will to curb States expenditure at all because frankly who would look for savings in a perfect organisation? You simply would not. I thought the comment at the time was unhelpful but, of course, in hindsight it helped me to understand where we should be looking because this Assembly turns out Laws and Regulations and Orders by the cartload. We are all familiar with the usual statement no manpower financial implications but, of course, if any law is to be properly administered it requires effort to do so. Either people we now employ were doing nothing previously or extra staff are required. We make fine pronouncements with being as efficient as we can. The cost benefit analysis will be carried out - they never are - but the machine turns on relentlessly. If we did not have so many laws and regulations to administer we would not need half the staff but that is another argument. I am reminded of the pyramid analogy. If you have one person doing a job you have 100 per cent efficiency. When you have 10 people doing a job you need a foreman. When you have a 100 people doing a job you need 10 foremen and you need a manager to look after the 10 foremen so you are down to 90 per cent efficiency or less. It is hugely important that one has the most effective structure. Some examples, Sir. I would not know whether a surgeon is operating in the most efficient or effective way but I do know when something mechanical is not being maintained, repaired or constructed properly. I have seen some appalling examples. I have complained previously to presidents of Harbours and Airport about the way the cranes were maintained. The method chosen was the most time-wasting and expensive I could imagine. I advised an alternative but the excuse that I was given, and it was excuse: "This is the way we have always done it" so there is no progress there. When I was on the Public Services Committee - and Deputy Huet will be familiar with this - I asked why a pavement in my Parish was taking so long to construct. I even took the trouble to contact Ronez to find out how long they would take. It transpired our public sector was taking 12 times longer than the private sector. At the following committee meeting I asked officers why that was. I was told that an enormous amount of material had to be moved; 90 tonnes in fact. If that was 90 tonnes then the foundations of that pavement are 14 feet deep. Clearly an operational matter, Sir, but what have they got to do with departmental structure? Quite a lot because in that last example I asked whether the time sheets were kept; was there a foreman and a manager looking after this work? That was about 8

years ago and I am still hopeful I will get the answer. Regarding the cranes I mentioned earlier, Sir, where is the accountability? Who is checking the person who made the decision to do the job that particular way and who is the person above him because each and every one of those is responsible for the work going on below them? But somehow in our Civil Service we have hundreds of hard working people all beavering away. Yes, I know among 7,000 there is probably the odd one that does not pull their weight but it must be very frustrating for the majority because there is nothing more frustrating than working hard and achieving little; as some of us know. Efficiency and achievement, Sir, rests upon and - in my view - is reliant upon a proper organisational structure. The chap at the top, the Chief Executive Officer - whoever it may be - and his directors will implement political policy and those directors are not supposed to be wearing overalls. They are supposed to be ensuring the sections beneath them are delivering which is in my view where we have an area that is failing us because I know most, if not all of our Chief Executive Officers work damn hard, putting in hours that frankly the public would not believe. In my committee days I have known several directors putting in similar effort, but when you get further down the ladder there are grey areas where there seems to be a disconnection of responsibility and accountability. Why are the cranes maintained in an inefficient manner? Why do highway repairs and maintenance seem to be an area of non-responsibility? When you see 4 chaps leaning on their shovels for an hour, Sir, we should not blame them; we should blame the foreman or chargehand who allows it. When you see 4 men in a lorry sitting at the top of a slip waiting for the tide to come up, before it goes down again, before they can start work, do not blame them. Who organised their work for the day? I mentioned earlier, we keep churning out regulations and that, try to fool ourselves it does not add to the administrative burden, but of course it does. It exists because we have done the same with our departments as with the Island Plan. When we needed 3,000 homes, instead of starting a new village we have bolted-on to existing developments, overloading an infrastructure already in place that is creaking. So, why should it be any different with departments? We require them to do more and more work but we do not restructure them. Whereas before, a manager might have been keeping an eye on 2 or 3 people and when the section grows he is no longer able to do that. So, what we have... sections have become virtually autonomous. Complete lack of accountability. So, what we have in general terms across the Civil Service in certain areas, are groups of people who apparently are accountable to no-one. You can certainly never get an answer as to who is responsible for doing what. Another example, Sir; when I was on Shadow Scrutiny we reviewed the possibility of Harbours becoming a trust board. Deputy Rondel and myself led the review and I recall our amazement on finding Harbours' management structure had recently been changed. Unfortunately, in our view, not for the better. Before, the structure afforded clear lines of accountability. Essentially, you could follow the guy with a paintbrush in his hand right up to the Chief Executive Officer. That has now gone. In an efficient structure, information needs to be able to flow upwards as well as responsibility that goes downwards; virtually what they had. But it was replaced with a structure where there was sideways responsibility, or none at all depending on how you view sideways connections. Almost like separate companies under a holding company. A structure like that, Sir, is in my view, incompatible with efficient working, especially when all the activities within the department are so interwoven and interconnected. It works, sort of, a bit like rubbing 2 sticks together creates combustion, but I would not recommend it. I said a moment ago that I was not qualified to assess what a surgeon should or should not be doing and of course that is true, but is that surgeon, his support team and the team supplying the infrastructure he requires in order to work; are they all working harmoniously and efficiently? I do not know. It has been suggested by some, there are more layers of management in the hospital than is necessary but where was the analysis? Apparently, I am informed quite recently the department is currently unable to supply an up-to-date management chart, which really adds to my concern. I am sure that if the Chief Minister were with us today he would tell us: "Well, we have done all that. We have had benchmarking." Well, quite so, and as a rough guide that is helpful, but it also misses the point. Whether we perform slightly better than this county or slightly worse than that county is frankly, irrelevant because we do not know how efficient they are. The real comparison is between

our public service and the private sector. If we were achieving as well as or better than the private sector that is great; let us carry on. But if we are not, why not? And if we are not, should we not have greater regard for taxpayers' money? Because I have seen inefficiency and waste which is, frankly, unbelievable. For those who may suspect that we do not really have a problem I will give another example, Sir. A sewage pumping station at Le Bourg must be the most expensive hole in the ground in the world. If somebody had asked me to make the job as expensive as I possibly could, I could never have equalled what the department did. A structural engineer advised me that the concrete is 10 times thicker than is necessary; 10 times. Where was the accountability for that? No, it just happens, the taxpayer picks up the bill and we carry on. I asked the department at the time for an explanation and I was told it was to prevent the whole thing floating in the high water table, which is reasonable. And when I asked why they had not used anchor piles instead, they did not have an answer. That was about 8 years ago as well; I am still waiting for that. But, Sir, we as the States happily continue year after year throwing away taxpayer's money on this sort of incompetence, because it is incompetence and no one is ever held accountable. In the private sector such mistakes would only be made once. But our public service structure almost ensures that no one is ever accountable because unfortunately, we are not competing with anyone; in the unique position of being able to charge what we like. It is therefore surely incumbent upon us to ensure as far as is absolutely possible that we are efficient. But we do not even know whether or not we are because we do not have the information, and we cannot get it because of the way our departments are structured. Some might say it has been designed that way. I am fairly cynical, but not that cynical. I believe we have simply failed to evolve because we are not exposed to the harsh reality of the private sector, where if you are not efficient and structurally sound you go out of business. A firm in the private sector - certainly one of any significance - will have a flow chart enabling them to identify any poor performance, any bottlenecks or indeed any other matter, which is preventing them giving the best service at the lowest price. Larger firms will have a computer system that identifies where particular product or work is at any moment in time. We do not have that. We ask questions and in many cases the answers are not full or satisfactory. I recall a construction job done for the Education Department; the whole building industry was laughing at us at the time. In fact I think I have mentioned before one contractor had a job to tell me; he was crying with laughter. But the point is an engineer will design something so that a feather landing on it will break it. He will then add his safety factor; 100 per cent, 600 per cent, whatever. Somebody who does not know what they are doing will say: "Well, we will make it this big. That will not break." They will deliberately over-engineer on the side of safety. That is not good engineering, that is not good use of taxpayer's money; that is incompetence. But you cannot ever pin anything down; it is always somebody else's responsibility. You can never get to the bottom of it. Why is the person in the job if he cannot do it? Where is the chain of accountability that identifies the problem? Clearly, the mechanisms that exist in the private sector are missing from our public sector and therefore, in my view, our structure is deficient, which is why we need a working party to look at it. Because otherwise the result is underperformance getting rewarded with promotion and the whole sorry saga continues. Extra work: all departments that I am aware of have had extra work. Their work has expanded but they have not been restructured to reflect those new responsibilities. Planning and Public Services were brought under one committee a few years ago - a mistake in my view - but the purpose was to transfer those sections which no longer fitted well, from one department to the other; a structural reorganisation. The exercise might have benefited Public Services, Sir, it certainly does not seem to have advantaged Planning a great deal. Members will recall I was on the Environment Panel that looked into the planning process. Indeed, I was lead member for it and I would congratulate the - sadly he is not here today - Planning Minister for his co-operation. Indeed, he responded immediately whenever an issue was identified rather than waiting until the report was out and argue about it as some other Ministers have done. However, I have to say that since that report, things have gone steadily downhill. To some extent, Sir, I blame the Scrutiny Panel because after a review has been completed it is normal to follow it up and monitor the situation, and to the best of my knowledge that has not been done. In an ideal world one might

expect a Minister to meet with his Chief Executive Officer and in the case of Planning he would say: "I want all new developments to be 4 storeys high and painted green." His officer would then meet with the new directors and say: "Look, chaps, the only houses permitted are 4 storeys and they are painted green." Directors would call a meeting of the chief planning officers and pass the message on. Naturally the Minister would have briefed his Applications Panel likewise and everybody would be singing from the same hymn sheet, if only. You go to one officer and he says: "2 storeys high and painted yellow." You get transferred to another one who says: "Oh, you cannot do that; 3 storeys high and painted brown." Eventually, after a long time you get to the Panel and it is turned down because it is not green, and you say: "But I was told it had to be brown." "I do not know where you heard that one." The Planning Department, Sir - and I know the Minister would agree with me - is currently dysfunctional. No criticism I hasten to add whatsoever of the people working in it - the Deputy beside me laughs; I genuinely mean that - who are all working furiously but the system they are working in is what lets them down. Everybody appears to be working independently. Experienced and qualified people running round in circles in a system that patently does not deliver and does not make for efficient working or job satisfaction for those employees. I asked the Planning Minister about a month ago why he did not have an audit trail for applications so that anybody making a planning application could go to the front desk and immediately discover its progress. They could be told: "Today it is on Officer Blogs' desk. Next week it is going to Historic Buildings; the week after it will be on Smith's desk." It cannot be done. Apparently the Minister would require extra staff to administer it but of course the irony is if you did have such a system, you could identify the problems and you would enhance efficiency and possibly require less staff. But it cannot be done. If for example, one particular officer was spending 3 times longer processing applications than his colleagues, analysis of the problem might reveal that he was constantly being dragged away to do something else. We do not have the mechanisms to identify the problem in the first place. So, despite dramatic shifts in workload right across the Civil Service, we simply keep on doing things the way we always did. I am aware that planning officers are frequently distracted from their work. Developers have told me that sometimes you have to wait weeks for an appointment, sometimes months. If your application is in an officer's tray when he goes on holiday it stays there until he comes back. The Island Plan review is currently 3 years behind schedule and the Minister advises me that some planning applications have been going around the department for 2 to 3 years. If that was in the private sector customers would vote with their feet. Go elsewhere, thereby creating an immediate pressure on the company to change its working practices. But unfortunately our public sector is insulated from such pressures; it does not have to be efficient. Whatever it costs will be borne by the taxpayer, a problem I believe, magnified by recent changes to the way we debate the budget. So, in my view, a comparison between private sector and public sector practices is long overdue and the working party I am asking for would be able to make those comparisons. Because at present we expect officers to review their own departments; that is the only information we get. Of course, the trouble is they are too busy to deal with it and in fact they may not be qualified for that particular exercise anyway. It is also inconceivable that a Chief Executive Officer would go to his Minister and say: "Well, yes, I am sorry, we are spending a couple of million pounds more than we really need but if we do not, we will not get it next year." Or: "Well, we have got a dozen chaps in that section; the truth is now we only need 2 or 3 but of course if we reduce the numbers in the Hay evaluation then my position will change and hey, we are not going to do that." Then of course there is the easy option on being instructed to find savings. Well, the only thing we can do is close down the Accident and Emergency Ward. We will have to stop repairing the roads. You will not be able to drive on them. We will have to stop maintaining the housing stock and put the rents up. Sound familiar? Does anyone notice how options put forward are always designed to be unacceptable? Now, I wonder why that should be. But of course the answer is quite simple; it is people seeking to protect themselves. What is wrong with that? In their position I would do the same. It is the structure that allows it which is at fault. That is why outside consultants are not the answer because we will only end up with the same result we have had time and time again. Previous attempts have failed

