

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 22nd OCTOBER 2008

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1. The Bailiff:

A press release is going out this morning but I should like Members to be amongst the first to know that the Queen has approved my request to be permitted to retire from the office of Bailiff and that I shall be retiring at the end of June next year. By that time I shall have been in office for nearly 15 years and I have decided that the time is right to make way for my successor. This is not the time for fond farewells, not least because I shall be here for another 9 months [Laughter] but I should like to say that presiding over the States has always been stimulating [Laughter] and mostly very enjoyable too.

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

Could I just very briefly respond to your own statement. As you have said, this is not a time, thankfully yet, for fond farewells but I think I should say that it has mainly been a pleasure to have you presiding. [Laughter] [Approbation] The time will come for others to make more official goodbye speeches at the right time but I am sure I speak for every Member when I thank you for informing us in advance of informing anyone else, and thank you for the unfailing courtesy and dedication you have shown to us, the States Members, throughout your time in the chair. Many more fitting tributes will be made at a later date but there is a warm sense of gratitude to you, and a great appreciation for everything you have done for the States and, of course, for Jersey. [Approbation]

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

2. The Bailiff:

I thank Members and the Chief Minister for that. Chief Minister, now that your man is here do you wish to make a nomination?

2.1 Senator F.H. Walker:

Yes Sir. It gives me great pleasure to propose the Deputy of St. John as the Minister for Home Affairs to undertake the final weeks of office of this current Council of Ministers.

The Bailiff:

Is the proposition seconded? [seconded] Are there any other nominations for the office of Minister for Home Affairs? Well then I declare the Deputy of St. John to have been duly elected as Minister for Home Affairs [approbation].

2.2 Deputy A.D. Lewis (The Minister for Home Affairs):

If I could just have the leave of the House, I understand from Standing Orders that I may be expected to make a speech today and I am more than happy to say a few words if Members require me to do so, but as we have a lot of business to get through today I'd imagine that we'd like to get straight down to business. If I could thank Members for the confidence they have bestowed upon me I will certainly endeavour to do my every possible best to fulfil the next 6 weeks of my duties.

PUBLIC BUSINESS – resumption

3. Draft Employment (Amendment No. 4) (Jersey) Law 200- (P.142/2008)

The Bailiff:

The next matter of Public Business is the Draft Employment (Amendment No. 4) (Jersey) Law in the name of the Minister for Social Security. I ask the Greffier to read the citation of the draft.

The Greffier of the States:

The Draft Employment (Amendment No. 4) (Jersey) Law 200-: a law to amend further the Employment (Jersey) Law 2003. The States subject to the sanction of Her Most Excellent Majesty in Council have adopted the following law.

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

This proposition amends the Employment (Jersey) Law 2003 to extend the Jersey Employment Tribunal's powers in relation to unfair dismissal awards. During last year I received representations from various interested parties about the award making powers of the Employment Tribunal. Having based the employment law on an early recommendation of the employment forum, which was presented in 2001, I requested that awards relating to unfair dismissal should be considered in more detail by the forum. The forum recommended that the legislation should include 2 additional powers and provided additional details regarding the circumstances in which these powers should be available to the Tribunal. The first gives the Tribunal the power to reduce an unfair dismissal award where an employee is found to have contributed to their own dismissal. Where the tribunal finds that a dismissal was unfair, the tribunal currently must award a fixed sum to an employee which is calculated by reference to the employee's length of service and their weekly pay. In the interests of natural justice, this amendment has been made for circumstances in which that award may be reduced by the tribunal. The amendment provides that the tribunal may take into account circumstances in which it considers it would be just and equitable to reduce an award, including the employee's own conduct, any other amounts paid by the employer to the employee by way of settlement, and whether the employee has refused an offer of reinstatement from the employer. Unlike an earlier draft of this amendment, it provides the tribunal may also consider any other circumstances in which it would be just and equitable to reduce the award. The second part of the amendment is the discretion of the tribunal to consider whether it would be appropriate to award that an unfairly dismissed employee must be re-employed by their employer, and the power to award additional compensation if the employer does not comply. Having carefully considered the issue of reemployment in its 2001 recommendation on unfair dismissal the forum was then of the opinion that nothing would be gained by having such a provision present in the Jersey legislation. This was considered to be a sensible approach at that time. The forum did not intend to restrict the powers of the tribunal and made the recommendation in the interest of avoiding unnecessary complexity in the law. However, following further consideration, the forum has noted that Jersey is a more restrictive employment market than the UK, making the option of an award for reemployment more relevant and necessary. This amendment makes provision for the tribunal to consider 2 different options for reemployment as an alternative to financial compensation for dismissal. Firstly, reinstatement which means that the employee must be treated in all aspects other than arrears of pay as though the dismissal had not occurred. Secondly, the more flexible option of re-engagement, which means that an employee is to be reemployed on terms that are as favourable as if the employee had been reinstated, but not necessarily in the same job or on the same terms and conditions of employment. In deciding whether or not to make an order for reemployment, the tribunal must take into account the employee's wishes, also the practicality of the employee returning to work for the employer and in cases where the employee was partly to blame for the dismissal, whether it would be just to make such an order and on what terms. Orders for reemployment are an alternative to a financial award for unfair dismissal. Unlike the earlier draft of this amendment, the tribunal may not award the employee compensation for any loss of pay during the period between dismissal or reemployment, other than in regards to contributory benefits such as pension contributions, that is in order to restore the employee's pension rights. If an employer totally fails to comply with an order for reemployment in addition to unfair dismissal award, which is calculated in accordance with the existing scales, the tribunal would have the discretion to award compensation up to a maximum of 26 weeks, unless the employer can satisfy the tribunal that it was not reasonably practicable to comply with the order. There would be some minor changes made to the Employment (Awards) (Jersey) Order to reflect the new powers within this, and if the States approve this amendment I would be making that order

as soon as this is approved. These recommendations have come forward after tremendous consultation through the employment forum and I propose the amendment.

The Bailiff:

The principles of the law are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on the principles of the bill?

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

The extension of the powers of the Employment Tribunal is, in general terms, to be welcomed. However, I have 2 questions to ask of the Minister. It seems to me that one is the matter of any pay lost during the intervening period between dismissal and reinstatement. It seems to me, I do not understand why the employee should suffer a loss in those terms, and that the powers are only about reinstatement or repayment of pension rights, et cetera. Secondly, I note that, I think 2 or 3 times, the Minister said the reinstatement and the consideration of reinstatement is an alternative to any compensation. It seems to me that to rule out any compensation because of reinstatement is not the full shilling, as it were, and that these powers are unnecessarily, still, limited. I would appreciate it if the Minister could address those 2 issues. But on the whole, obviously, I believe this has been, in principle, a power that has been sadly lacking from the tribunal in the past and is generally to be welcomed.

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

Just one point: on page 6 in the descriptive portion it states that if an employer can satisfy a tribunal that it is not reasonably practicable to comply with the order then presumably they need not do so. Now there is no doubt when you are dealing with a small employer and if the falling out, for example, has been about some kind of personality clash, it can often be very difficult to reintegrate people into a smaller organisation where there has been a falling out. Does that mean therefore that in practical terms small employers will be able to argue that and, if so, does that not nullify some of the intent of this?

The Bailiff:

I call upon the Minister to reply.

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

Firstly, I would like to thank Deputy Southern for his general recognition that this is a positive move. The issue as regards to loss of pay between the dismissal and any possible reinstatement is something which has been consulted on very widely by the employment forum and they have come to the conclusion that in many, many cases, while the hearing is going on, that a lot of people will have found new work, and that is the experience that has happened in the past, because Jersey's employment market is very open and people are able to find additional work, practically what actually happens is people find additional work. But in the rare occasion that there is a situation where people are going to be looking for reinstatement, the tribunal will have the power to make awards if they do not get to reinstate. This legislation is quite flexible for the tribunal. It does give many options for them; before it was very prescriptive and it now, I believe, is an appropriate mechanism for them to be able to make a just resolution for any issues which do come forward. Deputy Le Hérissier's comments with regard to small employers; I believe the same sort of circumstances applies with the same comments I just made. The tribunal will be able to look at all the circumstances, and particularly with regard to small employers, as to what is appropriate for that circumstance. Obviously, if relationships are broken down so much within a small employer it would not be practical for that person to return to that position. This provision really is aimed at, sort of, very large employers who would be able to perhaps find employment in perhaps another area of their business, and that is really what it is aimed at, for the reinstatement. I maintain the proposition.

The Deputy Bailiff:

All those in favour of adopting the principles kindly show. Those against. The principles are adopted. This is a matter for the Health, Social Security and Housing Scrutiny Panel; chairman, Deputy Breckon, vice-chairman, Deputy Martin, neither whom are here. Is there any other member of the panel ...

Deputy R.G. Le Hérissier (Health, Social Security and Housing Scrutiny Panel):

No, thank you, Sir.

The Deputy Bailiff:

Thank you, Deputy. Then, Minister, do you wish to take the articles *en bloc*?

3.2 Senator P.F. Routier:

Yes, I think Members will have had an opportunity to read them, I am prepared to propose them *en bloc* and answer any questions.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual articles? Very well, all those in favour of adopting all the articles kindly show. Those against. The articles are adopted. Do you propose the bill in Third Reading, Minister?

3.3 Senator P.F. Routier:

Yes, sir.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on Third Reading?

3.3.1 Deputy R.G. Le Hérissier:

There is no doubt, one of the issues, and I do congratulate the Minister on moving this and indeed the people involved with the Employment Tribunal, but as we know some of their findings are controversial and, as I have indicated in my point, small businesses can be impacted upon quite disproportionately in some respects because they obviously have not got personnel departments and so forth. What methods are available other than reports in the *J.E.P. (Jersey Evening Post)* to ensure that small businesses, and others, are fully aware of the impact of the judgments that are emanating from the Employment Tribunal?

The Deputy Bailiff:

I call upon the Minister to reply.

3.3.2 Senator P.F. Routier:

The judgments are published widely, other than the *J.E.P.*, and they are available on the website so that they can be seen. I do recognise that employers need to keep up to speed with the way that employment legislation is progressing. I wholeheartedly agree that we need to ensure that small businesses in particular do need advice. The Jersey Advisory and Conciliation Service do provide an excellent service and I do suggest to all employers, small or large, that they do perhaps keep a close connection with J.A.C.S. because they are very, very helpful, and if they have any issue with regard to employment legislation or any changes of circumstances of their employees, check with J.A.C.S. first before they do progress with any further changes within their contracts or terms of employment because they are very good about doing that.

The Deputy Bailiff:

All those in favour of adopting the bill in Third Reading kindly show. Those against. The bill is adopted in Third Reading.

4. Draft Income Support (Special Payments) (Cold Weather Payments) (Amendment) (Jersey) Regulations 200- (P.144/2008)

The Deputy Bailiff:

I think the States agreed to take as the next matter the Draft Income Support (Special Payments) (Cold Weather Payments) (Amendment) (Jersey) Regulations, projet 144, also lodged by the Minister for Society Security, and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Income Support (Special Payments) (Cold Weather Payments) (Amendment) (Jersey) Regulations 200-: the States in pursuance of Articles 8 and 18 of the Income Support (Jersey) Law 2007 have made the following regulations.

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

I am grateful for the Minister for Economic Development letting me go before him as I have a hospital appointment, in an hour or so. Hopefully this will not take an hour. The most recent R.P.I. (Retail Price Index) increase on fuel published in June showed that there had been a 26 per cent increase in fuel prices. The Council of Ministers considered that and agreed that I should bring forward the proposition which has already been approved in the recent Business Plan, which the States have approved. So, this proposition increases the winter fuel payments by a further 20 per cent above the 6.8 per cent which has already been put into place, making a total of the combination, the compounded increase from last year of 28 per cent on last year's amounts. I make the proposition and I hope the House will support it wholeheartedly.

The Deputy Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on the principles of the regulations? All those in favour of adopting the principles kindly show. Those against. The principles are adopted. Deputy Le Hérissier, does your panel wish this matter to be referred to the panel?

Deputy R.G. Le Hérissier (Health, Social Security and Housing Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

Do you wish to propose regulations 1 and 2 together, Minister?

Senator P.F. Routier:

En bloc, Sir.

The Deputy Bailiff:

Does any Member wish to speak on either regulations 1 or 2? All those in favour of adopting regulations 1 and 2 kindly show. Those against. The regulations are adopted. Do you propose in Third Reading, Minister?

Senator P.F. Routier:

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.

5. Draft Foundations (Jersey) Law 200- (P.143/2008)

The Deputy Bailiff:

We come next to the Draft Foundations (Jersey) Law, projet 143, lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Foundations (Jersey) Law 200-: a law to provide for the incorporation of foundations and for related purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

The Deputy Bailiff:

There is an amendment here but we will come to that when the time comes.

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

When it comes I will propose them as amended, Sir. This draft law for the creation of a new Jersey legal entity, a foundation, is hoped that it will be a significant driver of new business to the Island and open up business opportunities with clients from parts of the world where the concept of a trust is unknown or poorly understood. A foundation will incorporate some of the best features of companies and trusts. It will be a body corporate with easily recognisable liabilities and accountabilities and its existence will be openly recorded on a public register in the same way as a company, but it will not have shareholders. It will hold assets in its own name for the purposes set out in its constituent documents in accordance with the wishes of the founder. The foundation will be managed by a foundation council, a unique feature of the Jersey foundation is that the council will be required to have at least one member who is a Jersey financial professional regulated by the Jersey Financial Services Commission. This will take advantage of the high quality of Jersey's finance professionals to ensure that investors can be confident in the quality of this product and also to ensure that it is not abused for the purposes of international crime. Another unique feature of foundations in Jersey is that there will be mandatory requirements for a guardian. The guardian will hold the foundation council to account and represent the interests of the beneficiaries of the foundation. Foundations have a long history in Continental Europe where they have been used for charitable and religious purposes since the Middle Ages. They have been used for estate planning and wealth management and they started life in more recent times in Liechtenstein in the early part of the 20th century. In 1995 Panama introduced a flexible private foundation which allowed international asset planning and certain commercial transactions. More recently, the Netherlands Antilles and St. Kitts in Bahamas have introduced legislation establishing foundations along similar lines. The challenge for Jersey is that clients from jurisdictions such as the Middle East and the Far East are often more familiar with the concept of foundations than with trusts which are alien to their legal systems and, at best, can require a great deal of explanation. Although these clients often have the highest regard for Jersey as a jurisdiction with a proven reputation for stability, excellence and, of course, our expertise, there often remains a preference for a foundation as the vehicle of choice. Some Jersey trust companies already advise and, in fact, incorporate foundations normally sometimes in Liechtenstein or in Panama, for clients who do insist and simply are not persuaded by the viable alternative of a trust. Foundations are, therefore, well established in other jurisdictions and there is an existing and growing market for this kind of service and product, and Jersey is seeking to access this market via this new law. A Jersey foundation will be a body corporate. It will be registered with the Registry of Companies, and will be governed by the law and its constituent documents, namely a charter and regulations. Foundations will be endowed with assets. They will invest and either distribute to beneficiaries or for some purpose which can be either charitable or non-charitable. All foundations will have a charter. The charter is a public document which must include certain specified details. The detailed provisions applicable to the foundation can be included in the public charter or in the regulations which will be a private document. It is expected that the majority of foundations will both have a publicly registered charter and a set of private regulations. A foundation will be required to have a council equivalent, broadly speaking, to a company board of directors. They will be the body responsible for fulfilling the aims of the

foundation in accordance with the law charter and its regulation. The council must have at least one qualified member which must be a Jersey-based financial services professional regulated by the J.F.S.C. (Jersey Financial Services Commission) under the Jersey Financial Services Law 1998, and the Codes of Practice published and run by the Commission under that law. The qualified member under the supervision of the Commission will ensure that the foundation is not abused for money laundering or terrorist financing purposes. Of course, Jersey distinguishes itself in being one of the few jurisdictions in the world to regulate trusts, and foundations will be done in exactly the same way. The high quality of Jersey's regulatory community will ensure that Jersey foundations are effectively and, most importantly, responsibly run. They will ensure that investors can be confident in relying on Jersey foundations and also that the Island complies with its international obligations in respect of preventing fiscal crime. A foundation must have a guardian who will oversee the work of the council and to whom the council will be accountable; combined with the presence of the qualified person on the council, this will mean the foundations have sufficient checks and balances to ensure that the endowment is used for the purpose intended by the founder. In the event of a dispute, it is possible to refer the matter to the Royal Court for ruling and, of course, it must be said that our court in Jersey has an incredibly high regard in the international community in terms of the judgments that it makes in terms of trust law. We imagine that that is going to be replicated in the field of foundations, and that is an incredibly important selling point for Jersey as a jurisdiction for trusts and, I hope in future, for foundations. Over the last decade the nature of financial services, capital markets and institutional business has changed and developed. The finance industry in Jersey has proved time and time again its ability to develop new products and services to meet both international demands, but also international standards. Our trust law is, quite rightly, regarded as one of the engines of the financial services industry which we have today. It is, in fact, a trust law which was first incorporated in Jersey and should be the source of all Members, past and present, of this Assembly, it has been copied in other jurisdictions. We have made a lot of updates to the trust law in recent times, but we must do more as some international jurisdictions are catching up. Jurisdictions which have traditionally not practised in the trust field, such as Switzerland, have now incorporated a trust law along Jersey's lines. In turbulent times it is even more important that we continue to be forward looking and take an active approach to the development of our financial services industry. Foundations are a key example of where we can take Jersey's financial services industry forward and Jersey will provide as a result of this law an innovative well-regulated and appealing wealth management vehicle which will serve to further strengthen Jersey's position as one of the world's leading international financial centres. I propose the preamble to the law.

The Deputy Bailiff:

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

5.1.1 Deputy R.G. Le Hérissier:

When the discussion occurred on non-profit organisations and the need for tighter regulation, there emerged this animal which I never quite understood of the charitable trust and I see this sort of animal has appeared in the foundation guise, and I wonder if the Minister could explain what a charitable foundation is, and is it a charitable body in the sense we understand bodies like the animal shelter and family nursing, for example, because it seemed in regard to trusts it may have been charity to each other rather than charity in terms of an altruistic body. So I wonder if he could define that. Secondly, in terms of the checks and balances built into the law, it talks on page 4 about a Jersey-based finance professional. What are the qualifications required of such persons and what are the qualifications required of a guardian? In other words, would a guardian necessarily be a lawyer, for example, or could a guardian be some other kind of qualified person. But much has been made of these checks and balances and it is important that the right people are in place.

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

Just briefly, in a similar vein to the last speaker; would the Minister in his summing up indicate to the House and outline the differences between a trust body and, indeed, a foundation.

5.1.3 Deputy G.P. Southern:

In the light of the reservations I expressed yesterday on this particular law, I am particularly concerned with the activities of foundations, in particular in Liechtenstein which are drawing the attention of the authorities, including the O.E.C.D. (Organisation for Economic Co-operation and Development) and the German authorities as well. The attention is on the use of such foundations in, as it says in the report at the bottom of page 3: “As well as being used for wealth management and estate planning, foundations may have applications in more specialised areas such as long term charitable aims or securitisations”, and it is that word “securitisation” which draws my attention to the fact that we are expanding our activities into an area in which the O.E.C.D. is particularly concerned at present because they are examining, as we speak I believe, the extent of the use of securitisations and trusts or foundations and they have played a role, perhaps a significant role, in the current credit crisis that we are undergoing. So I am concerned that the reputation of the Island is preserved and does not draw unwanted, and perhaps unwarranted, attention from O.E.C.D. in terms of the use of these sort of foundations for securitisation purposes which have been at the root, in many cases, of the problems we have today. I seek the assurance of the Minister that this is a safe route to go down rather than a risky route.

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

Just briefly, Members will be aware that I am employed out of this place by an Island finance group, however that conflict is neither direct nor financial so I will say a few words and will be voting. I would just like to welcome this piece of legislation and congratulate the Economic Development Department for bringing it forward in a timely manner. Unlike the last speaker I believe that at these critical times it is important that we do maintain our competitiveness; we will see that our competitors are only too eager to take business from our shore and it is important that we not only diversify our economy as a whole, which is extremely important and I am aware that the Economic Development Department is working towards that in other areas, but also that we continue to diversify our main industry as it stands now, which is the financial services industry. Members are aware that it is diversified, certain sections of that industry will come under continued pressure during a recession, particularly the banking sector. It will probably change; we will see it change from how it is today. But other areas of our industry, I believe remain strong and this will be an added tool towards that diversification of the financial services industry, so I would like to welcome this and I ask that Members do give it their full support today, and I welcome also the speed in which it has been brought forward.