because a consultant brought in can only rely on the information that the department itself gives them, and no progress surely, will ever be made that way. I have given a few examples of inefficient or unacceptable working practices and what we need to do is to find out why the system allows that to happen. Why are there disconnections in accountability? Why, when one person is promoted does it take 3 or more employees to fill the vacancy left behind? Why are people in positions of responsibility without sufficient knowledge of the work going on beneath them to be able to hold those people beneath them to account? Just another quick example, Sir; Health and Social Services. First, a person promoted to a position but lacking certain qualifications. Results; another person with the relevant qualifications is appointed to link that first person with the section in question. Then a third person appointed to co-ordinate the first 2; you could not make it up. But where is the responsibility for this fiasco, this waste of taxpayers' money? Who authorised this nonsense? As I said, Sir, nobody ever seems to be accountable. Perhaps it will be Senator Shenton in the future, we are not sure. So, seriously, we really do have to get to the bottom of how these things are allowed to happen and while we do not even have the tools in place to identify the problem, things can only get worse and more expensive. What we need in fact is a scrutiny of departmental structure, for without an effective structure, output can surely never be efficient. So, one has to ask: "Who can actually do this?" Well, we had a long argument this morning about who could look into third-party appeals; I hope we do not spend as long as that on this one. But my opinion is, Sir, politicians, only they - and they will need to be determined - can get to grips with this. A review by people able - I hate this phrase - to hit the ground running by virtue of their knowledge of how departments work and those people, Sir, are us, particularly those with previous committee experience because they will probably best understand how departments function. As my report implies and I have said when I started, I would hope the private sector would assist a working party with advice when required. Because let us face it, enough industrialists have sought to advise us in the past so I would expect they would only be too willing to continue that advice. As I said, after all it is not a Committee of Inquiry that would require huge amounts of their time. So, to make it absolutely clear, Sir, there is no funding for consultants. The timing, Sir, is in my view also opportune, given the Comptroller and Auditor General's current work on departmental spending and process. The Comptroller and Auditor General is independent and not a member of the P.A.C. as some have inferred but of course they do work together. So, Sir, in contrast to the Council of Ministers' comments where they infer that there would be an overlap and duplication, in actual fact the inclusion of a member of the P.A.C. in the working party - and it so happens that the chairman of the P.A.C. sits on P.P.C. - the inclusion of such a person on the working party would enable co-operation with the Comptroller and Auditor General's work cutting out unnecessary overlap. In fact I see the 2 pieces of work going hand-in-hand and not duplicating but, instead, complimenting each other. As regards composition of the working party, Sir, I have deliberately stated the working party should contain members from both the Executive and Non-Executive, simply in order to allay any suspicion of partisanship. Clearly, there needs to be a balance regarding numbers. Too few and the work will be onerous; too many and it becomes cumbersome. So, if any Members have a particular view on the most appropriate number I am sure P.P.C will be guided by that. My own view is probably something around 4 members would be most suitable. I will make the proposition, Sir, and answer any questions to the best of my ability.

**The Deputy Bailiff:**

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

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

I have been in the States for more years now than I care to think about, and I have learned to become quite tolerant over the years but I must say that the speech I have heard in the last half hour seems to be the epitome of a negative approach to all aspects of the States organisation. That, I think is sad because contrary to what Deputy Baudains said in his opening remarks a while ago, the Council of Ministers makes it quite clear in its final paragraph of its comments that it does have

sympathy with the intention behind the proposition to ensure the highest obtainable efficiency of the States. But that I suspect is about as far as I go in following the arguments, such as they were, of Deputy Baudains. Indeed I was quite surprised to hear from him, of all people, the suggestion of setting up another working party. I thought he felt that the States have had working parties coming out of his ears over the last few years. But of course this one will be different because it will not be composed of experts with knowledge in their particular field. It will be composed of States Members who may have particular abilities here or there but no particular training or arrangements in any of the areas which the Deputy suggests need looking at. He wants States Members to compare life in the public sector with life in the private sector and I wonder just how many States Members have had detailed experience of working at a senior level in the private sector to be able to make those sort of comparisons. But I think more worryingly, the Deputy seems to ignore what is already in existence. What is in existence at the moment is a body called the Public Accounts Committee and the Deputy seems to think that the Public Accounts Committee is not responsible for accountability within the States. Well, that is his view and I daresay the chairman of P.A.C. might have a slightly different view and I will let her explain that in due course if she so wishes. But I dug out my copy of Standing Orders to see what the Public Accounts Committee's terms of reference were and I see that they say: "To receive reports from the Comptroller and Auditor General on the result of investigations into the economy, efficiency and effectiveness of resources of States bodies. To assess whether extravagance and waste are being eradicated and sound practices applied throughout the administration of the States." Now, that strikes me as being very similar to the terms of reference which the Deputy is suggesting for this working party. So, I come back to the comments that the Council made: "We are about to receive later this week a report from the Comptroller and Auditor General who is an impartial expert who has looked in some depth over many months at the activities of the States, and I daresay that his comments will be welcomed and awaited by many Members." I think on the basis of that report and in working with the Public Accounts Committee, we can already achieve what the Deputy is setting out to do in his proposition. In his proposition it suggests that the Privileges and Procedures Committee is the body to bring forward and co-ordinate this. With all due respect to that committee, I suggest that they may feel they are not the most appropriate body to look into this and particularly when one hears the terms of reference of the Public Accounts Committee, there seems to be a more natural fit elsewhere. I imagine that the meeting yesterday afternoon with Deputy Baudains and the Comptroller and Auditor General must have been very fruitful for both sides and I am sure that the Comptroller and Auditor General will welcome the myriads of suggestions which the Deputy put forward. But I think for the Deputy to suggest this will take, to use his words: "An hour or 2 to sort out" is maybe stretching the bounds of credibility or ability a little bit far. But no doubt, as I expect he would want to be one of the members of that working party, he will be able to show just how efficiently he can work. So, I must say that this proposition like the curate's egg has certain good bits to it but I do think... and I am disappointed that the Deputy did not heed the advice given to him to wait until the Comptroller and Auditor General has come out with his comments and to see just how much further we could go. Finally, Sir, as the Deputy Chief Minister in the absence of the Chief Minister, can I say how much I appreciate the hard work and the dedication of all States employees. I think to have the sort of comments we have heard; praising them in one hand and condemning their practices with the other hand does not make for good staff morale, does not make people work efficiently and, in fact, is counter to the very aims which the Deputy is trying to achieve. So, on behalf of the States organisation I would like to just say a word of thanks to our hard-working staff. **[Approbation]** But in conclusion, Sir, while this has the smatterings of a bright idea, I do not think it has been properly thought out and I urge members to reject it.

### **9.1.2 Deputy J.J. Huet:**

I find it quite remarkable how 2 people - and I am sitting opposite Senator Le Sueur - can hear 2 different things from a speech because I obviously did not hear what he heard from that speech. I heard something which I found quite remarkable but we will go over it. I believe that I heard from

Deputy Baudains praising our workers and I have never had any doubt that he has always praised our workers, the same as I have for Public Services or Technical Services. They are the hardest workers that you can possibly have. But it is like he just stood there and said that he wondered how many people in this Chamber had had senior experience in the private world. Well, I am sure I cannot... I have no idea what everybody has done in the private world but I do know that I used to be an Internal Auditor for my bank; the only one. I also ran their consortium loans and loans and deposits of many millions of dollars. So, I find that quite amazing to say, and I happen to know that the Deputy of Grouville is in a similar position and Deputy Ferguson is in a similar position, Sir. Unless of course he... dare I say so? No, I better not; that would be sexist. I was going to say maybe he is only talking about men [Laughter] but never mind. What I was going to say is, Sir, coming from the banking world, I would say who makes the money in this Island? Who makes the money? Who keeps this Island running really with the taxes and everything else, and employment and their staff and everything? It is the banks. Now, that is the world I come from. They are lean and mean. Every year or maybe... no it was not every year, but every so often you would get bank inspectors. Now, I have to say every year we got outsiders - auditors; well, that is a joke because we knew that we could tell them anything and could get away with it. You could wind them up with figures, tell them this and say it was this, and did they understand about that? In the end you would leave the poor man completely and utterly bemused and you would get a good audit. [Laughter] But I tell you what, try that on a Canadian bank inspector and that is a different kettle of fish. Those were the boys that knew the job because they had been from the bank. They came from the bank. They knew exactly what you told the outside auditors but do not think you are going to get away with that with them because you were not. That is the only time you began to think: "Whoa!" You never knew they were turning up; they used to be there on the door and you would think: "Oh, my giddy aunt. Right, what is wrong in my department?" But they came in and they used to be quite brutal but I never knew anybody that ever got the sack from that brutality. You might have been re-employed differently and done different jobs or switched over or departments merged together or whatever, but nobody got thrown out. So, to wind people up, to say that you have this fear because if somebody is going to come in this time and method and, you know, you might lose it. That is utter rubbish; you are not going to lose your job. You can never find enough people; we know that in Jersey. There is very little unemployment. We cannot afford to get rid of anybody, whether it be from the private sector or the public sector. So, that is not a concern and to wind people up saying: "Oh, no, you must not have this because, you know, you could lose your job" that is utter rubbish. Nobody would lose their job. I would not anticipate it. I thought the speech by Deputy Baudains was very telling. I praise him because he was not running anybody down in any way. I thought he was applauding how our Public Services work and I agree with him. That is why I am very disappointed in Senator Le Sueur saying that he is making apologies. As I say, maybe I did not have a hearing aid in or he did not have a hearing aid in because we obviously did not hear the same speech. But, Sir, I would obviously say that I will be backing Deputy Baudains because I think what he said is perfectly correct. I am taking it from the private banking as how we used to run it and it is still proven. It is still running extremely successful and I hope that most people will look at it the same way. Thank you very much, Sir.

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

I am a little bit disappointed with the speech made by Deputy Baudains. I did like the proposition when I read it, and the report, but I obviously got the wrong end of the stick. I thought Deputy Baudains was talking about Ministerial department structure and I thought: "Yes, he is absolutely right. We do need to revisit the 10 Ministerial structures." For example, Sir, perhaps it is time to consider that our land, sea and air transport sectors could be amalgamated into one industry. [Members: Oh] It is possible. Perhaps we should be looking at the possibility of winding up the Housing Ministry as we know it, amalgamating the benefits sides with Social Security and the property side with Property Holdings. These are areas we could look at. Perhaps we might look at separating the culture part of Education, Sport and Culture and putting that where it should be with

Economic Development. Perhaps that is what we should be doing. It looks as though Economic Development are playing an increasingly important role in cultural development on the Island. So, these are some structural areas that we may want to revisit. It is not the fact that we have been into Ministerial government for 2 years and we have 10 Ministries, that they are absolutely right. They may not be right. Perhaps, and importantly, we may want to consider setting up a very important Ministry for children and families. It is a huge area, believe me. It has been an area that I think we have perhaps neglected historically. It would be an incredibly powerful and responsible portfolio for somebody and for a department to take seriously the demands of children and families. The 10 Ministry restructures we have at the moment do need revisiting, without a doubt. But the Deputy's proposition - as I say it is evidently me that has missed the plot - he seems to be requesting that we go into the existing departments and look at the managerial structure of that department. I thought when I read this report and proposition that we were going to look at the Ministerial structures themselves and thereby... I know there is not a terms of reference as such; if the Deputy can give me some assurance that he does not intend to confine his visits to the departmental structures, only to the management within that department, and that we could look at the Ministries' responsibilities themselves, I may well support this proposition. But I would need some assurance that it is not just ploughing into Education for example, and saying: "Oh, you have got too many people managing this area" because with the greatest respect to us here, I am not sure that we are qualified to notice and make such a recommendation. The structure of our Ministries, yes. I think it is appropriate that we visit that and I would say if the Deputy is prepared to concede that, I might yet support his proposition.

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

I wish I had thought of this, Sir; batting on a sticky Deputy's wicket in election year. [**Members: Oh!**] What a great move to bring out the de Faye report; the report that will streamline all the departments, create new efficiencies and drive the taxpayers' buck even harder than before. This has got win-win written all over it and I already sense the excitement among Members of the Assembly. Senator Perchard's enthusiasm knows no bounds. I sense the new Minister for Children already in naissance [**Laughter**] but... to use the appropriate French. I even go as far as to suggest that there may well be a Ministry for structural reform in the offing. But what worries me, is this in fact going to be the new hobby horse to replace constitutional reform? If we cannot reform the States Assembly, let us go round and reform all the States Departments. This is I think in many ways a piece of over-optimism. In particular, the financial and manpower implications, which I have to say is a great work of fiction. It is anticipated that professional experts - people who make their living by earning large consultancy wages - who assist the working party will do so on a *pro bono* basis and members of the working party will be able to undertake the work without officer support. It is only this morning I was hearing how much officer support is required by Scrutiny. I know the Deputy of St. Peter will back me up strongly on that particular aspect. We go further into the interesting and unknown; if the working party decides at a later date that some officer support is required, I would anticipate that could be provided through secondment of existing officers, as this work would represent a useful training opportunity. I do really have to advise the Deputy from St. Clement that departments, particularly when we approach the end of a 3-year States session are under very extreme pressure to get strategies completed that this Assembly charged them to deal with. Frankly, the idea that in the middle of this extremely fraught process, officers can be seconded to this particular process on the basis it is some sort of training experience is starting to move into the realms of fantasy. It is also absolutely crucial to realise that the secondment of any officer, whether it is on training processes or not, constitutes a financial cost. There is a financial implication. So, I very much regret to inform the Deputy that while he is clearly hopeful that there will be no additional financial, manpower resource implications, there is an enormous potential for quite a considerable amount of manpower and financial implications to come out of this particular proposal. Now, I am not against - by any stretch of the imagination - structural reform. In fact I took part in the structural reform of the former Environment and Public

Services Committee, which resulted in the setup that we have now. But I do think there is a time and a place and I do not think the time and place is between now and the elections. I think this is a matter that does warrant consideration; not under duress, not to be completed to a restricted timetable, but in fact this probably comes well within the province of a new Assembly and this is the sort of work that has certain validity. It needs to be properly budgeted, it needs to be set up to understand how it will work. Is it going to go department by department or across the whole board all at once? I believe it should be a matter for the new Assembly, to be dealt with in 2009 and/or later. There is nothing intrinsically wrong in principle with Deputy Baudains' proposition but I think it fails dramatically in terms of a real lack of understanding of the manpower and financial implications contained within it, which I think are quite significant, and indeed, I do not really see this as a project for this particular States to undertake in the current state of affairs. This is something that has worth but it should be for a new Assembly to consider in a year's time.

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

My withers are slightly wrung on this. You know, I agree with Deputy Baudains but I do have reservations. I think Members will know - certainly the Minister and Assistant Minister of Health and Social Services and a number of other people - of my listing of the organisation structure of Health and Social Services. It is my understanding that the Chief Officer says that my version is totally out of date. Sadly, I have not seen the updated one. But as my work at Health shows, we do have an old-fashioned structure. It is highly hierarchical and is totally out of date really. Most organisations have flat structures and are far less constrained by formal protocols. The work that is being undertaken by the Comptroller and Auditor General is perhaps at a higher level than that envisaged by the Deputy and, as he made clear, he considers it entirely essential that the work does not overlap. You know, it would be quite foolish of us and as a member of the P.A.C. I feel that very strongly. I think we really ought to consider the implications of the Comptroller and Auditor General's report first. [**Approbation**] Quite honestly, as Senator Le Sueur has stated, the Public Accounts Committee has a very wide remit with regard to waste, extravagance and value for money and my vice-chairman and I are very happy grubbing round all over the place to find out what is going on where and asking for information. I am very concerned about the cost of this because I think it is a much larger job than the proposition implies. In fact, I think it is probably a case of back to first principles and considering best practice in terms of modern thinking and common sense. I do have a few ideas in this context, particularly with regards to management structure, systems and so on. I have even got some ideas as to how to improve the flow in the Customer Service Centre to cut the deficit, which will make the Minister for Treasury and Resources happy. In fact, proper organisation of systems would not only improve efficiency but it would improve morale immensely. You know, when I was a banking supervisor I never had to go round and see Deputy Huet. I am sorry; that would have been fun. But we always used to look at the sickness levels and staff turnover. These were always an extremely good indicator of the efficiency of running the organisation. I think there are pockets within the States where perhaps morale is not quite as good as it should be. So, as I see it a review like this should be looked at from the staff point of view, positively and we should not be looking to use it as a big stick. As for Senator Perchard's comments, surely the aim is less government, less of the nanny state, not more. With respect, the next thing he will be suggesting will be Ministers for women, pensioners and probably dogs and cats and maybe the odd cow. The House may or may not pass this proposition but one way or another though, the structure will be reviewed whether by P.A.C. or by Deputy Baudains' working group, depending on what the House decides. As I say, I do have ideas on this and I have in fact been boning-up on my management structures, just-in-time manufacturing and I have got some ever such good ideas for Health. So, we shall see. I leave it to the House.

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

I do think this is an interesting proposition because one could look not just at the departmental structures, but the way in which the departments operate and even some of the bodies that we

advance money to and how they spend our money. Because we hand money over to them and then they start complaining that they need more money. Why do they need more money? It is because they have expanded their services. So, they start with one brief and then they start expanding their services and then they say: "We need more and more money." The States of course is always under pressure to expand its own services to the public as well and maybe there should come a time when we step back and look at how far we are going to go with this. Are we going to move outwards and onwards like the expanding universe? Or are we going to say at some point: "We do need to take a concentrated look at what is going on and the way in which we are going to provide services in the future." So, I do not have any objection to this. I think it might have some merits because we do need to be thinking about the way this Government is going to operate in the future. I certainly would be interested in being involved in this if it were approved today. I would certainly put my name forward to work on this, but I do not know how Members feel about this; we will find out shortly. But I think there are many merits to reviewing the structure of the States and if this is not approved today, as Senator Le Sueur said: "There is much about the sentiment of this that is very good." Deputy Baudains is raising a very valid point; that we do need to look at our structure, that we do need to look at the way we deliver services and we do need to look at the future manner in which we will deliver services.

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

I also can support this proposition in principle. I also agree with a comment - this time - of Senator Perchard about looking at the restructuring of the departments that we will have had for 3 years within the Ministerial system of government. So, as has been said, I also think there would be costs without doubt and I believe it is a major task that is being sought in this proposition. As has been said, I do not believe either that this can be achieved quickly. I think it would need to run on into next year. So, I can support this but I would want to know that it was going to be linked-up with the work that has already been done and it seems to me that there will have to be resources found before it could go ahead. Thank you, Sir.

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

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

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

Well, I thank Members for their contributions with one or 2 exceptions. [Laughter] Of course I am disappointed with the Minister for Treasury and Resource's comments, if I heard him correctly. I thought it was rather patronising to suggest that Members would not have the experience in the private sector to do this sort of work. I mean, how many Members would be involved in the working party; 4, 5 or 6? Is he seriously suggesting there are not 4, 5, or 6 Members in this Assembly who have experience of the private sector? I think not. Also, he tends to confuse the work of the Public Accounts Committee with work to be done by the working party. There is a difference. I am afraid a couple of the comments he made were, I thought, in bad taste: "Taking an hour or 2 to sort out" and such things were not extremely helpful. Obviously, I appreciate the comments made by Deputy Huet. She and I worked together on committees in the past and are well aware of the way things function. Of course she was quite right indeed to pull up the Minister for Treasury and Resources for his comments where he suggested as far as - I hope I am not attributing the wrong phrases to him - where I think he suggested that I was criticising the Civil Service. I thought I had gone to great pains to point out what a marvellous workforce we have and that it was the structure that they are working in, which was letting them and us down. But maybe he did not hear me. Of course Deputy Huet gave us examples of how audit works without causing loss of jobs so there is no fear that somebody is going to walk into a department and say: "Right, we need 100 less staff in this department. You can all look for another job." I mean, it simply will not happen. Senator Perchard apologised for getting the wrong end of the stick again [Laughter] by assuming I was proposing restructuring Ministries. Well, I have to say that my proposition does

state departmental structure. But I can offer him some comfort in that there is absolutely no reason why a working party looking at departmental structure would not also address Ministerial structure if it is linked and unsatisfactory. However, I would say that the work is not designed to reorganise Ministries without looking at departments. We are not talking about moving half of Social Security to Social Services and three-quarters of this Ministry to five-eighths of that one. We are not talking about anything like that. But as I said, there is no reason at all why, when looking into the management structure of the departments, reflection could not be made of what is higher up yet. Deputy de Faye was the usual interesting speech of a win-win situation and election year and all that sort of thing. I rather thought he was going to offer his services for the working party just to make sure of his own position at the next election. Unfortunately, he then toed the party line and started raising all sorts of spurious arguments about financial implications and that. He is not opposed to structural reform. Well, that is good so presumably he will be voting for the proposition. Deputy Ferguson; I thank her for the comments that we have... she suggested we have an out-of-date structure, highly hierarchical. She suggested we should look at the Comptroller and Auditor General's report first. Well, unfortunately I did not have time with all the telephone calls that have been coming into me recently to call her back yesterday as I was supposed to, in which case I would have told her I was not... I think I mentioned in my opening speech, I was not able to meet with the Comptroller and Auditor General but I had a long conversation with him on the telephone and I suggested to him that if he considered there was a considerable overlap between his work and the work of the working party, then clearly, I would not go ahead with the proposition. There is no point in people duplicating work. From our conversation it was clear to me there is work to be done and with proper organisation of the working party there would not be an overlap. Deputy Troy, I thank for his comments. He did suggest the proposition has many merits and we need to look at our structure again because while it may or may not be appropriate now, will it be appropriate in the future? The way I look at it, Sir, is here we have an opportunity to unravel the mysteries that do lurk in some departments. Areas that seem to silently perpetuate inefficiency and waste and again I make the point; this is no reflection upon the work done by our Civil Servants themselves. I am - and I cannot stress this too strongly - talking about the structure in which they work. An opportunity to compliment the work being done by the Comptroller and Auditor General, not to duplicate it as has been suggested. Because it is quite simple really; a member - as I said in my opening speech - of the Public Accounts Committee on the working party would ensure there was no overlap. So, basically we have nothing to lose but much to gain. To address again the comments made by Deputy de Faye and the Minister for Treasury and Resources regarding expense, I really... it is on the verge of being scurrilous because the most this exercise would cost is a few hours of officers' time assisting with a report. To suggest it is going to cost thousands of pounds and you cannot find officers and you just second them from here, there and everywhere. I did my homework; I did check with the Greffier as to what would be the likely need and the likely availability of staff. There will be some requirement for officer support but I do not want people to run away with the idea it is going to be like a Scrutiny Panel, which will have officers in attendance every time there is a meeting or every time the working party is doing something. It does not need a committee-type trotting along behind them. Of course, let us reflect this few hours of officer time? Peanuts compared with the possible millions that could be saved if our departments ever did run anything like the private sector. Now, again, I realise you cannot run a government the same as the private sector but there is no reason why the management structure should not be similar. All I can say is maybe some Members - and clearly, one or 2 are from what I have heard today - are dissatisfied with the present situation; rising costs and no real understanding of why those costs are so high. Well, I am not and I never have been. No one can address this problem alone, Sir. I am reminded that the Council of Ministers talked very tough 2½ years ago about how they were going to address this and get to the bottom of restrictive working practices and all that sort of thing, but it has not happened. Indeed, Sir, it has been rumoured that one or 2 Ministers have no intention of co-operating with the Comptroller and Auditor General's findings. Well, Sir, I find that sad. Political short-termism. It may be that a change of culture is going to be required in the future and

it may be difficult to embrace, but let us at least find out what it is we need to do because otherwise things will only continue and get worse. I would not like to lose this opportunity to demonstrate we are serious about keeping costs down instead of taking the easy option of raising taxes. I know it has been... I think it was Deputy Ferguson who suggested: "Well, perhaps we could put this off a little while and wait for the Comptroller and Auditor General's report." Well, I do not know exactly what is in the Comptroller and Auditor General's report but I do know I have investigated with him the areas that were of potential overlap in order to ensure that they do not happen. Other matters; he does his work, we do our work, no problem. They compliment each other. But to put it off; what would happen? If we deferred this as I said - again in my opening speech - if we deferred this until the next meeting that means it is not going to happen this year. If you wait until the new Assembly what is it going to be this time next year before Members get around to this sort of thing? Of course by then there is some more Members will have retired, new Members will have come in. There will be even fewer Members in this Assembly who have committee experience. Already possibly half the House has never served on a committee and do not know how a department works. As I said, Sir, we have an opportunity here, you know, we need to look into this, we need to find out where there is inefficiency and why, because it cannot be very nice for those Civil Servants who are working so hard and as I said, at times not achieving as much as they might. It must be very frustrating for, if members are quite content with the way things are with continually rising prices and the public always complaining that we are not doing the job properly, well I suppose they can carry on. I only hope they have an explanation for the electorate later this year, Sir. I urge members to adopt the proposition.