The Deputy Bailiff:

I call upon the Minister to reply.

5.1.5 Senator P.F.C. Ozouf:

Some excellent questions. First of all, in relation to Deputy Le Hérissier and the question about a charitable organisation: a charitable foundation is a foundation set out for charitable purposes and so effectively it is envisaged that a number of charitable purposes could be ... or the vehicle of a foundation could be used for such charitable purposes. A trust could be similarly used as well. I am not sure that there is an easy link between these questions in regard to the definition of a non-profit organisation and a charity, there is work to be done and the Chief Minister’s Department is working on the whole issue of bringing into regulation the whole charitable sector which will cover all sorts of corporate entities in terms of their different corporate structure whether they be a trust or whether they be a foundation. Deputy Le Hérissier looks as though he wishes to intervene and I am happy to let him.

Deputy R.G. Le Hérissier:

If the Minister could be so kind, and perhaps the Solicitor General could be of assistance. Is a charity ... because this was the problem we were finding in analysing the N.P.O. (Non-Profit Organizations) Law, it sometimes appeared as even as if a charity was somebody's family, which I must admit was a bit perplexing. Could he say that a charity, once this work has been done, is indeed a properly constituted body in Jersey whose job it is to provide a service in what will be defined as a charitable sense? I know these all sound tautologies but could he talk on that?

Senator P.F.C. Ozouf:

I am sure the Solicitor General will be applying his better legal brain to mine, but I will have an initial go. I think the Deputy may be needing some assistance in explaining what a body corporate is. You can be a charity; we do not have a charities law which does not document and list and identify charities. At the moment you apply for charitable status by way of application to the Comptroller of Income Tax, which gives certain tax advantages, and other advantages. Now, the entity itself can be either potentially any number of body corporates. It could be an association of individuals of which there is liability. It could potentially be a trust, I guess. It could be, in future, a foundation. That is a separate set of arguments in terms of the issue of what we have before us, which is the setting up in statute of a separate type of legal entity which we will go on to discuss. I do not know whether the Solicitor General wishes to add anything on this particular point before I deal with the other issues.

Mr. T.J. Le Cocq Q.C., H.M. Solicitor General:

I am not entirely certain that there is a great deal that I could add to this. If a foundation is incorporated for a charitable purpose, it is that purpose that it must fulfil. Its charitable status will be entirely apparent in most circumstances, if not all, from its charter which is a public document, and the charitable actions that it has to undertake as a result of that stated purpose in the charter will be the responsibility firstly of its council to make sure it does, and if they do not do it then of the guardian. To that extent, if it is a charitable foundation it must behave for charitable purposes. There are legal definitions as to what amounts to a charitable purpose based on a 16th century statute of Elizabeth, but I will not try and remember all of the different public benefit purposes that will fall within the definition of a charity. I am not sure I can help further.

Senator P.F.C. Ozouf:

I am grateful for the Solicitor General. In relation to Deputy Le Hérissier's second question about checks and balances, I will deal with this in more detail when we deal with the individual articles. Suffice it to say that the professional requirements are under the Financial Services Law and the Codes of Practice in terms of what the standard of qualification must be for a regulated person. Of course, you have to be a regulated person in order to fulfil certain positions on the foundation. I will deal with those in more detail when we deal with the regulations themselves. Turning to Deputy Duhamel's question in relation to an explanation of the difference between a trust and a foundation. First of all, who are the likely users of a Jersey foundation? It is envisaged that a Jersey foundation will be primarily used for private and family wealth management purposes. The users will therefore be normally wealthy individuals, probably from civil law jurisdictions. Effectively the difference of a foundation over a trust; a foundation, like a trust, is a separate legal entity able to hold property and act in its own name so all liabilities remain corporate liabilities of the foundation and do not attach to the council members personally as opposed to a company. The difference between a trust and a foundation is that the founder has the option of maintaining effectively, and this is pretty well the crucial difference, of maintaining a greater control other than is possible with the operation of a trust. Family members, for example, could sit on the Council and be involved in the management of the family assets that are endowed in the foundation. The similarities are that they are going to be identically regulated in Jersey. The key question, which is turning to Deputy Southern's questions, are ... and I realise that yesterday he was concerned about the linkage with Liechtenstein, and indeed in my opening remarks I explained that Liechtenstein

does, in their Stiftung legislation, have a foundation. The difficulty that Liechtenstein has is that it has secrecy laws. It does not regulate its financial services industry in the same way that we do. First of all, it has banking secrecy. Secondly, it does not regulate its activities in the same way that we do. What we are seeking to do is we are seeking to maintain the same standard of international compliance that we have in Jersey, unlike jurisdictions such as Liechtenstein, but give the users or the potential users of Jersey as a jurisdiction for the management of wealth, the alternative corporate entity outside of the trust. So there are some crucial and important differences in terms of the foundation that has been discussed in the Assembly today with those foundations that are in Liechtenstein. I fully appreciate the concern that Members may have but I can, I hope, deal with their concern in saying that we do not have any of those negative connotations that have attracted such negative publicity that Liechtenstein does. We do see an opportunity in building some business from users that do want a regulated jurisdiction that does not have secrecy. I hope that deals with the Deputy's questions. He did raise the issue of securitisations, and indeed securitisations are perfectly legal, they have been a standard practice of raising capital and the difficulties of the credit market in the last few weeks is not entirely due, and the Deputy would be incorrect to simply suggest, as some commentators may, that it is due to securitisation that the credit crunch problems have happened. Indeed it is not Jersey that regulates ultimately banks. It is, as I am sure many Members will have heard, the Bank of England Governor speaking in a speech last night in relation to the new world of boring finance. That is a matter for jurisdictions and for central banks across the developed world. If they wish to change their rules in terms of liquidity arrangements, in terms of the ability of their banks and their regulated banks to engage in some off-balance sheet financing activities, then that is a matter for them. Jersey has represented itself extremely well and indeed the Scrutiny Panel of the House of Commons that we gave evidence to when they visited Jersey, and then the Isle of Man, were perfectly persuaded that Jersey, as an offshore financial centre, has not inappropriately or in any way negatively contributed to the credit crunch difficulties. There will be some commentators that will accuse offshore financial centres, such as Jersey, as being the source of the credit crunch and the illiquidity in financial markets. We would represent very strongly that that is not the case, and that is simply the fact that those are decisions for central banks and for regulators in other areas. Obviously there is going to have to be a completely new world of regulation in the world of international finance. But, coming back to the point, Deputy Southern raised the issue: was there going to be any risks associated with setting up a foundation law in Jersey in relation to securitisation? I would say no. I would say to him, and remind him, of the gold standard regulation that we have in trust, in terms of our regulated financial services industry, and this will be the gold standard of foundations that clients across the world seeking jurisdictions of quality will wish to use. I think that that dealt with all of the questions, unless there is anybody that wishes to raise a further question, and I move the preamble.

The Deputy Bailiff:

All those in favour of adopting the principles kindly show. Those against. The principles are adopted. I think I know the answer to this question, Deputy Southern, [laughter] but do you wish this matter to be referred to your Scrutiny Panel?

Deputy G.P. Southern (Chairman, Economic Affairs Scrutiny Panel)

Somewhat reluctantly, we do not.

The Deputy Bailiff:

Very well. Minister, how do you wish to take matters; in part?

5.2 Senator P.F.C. Ozouf:

I think this is an important law so I do propose to take it in its constituent parts. I will simply start with part 1 which covers the preliminary matters setting out the certain means of the terms in the law and I move Article 1.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on Article 1? All those in favour of adopting Article 1 kindly show. Those against. Article 1 is adopted.

5.3 Senator P.F.C. Ozouf:

Part 2 is Articles 2 to 33, I will take them as a part. Part 2 relates to the incorporation of foundations. Article 2 sets out how a qualified person may apply for the incorporation of a foundation on behalf of any person. The application must be accompanied by a copy of the proposed charter of the foundation, the published fee and a certificate signed by the qualified member making the application. Articles 3 to 6 provides that a foundation must have a charter specifying its name and objectives; the name of the foundation cannot be misleading or otherwise undesirable and must end in the word “foundation” or word that is the same in a foreign language. The objectives of foundation may be charitable or non-charitable and may be specified for purpose or to benefit of a person or group of persons. The charter may also contain the names and addresses of the first members of the council. Article 7 provides that a foundation need not be endowed when it is incorporated. If it does have an endowment on incorporation then this must be set out in the charter. Similarly if the foundation may be endowed after incorporation, this must be stated in the charter. Article 8 requires the charter of the foundation to provide what will happen to any remaining asset should the foundation be wound up and dissolved. Articles 9 and 10 sets out certain things that must be specified in the foundation’s charter. For example, if the foundation is incorporated for a specific term or until the happening of an event or it may be wound up by a person, this must be stated in the charter. The charter may provide for additional matters, for example, it may provide for how the charter itself and the foundation’s regulations may be amended in the future. Articles 11 and 12 require a foundation to have regulations to establish a council to administer the foundation’s assets and to carry out its objectives. The regulations must provide for the running of the council, must set out how decisions of the council are to be made. Articles 13 and 14 require a foundation to have a guardian appointed pursuant to its regulations whose function is to ensure that the council of the foundation carries out its functions; only the founder and the qualified member may simultaneously perform the functions both of a member of the council and a guardian. The guardian may require the council to account for the way in which it has acted or handled the foundation’s assets and may have the power to approve or disapprove certain actions of the council if accorded this power by its regulations. Articles 15 and 16 allows for the reimbursement of the expenses of persons appointed under the regulations and for the appointment of other persons to carry out functions for the foundation, for example, auditors or accountants, et cetera. Article 17, a foundation need not supply a copy of its regulations to any person except to a person appointed under the regulations. Article 18 allows the founder of a foundation to retain such rights in respect of the foundation and its assets that are set out in the charter or regulations unless the charter or regulations of the foundation provide otherwise. Pursuant to Article 19, a person other than its founder does not become a founder merely by endowing the foundation. Article 20 requires a foundation to have a council to administer its assets and to carry out its objectives. Article 21, the council may consist of one or more members but must include a qualified person appointed pursuant to Article 23. All council members must be at least 18 years old and disqualified members and directors of companies are excluded. The qualified member of the council must be a qualified person as defined by Article 1, namely of the Jersey Financial Services Commission under the Financial Services (Jersey) Law 1998, to carry out certain trust company business. Therefore, any registered Jersey trust company will automatically be qualified for the purposes of involving themselves in foundations. Article 22 requires the members of the council to act in good faith with a view to the best interest of the foundation and to exercise reasonable care and skill in doing so. Articles 24 to 26 pertain to the personal liabilities of members of the council, the rights and beneficiaries and the foundation’s obligation to provide information about itself. Of particular note is Article 25 which provides that a beneficiary under a foundation has no interest in the foundation’s assets and is not owed a fiduciary duty by the