**Male Speaker:**

The appel please, Sir.

**The Deputy Bailiff:**

The appel is asked for, very well. So the appel is asked for in relation to Deputy Baudains' proposition. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 20</b>		<b>CONTRE: 21</b>		<b>ABSTAIN: 0</b>
Senator L. Norman		Senator W. Kinnard		
Senator J.L. Perchard		Senator T.A. Le Sueur		
Connétable of St. Clement		Senator P.F. Routier		
Connétable of St. Brelade		Senator M.E. Vibert		
Connétable of St. John		Senator P.F.C. Ozouf		
Deputy A. Breckon (S)		Senator B.E. Shenton		
Deputy J.J. Huet (H)		Connétable of St. Ouen		
Deputy of St. Martin		Connétable of St. Mary		
Deputy G.C.L. Baudains (C)		Connétable of Trinity		
Deputy P.N. Troy (B)		Connétable of Grouville		
Deputy C.J. Scott Warren (S)		Connétable of St. Saviour		
Deputy J.A. Martin (H)		Deputy R.G. Le Hérisier (S)		
Deputy G.P. Southern (H)		Deputy S.C. Ferguson (B)		
Deputy of Grouville		Deputy P.J.D. Ryan (H)		
Deputy J.A.N. Le Fondré (L)		Deputy of St. Peter		
Deputy D.W. Mezbourian (L)		Deputy J.A. Hilton (H)		
Deputy A.J.D. Maclean (H)		Deputy G.W.J. de Faye (H)		
Deputy K.C. Lewis (S)		Deputy of Trinity		
Deputy I.J. Gorst (C)		Deputy S.S.P.A. Power (B)		
Deputy of St. Mary		Deputy S. Pitman (H)		
		Deputy of St. John		

**10. Draft Legal Deposit (Jersey) Law 2007 (Appointed Day) Act 200- (P.50/2008)**

**The Deputy Bailiff:**

Very well, we come next to the Draft Legal Deposit (Jersey) Law 2007 (Appointed Day) Act” - Projet 50 - lodged by the Minister for Education, Sport and Culture and I will ask the Greffier to read the Act.

**The Deputy Greffier of the States:**

The Draft Legal Deposit (Jersey) Law 2007 (Appointed Day) Act. The States, in pursuance of Article 17.2 of the Legal Deposit (Jersey) Law 2007, have made the following Act.

**Senator M.E. Vibert:**

May I ask that my Assistant Minister with the responsibility for culture, the Deputy of Grouville, acts as rapporteur for this item and the next item?

**The Deputy Bailiff:**

Very well, yes.

**10.1 The Deputy of Grouville (Assistant Minister for Education, Sport and Culture - rapporteur):**

This Act is the Legal Deposit Act which will hopefully come into force on 1st June 2008. The Legal Deposit (Jersey) Law was adopted by the States on 26th September 2006 but to remind Members what it is about, the main purpose of this type of legislation is to ensure that copies of all material published in a country are deposited in its National Library. Under this Law, any person who publishes a printed work in Jersey will have to deposit a copy, free of charge, with the Jersey Library. The Law also makes provision for the States to bring in Regulations to modify the extent of the Law and these Regulations are the next item on the agenda. Sir, I move the proposition.

**The Deputy Bailiff:**

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

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

I would very much appreciate a certain level of clarification from the Assistant Minister. This is because in due course I may be considering the publication of a manifesto [**Laughter**] and I wonder whether manifestos are considered to be publications or not? Similarly, are the regular publication in the Island of news bulletins by a significant raft of our local media with programmes, news bulletins on television and radio, that are entirely of local content to be included in this requirement? In broad terms, I would like to know from the Deputy just how far reaching this is because this may be, for some sections of the Island, quite an onerous requirement.

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

I fear that the previous speaker may not have read the next proposition, which outlines a pamphlet containing fewer than 32 pages is not caught by this. Perhaps his manifesto will be more than 32 pages. One word on each page. [**Laughter**] All joking aside, I do have slight concerns about this. I know it is a point of the Act but I seem to recall making the same comments previously. I really have some difficulty with seeing the purpose of cluttering up the library with what in some cases will be quite a lot of rubbish. Obviously, books and things like that... but there is obviously not going to be any filter for this so everything that is not exempt is going to end up piling up in there and somebody is going to have to do all the sorting and somebody is going to have to archive it and store it, there are places going to have to be found. Yes, it is a good idea in some ways, but I am just wondering if this just does not go too far and create needless extra work for people again, which is clearly what we are trying to avoid.

**10.1.3 Deputy R.G. Le Hérissier:**

Can the rapporteur confirm in fact that there are alarmist suggestions, not grounded in fact, namely it is only books published in Jersey. Books published in the U.K. will be deposited presumably at the British Library.

**The Deputy Bailiff:**

Does anyone else wish to speak? Very well, I will call on the rapporteur to reply.

**10.1.4 The Deputy of Grouville:**

I think Deputy de Faye's comments would be best addressed on the next proposition when we are discussing the Regulations. I do not concur with Deputy Baudains' concerns. I think that most civilised countries keep a record of works published in their own jurisdiction and I do not think it is a case of cluttering up the library. These are publications and is not necessarily to be seen as a means of accumulating rubbish. I move the proposition, Sir.

**The Deputy Bailiff:**

All those in favour of adopting the Act kindly show. Those against. The Act is adopted.

**11. Draft Legal Deposit (Jersey) Regulations 200- (P.51/2008)**

**The Deputy Bailiff:**

We come then to the Draft Legal Deposit (Jersey) Regulations - Projet 51 - lodged by the same Minister and I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

The Draft Legal Deposit (Jersey) Regulations. The States, in pursuance of Articles 3.2, 6.2 and 16 of the Legal Deposits (Jersey) Law 2007, have made the following Regulations.

**11.1 The Deputy of Grouville (Assistant Minister for Education, Sport and Culture - rapporteur):**

The Regulations now being presented modify the Legal Deposit Law by extending its applications beyond just printed works and also by defining exceptions to the Law. Do we take the principle and then go on to each Regulation?

**The Deputy Bailiff:**

Yes, you must propose a principle but clearly you must explain a little bit about what the Regulations are saying in general terms.

**The Deputy of Grouville:**

I move the principles.

**The Deputy Bailiff:**

Is the principle seconded? **[Seconded]** Does anyone wish to speak on the principles? Very well, all those in favour of adopting the principles kindly show. Those against. The principles are adopted. Deputy Mezbourian, do you wish this matter to be referred to your Scrutiny Panel?

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

No thank you Sir.

**The Deputy Bailiff:**

So how do you wish to propose the Regulations? Do you wish to propose them all together?

**11.2 The Deputy of Grouville:**

Yes please, Sir. Regulation 1 simply defines the term of publishing. Under Regulation 2 the application of the Law is extended to require publishers to deposit any work that is in electronic form, but not if it is only published on the internet. For example, this means that audio cassettes, D.V.D.s (Digital Versatile Discs) and C.D.s (Compact Discs) must be deposited, but not any items that are only available on a website. For example, a work that is only distributed by e-mail is not technically a published work. This Regulation goes on to state that any associated software or instruction manual must also be deposited alongside works in electronic form. Under Regulation 3.1, the application of the Law is modified so that the publishers are exempt from depositing items in any format that are prepared and intended mainly for distribution outside of Jersey. An example of this could be an Amazon-type business set up in Jersey which would not have to deposit items that are imported and then redistributed. Under Regulation 3.2, a range of exempt materials are listed. In summary, these can be described as short, in other words fewer than 32 pages, or limited in time-based type material with little or no information content. For example, flyers, brochures, advertising or marketing materials. The 32 pages is a standard pamphlet size and it is true we might miss some important items, the *Grouville Gazette* being one of them, which is of significant importance and a snapshot of life in our times, but library staff will seek these out unless the editor is trained to deposit them at the library. On balance, it is felt that 32 pages is a good cut-off point and it will provide publishers with a clear guideline to follow. Regulation 4 provides for the Regulations, if approved, to come into force on 1st of June. Sir, I move the Regulations.

**The Deputy Bailiff:**

Are the Regulations seconded? [**Seconded**]

**11.2.1 Senator M.E. Vibert:**

I would like to direct Deputy de Faye to exemptions from duty to deposit 3.2.(d). It refers to advertising or marketing material, whether for commercial, political religious or other purposes, whether there is one word on the page or not.

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

I am very grateful to the Minister for that particular direction, but that would seem to merely eliminate television and radio advertising. The question I pose relates to the known fact that broadcasters broadcast factual news bulletins, both on television and radio in the Island. It constitutes a publication in an electronic medium and I would like to be assured either that the reach of this definition is not extending to public broadcasts in the Island, although I do not wish to trouble the Solicitor General this late in the afternoon, but it is certainly my view that all broadcasts of that nature are in fact being published within the Island and, therefore, I want to have an assurance that there have been discussions with the local radio stations and the local television stations because, in effect, we have a catchall here on electronic medium audio recordings, video recordings and consequently, if we take an example of one of our local evening television reports, that is almost - bar the live elements - entirely comprised of pre-recorded video recordings being published on air. It may be that the Minister and his Assistant Minister have decided it is a worthy proposition to require that we have this form of archive provided by our local broadcasters and I would not necessarily be against that concept, but I know from experience that if this requirement is something that is legally enforceable, there is a very significant manpower need ...

**Senator M.E. Vibert:**

If the Deputy would allow me...

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

I would be delighted to have some clarity.

**Senator M.E. Vibert:**

I would refer the Deputy to item 2.1: Application of the Law to Works Published in an Electronic Medium. The Law applies to work in an electronic medium that is published unless it is published only on the internet.

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

Well, I am afraid that has not helped me, Minister, because radio and television broadcasting is not on the internet and I just wonder whether we are in a position of oversight here and this is an unintended consequence, or whether discussions have taken place without local broadcast media and they are happy to provide such samples of their work on what will obviously be a daily basis under this particular Regulation?

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

Picking up on the comments of Deputy de Faye and his catchall phrase, I tend to agree with that because I do feel that this will turn out to have more problems than we presently imagined and many unintended consequences, and possibly a great deal of extra work and frustration for the staff than we may imagine at the moment. It looks very simple, looks very easy. This is just one example I would raise: "The person who publishes in Jersey a work to which the Law applies by virtue of the Regulations will deposit the work with the library [*et cetera*] in the same medium in which it was so published." What would happen if some while ago I published something and I might even do it today, I could still do it today. I could publish something on Amstrad disc, I still have a functioning machine. Now I can leave that with the library and I can leave them instructions on how to access it. How are they going to access it in 20 years' time when there are no more functioning Amstrad machines? They will have something that is completely useless. The medium changes over the years. Music has changed from cylinders, to vinyl to C.D.s and so on and digital tape, whatever: we can put something in an archive and in 20 or 50 years' time not be able to access it because everything is now in a different format and the machines that are able to play that are no longer available. Has any provision been made for that?

**11.2.4 Deputy P.N. Troy:**

I just would like to say that I think the Deputy might be about one of the only people on the planet that still has a functioning Amstrad. He has got 2. I think he has the last 2 on the planet but they will become collectors' items shortly, Deputy. I would like to raise the point that certainly with some media if you are producing plays and film and so on you have a script and even on television you have a script, so do all of those have to be deposited at the library as well? You have your film script, then you have your film go out into production in film, again the same with television programmes where people have operated off a 50-page script so could we have some information on those sort of issues?