council, however a beneficiary who is denied a benefit in contravention of the charter or regulations of a foundation may seek an order of the Royal Court. Article 27 sets out the grounds upon which the registrar may refuse to accept an application for incorporation of a foundation. Articles 28 and 29 pertain to the details that must be registered on incorporation. Articles 30 and 31 set out the corporate status and legal competence of a foundation. Article 32 provides that Jersey law is to prevail in respect of Jersey foundations and Article 33 provides that the rule *donner et retenir ne vaut* is not to apply in respect of Jersey foundations. I move Articles 2 to 33.

The Deputy Bailiff:

Seconded? [Seconded]

5.3.1 Deputy G.P. Southern:

Some questions in particular concerning what amounts, I believe, to privacy rules or some might call them secrecy rules. I note that in Articles 40 and onwards the powers of the Royal Court and the - I am just testing the context of the questions on these particular articles - and also in 40 that the register will be kept and made available to public inspection, that is the register. However, in Article 17 we find that supply of copies of the regulations of the foundation: "Unless the regulations of a foundation provide otherwise a foundation need not supply of its regulations to a person other than a person appointed under the regulations of the foundation." This is a fairly wide-ranging degree of privacy applied to a foundation which is then repeated in Article 26: "(1) Except as specifically required by or under this law or by the charter or regulations to the foundation, a foundation is not required to provide any person (whether or not a beneficiary) with any information about the foundation. (2) The information mentioned in paragraph (1) includes, in particular, information about (a) the administration of the foundation; (b) the manner in which its assets are being administered; (c) its assets, and (d) the way in which it is carrying out its objects." It seems to me this is a high degree of secrecy or privacy that is surrounding a foundation, and again, and I particularly have to worry about this use or the potential use of this to either launder money or to keep assets away in a non-legitimate way from another tax authority. So I would like that particular question around privacy and its potential use to be explained and why we should be putting an article that says: "Foundations are not obliged to provide information to anybody." Then, a second question, on Article 31, in particular, the legal competence of foundations: "(1) The doctrine of *ultra vires* does not apply in respect of a foundation. (2) Accordingly the capacity of a foundation is not limited by (a) anything in its charter or regulations; or (b) any act by a person appointed under the regulations of the foundation." That particular rule seems to say that a foundation may do what it jolly well likes and in or outside of its charter and its regulations, now the charter is published and regulated presumably, but notwithstanding that, this goal standard appears to say the foundation could do what it jolly well likes, which does not appear to make a very strong sort of regulation. Then in 33, just because I am an ignorant layman, I would like an explanation of *donner et retenir ne vaut*. Thank you.

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

Yesterday when I rose to speak about the wisdom or otherwise of Deputy Southern's proposal to pull this for scrutiny, I did fear that his own position as chairman of the Scrutiny Panel would be jeopardised had he progressed his last-minute plea to have it scrutinised and I am very pleased that he did reconsider, as I understood things, yesterday. What had happened was that Her Majesty's Attorney General had spoken with the Deputy and had allayed fears that he had in this regard. Although he did say this morning that he did not want to review it somewhat reluctantly, he has progressed now this morning into this article with questions specifically around the nature of privacy, which he has described as secrecy - which could be described as secrecy - and his concerns in particular in respect of money laundering, et cetera. I find it a little strange that during a global credit crisis, while Jersey is trying its best to maintain jobs for local people and retain its standing in the eyes of the world, during a critical time when Jersey is being inspected by international bodies,

that Deputy Southern has not managed to allay his fears in private with Her Majesty's Attorney General and chooses now to raise these issues as he has done. If there are issues about the nature of regulation checks and balances that the Deputy has concerns of, then surely he would have been wise to have spoken yesterday with Her Majesty's Attorney General and the Minister about these. I personally have spoken over the last one and half month's with numerous residents of Jersey who have shown concern about the global situation, as I am certain all other Members have as well. I have also been informed by somebody who works in the finance industry that at one stage one client moved their account to Switzerland because they were fearful. Thankfully, that fear has subsided and the panic has not set in. The nub of the matter is that there are other jurisdictions that do have far stricter controls about who looks into the privacy of individuals' matters. Unless we wish to see those migrate from Jersey then I think we need to conduct our scrutiny of these issues robustly, in open session, in open scrutiny, where members of the public can attend, and where also members of the Law Officers' Department, Her Majesty's Attorney General and the Minister are able to set aside and allay their fears. I am disappointed the Deputy chooses to ask these questions and raise these issues. No doubt the Minister will set our minds at rest. The point I would like to make is if we do not have the money there are plenty of other people that will take it. We are not going to have much of a social service if we do not have a finance industry.

The Deputy Bailiff:

Does any other Member wish to speak on any of these particular articles? Deputy Le Hérissier?

5.3.3 Deputy R.G. Le Hérissier:

I think the answer to Deputy Le Claire's point is at the moment we do not have legislative scrutiny and I am rapidly coming to the conclusion we do need it fairly quickly. The points I would raise, the point I raised with the Minister under 14, the guardian; the guardian, it seems, can be the founder of a foundation and the qualified member of its council. I thought the guardian was a totally separate person whose job was to exercise oversight at arm's length. I would be obliged if we could look at that. On Article 24, in terms of insurance coverage, why is it put in Article 24(3)(a): "Any liability the person may incur to the foundation is not covered by the insurance"? That seems rather strange. I wonder if he could explain that? I support, under Article 31, Deputy Southern's point about *ultra vires*. It may be the Solicitor General will be able to clarify that because it does look incredibly wide-ranging and excusing of all sorts of issues, perhaps. Thank you, Sir.

5.3.4 Deputy I.J. Gorst:

I am sure the Minister does not need me to rise but I will just briefly say it does seem that my colleague sitting in front of me seems to be somewhat confused by the difference between secrecy and privacy. Some jurisdictions do have secrecy laws; we are not one of those jurisdictions. What we do find is that wealthy individuals from perhaps the Middle East or the Far East are most concerned for their privacy. A lot of that revolves perhaps around their family and personal situations and we must be aware of that and ensure that our projects allow for what we might consider to be reasonable privacy. The other points that the Deputy makes, he seems to forget - or perhaps he just does not understand, but I hope that is not the case - of the qualities of a qualified person and the regulation within which they work, say. The doomsday scenarios which he purported to suspect that this product ... the outcome could be are just not possible. That is the whole point of the qualified person and the legislation and the quality of the legislation that we have in this jurisdiction that surrounds the qualified person. I am disappointed with that, but I am sure that the Minister will be able to deal with the other issues of language which are beyond me. Thank you, Sir.

The Deputy Bailiff:

Does any other Member wish to speak on any of these particular Articles? Very well, I call upon the Minister to reply.

5.3.5 Senator P.F.C. Ozouf:

I give notice to the Solicitor General that I will seek his assistance in explaining to the Assembly a couple of legal terms; Article 33, if the Solicitor General could assist me in that particular respect. I will deal with the issue of *ultra vires*. This is the same, I need to say to Deputy Southern, as Company Law and it is perfectly standard. I do not know whether the Solicitor General wishes to add anything else in relation to this, but my understanding is that this is a standard definition within Company Law. Can I ask the Solicitor General to deal with those 2 issues?

The Solicitor General:

Yes, I do not think I can say any more at this point other than to say that the doctrine of *ultra vires* is a doctrine within the Law of Companies and it obviously relates to the ability or otherwise for a company to do anything which is expressly outside of its memorandum and articles of association, the purposes for which it is created. The essential doctrine - and I have not been able in the short time available to look at its continued applicability - is that a company cannot do anything validly which is completely outside the terms of its memorandum and articles of association. There is an area of its activities which can be ratified by shareholders and an area which is so far outside its purposes that it cannot. That is a doctrine which certainly has given rise to a great deal of case law in the area of company disputes and a lot of decisions of the courts, including decisions of the House of Lords, as to what kind of activities fall within the *vires* of a company and implied within the *vires* of a company, and those which do not. The principal purpose of the *ultra vires* doctrine historically, as I understand it, was to protect investors and shareholders in a company and not third parties. It effectively meant that if you invested in a company as a private investor on the understanding that a company could only do A, B and C, you were entitled to rely on the fact that it would only do A, B and C. Whether that doctrine should be applicable of course to foundations is not a matter of straight legal advice, but it seems to me that a foundation is a very different kind of animal where you do not have private investors who might lose their money because it has been invested for a different purpose, but rather you have people who endow on a foundation in the understanding and in the knowledge that the *ultra vires* doctrine does not apply to that endowment. I think the doctrine, as I say, was originally intended to protect investors and shareholders in the company and a foundation is a rather different animal than that. That is all I can say about *ultra vires*. I wonder if it is useful now to deal with the *donner et retenir ne vaut* point? *Donner et retenir ne vaut* again has been the subject of cases before the court, notably the case of *Rahman*, which took a great many years of the court's time and the principal argument was to whether or not that maxim applied in the context of a trust. Effectively it is a fundamental maxim of Jersey Law which says that you cannot both give something and retain the power over it and the context of that within a trust, of course, was that if a settlor, for example, purportedly gave an asset on to trust but thereafter sought to exercise control as if the trust simply did not really exist, then he would have been in breach of the maxim *donner et retenir ne vaut* and his gift into trust would effectively have been invalid. The reason, of course, that it needs to be removed expressly from the foundations law, as I understand it from my reading of it yesterday, was that it is inconsistent arguably with the purpose of the foundations law, which is to enable the founder and people in right of the founder to retain rights, including in some cases dispositive rights over the assets. That should be entirely clear from the constitutional documents from the foundation. In other words, this in effect prevents a problem which has plagued trust law, and my understanding is that the amendments to the trust law have effectively removed the maxim of *donner et retenir ne vaut* in connection with trusts and this simply mirrors those provisions.

Senator P.F.C. Ozouf:

I am grateful for the Solicitor General's explanations. At this point I would say to Deputy Le Hérisier that I agree with the need for legislative scrutiny and it is ... I do not want to in any sense rub salt into wounds, but we have asked for legislative scrutiny of the financial services programme of legislation. I do think it is something that the new Assembly and Scrutiny do need to deal with. That is why I asked repeatedly the Scrutiny Panel, which concentrates exclusively on economic development, I highlighted the importance of this legislation and wanted it to be scrutinised. It would have been far better if we would have been able to have a public, open scrutiny session that we could have dealt with a number of these important questions which have been raised in public sessions which would have then benefited the Assembly when we are taking the law. I really do think there is an issue there. Knowing that the Scrutiny Panel has not carried out that scrutiny, what I can say to the Assembly is that there has been an enormous amount of work done by industry professionals, and by Jersey Finance, and with the extremely helpful engagement of the Law Officers, in relation to every single last word, every single last comma in this law. It has been through extensive review, extensive drafting and extensive consultation, which I hope gives the Assembly some comfort. Of course, it would be ideal that one could explain that in the context of legislative scrutiny. Certainly, what the Assembly has before it is the product of a considerable amount of work. Deputy Southern raises issues - and Deputy Gorst, I am grateful of his intervention - dealing with the issue of privacy versus confidentiality. Nobody can see my bank account details and equally you cannot see the details of a trust deed. He links the issue of privacy and confidentiality and confuses it straight away in the issue of ... and raises the spectre that there is somehow some risk of money laundering. This Assembly has passed numerous pieces of legislation dealing with money laundering, and a regulated person, and indeed many other businesses in Jersey, have the obligation to notify the Joint Financial Crimes Unit of suspicious transactions. There is no slackening, no reduction in the standards, no loosening of our standards of anti-money laundering legislation and the use of Jersey vehicles for inappropriate activities than anything else in our trust company and other businesses. That is why I say that Jersey, with its regulated trust business, with the standard of regulation that we have within the financial services industry, with the expertise that exists within the industry, and the response that the industry gets from the Joint Financial Crime Unit, and with the Law Officers and our enforcement agencies, means that our foundations will not ... it would be unwise for anybody to attempt to use a Jersey foundation for such activities. The issues of, I think, the transferring of information, they deal with the personal matters of individuals and the Assembly is well aware, and indeed will be invited, to sign up on a personal level to other exchange of information agreements and, indeed, I ... but that is nothing to do with foundations and trusts; that is the personal aspects of individuals' financial transactions. I had notice yesterday of a very interesting meeting in Paris from the O.E.C.D. in which Jersey was indeed praised among the international community for its proactive stance in terms of signing tax information exchange agreements, of which this Assembly will consider. The Chief Minister will of course be in the Nordic, in Helsinki, to sign 5 countries, and we have an ongoing programme. What Jersey requires is a level playing field. We will adapt it, we will of course always argue for the level playing field, but we will comply with international standards. These foundation arrangements comply with international standards. Deputy Le Hérisier raised the issue of a guardian. The guardian is the individual. The idea of the guardian is that it is effectively going to be a trusted friend or perhaps a lawyer and there is no qualification for the role of guardian; it could be a regulated person, it probably will be. In many cases it will be a lawyer or an accountant or a trusted friend of the individuals involved in the family wealth or for the purposes of the activity of the foundation. That is separate from the regulated entity. I think it has been an incredibly novel concept to include the requirements of a regulated individual on the foundations and the guardian which protects. This is checks and balances at its best in terms of that. The regulated person of course is a professional person that is regulated by the financial services industry, and that is going to be ... and it is a combination of both the guardian and the regulated person, which will be able to enable the checks and balance and the foundation council to be held to account for standards, but also the responsibilities of the people endowing the foundation with

assets; the guardian, as I say, in an evolution on our foundation law. I think that the Solicitor General kindly dealt with the questions. *Ultra vires* doctrine removed; yes, I think we have dealt with that. I think that we have also dealt with the issue of *donner et retenir*. I move Articles 2 to 33, unless there are other questions.

Deputy R.G. Le Hérissier:

If I may, a point of clarification. My point about the guardian was that the guardian would be the defender of propriety, so to speak, on the foundation. Yet we have this notion that the guardian can in fact be a member of the council or can, in fact, be the regulated person. I thought the 2 individuals played separate roles or should be playing separate roles.

Senator P.F.C. Ozouf:

They are 2 separate roles and will not be the same individual, the guardian. What I did say is that a guardian could be a regulated person, so you could end up effectively with the members of the council having more than one regulated person. The legislation sets out the requirement for at least one regulated person in order to have the standards of the financial regulation that applies to Jersey. I do not think I answered the question that Deputy Le Hérissier had in relation to Article 24(3)(a). This means that no protection for liabilities of guardian or regulated person if there is no protection for liability if the regulated person steps outside the purposes of the foundation. That is the reason for that. I move Articles 2 to 33.

The Deputy Bailiff:

All those in favour of adopting Articles 2 to 33 kindly show? Those against? Articles 2 to 33 are adopted. Do you propose the next part then, Minister, which is part 3?

5.4 Senator P.F.C. Ozouf:

Part 3 deals relates to the administration of foundations. Article 34 sets out how documents may be served on a foundation. Articles 35 and 36 require a foundation to include its name and its business address in Jersey in written communications and to keep documents there. Article 37 requires a foundation to pay certain fees and charges. Article 38 sets out how a charter of a foundation may be amended. I move part 3.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on any of Articles 34 to 38? All those in favour of adopting those Articles kindly show? Those against? Those articles are adopted. Part 4, Minister?

5.5 Senator P.F.C. Ozouf:

Part 4 of the law comprises 39 to 42, which provide for the keeping and availability of a register for the purposes of this law. I move Articles 39 to 42.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on any of those articles?

5.5.1 Deputy R.G. Le Hérissier:

Just a minor point, why is it so important that a change of number by the Registrar be built into the law and there be a notification?

The Deputy Bailiff:

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

5.5.2 Senator P.F.C. Ozouf:

The registration number is something that is going to obviously be important because it is the number that you can deal with that you can identify what the foundation is. Clearly, if it changes, for whatever reason, it seems quite clear that for whatever reason the Registry, which is a well functioning ... the registration number changes then it seems perfectly clear that there should be a legislative provision, or statutory provision, for the Registrar to inform the foundation that the number has changed because it may be included in documentation, in letterheads, et cetera, of the foundation.

The Deputy Bailiff:

All those in favour of adopting Articles 39 to 42 kindly show? Those against? They are adopted. Part 5, Minister?

5.6 Senator P.F.C. Ozouf:

Articles 43 to 51 set out the power of the Royal Court with regard to ordering persons to comply with obligations, ordering amendments to its charter or regulations, giving directions in appointing and dismissing the qualified member, and sets out time limits as to when certain actions may be brought. I would just say that the standard of, which as I said in my opening remarks, judgments in the Jersey Royal Court is something that is a key aspect to the offer for trust business in Jersey. I have no doubt that the Royal Court in its determinations and its decision making will be a key part of the quality gold standard of the future foundations in Jersey. I move Articles 43 to 51.

The Deputy Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on any of Articles 43 to 51?

Deputy R.C. Duhamel:

Can we have an appel, please?

The Deputy Bailiff:

Very well, the appel is called for in relation to Articles 43 to 51.

POUR: 32

CONTRE: 0

ABSTAIN: 0

Senator M.E. Vibert

Senator P.F.C. Ozouf

Senator T.J. Le Main

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. Martin

Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy P.N. Troy (B)
Deputy C.J. Scott Warren (S)
Deputy R.G. Le Hérisier (S)
Deputy J.B. Fox (H)
Deputy S.C. Ferguson (B)
Deputy of St. Ouen
Deputy of Grouville
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy 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:

Do you propose parts 6 and 7 together, Minister?

Senator P.F.C. Ozouf:

Yes, please. As amended. Article 56, substitution, paragraph (1).

The Deputy Bailiff:

Very well. The Member agrees to take that article as amended by the Minister himself.

5.7 Senator P.F.C. Ozouf:

Part 6 contains certain amendments to the existing law. Article 52 permits the States, in the interest of expediency, to amend part 1 and part 2 of the law by regulations. Articles 53 to 55 make consequential amendments to the Companies Law, Bankruptcy Law, and the Financial Services Law for certain provisions to ensure regulations, et cetera. Part 7 contains the closing provisions of the law. Article 56 allows the States to make regulations and is permitting foundations incorporated outside Jersey to consider in Jersey, foundations incorporating Jersey to continue

outside Jersey, and foundations to merge. In order to keep options open, Article 56(1)(d) has been amended so that it enables the States to make recommendations providing for the merger of a Jersey foundation with any body corporate, including an overseas body. The amended article will enable the States to make regulations providing for the continuation of any body corporate, including an overseas body, as a Jersey foundation. Finally, Article 57 provides for the citation and commencement of the law which will come into force 28 days after it has been registered in the Royal Court. I move Articles 52 to 57.

The Deputy Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on any of those Articles? Very well. All those in favour of adopting Articles 52 to 57 kindly show? Those against? Those articles are adopted. Do you propose the Bill in Third Reading, Minister?

5.8 Senator P.F.C. Ozouf:

I do. I am grateful for Members' support and certainly for the decision of Scrutiny. If Members have got questions or further queries that they have in relation to some of the more technical aspects, I stand ready to explain to Members any questions that they did not want to raise. I would also like to recognise the very extensive work that has been carried out by my officials within the Chief Minister's Department in this respect for the development of this law, but also the very positive engagement of the industry. A number of individuals have spent a great deal of time, in order, in debating, in analysing, in proposing changes to the law. There has been a very healthy debate within the financial services community of the need for foundations. There has been a lot of innovative work in order to get the best foundations law for Jersey that will be of the best economic interests of Jersey. I also would draw Members' attention to the fact that we have been explaining to the international financial services community the imminent, subject to States approval and Her Majesty's approval of the legislation, arrival of foundations. We regard this as a key opportunity for building good quality business, high quality business, that otherwise would not be attracted to the Island and I am grateful for Members' support.