**11.2.5 Deputy J.A.N. Le Fondré:**

If I can add to the list of queries? It did strike me, Sir and I apologise for not following up with the Assistant Minister earlier, if a report is produced by a private individual or organisation, which sometimes happens, for example, the circulation to States Members, which is more than 32 pages long, is that then called a pamphlet and need to be included in the archive?

**The Deputy Bailiff:**

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

**11.2.6 The Deputy of Grouville:**

I think Deputies de Faye, Baudains and possibly Troy were making similar points about the electronic formats. Provision has been made in these Regulations, but it is very much a moving target and the National Library in the U.K. has formed a group to regulate and there is nothing hard and fast regulated yet. They are setting up pilot schemes and groups because the business is changing so much, so quickly, that there are no hard and fast rules on that at the moment. All I can

say for now is there is provision in the Law. It does mean a published work, and I do not believe that extends to television or broadcast. It is published. If something is published here it means a D.V.D., a C.D., a book and certain items that are published on the internet can be items of interest - *A Snapshot Of Our Time* for example, the Elect 2005 website - the librarians are trained to possibly harvest certain pieces of information that might prove to be of interest for future generations. We have the provision in the Law but, as I say, it is a moving target. There are no hard and fast rules but it does not apply to television or broadcast and there was extensive consultation about this issue and the Regulations and the Law itself, and there were only 2 inquiries which materialised from that, so I do believe the broadcast and television stations are quite happy with this as it stands. I think there was one more question. Deputy Le Fondré asked about internal reports. No, it does not apply to internal documents, instructions and reports that I think he was referring to. I move the Regulations.

**Deputy J.A.N. Le Fondré:**

Can I seek a further point of clarification if possible? It was not so much internal reports within an organisation, it is reports that, for example, may be presented by an organisation or an individual, for example to States Members. So they are external if you like.

**The Deputy of Grouville:**

If it is a States report, it has to be deposited at the library if it runs to more than 32 pages. If anyone is unsure, there is a website set up and the library staff can be telephoned, but it would most certainly apply to States documents that are not internal documents.

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

I am very grateful to the Deputy and I understand her views about the moving feast, how she described the Regulations, but we do have an impasse here. The Deputy says she believes that local broadcasting does not constitute publishing and I believe that it does and I wonder if the Solicitor General might be able to give us a little bit of guidance in this area.

**The Deputy Bailiff:**

Solicitor General, are you able to help on this?

**Mr. T.J. Le Cocq Q.C., H.M. Solicitor General:**

No Sir, I am afraid that I am not able to assist on the precise point at the moment. I have been doing some quick looking as to the meaning of publish and it simply is to prepare for publication to the public, which is not a particularly helpful definition. As to the extent of the term, I would require just a little bit more notice in order to assist the States in that.

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

I am grateful, Sir.

**The Deputy Bailiff:**

Very well, all those in favour of adopting the Regulations kindly show. Those against.

**Deputy P.N. Troy:**

Can we have the appel, Sir? Sorry.

**The Deputy Bailiff:**

The appel is asked for in relation to Regulations 1 to 4. I invite Members to return to their seats and the Greffier will open the voting.

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

Can I ask, will we get clarification, either at the next sitting if not this one, regarding the issues of local television publication or broadcast? Will that be brought back to the States?

**The Deputy Bailiff:**

I am sure the Solicitor General will circulate the results of his research when he has done it. The Greffier has opened the voting for or against the Regulations 1 to 4.

<b>POUR: 24</b>		<b>CONTRE: 16</b>		<b>ABSTAIN: 0</b>
Senator L. Norman		Senator B.E. Shenton		
Senator W. Kinnard		Connétable of St. Ouen		
Senator T.A. Le Sueur		Connétable of Trinity		
Senator P.F. Routier		Connétable of St. Lawrence		
Senator M.E. Vibert		Connétable of St. Brelade		
Senator P.F.C. Ozouf		Connétable of St. John		
Senator J.L. Perchard		Connétable of St. Saviour		
Connétable of St. Mary		Deputy of St. Martin		
Connétable of St. Clement		Deputy G.C.L. Baudains (C)		
Connétable of Grouville		Deputy P.N. Troy (B)		
Deputy A. Breckon (S)		Deputy of St. Peter		
Deputy J.J. Huet (H)		Deputy G.W.J. de Faye (H)		
Deputy C.J. Scott Warren (S)		Deputy J.A.N. Le Fondré (L)		
Deputy R.G. Le Hérisier (S)		Deputy D.W. Mezbourian (L)		
Deputy J.A. Martin (H)		Deputy I.J. Gorst (C)		
Deputy S.C. Ferguson (B)		Deputy of St. Mary		
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy of St. John				

**The Deputy Bailiff:**

Do you propose the Regulations in Third Reading, rapporteur?

**The Deputy of Grouville:**

Yes, Sir.

**The Deputy Bailiff:**

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

**12. Draft Civil Aviation (Jersey) Law 200- (P.53/2008)**

**The Deputy Bailiff:**

The final matter of public business then is the Draft Civil Aviation (Jersey) Law - Projet 53 - lodged by the Council of Ministers. I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Civil Aviation (Jersey) Law. A Law to provide for the safety of civil aviation in Jersey, to establish the office of Director of Civil Aviation, to charge the Director with functions in respect of the safety of civil aviation in Jersey and its air space and for related matters.

### **12.1 Senator T.A. Le Sueur (The Deputy Chief Minister):**

Members may recall that we began debating this a couple of months ago when it was brought as a proposition by the Home Affairs Minister. Concerns were expressed at that time that the Home Affairs Department was not the appropriate department to regulate aviation matters. Taking that on board, effectively the same Law is now lodged in the name of the Council of Ministers and it would be the Chief Minister's Department that has responsibility for international matters generally who would have responsibility for these matters. There was also concern expressed at the time of the last debate that this Law was being rushed through without sufficient explanation of the underlying requirements. Indeed, the Education and Home Affairs Scrutiny Panel asked, among other things, for the justification of the implications of not proceeding. Since that debate there has been a full briefing to all States Members at which any questions could have been dealt with. Many Members attended that meeting and I hope that they found it helpful. For those who were unable to attend, can I just remind the House generally why we need this legislation? Safety standards are of paramount importance to travellers and indeed standards have been in place for many years now. These standards are set internationally and are regularly reviewed. The next review is to take place in February of next year but I have to remind Members that we are regarded as part of the United Kingdom in respect of these Regulations. Clearly, flying is becoming more commonplace these days and we need to be able to show that our standards in Jersey are fit standards to comply with standards worldwide. I need hardly point out the difficulties that Jersey would face were this House not to be judged satisfactory in meeting those requirements. I am sure that none of us would like to face the prospect of an airport unable to operate or unable to operate with the full range of aircraft we might need to use the airport. So the very important question is raised, why the urgency if the next audit is not due until February 2009, and the answer lies in the fact that it is the United Kingdom that is being audited rather than ourselves. In respect of aviation matters, U.K. authorities have responsibility not just for Great Britain, but also for the Crown Dependencies and the overseas territories. Accordingly, what is important is their timetable and we have to work within that timetable. That timetable requires them, the United Kingdom authorities, to commit to the I.C.A.O. (International Civil Aviation Organisation) by 20th May this year. The U.K. authorities need confirmation from us that Jersey has a regulatory framework in place and that is why this proposition comes before the House today and today is effectively the last date on which we can deliver this and still comply with our obligations to the U.K. Let us be under no illusions about this, if Jersey is not compliant then Britain as a whole would not be compliant, and I need hardly point out to Members that the British Government is hardly likely to welcome that sort of label, indeed they would take steps unilaterally to impose legislation upon us and that, to me, poses a major constitutional issue which I would want to avoid at any cost. So when this draft Law was first presented, the relevant Scrutiny Panel commented that there had not been a clear enough explanation of what would happen if the Law was not introduced, and I hope that the presentation that the Members had in the Société last month helped to clarify Members' thinking and they were left in no doubt as to what would happen. For those who were not there, I have hopefully explained that. There are some who may think this is a sledge hammer to crack a walnut where we are having to apply the same standards in Jersey as you would to international airports. I have to say that we are part of an international flying organisation and we have to abide by the international rules and expectations. Pilots themselves flying aircraft expect us to comply with those standards and have the same standards worldwide. You cannot have one country operating one set of rules and another country operating a different set. That goes right back to the original Chicago Convention of 1944 when it was said that the governments have agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner. There are now nearly 200 countries that have signed-up to that convention. As a matter of practicality, to comply

with the obligations of that convention, there are a number of rules and protocols which are collectively known S.A.R.P.s, a horrible acronym which stands for Standards and Recommended Practices. Those S.A.R.P.s apply across all countries that are signatories. So Jersey is a party to the convention by virtue of being part of the U.K. for these purposes and we have to demonstrate that we comply with the relevant S.A.R.P.s. First and paramount among those is the means to demonstrate that we have in place a regulator, but more importantly, a regulator who is different from the service provider. The service provider is the Minister for Economic Affairs through the vehicle of the airport authority. Consequently, the regulator has to be separate from the Minister for Economic Affairs. So we do have a regulatory presence, but our problem is that he is not separated from the service provider and the way in which we have to address that problem is to approve a Law which allows an independent regulator to be set up, reporting to the Chief Minister because it is the Chief Minister's Department which has responsibility for international matters. Now some could argue that even reporting to the Chief Minister does not give you complete independence in that, at the end of the day, the regulator is still answerable to the States and that is undoubtedly true. The fact is that there are various levels of independence and setting this level of independence is sufficient to enable us to comply without obligations under the relevant S.A.R.P. So I think, Sir, that probably brings me around in a circle, that we have to have Regulations to appoint an independent regulator if we are going to comply with our international obligations, if Britain is comply with its international obligations. So, Sir, I understand the concerns that have been expressed to me by some Members that this is all being rushed through very much at the last minute. I have to say I have a certain sympathy with those views. I am not happy that it comes to this House at the last minute, but I am even more unhappy at the thought of the consequences of not adopting this legislation. It is, in any event I am sure, by any standards, a realistic and responsible thing to do to have an independent regulator and, therefore, from the point of view of the principle of this Law, I think it is imperative all Members sign up to that. I have had discussions during the last day or so with the Chairman of the Scrutiny Panels committee because I think they too have some concern that this process is not entirely satisfactory, but we are, as the saying goes, where we are, and we are faced with the situation that we have a deadline of having to have a law passed, at least in principle even if not registered with the Privy Council, in order that we can sign up to this memorandum which I have in my pocket and which I shared with the Chairman of the Scrutiny Panels. We have to be able to sign that document before 20th May. Time is, accordingly, of the essence in this proposition and I, this day, propose the principles behind the Regulations.

**The Deputy Bailiff:**

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

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

There is a trend in the course of business coming to this Assembly that when there is a particular problem or something that is controversial or is seen to be difficult in some way, that it gets withdrawn from the particular Minister who is presenting it to the Assembly and is referred to the Chief Minister or the Council of Ministers; and so it is with this particular proposal. So it was with another review that I am currently carrying out, that is the importation of bull semen. So it was in another particular case, although not exactly the same I admit but in something called the Draft N.P.O., the Non Profit Organisations Law. They get pulled and given to the Chief Minister. In some ways that is not surprising, that the Chief Minister would want to put something into intensive care and look after it himself in the Council of Ministers. That is not surprising and I would put it to Members that if they were the Chief Minister they may well want to do the same thing. Certainly I might, but it should also not be surprising to the Council of Ministers that when that happens Scrutiny will also want to look at this controversial subject and when that happens we need to be in a position, as Scrutiny, to have the time to look at those issues and to examine them in the kind of detail that both the public and Members of this Assembly would expect and to be able to report in a timely manner, having looked at all of the issues carefully on both sides. So, let me

come full circle to this particular proposition in front of us today. When it first came under the Chief Minister's control, and as Corporate Services - and as I have already explained, we are coming under more and more pressure in Corporate Services as these things are referred to the Chief Minister because they then come under Corporate Services' remit - and when we first looked at it we thought there are some unanswered questions here, there are some areas of blankness, there are some areas which do not sound right, they do not ring true, we need to look at this. It is only really once we started to look into the circumstances behind it and whence we have seen even today a Memorandum of Understanding that needs signing off before 20th May, one week's time, that it has become absolutely clear to us that precipitating the kind of constitutional crisis that appears to be on the cards, were we to pull it in for scrutiny, really would not be in the Island's best interests at all. Let me say that if it were not to be in the Island's best interests, then similarly the circumnavigation of the true and proper scrutiny process that should take place on this is also not in the Island's best interests at all either. For that reason, Sir, although my Panel does not and will not cause that kind of constitutional crisis in this instance, we have no choice, we have to ratify this Law, we must pass it, it must go through. I repeat again, we have no choice. I cannot emphasise that enough. I shall be voting for it but what I think I should say to the Assembly is that we do need to sit down, not this side of the summer recess and maybe not even after the summer recess, and even if it is not my particular Panel in the life of this Panel, but because of what will be election time after the summer recess, I think it is important that my Panel or its successor looks at how we can get into a situation with these crucial laws and things, particularly those with constitutional implications. We really, really cannot go on in this way. I have given the Assembly 3 bad examples of how we leave it until the last minute to make decisions on something that really should be looked at in a much more timely way. I would say to you, Sir, that we really do need to look at how we operate business, whether it is good government and whether we can continue to live with this kind of timetable for these highly important pieces of legislation. Sir, it cannot go on. We must look at it and take some action which will avoid this in the future.