The Deputy Bailiff:

Does any Member wish to speak on the Third Reading?

5.8.1 Deputy I.J. Gorst:

Perhaps I just want to re-raise the point of legislative scrutiny. I think this is an excellent piece of legislation, but it does remind me that we have this year passed numerous amounts of legislation in specific regard to the financial services industry and the visit of the I.M.F. (International Monetary Fund). Officers have worked long hours to get those ready and we hope that that will produce fruit in due course. I have had it pointed out to me and I feel that we probably, as a Chamber, are being remiss in that we have not scrutinised those pieces of legislation in the way that we ought to have done and in a way that I understand that Scrutiny should work. I believe that for the new House that is something that we need to take on board and ensure that these critical pieces of legislation that affect our main industry are scrutinised not just properly, but also in a timely fashion. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak on the Third Reading? Do you wish to reply, Minister?

5.8.2 Senator P.F.C. Ozouf:

I would just say 2 things. First of all, I wish to extend my thanks to the Jersey Financial Services Commission who I omitted to include from the list. They have been a key consultee in this regard. If I may just add to what Deputy Gorst said, I think the real issue is that there has been scrutiny of this legislation, but it has been done in private, it has been done in the confines of the boardrooms of Jersey Finance, of the Commission, of the Law Society, of other groups of working parties that

have been set out. The key additional comfort, I think, that is expected of this Assembly is that scrutiny does, at some point, happen in public in a recorded manner, in a documented manner, in public. The challenge for the Assembly is that I am not a lawyer, I am not a trust expert, and I must take advice and this Assembly takes advice. We have the excellent officers of the Law Officers and other advisers, but at the end of the day, politicians must engage. Perhaps I just offer as one option for Members to consider; the Public Accounts Committee comprises of Members of this Assembly and other appointed individuals and maybe the solution for legislative scrutiny, is for Members to be joined on a Scrutiny and Legislative Panel with perhaps a panel of lawyers and that lawyers could sit with States Members in order to carry out that public scrutiny. I do think we do have a piece of good legislation here. It has been scrutinised. The problem is it has not been scrutinised in the public manner in which Deputy Gorst raises. I move the Bill in Third Reading.

Deputy R.C. Duhamel:

Can we have the appel, please?

The Deputy Bailiff:

The appel is called for in relation to the Third Reading.

POUR: 36

CONTRE: 0

ABSTAIN: 0

Senator M.E. Vibert

Senator P.F.C. Ozouf

Senator T.J. Le Main

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. Martin

Connétable of St. Saviour

Deputy R.C. Duhamel (S)

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Deputy C.J. Scott Warren (S)

Deputy R.G. Le Hérisssier (S)

Deputy J.B. Fox (H)

Deputy J.A. Martin (H)

Deputy S.C. Ferguson (B)

Deputy of St. Ouen

Deputy of Grouville

Deputy of St. Peter

Deputy J.A. Hilton (H)

Deputy P.V.F. Le Claire (H)

Deputy J.A.N. Le Fondré (L)

Deputy D.W. Mezbourian (L)

Deputy of Trinity

Deputy S.S.P.A. Power (B)

Deputy A.J.D. Maclean (H)

Deputy K.C. Lewis (S)

Deputy of St. John

Deputy I.J. Gorst (C)

Deputy of St. Mary

6. Draft States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. and P.P.C.) (Amendment) (Jersey) Regulations (P.145/2008)

The Deputy Bailiff:

We come next to the Draft States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. and P.P.C.) (Amendment) (Jersey) Regulations, projet 145, lodged by the Privileges and Procedures Committee and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. and P.P.C.) (Amendment) (Jersey) Regulations 200-: the States, in pursuance of Article 49 of the States of Jersey Law 2005, have made the following regulations.

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

In 2006, as part of the process of drafting a Code of Practice, the Chairmen's Committee was advised it was inappropriate that technical advisers to P.A.C., Scrutiny Panels and Sub-Panels, should be permitted to ask questions during Scrutiny sessions as they were not panel members. In 2007, the States adopted an amendment to the States of Jersey Law that allowed the States

Assembly to make regulations that extended legal immunity to technical advisers as that enjoyed by States Members and witnesses. The Chairmen's Committee now feel that on occasion it would be easier if the technical expert was able to pose a question directly, rather than through a panel member as at present, and this is the reason for this regulation that I propose.

The Deputy Bailiff:

Seconded? [**Seconded**] Sorry, Deputy of St. Peter, I am hoping you will not leave because your Scrutiny Panel is responsible for this, so if you would not mind remaining just for a moment. Does any Member wish to speak on the principles of the regulations? Very well. All those in favour of adopting the principles kindly show? Those against? Deputy, this is your moment. [**Laughter**]

Deputy C.H. Egré of St. Peter (Vice-Chairman, Corporate Services Panel):

We will not.

The Deputy Bailiff:

Thank you. Chairman, do you wish to propose the regulations *en bloc*, Regulations 1 and 2?

6.2 The Connétable of St. Clement:

I do and I propose them.

The Deputy Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on either of the regulations? The Deputy of St. Martins?

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

I think this is welcome, probably a long time coming to the House but of course everything does take time. Could I just seek clarification? Having been previous members of both the Shadow Scrutiny and of actual Scrutiny itself, the grey area as where a technical adviser or a consultant could ask questions of a States Member, will the protection given now to consultants, enable those consultants to question States Members on Scrutiny?

The Deputy Bailiff:

Does any other Member wish to speak? Deputy Southern?

6.2.2 Deputy G.P. Southern:

In order to more efficiently run Scrutiny Panels, I believe this is a step completely in the right direction; it has my full support.

The Deputy Bailiff:

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

6.2.3 The Connétable of St. Clement:

I thank the 2 Members for their contribution and I can confirm to the Deputy of St. Martin that it will be possible for that to happen.

The Deputy Bailiff:

Sorry, I am just checking whether we are quorate. Very well. All those in favour of adopting Regulations 1 and 2 kindly show?

Connétable A.S. Crowcroft of St. Helier:

Can we have the appel, please?

The Deputy Bailiff:

The appel is called for in relation to Regulations 1 and 2.

POUR: 30

CONTRE: 0

ABSTAIN: 0

Senator M.E. Vibert

Senator T.J. Le Main

Senator B.E. Shenton

Connétable of St. Ouen

Connétable of St. Mary

Connétable of St. Peter

Connétable of St. Clement

Connétable of St. Helier

Connétable of St. Lawrence

Connétable of Grouville

Connétable of St. Brelade

Connétable of St. Saviour

Deputy R.C. Duhamel (S)

Deputy of St. Martin

Deputy G.C.L. Baudains (C)

Deputy C.J. Scott Warren (S)

Deputy R.G. Le Hérissier (S)

Deputy J.B. Fox (H)

Deputy J.A. Martin (H)

Deputy G.P. Southern (H)

Deputy J.A. Hilton (H)

Deputy P.V.F. Le Claire (H)

Deputy J.A.N. Le Fondré (L)

Deputy D.W. Mezbourian (L)

Deputy of Trinity

Deputy S.S.P.A. Power (B)

Deputy A.J.D. Maclean (H)

Deputy K.C. Lewis (S)

Deputy I.J. Gorst (C)

Deputy of St. Mary

Do you propose the regulations in Third Reading, chairman?

The Connétable of St. Clement:

I do.

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? They are adopted in Third Reading.

7. Draft Prison (Amendment No. 6) (Jersey) Law 2007 (Appointed Day) Act 200- (P.146/2008)

The Deputy Bailiff:

The next item of Public Business is the Draft Prison (Amendment No. 6) (Jersey) Law 2007 (Appointed Day) Act, projet 146 lodged by the Minister for Home Affairs. I will ask the Greffier to read the Act.

The Greffier of the States:

Draft Prison (Amendment No. 6) (Jersey) Law 2007 (Appointed Day) Act 200-: the States, in pursuance of Article 5 of the Prison (Amendment No. 6) (Jersey) Law 2007, have made the following Act.

7.1 Deputy A.D. Lewis of St. John (The Minister for Home Affairs):

Straight into the hot seat, one might say. Before I go on to the Appointed Day Act, there are a couple of things I would like to say just to set the scene. I did not have the chance to speak at length earlier on and I do not think the Assembly wished that at the time, but there are a couple of things I would like to say. The task that I have been asked to perform by the Chief Minister is somewhat onerous, but I firmly believe that I have got a hard act to follow. I, like the Chief Minister, am disappointed that the Minister has chosen to resign at this time; however, I feel privileged to have been asked in the last few weeks of my term to undertake the role of Minister for Home Affairs. In the short time that remains of my term, I am not going to suggest to Members that I am suddenly going to introduce a raft of new policies and procedures. This is simply not practical and for that matter I do not even deem necessary. I will, however, endeavour to ensure that the department continues to function at its current highly professional and competent manner and to facilitate a smooth handover to whomever my successor may be. With that, I go on to this item, the Prison (Amendment) (Jersey) Law (Appointed Day) Act. Article 29 of the Prison (Jersey) Law 1957, the principal law, affords the Minister for Home Affairs the power to make rules in respect of the regulation and management of the prison and attendance centres respectively and for the classification, treatment, employment, discipline and control of people who are required to be detained there. The new prison rules that came into force during 2007 did not give officers the power to carry out mandatory drug tests on prisoners, the presence of controlled drugs and/or alcohol; nor did they make provision for employees within the prison, other than prison officers, to conduct searches of prisoners for unauthorised property and to seize any such property found. An amendment to the principal law was required to make provision for the above in the prison rules. A system of voluntary drugs testing is currently in operation at the prison and any prisoner who wishes to achieve enhanced status needs to provide negative samples for a period of 3 months. While many prisoners do volunteer there are others who do not and will decline to provide a sample

for a drugs test on request, even when targeted on security grounds. The introduction of a mandatory system will allow such prisoners to be placed on disciplinary misconduct reports, which will in turn attract a disciplinary award. This would introduce an immediate consequence for refusing to provide a sample for drug-testing purposes and should encourage prisoners to give full co-operation rather than relying on the local incentive scheme for progression to the enhanced area, which many prisoners choose not to pursue in any case. While the changes in the law in the prison rules will give authority to request urine samples, the current practice of using saliva swabs is likely to continue. This is much easier to administer and there will be no increase in the costs associated with drug testing. I will just speak briefly about searching a prisoner. At present, as I said, only uniformed prison officers can carry out searches on prisoners and in many parts of the prison, prisoners are under direct supervision of civilian staff and they have to await the arrival of prison officers to carry out such searches as prisoners enter or leave activity areas. This places a significant burden on the establishment to have prison officers supplement the areas controlled by civilian staff. The provision in the law will now permit the civilians and operational support grade staff to carry out the searches. This will speed up the movement of prisoners around the establishment and assist also in reducing the amount of overtime currently worked by prison officers. Sir, I propose the Bill.