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

I stand to talk after my chairman as vice-chairman. I would go one step further and say this is not good government by any stretch. I would also wish to point out that although there was a review done by the Deputy of Trinity, it was not a full review, it was just a glance so it cannot be termed as a scrutiny review. We have not done a scrutiny review on this particular exercise and I regard this as a very important exercise, as I know the Minister for Treasury and Resources does as well. We have not been able to test the consequences of this particular legislation. We have not been able to test the consequences of what the Department of Trade and Industry are doing in the U.K. as far as Jersey is concerned. We have not been able to test the consequences of hiring or employing a Director of Civil Aviation when we have not even got the Civil Aviation Law in place. So I put this as a mark of dissent. We need to have a look at how this has happened and we need to have a look at it as quickly as we possibly can. How can we have a situation where we come with a gun placed to our heads within 7 days of having to sign up a document that I saw about 35 minutes ago? I think that is terrible government and it says a lot about what goes on in this Chamber. To the Executive, this must not happen again. To Scrutiny, we must look at this and make sure it does not happen again.

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

As far as I am concerned, I cannot see any alternative other than that the problem ventilated in the previous debate in large measure remains. Would the Director be able to close the airport? Well if he cannot then he is impotent, there is no point in having him if he cannot, but that means he is above government. The costs, the fees, in my view remain incompatible with the work involved. A part-time job, £104,000.00 a year, cannot be bad. I simply do not believe the Minister when he says the airport would be shut if we do not do this. I mean, what is so different now than has been for the last 50 years? It has got nothing to do with safety. Have we been operating unsafely for the

last 50 years? I do not think so and not according to people who are in a position to know about these things. For argument's sake, the Chairman of the Aircraft Owners and Pilots Association. This brings back to me the memory of the Les Pas debate when Members were misled in order to persuade them to adopt the proposition. Seriously misled. This proposition does not increase safety, indeed I believe there is reason to believe that there could be negative repercussions if in fact we do adopt it. For argument's sake, why can we not continue to follow the advice of the C.A.A. (Civil Aviation Authority)? Jersey currently receives millions of pounds for traffic flying through the Channel Islands Control Zone. If we adopt this proposition, will those payments continue or will the French decide perhaps that they prefer to control the traffic flying through the control zone themselves? As a couple of other Members have said, why has this been rushed? Is it because Ministers have been tardy or was it because somebody wants to get it through and was hoping nobody would look too closely at it? I am not satisfied and indeed we are told that Scrutiny has not had time to investigate, to make sure that all options have been explored. I am not at all content that they have and I will not be supporting this.

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

I was party to the discussions with the Chairman of the Corporate Services Scrutiny Panel and I support Deputy Ryan's comments, whether they are regarding the allocation of responsibilities in relation to controversial topics or whether it is in relation to the way this proposition has been brought to the House. As the Deputy has said, it makes the job of Scrutiny much more difficult, in fact I would go so far as to say it makes it almost impossible. I am particularly at a loss to understand why it has taken so long to come to the States when the original audit requirements, which include a safety audit, were revised in 2002. We are now in a complete mad rush to set these arrangements up when competent aviation authorities must have known about it in 2002. Now we have a rushed Law and an even more rushed appointment of a temporary Director of Aviation. It really is not good enough. What is more, the report to the proposition, as Deputy Baudains alluded, is extremely sparse as to the wider implications of this law with regard to control of the Channel Islands zone and airspace generally. For instance, why did the U.K. and French authorities sign a Memorandum of Understanding regarding the C.I. Zone in 2000? Whose air space is it anyway? It would have been a great deal more helpful if the report had provided more of the background information. I have read some of the 1947 and 1970 and 1980 States and Committee records on this and the one thing over the years has been the concern that the U.K. authorities and the C.A.A. should have regard to the interests of the Island and consult with them. If this is still the case, would the Minister kindly confirm this and say when the consultation took place? Perhaps this is something for the review. If we look at the proposed set up, if you refer to the I.C.A.O. requirements, which I have a copy of here, the structure proposed is that for a sovereign state which has signed the convention. So what exactly are the proposed arrangements that we have got with the C.A.A. and what are their implications? To sum-up, I consider, as do other Members, that the way this proposition has been brought to the House is disgraceful. The report is extremely thin and an insult to Members' intelligence. Unfortunately, I do understand that due to the way this has been brought to the House there are constitutional implications. I cannot support a course of action which would lead, apparently, to the possible interference in our affairs by the U.K. Government. However, as Deputy Ryan has said, it is essential that we should examine the background to the way this proposition has come to the House and I would want to look at the historical background. How our relationship with the U.K., the Board of Trade and later the C.A.A. has developed since 1947. Then, obviously, we need to look at the details of why the audit requirements were set up in 2002. It is now 2008. What on earth went on in between? I will support the proposition but very much on the basis that there must be a review of the way it has been brought to the House and, on a broader basis, the historical background as well as including the comments by the Home Affairs Scrutiny Panel. As I say, I am just so infuriated by the way this has come to the House, but in view of the circumstances I will support it, Sir.

### **12.1.5 Deputy F.J. Hill of St. Martin:**

You could almost say it is the same old horse but a different jockey. It is unfortunate the first jockey is not in the Chamber. I will echo what has been said about the tardiness in which this particular proposition has come to the house. I first raised the issue on 20th November last year through question time when I asked what was the financial cost and the answer given on that day by the Minister for Home Affairs was it was not known. Yet, 2 months later the report on the proposition came to the House, again with no figure shown. That was P.18. If one looks at P.53, again no figures are shown. Thanks to the Education and Home Affairs Scrutiny Panel - and I am sure Deputy Mezbourian will speak in a minute on this - they raised the issue about the cost. We know this is going to cost £109,000. I say we know that because it came as a source of an oral question I asked at the end of January and I was given the figures. Where is that money coming from because the report says it is coming from the airport. Will that be additional to the passengers or was that money there already but just being transferred over? It would be a help if we got the answer to that. Also, if one looks very carefully at P.18 and P.53, one will see on P.18 it says: "No additional manpower implications for the States result in this Law." However, if one looks at P.53, one will see: "There are no additional manpower implications resulting from this Law." So, we are going to get 2 people possibly, appearing from nowhere. We are going to have a part-time Director and we must, therefore, have an assistant to the part-time Director and that is going to be part-time as well. What arrangements are there in hand should either one of these go sick or indeed both go sick at the same time or indeed go on holiday at the same time? What cover is there and where will that cost come from or where will that manpower come from to cover that holiday or sickness? Also, could I be told and the House be informed why it was not possible to have this duty shared with Guernsey? We are looking all the time to increase our involvement with the other islands and I would have thought there was a possibility here where we could have shared this responsibility. No doubt someone will tell me, but I would like to know.

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

I have to say that I share the concerns voiced by the previous speakers. Tardy I think is the word that has been used and I would concur with that. I have here a copy of *Hansard* from the original debate on 12th March, Sir, and in that a number of questions were posed and it seems to me we did not receive the answers during that debate, yet the Chief Minister could have supplied them in the report accompanying P.53. The only differences I see between P.18 and P.53 are 2 differences. One being that the Director of Civil Aviation will be responsible to the Chief Minister. Previously it was to be to the Home Affairs Minister. Under financial and manpower implications, the second paragraph of P.18 states that: "The financial cost of the office, including staff costs, will be met by payments from Jersey Airport of a licence fee." P.53 makes no reference to staff costs under financial costs and I ask the Treasury Minister to explain the reason for those words being excluded from P.53. A point that I made during the debate on 12th March was that I could see no reference to these costs in any departmental business plan. Because the debate was cut short, the rapporteur at the time had no opportunity to respond and therefore I ask the rapporteur today to do just that. To explain why there is no reference to this in any department business plan. This morning we spent a considerable amount of time discussing the scrutiny process and the fact that Scrutiny should be doing more. This is a clear case, unfortunately, of Scrutiny wanting to be able to conduct a review of this but because of the constraints that we find ourselves under at the moment, having already begun our work programme for the year, we are not able to conduct a review of what is a very serious and important piece of legislation. For that reason, I will be abstaining from voting on this particular issue, nevertheless I hope that my comments have been noted and answers will be provided.

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

This is just to reaffirm what some people have said. It is one of these strange paradoxes that we for ever keep saying how autonomous we are becoming and yet as soon as we are told by the U.K.

Government to jump, we jump. I strikes me autonomy should imply discretion but yet, Sir, there quite clearly is no discretion. It will no doubt be brought back by the rapporteur to the fact that we signed an agreement or a convention - the Chicago Convention - in 1944 I think, which does boggle the mind a little but nevertheless somebody apparently signed it on our behalf. That, to me, is the nub of the problem, that we are apparently signing-up to these international agreements, we are not often aware of what we are signing-up to and then some kind of day of judgment comes when all of a sudden, as it has been said, a gun is put to our head. I would ask the Acting Chief Minister whether he would agree that now is the time to have a proper inquiry into the whole issue of how we sign up to treaties, to conventions and how we involve this Assembly itself in that process because we are aware, Sir, that this is an enormously grey area that in some part we are blessed with discretion, in other parts we are denied discretion and so forth. It would be worth looking into that. The other point I would make to him, Sir, building on Deputy Ferguson's point, is whether he would acknowledge that there might be a need for an inquiry. Heaven forbid not to rake over the coals of history too much, but an inquiry to see what lesson we can learn. I know there were people like... and I see he is getting ready to make sure that justice will indeed be done on this occasion but he may not make it - I know that the rapporteur on the last occasion felt bruised that he was not able to put his arguments forward but in a sense that was not the point, the point was the timing because people, like Deputy Lewis, had very plausible arguments. The whole point, Sir, was the timing and they may have been the most impressive of arguments but if they were presented in such a way as to give us no discretion and to really box us in then sadly it would not lead to anything terribly constructive. I think there was talk in the day that we would go to Scrutiny, but it appears... and I am afraid the Acting Chief Minister almost performed an act similar to Neville Chamberlain, rather unfortunately, when he pulled his paper out of his jacket and said: "There will be signing in our time, because the signing has to be performed by the 20th", if I may parody that phrase. I think that is very, very naughty. I think to put that kind of pistol to the head of Members and say: "If I do not sign this and I just happen to be walking around with it in my inside pocket, if I do not sign this by May 20th, we are all in trouble." I am sure he will acknowledge that that was a very naughty thing to do and hopefully seek the forgiveness of the House.

**Deputy K.C. Lewis:**

A point of clarification. When Deputy Le Hérisier is talking of Deputy Lewis, I think he means the Deputy of St. John.

**The Deputy Bailiff:**

You are absolutely right.