The Deputy Bailiff:

Is the Act seconded? **[Seconded]** Does any Member wish to speak on the Act? Deputy of St. Martin?

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

I will just raise the thorny issue again, which I did speak about when the Bench took us through the House, and just seek assurances from the Minister that when we look to same sex searches - I think that Deputy Mezbourian is also on the same track - because it has been of concern to me and I know certainly members of my former panel, that when these new people, or the people who are now going to be organised to carry out searches, quite clearly they will not be - or some of them will not - prison officers and I am concerned they will have the sufficient training to ensure they do carry out their task in an able manner. I also seek assurances from the Minister that if there are members of civilian staff who are female and choose not to carry out a search on someone who is a male, can I have an assurance that they will not be liable for any disciplinary matters? Because I think it is quite unfair to ask a female to search a male and vice versa. I would seek that assurance.

7.1.2 The Connétable of St. Helier:

While not strictly speaking relevant to the security matters we are discussing this morning, I thought I would just ask the Minister to really confirm and to share my support for the excellent work being done by Prison! Me! No Way! in our Island. The reason I was late this morning was because I was at Haute Vallée School where the team is making a presentation to year 8 students along with the Attorney General and the Chief of Police. I am sure Members will agree with me that as much as we want our prison to be well resourced and effectively managed, by far the best solution is that our Islanders do not end up there in the first place and the work of Prison! Me! No Way! must be supported in the future. Thank you, Sir.

7.1.3 Senator J.L. Perchard:

Similarly, could I just ask the Minister if he is aware of the improvements in technology that allow for the disablement of mobile phones once they have entered into a prison environment? Is he aware of the technology that allows the disablement of phones and will he undertake to explore the introduction of this technology in the prison?

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

I will be supporting this proposition. On a recent visit to the prison I was made aware by the prison officers that there is still the need for significant overtime there. Their shifts are still not as they should be and if this measure is obviously going to help.

The Deputy Bailiff:

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

7.1.5 The Deputy of St. John:

I thank Members for their questions and particularly the Deputy of St. Martin for his continued interest in Home Affairs. His questions are always thought provoking and searching and they should be asked and I thank him for his interest. He has consistently asked this question about same-sex searches and I can assure him that certainly officers will not be made to make such searches if they choose not to. If I could add further to that operational support grade staff and civilian support grades who manage the work areas, the catering areas and the horticulture and work sheds, they will have the powers to search, but they would be grade 7 or above and we would not extend this ability to search to education tutors or drug counsellors. In other words, they are qualified, trained prison staff - uniformed staff, in fact, in most cases - and they are trained in exactly the same search procedures as prison officers. Within the prison rules, it does permit female staff to search male prisoners, but only with the prisoner's consent. If a prisoner refuses, a male member of staff has to be summoned to do the search. Male staff cannot search female prisoners. As I said earlier, certainly staff who do not wish to search any particular prisoner, no matter whether it be a same-sex issue, will not be disciplined for not doing so. I thank the Constable of St. Helier for his kind words about Prison! Me! No Way! The Prison! Me! No Way! scheme is a very successful scheme. We do not yet have any figures that tell us exactly what the impact of the scheme is, it is a bit too early, but anecdotally there is some suggestion that it is having a huge impact on young people's view on the world and the view on potentially committing crime. I have been to a number of presentations and it is quite powerful stuff and I am sure the Minister for Education, Sport and Culture will agree with me. If other Ministers and other Members of this House would like to see one of the presentations, I would welcome their attendance and I am sure we can arrange it for them to do so. It is a very powerful presentation, so I thank the Constable. Senator Perchard mentioned mobile phones. This is a problem in all prisons, unfortunately. The blocking of a signal I thought would be the easy solution and it is clear the Senator thinks the same, but unfortunately, due to the extension of the Telecommunications Act from the U.K. (United Kingdom) to Jersey, it is a bit of problem in blocking the signal, but it is something that I am looking at because it is something that can be easily solved through technology and we would like to solve it through an amendment to the Telecommunications Act. Unfortunately, it is not our Act; it is one that is extended to us by the U.K. and the U.K. has exactly the same problem. There is also another issue technically with if you block the signal at the prison it can easily block the signal to nearby homes as well. With the prevalence of mobile phones being used sometimes instead of land lines, that is an issue. Technically, I believe that one can be resolved.

Deputy K.C. Lewis of St. Saviour:

If I can be of assistance to the Minister? I brought this up about a year ago with the former Minister for Home Affairs. Apparently it is illegal on 2 counts: (1) to make an illegal transmission to the telecom system and (2) to interfere with the telecoms signal. As the Minister quite rightly pointed out, it would have an effect of about a 2-mile radius.

The Deputy of St. John:

I thank the Deputy for his comments. Exactly my point. Currently, it would be illegal to block the signal, but I believe that there must be some ways around this and if we prepare to have our own

telecommunications law then we could easily achieve it. If the Senator would like to discuss the matter offline I would be more than happy to do so.

Senator J.L. Perchard:

If the Minister would give way just for a moment; of course, we are the legislature here and to talk about legality, this is where we make those decisions.

The Deputy of St. John:

The Senator is quite right but some laws are extended to us from the U.K. and the Telecommunications Act is simply one of them. If we wish to choose that, that is a matter for this House and it is certainly something that perhaps we should look at if you want to resolve this particular issue; however, that may be able to be resolved by liaising and negotiating with the U.K. Government who have the same problem in their own prisons. Deputy Scott Warren asked about overtime. This will have quite a big impact on overtime as currently we have to use highly qualified, highly trained prison officers to do searches in between breaks and in between different areas of the prison, which is very time consuming and does result in extra overtime. The other element of overtime which has been reduced significantly in recent years as a result of recruitment is an ongoing issue, but we are currently undertaking, as Members may have noticed, a quite high-profile recruitment drive. If we fill all the vacancies we have for officer support grades and prison officers as well, most of the overtime will be mitigated. Unfortunately, it is a political situation and things do change on a regular basis; therefore, I cannot guarantee that overtime will be reduced completely, but that is our objective is to reduce it significantly and we have already achieved that to a great extent. Unless there are any further questions, I propose the Act. Thank you.

The Deputy Bailiff:

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

8. Draft Boats and Surf Riding (Control) (Amendment No. 28) (Jersey) Regulations (P.148/2008)

The Deputy Bailiff:

The next matter is the Draft Boats and Surf Riding (Control) (Amendment No. 28) (Jersey) Regulations, projet 148, lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Boats and Surf Riding (Control) (Amendment No. 28) (Jersey) Regulations 200-: the States, in pursuance of Article 4 of the Harbours (Administration) (Jersey) Law 1961, have made the following regulations.

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

May I ask that Assistant Minister Deputy Maclean acts as rapporteur for this and the subsequent item please?

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

Jersey Harbours provides the coastguard service for the Island and territorial waters. These regulations are intended as a means of maintaining information for sea rescues purposes organising mooring space, checking insurance and promoting safety at sea, depending on the type of craft. It is recommended that the fee should be increased by R.P.I.Y. (Retail Price Index excluding Mortgage Interest Payments and Indirect Taxes) of 3.9 per cent from 1st January 2009. There are no additional financial or manpower implications for the States arising from the adoption of these draft regulations. I propose the amendment.

The Deputy Bailiff:

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

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

I am somewhat concerned because, again, there appears to be a contradiction in policy. Harbours are presently engaged in growing the marine leisure industry, but once again, almost on an annual basis, I think it is, we see charges being raised in the marine leisure above that applied and agreed by this House to other areas of States charges, namely 2.5 per cent. I think the rate is also slightly misleading because the fees were last raised as recently as March this year, but the proposed charges apply from January next year, which is a 9 month period, not 12 months, which according to my simple mind makes the rise something like nearer 5 per cent than 3.9. I am, and have been for some time, concerned at the way the ministry appears to treat leisure boat owners. It is obvious that some expensive boats are owned by very rich people and owned by companies, but I think we seem to forget a majority of boats around our harbours are in fact owned by working class people or those who are retired and it is high time that the whole, in my view, harbour charges underwent a comprehensive financial assessment.

8.1.2 Deputy R.C. Duhamel:

A minor point, but I will make it anyway. The Assistant Minister has indicated from the front page, page 3, that the recommended fees be increased by 3.9 per cent. In actual fact, I am told by him that there is an additional rounding that takes place, so on page 5, under 1.3 and 1.4, the 3.9 per cent applied with the rounding has gone up to generate an increase of 4.76 per cent in the case of 1.3, and 5.56 per cent in the case of 1.4, and in actual fact, a different policy has been applied in relation to item 1.2 in that the 3.88 per cent increase or 3.9 per cent increase as applied to £16 came out to £16.62 and I am told that the rounding has not been applied in this case for whatever reason. I just make the point because, in common with the previous speaker, if we are being told that prices are rising by 3.9 per cent, one would expect the departmental officers to get their calculations correct and to apply them consistently across the board, which they do not appear to have done.