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

This feels a bit like Groundhog Day. I think Members, or certainly Deputy Le Hérisier was referring to my experience in this place in March. I felt a bit like I had been handed a pup, Sir. Why do I say that? Well, I think Members generally do not like things sprung of them like that, Sir, and I can understand the resistance that we were about to face during that debate. I can fully understand and accept as to why it got deferred. Members have a right though to have their say and I am glad they are saying some of the things they are saying today because I think they need to have a review of process here. One of the things that Members have spoken about today in particular is: "Why has it taken so long?" We knew about this in 2000. We were told to do something about it in 2003, yet nothing happened and I would like to know why and I would like some kind of investigation as to why so we are not faced with what we are faced with today. Members do not like being given such short notice about things. I can understand that and that whole argument has been well-rehearsed today. There have also been accusations of cronyism as well and I think this House should do everything we can to avoid that sort of accusation. It is a serious accusation, Sir, and it was fine that we have transferred somebody from one post to another, Sir, and that has been accepted by the Appointments Commission but I do not think we should do that sort of thing, Sir. I think it should be far more transparent than that. These jobs should be

advertised and we should have a proper appointments process so we cannot be accused at any time of that kind of cronyism and I think that was a bear pit that we opened for ourselves and fell into. So why was it not given to the Chief Minister's Department in the first place? Well, indeed this was the suggestion for some time. It was not my Minister who was looking for additional responsibilities and work but rather that she agreed to have this responsibility within the Home Affairs Ministry. The question of why the Chief Minister's Department was not the intended recipient should be answered by the Deputy Chief Minister today. It was not my Minister or, I understand, the Minister for Economic Development who rejected this option in the first place. The conspiracy theory of course might be: "Well, this is a difficult one; let us give it to Home Affairs." Maybe that is not the case but it sure felt like that to me at the time. I think, Sir, serious consideration should be given to maybe a Minister or an Assistant Minister other than the Chief Minister or, if he or she is a busy person in that role, maybe consideration should be given to a Minister responsible for International Affairs other than the Chief Minister or an Assistant Minister. I think some kind of review should be enacted and maybe that considered. The issue of negotiation with Guernsey has come up and I answered this at the session we had at the Museum but one thing that has perplexed me, Sir, for some time is that no discussions have happened with Guernsey since 2003. When I contacted them myself, they had no contact with us about this issue since 2003 when they left a meeting with us and the D.T.I. (Department of Trade and Industry) at that moment in time. I think, Sir, with all the talk there has been about liaising and co-operating with Guernsey, for that to have drifted for 5 years, I think is totally unacceptable and I would also like to know why that happened as well. I rang them and it was a complete surprise to them that we had not had more of a discussion about it sooner. Now, I am sure there is fault on both sides there but I would like that looked into as well. Sir, I make no apology for perhaps criticising this process. I make it in the hope that lessons will be learned so that, in the future, this Assembly does not waste time on this type of debate and that we have a better informed discussion from the very beginning. I make decisions, Sir, based on the facts before me in this House. I do not pursue a populous agenda, so although tempting and seductive this may be to some Members, I would urge Members not to vote against this for all the reasons that the Deputy Chief Minister has suggested because if we do not the Island will suffer, safety standards will suffer, it will unnecessarily aggravate the U.K. Government and why do that? Sir, there is one point through that I would like the Solicitor General to clarify, which the Deputy Chief Minister alluded to at the beginning of this, which is a bit of scaremongering. He suggested that if we do not do this, the U.K. Government will do it for us. Now, I may be wrong, Sir, but my understanding is that the U.K. Government cannot legislate for us. Yes, they can make life difficult for us but they cannot legislate for us and I wonder if I could ask for clarification of the Solicitor General of that fact before I finish, Sir.

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

The Deputy asks what is a highly complex legal question and to give an answer any measure of justice would require rather more than the couple of minutes that might be available. The view that certainly I take - and I believe that the Attorney takes - is that by long convention at the very lowest, the U.K. does not legislate for us and, at its highest, that is a rule of law but it not something that we would choose, I think, with wisdom to have dealt with by the courts at any stage unless it is absolutely necessary that we do so. I do not think I can offer clarification further than that without going into quite some detail from a legal point of view and I hope that that is sufficient for the Deputy's purposes.

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

Thank you, Sir. Sorry to put you on the spot there, Solicitor General, but you answered that most eloquently. In closing, Sir, I would urge Members to vote for this. It is a given and we understand that, Senator. If we do not, it is the Island's people that will suffer because it may compromise the operation of the airport, it will embarrass us with the U.K. Government and I would urge Members to vote for it. But I think the Executive should be held to account on this one, it should be looked at

more closely, the process is not good enough and it should be reviewed so that we do not face this embarrassing situation again as a parliament and also face the possibility of embarrassing ourselves with the U.K. Government. Thank you, Sir.

**The Deputy Bailiff:**

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

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

I feel as if I have had my knuckles rapped over this one and quite rightly too. I share the views of the Scrutiny Panel Chairman that this has not been a good example of how to promote legislation and we have got to do better. It gives me no pleasure to stand here and propose this today in the sort of rush that we have to. I am doing it because I see I have no alternative but to do so. So if I take some of the comments made by individual speakers, I can certainly endorse the views I think of several speakers that, at the very least, we ought to look at our processes and to ensure that this sort of activity does not re-occur. I have said in a different context in discussing the Annual Business Plan of the States that in September we would debate and agree the legislation programme for the coming year and if that process is done in a proper fashion, we should be aware by the previous September at least of what is coming up in the following year. In this particular case - as some speakers have said - the issue has been live for probably something like 5 years now, so it should not have come as a surprise and it should not have come to this House at the last minute. I cannot say at the moment why that has happened and it may well be that we also have some sort of inquiry to see why that is because, as the Deputy of St. Peter says, this is not for Government because Scrutiny have a duty to do and I do not like feeling that I have in any way impeded Scrutiny in doing that duty. A couple of comments. I think the Deputy of St. Peter and Deputy Le Hérissier accused me of pulling this, rather like a rabbit out of a hat, from my wallet. The fact is that I only picked up this Memorandum of Understanding at lunchtime when I asked the Chief Minister's Department what would be the implications of us not doing this today and I was told that there is this memorandum which the U.K. effectively has to have in order that they can give a corresponding undertaking on their behalf. So I felt it was important to share the content of this - at least with the Chairman of the Scrutiny Panel as I have not had a chance to share it with States Members - to at least make them aware, as I was, of the importance of this debate. Deputy Baudains questions the powers of the airport regulation costs. I will go on to talk about costs in a moment. I do not think in the remotest way I can compare this debate with that on Les Pas but he feels so inclined to do so and I just do not follow his train of thought. He asked whether it would mean the airport closing. I do not think it would mean the airport closing. I think it would mean having a different regime. If I jump briefly to the comments of the Deputy of St. John when he asks if the U.K. could legislate for us, in my opening speech, I chose my words carefully and I said that this could raise constitutional issues. It is slightly different but what I was getting at is that if we do not have a regulator in place, then the U.K. almost certainly will impose a regulator on us in the same way as they have imposed a regulator on certain of the overseas territories. Now, to me, it is a very dangerous line. If they can impose a regulator in one area, what else can they impose in other areas? That is why I simply referred to it as constitutional issues and not specifically about legislation but, clearly, legislation could be an even greater and worse option which I would certainly not contemplate. As to the C.A.A., the C.A.A. has had a working relation with the airport authorities for many years now. The C.A.A. can advise the airport authorities and the C.A.A. could advise the regulator but they cannot impose their will on either the Minister for Economic Development or the regulator and that situation will continue, if need be, but the Civil Aviation Authority, in this respect, has no formal jurisdiction over the Island. As far as the consultation is concerned, both at the U.K./Jersey and the Jersey/Guernsey levels, I think they have been going on for some time in the background and I think perhaps in one of those moods of optimism that something will turn up tomorrow and we can find a better way of doing it, whether that be sharing a regulator with Guernsey or finding a different way of achieving the objectives. It is only when the

penny suddenly drops that none of these are going to work and we had better do something that we have this Law come to us today or, in fact, come to us on 1st April, some 6 weeks ago. Deputy Ferguson, like Deputy Ryan, thinks we should look at the background and review our procedures and I am fully supportive of that. The Deputy of St. Martin says that really we are looking at the same horse with a different jockey. Yes, we are, and as to the costs of £109,000, I think the cost is relatively clear, if obscure. The costs are currently covered by the airport authorities because they have responsibility for regulation. When responsibility for regulation is transferred to the regulator, the airport will no longer incur that cost but they will incur a fee which will be charged by the regulator, which will no doubt be of a similar amount and the sum we are talking about is something in excess of £109,000, so it is really shuffling it from one pocket to the other. The airport still incurs the cost and, no doubt, in the same way as it has in the past, may well recover that cost by way of landing dues or any other revenues but the point is it is not an increase in costs; it is merely transferring the way it is dealt with. As to the manpower implications, there has been no intention, as far as I am aware, to change the manpower implications. Manpower reporting is a peculiar operation because the manpower of trading departments at one time was excluded from the ordinary manpower returns. But I cannot, other than that, give any indication of the manpower implications, but there is no change in the situation, as far as I am aware, since the previous report and proposition was lodged. Why can we not share the regulator with Guernsey? Yes, I share that frustration. I wish we could too. At the moment, the Guernsey regulator is a full-time appointment and is unable to devote time to this particular activity. I would still like to think that in a year or 2's time, when maybe matters have settled down, both in Guernsey and in Jersey and with a different regime in Guernsey possibly, that we might re-open those discussions because, to me, it is a sound and sensible way of doing things more efficiently and making sure we have common standards and a common approach. To Deputy Mezbourian, the Chairman of the Education and Home Affairs Scrutiny Panel that originally looked into this and felt that her questions were still not answered and could we not improve on the report, I think, in an ideal world, yes, we could and should have done. The fact is that we knew that this Law had to be debated by today in order to meet the time deadline and, therefore, we had to lodge no later than the end of March and that, sadly, did not give us time to re-write a fuller report. Again, there is a message there that we can learn from in reviewing procedures and looking to the future, but I would reassure her that there are no sinister implications in the financial and manpower controls apart from a weird change in the wording which eludes me. As to reference to manpower in the Departmental Business Plan, I am not sure which Departmental Business Plan it would have been in but, clearly, a regulator was in the Airport Business Plan in the past as an employee of the airport. He will no longer, no doubt, feature in that manpower report but will feature now - if this Law is passed - in the manpower report of the Chief Minister's Department and it is not an increase in headcount obviously. Deputy Le Hérissier asks whether we have a paradox here and are we or are we not autonomous? I would hasten to point out that Jersey did not sign the Chicago Convention in 1944. It would have been quite difficult physically to be able to do that and, indeed, the U.K. signed the Convention and it has been extended on our behalf by the U.K. to us but I think he, like other speakers, wants to see what lessons we can learn from this activity. I am sure we can. The Deputy of St. John who was a former rapporteur, felt that maybe Home Affairs should never have been given this task in the first place. Well, I think the difficulty is that with this sort of regulator, is there an ideal Minister or should you have something totally independent like a J.C.R.A. (Jersey Competition Regulatory Authority)? Do you want an organisation of the size of the J.C.R.A. to handle this operation? Possibly not. So we are always going to be looking for a compromise and where does one compromise? At the end of the day, the Chief Minister's Department, because of its responsibility for international matters, may be the place to do it but I agree that it need not necessarily be the Chief Minister personally who has responsibility, and maybe it should be the Assistant Minister with responsibility for international affairs. That, to me, is the least of the worries at this stage. To me, the important point is to ensure that this legislation is on the statute book in order that we can tick the box as far as the

Memorandum of Understanding of the U.K. is concerned and I therefore maintain the principles and ask for the appel.

**The Deputy Bailiff:**

Very well, I invite Members to return to the Chamber.

**The Deputy of St. Martin:**

Just one question I did ask and maybe I missed the answer from the Minister but I did ask what happened, as these are on a part-time basis, when people are either sick or go on holiday. What cover is there and who will be covering?

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

The Deputy is quite right, and I did not answer that one. I missed that one. The short answer is I do not know. We would not expect both to go off sick, but were that to happen, we would have to buy in expertise either from Guernsey or the U.K. or elsewhere as short-term cover, should it be required.

**The Deputy Bailiff:**

Very well, so the matter before the Assembly is the principles of the draft law and the Greffier will open the voting.

<b>POUR: 30</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 2</b>
Senator L. Norman		Deputy of St. Martin		Deputy D.W. Mezbourian (L)
Senator T.A. Le Sueur		Deputy G.C.L. Baudains (C)		Deputy of St. Mary
Senator P.F. Routier		Deputy R.G. Le Hérisier (S)		
Senator P.F.C. Ozouf		Deputy S. Pitman (H)		
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Deputy A. Breckon (S)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				

**The Deputy Bailiff:**

I think I know the answer to this one, Deputy Ryan, but do you wish this matter to be referred to your Scrutiny Panel? [Laughter]

**Deputy P.J.D. Ryan (Chairman, Corporate Services Scrutiny Panel):**

No, thank you, Sir.

**The Deputy Bailiff:**

Very well. How do you wish to propose the Article?

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

The tension is gripping. Although I intended to propose them *en bloc*, I think, given the nature of this Law, I will propose them in parts and begin with parts 1 and 2; part 1 simply dealing with the interpretation and part 2 deals with the appointment and functions of a Director of Civil Aviation who would be appointed by the Chief Minister after consulting the Employment Board and given sufficient resources to carry out his duties and, in Article 9, to place annual reports before the States setting out what he has been doing. Article 10 requires him to have the requirements of the Chicago Convention met and to provide advice to the Chief Minister on any international matters relating to civil aviation. I propose parts 1 and 2.

**The Deputy Bailiff:**

Very well. Are those Articles seconded? Does any Member wish to speak on Articles 1 to 11?

**12.2.1 Deputy D.W. Mezbourian:**

Very briefly, I would like the rapporteur to explain in Article 2 how a corporation sole can report to a Minister.

**12.2.2 Deputy R.G. Le Hérisier:**

Part 2, 3(1); could the rapporteur explain whether indeed the Chief Minister will be required to seek the views of the States Employment Board or whether this is optional.

**The Deputy Bailiff:**

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

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

I am just checking the Article Deputy Le Hérisier was questioning.

**The Deputy Bailiff:**

Which Article was that, Deputy Le Hérisier?

**Deputy R.G. Le Hérisier:**

Part 2, 3(1).

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

I would interpret that - although I am not a legal interpreter - as saying that the Minister has to seek the advice of the States Employment Board, and having received that advice, he may then appoint the person to hold the office of Director. I do not think it is optional as to us receiving the advice; I think it is optional as to the appointment but mandatory to receive the advice. As to Deputy Mezbourian's question of how does a corporation sole report to the Minister, I would remind her that Ministers themselves are corporations sole and we have a knack of being able to report to another Minister by talking to one another, so if that sounds facetious, I am sorry, but that was how one would normally report a corporation sole to a Minister, so I maintain 1 and 2.

**The Deputy Bailiff:**

Very well. All those in favour of adopting Articles 1 to 11, kindly show. Those against? Those Articles are adopted.

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

Part 3, which is Articles 12 to 18, relates to the licensing of aerodromes. The first set of these, Articles 12 to 16, identify the licences required, how it may be granted and what fee might be charged. Article 16 allows for appeals, Article 17 allows for the Minister to issue directions for the aerodrome licensee and Article 18 deals with people who give false information. I propose part 3, the licensing of aerodromes.

**The Deputy Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on any of Articles 12 to 18?

**12.3.1 Deputy R.G. Le Hérissier:**

What is the length of time for which the aerodrome licence is granted?

**The Deputy Bailiff:**

Does any other Member wish to speak? Deputy Chief Minister?

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

I believe that the Law is silent on the matter and it would therefore be up to the Director to specify Article 13(3)(a). The Director should specify in an aerodrome licence or a renewal of licence the term which it is to have effect, so I think at the time of granting the licence, he will say: "This licence is for one year" or for 3 years or whatever as the case may be. I maintain part 3.

**The Deputy Bailiff:**

Very well. All those in favour of adopting Articles 12 to 18, part 3, please show. Those against? Those Articles are adopted.

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

I think I can move parts 4 and 5 safely together. Part 4 deals with negation orders, part 5 deals with miscellaneous provisions and the schedule attached to Article 23 also at the same time. I would propose parts 4 and 5 and the schedule.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on any of the remaining Articles or the schedule?

**12.4.1 The Connétable of St. Saviour:**

Just one query relating to 19(3). Part W and part S relates to aircraft flying over Jersey and the controls thereof. Could the Minister tell us whether there is a height restriction on that above which he cannot control?

**12.4.2 Deputy R.G. Le Hérissier:**

Is it implied in part 4 that all aircraft operating in and out of the airfield are to be subject to all relevant E.U. regulations, for example, airworthiness as regards to codes for aeroplanes?

**The Deputy Bailiff:**

Does any other Member wish to speak? Yes, Deputy Minister.

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

As to the controls and the height thereof, the question raised by the Constable of St. Saviour, I would refer him - if he has a good atlas - to page 12. The definition of the Channel Island Control Zone means collectively - and I shall not give all the details - a box around the Islands and halfway

up to England and halfway across to France at differing height levels. Flight level 195, as far as I understand, means 19,500 feet, flight level 55 means 5,500 feet and flight level 35 is 3,500 feet but there is a person who has more flying experience than I have to the left of the Constable and, if I am wrong, no doubt, he will correct me. **[Laughter]**

**The Deputy of St. Peter:**

I thank the Minister for bowing to my experience and can confirm that it is up to flight level 195.

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

As to Deputy Le Hérissier's question about the aircraft airworthiness and so on, that I think it outside the scope of this Law. I think there would be nothing to stop the aircraft being permanently parked on the airport, or possibly even taking-off, but I do not know if other restrictions would prohibit it not from flying but certainly from carrying passengers. That would be under a different legislation, so I maintain parts 4 and 5 and the schedule.

**The Deputy Bailiff:**

Very well. All those I favour of adopting parts 4 and 5 and the schedule, kindly show. Those against? Those are adopted. Do you propose the Bill in Third Reading?

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

I do, Sir, and I do with the closing comment that we have a knack of passing this Law and then forgetting about what we have spoken about earlier in the afternoon and I will confirm to the Chairman of the Scrutiny Panel, who is not here at the moment, that we should not forget about this but we should in fact go ahead with that review if they are going to benefit from this afternoon's salutary experience and, with that, Sir, I propose the Bill in Third Reading.

**The Deputy Bailiff:**

Seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? Very well. All those in favour of adopting the Bill in Third Reading, kindly show. Those against? The Bill is adopted in Third Reading. So that concludes Public Business, so we come to Arrangements of Public Business for future occasions.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

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

While I am standing, Sir, I would like, on behalf of P.P.C. to ask for the approval of the Assembly to moving P.65 Draft Public Elections (Amendment No. 3) (Jersey) Law 200- which is listed for 17th June to 3rd June. The reason being that, if the House approves that particular projet, in order to get it through the Privy Council and also in time to be in operation for the elections this year, we need to debate it as early as possible, Sir.

**The Deputy Bailiff:**

Will it have been lodged long enough though? I think the position from Members, if I can clarify it, is that there is a minimum 6-week lodging period for that legislation and the States may reduce a minimum lodging period if they are of the opinion that the proposition relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate. Is that what you are asking the Chairman? I think it is, is it?

**The Connétable of St. Clement:**

Yes, Sir.

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

If I may, it was lodged on the 17th. I am considering amendments to it. I thought I had a few days to get those amendments in. It appears now that I do not, if we do move it.

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

I think, Sir, we should not regard too lightly this requirement to lodge for 6 weeks when it is a matter of legislation and that, as the Law says, we can shorten that period if it is seen to be of substantial importance for the benefit of the Island. The Chairman of P.P.C. at the moment has made no case that I am aware of that this would be significantly prejudicial to the Island if it were not debated until 17th June as compared with 3rd June and if that case cannot be made, then I, for one, could not support shortening the period.

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

It would be helpful certainly to me, Sir - and I think other Members of the States Assembly do not have that particular projet in front of us - given that we are being told this is a matter of great urgency to the Island of Jersey, if we could have some indication of the content of the projet.

### **The Deputy Bailiff:**

Very well. Chairman of P.P.C., can you just explain what it is about and why you say that it is of such urgency and importance?

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

There are problems with the closing of registers for the Constables' and the Senators' elections because, being on separate days, there would be 2 registers. That would help but, more importantly, I think it regulates the postal voting so that people can take their vote, if they have not used it, into the polling station and use it. That is an exception. We have not been able to do that before. It will be up to the Autorisé to accept the vote but he will be authorised by law. There are problems also with the collection of sick votes which are not completely covered by the Law, although they are accepted and this allows sick votes to be collected. I think that is most of the items. To get them through the Privy Council and in force for the elections in the autumn of this year, it is necessary to debate it as quickly as possible.

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

I really do object to having this: "Hurry up and put on a Bill" which is not vital to the interests of the Island. It would be useful but not vital and, in particular, trampling over and backdating his rights to bring amendments in an appropriate timescale that are well-focussed.

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

I seem to remember it is quite an extensive document with possibly 7 or 8 recommendations contained within it, but I think it is something that needs some time to look at before we debate it and for Members to make amendments, Sir, if they do wish to, it does leave it very tight if we would only have until probably the end of this month to lodge an amendment. So I would say to the House that maybe this should not be taken until the 17th.

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

As the Chairman of P.P.C. has just, I think, eloquently outlined, this legislation is vital for the good running and good order of the new election process that we have approved to enable both Senators and Connétables to be elected on the same day and, without that, there will be a considerable difficulty on behalf of candidates and that election process with regard to registers. That will put both Connétables and Parish Halls under considerable pressure and that needs to be sorted out, Sir. What we are asking for is that it is brought forward. There is still a small window, in my understanding, in order for Members to bring amendments to it. I leave it obviously in the hands of Members but it is crucial to the good order and running of the elections for Senator and for

Connétable and we are asking this, Sir, so that it can go to Privy Council in good time and be approved and be in place. Thank you.

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

Could I just ask the Connétable, did this proposition include the regulation of election expenses?

**The Connétable of St. Clement:**

No, Sir.

**The Deputy Bailiff:**

Very well, so it is a matter for the Assembly. I am going to put it to the Assembly then. The proposition is to move P.65 from 17th June and bring it forward to 3rd June, so if you support P.P.C., it is pour and if you oppose it, is contre and the appel is called for, so the Greffier will open the voting.

<b>POUR: 22</b>		<b>CONTRE: 12</b>		<b>ABSTAIN: 0</b>
Senator L. Norman		Senator T.A. Le Sueur		
Connétable of St. Mary		Senator P.F. Routier		
Connétable of St. Clement		Deputy A. Breckon (S)		
Connétable of Trinity		Deputy of St. Martin		
Connétable of St. Lawrence		Deputy P.N. Troy (B)		
Connétable of Grouville		Deputy R.G. Le Hérisssier (S)		
Connétable of St. Brelade		Deputy J.A. Martin (H)		
Connétable of St. John		Deputy G.P. Southern (H)		
Connétable of St. Saviour		Deputy S.C. Ferguson (B)		
Deputy J.J. Huet (H)		Deputy G.W.J. de Faye (H)		
Deputy G.C.L. Baudains (C)		Deputy S. Pitman (H)		
Deputy C.J. Scott Warren (S)		Deputy K.C. Lewis (S)		
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy A.J.D. Maclean (H)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

**Deputy P.N. Troy:**

Can I just clarify then when amendments to this would have to be put in?

**The Deputy Bailiff:**

Amendments must be 2 weeks before and I am not sure of the exact date that would be, Greffier, but 2 weeks. They have to be lodged for 2 weeks. I am advised by the Greffier the 20th would be the final date for lodging amendments.

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

Does the Assembly have the authority to waive that lodging period for any late amendments?

**The Deputy Bailiff:**

Well, paragraph 7 seems to be in general terms: "... may reduce a minimum lodging period if the opinion of the proposition relates to a matter of such urgency and importance, it would be prejudicial to Jersey to delay its debate." We should not do it today, I think.

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

No, but the Assembly does have the power to reduce the lodging period for amendments, Sir. That was what I meant.

**The Deputy Bailiff:**

I think so, but I would like to check.

**Deputy G.P. Southern:**

If I may say so, Sir, this is like Ground Hog day. We have just criticised the Minister for Treasury and Resources for bringing things late and here we have a committee of this establishment bringing a proposition late beyond time and asking for a hurry-up and urgency on it. It is absolutely ridiculous.

**The Deputy Bailiff:**

Deputy, I am sorry, you cannot re-open a matter once it has been voted on.

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

Could I just give notice to the House that I will be lodging amendments on P.61. That is the one on the marriage due for the next sitting. Just to give notice of that. I have been waiting for information and the information has come late but I will be lodging some amendments to P.61.

**The Deputy Bailiff:**

Now, are there any other changes that any Member wants to make to the proposed programme for business? So, on that basis, for 3rd June, it is the addition of P.65 but with the removal of P.1 and P.32 which are moved to the dates mentioned by the Chairman so, on that basis, does the Assembly agree the business? Very well, all those in favour? It is adopted. So that concludes the business and the Assembly will reconvene on 3rd June.

**ADJOURNMENT**