8.1.3 The Deputy of St. Martin:

I would like to follow, and congratulate, Deputy Duhamel on what he is saying because I too am concerned. It is all too easy to throw or accuse businesses of rounding up, certainly when we had G.S.T. (Goods and Services Tax) and all that. I think it is wrong that the States should be rounding up rather than rounding down. Unless I can get an assurance from the Assistant Minister that the figures are going to be rounded down rather than rounded up, I will not be supporting it. Given what Deputy Duhamel has to say, or has said, it looks as though I will not be supporting the rounding up, therefore I will not be supporting the proposition.

8.1.4 Deputy R.G. Le Hérissier:

I am going in another direction, indeed following on from what Deputy Le Claire said earlier. This is another example of the States trying to micromanage. I must congratulate the Assistant Minister for presenting it with his usual panache. **[Laughter]** Indeed, he is the only man I know who leaves people feeling happy as he is announcing cutbacks from yet more cheaper airlines, which is very good but it leaves us all in a terrible state of mental confusion. What I would say is why can we not have a system - and I think the Assistant Minister is working towards this - where these fees are laid before the House, as for example are property transactions, and there is a 15-day period of grace, so to speak, as was over Jersey College for Girls, where Members can then analyse it and hopefully, in this new era of legislative scrutiny, we will have the kind of little analysis which Deputy Duhamel has done on the hoof, so to speak. We will also be able to do it with the backcloth of what the department's attitude is to running the marina and to doing costings and so forth. Whereas, it seems crazy that here we are, as a 53 person Assembly, looking at these minor issues

when we should be making sure that the policy behind them is robust and then there is in place a default system so that if any Member picks up the kind of issues which have crept through, as has Deputy Duhamel, then they can respond within, say, a 15 day grace period.

8.1.5 Deputy S. Power of St. Brelade:

I was going to make a very brief comment, but it has already been said. What I am suggesting, in lieu of Members' reservations about this, I suggest that this be referred back for a report. I propose it be referred back for a report.

The Deputy Bailiff:

Deputy, what is the further information you are asking for? If you are not happy at the moment, why do you not vote against and then the department will have to rethink? To propose a reference back on such a matter, Deputy, is really an unusual way of ...

Deputy S. Power:

Okay, Sir, I will concede, but I will be voting against this.

The Deputy Bailiff:

Yes, that of course is absolutely your right.

8.1.6 Senator P.F.C. Ozouf:

I agree that my Assistant Minister is eloquent and he makes everybody feel good, even when he is making tough decisions, and I think that both my Assistant Ministers have done a great job in that respect. I need to just remind Members that what this is, is this is effectively bringing in the detailed force of the decisions which the Assembly has already dealt with at a policy level in the Business Plan. That is the reason why. Deputy Le Hérissier is quite right to suggest that we need to change the law in relation to perhaps making an order and laying the detailed fees as a consequence of the Business Plan. I am sure the Assistant Minister will update us on the exact process by which we are completely revising the way in which the whole tariff structure of the harbour is going to be modernised by a new piece of legislation. Before Members get carried away with some of the detail of this, this is effectively ... and I lodged this proposition after the Business Plan, which was effectively setting out the future fees and income and expenditure of the harbour. This is the detail. The Assembly has already made the strategic decision in the Business Plan and this is the detail. At the moment the States must make that determination by way of 2 sets of regulations and for the policy decision. If Members did have an issue with the policy decision then there is opportunity for attacking that or amending it or suggesting changes and was in the Business Plan. This is the detail of something which has already been agreed in principle. It is, again, a shame, that Members ... and I just wish to not incur the wrath of any other Members, but I would tell Deputy Power that he had his chance in relation to questioning the policy of the harbours when we dealt with the Business Plan. The government and the order of government should be surely a forward motion, not a constant backward motion, and having questions at this late stage on the level of detail is to some extent slightly frustrating when, of course, these matters have been laid before the Assembly and the issues have already been discussed.

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

With respect to Senator Ozouf, I do not think Members' reservations are in respect to the policy that is being applied; it is in relation to the increases that have been suggested. The work that has been done by Deputy Duhamel this morning to highlight the increases has raised concerns among Members that, as pointed out by Deputy Baudains, the increases are more than what - or seem to be, or appear to be, in some cases - we were informed of by the Assistant Minister in his proposal this morning. The devil is in the detail and while one can approve, in principle, policies during high-level debates such as Business Plans or Strategic Plans. When it comes to the detail, it is quite right that the States Assembly is here in such circumstances to safeguard the increases that are not

proportionate. I think that given these reservations that have been expressed this morning, unless the Assistant Minister can allay those, then I also will not be able to support this, this morning.

8.1.8 Deputy C.J. Scott Warren:

It was some years ago that the States did agree a policy of 2.5 per cent to go on an example such as this and I just want to know if the Assistant Minister rapporteur could clarify if he believes this policy has totally gone and, if so, if I could be informed when we decided to drop this policy for increases? Thank you, Sir.

8.1.9 Senator B.E. Shenton (The Minister for Health and Social Services):

Very briefly, I ask the Deputy to just remind the House how much the fees went up in March 2008 because the fees went up in March 2008 and then we are looking to put them up again in January 2009, so that is 2 increases within a 9-month period.

The Deputy Bailiff:

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

8.1.10 Deputy A.J.H. Maclean:

I was not expecting this to be such a hot topic. Some points raised, and I will cover most of them, if I may, but not all because there is a little bit of duplication. Deputy Baudains partly moved into where we are going to come to in a minute with the Tariff of Harbour and Light Dues. He was talking about the leisure industry, marine leisure industry in particular, and the application of charges. In fact, it was decided by the States back in 2000 - the Anti-Inflationary Strategy - that fees would be fixed at 2.5 per cent. The increases were applied to the commercial port; not to the leisure aspects of the port. The reason for that, the committee of the day believed that it was important that the marinas and moorings were treated in a different way and they should not be subsidised by the taxpayer; they should stand on their own 2 feet and that is why we see a split between the 2.5 per cent which is the Anti-Inflationary Strategy figure and whatever the R.P.I. of the day happens to be which we have applied in this particular instance. I might add in this particular point that the Harbours Department has seen in 2009, or will see in 2009, a loss of approximately £80,000 in revenue by adhering to the Anti-Inflationary Strategy. Indeed, since that policy was put in place in 2000 there has been something like £750,000 of taxpayer subsidy effectively to the commercial aspect of the port. I should also say to Deputy Baudains and to other Members that the marine leisure industry is important to Jersey. It is very important to Jersey Harbours but I do not believe that taxpayers' money should be used directly to subsidise it. I think that if there are areas that need support then we should be looking to do that through Economic Development, through Jersey Enterprise or other mechanisms that are in place, processes which are clearly far more transparent, and transparency is something we need to move towards. Harbour charges at the moment, in my opinion, are not as transparent as they should be and that certainly is an area that we are moving to improve as rapidly as we possibly can. With regard to the increase in March, I know Senator Shenton raised that point but so did Deputy Baudains. Yes, they were raised in March but Members should recall perhaps that that was the first increase of those particular charges for about 3 or 4 years. Although it appears that this is a significant rollup increase, it is not when you consider there was no increase for 3 or 4 years prior to that so it is really a catch-up process. Deputy Duhamel raises the point about the price increases, he had his calculator burring away beside me, and he is right in many respects. What gets applied, and I do concede that this should be more clearly identified, there is a rounding-up, and I might add a rounding-down, applied to charges. When it is above 50 pence it gets rounded-up to the next figure up; when it is below 50 pence it gets rounded-down, so it does cut both ways, it is not just one-way traffic. But I do accept that it is not entirely clear and should be identified for all to see that the rounding-up process is applied. The Deputy of St. Martin also raised a similar point. Deputy Power, I accept your points and clearly it is your prerogative to decide how you wish to vote on this

particular amendment. Deputy Le Claire was much the same and I think I have covered the other points that were raised also by Deputy Scott Warren with regard to the Anti-Inflationary Strategy and the desire of her committee of the day to ensure that there was equity with the 2 rates. I maintain the amendment.

The Deputy Bailiff:

The appel is called for.

Deputy R.C. Duhamel:

Could I just ask the Assistant Minister, he did not explain why there was an inconsistency in the rounding policy. I did point out to the House that under item 1(2), the rounding, if it had been applied would have meant that the figure of £16.62 would have been rounded up to £17, as has been done with items 3 and 4, but in that particular case it did not happen and I did make the point that in any policy it should be fairly and consistently applied across the board, which it has not been.

Deputy A.J.H. Maclean:

Yes, I will ensure that that is taken into account; the Deputy makes a good point. Thank you.

Senator B.E. Shenton:

May I raise the défaut on Senator Syvret, please?

The Deputy Bailiff:

Does the Assembly agree to raise the défaut on Senator Syvret? Yes, the Assembly agrees to raise the défaut. Very well then. So the matter before the Assembly is the principles of the regulations and the appel has been called for, so I invite Members to return to their seats and the Greffier will open the voting.

POUR: 24

Senator M.E. Vibert

Senator P.F.C. Ozouf

Senator B.E. Shenton

Senator F.E. Cohen

Senator J.L. Perchard

Connétable of St. Ouen

Connétable of St. Peter

Connétable of St. Clement

Connétable of Trinity

Connétable of St. Lawrence

Connétable of St. Martin

Connétable of St. Saviour

Deputy J.J. Huet (H)

CONTRE: 16

Senator S. Syvret

Senator T.J. Le Main

Connétable of St. Mary

Connétable of St. Helier

Connétable of Grouville

Connétable of St. Brelade

Connétable of St. John

Deputy R.C. Duhamel (S)

Deputy of St. Martin

Deputy G.C.L. Baudains (C)

Deputy J.B. Fox (H)

Deputy J.A. Martin (H)

Deputy P.V.F. Le Claire (H)

ABSTAIN: 1

Deputy of St. John

Deputy P.N. Troy (B) Deputy D.W. Mezbourian (L)
Deputy C.J. Scott Warren (S) Deputy S.S.P.A. Power (B)
Deputy R.G. Le Hérisier (S) Deputy of St. Mary
Deputy S.C. Ferguson (B)
Deputy of St. Ouen
Deputy G.W.J. de Faye (H)
Deputy J.A.N. Le Fondré (L)
Deputy of Trinity
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)
Deputy I.J. Gorst (C)

The Deputy Bailiff:

Now this is a matter which concerns the Economic Affairs Scrutiny Panel. Deputy Southern, Deputy Breckon, neither of whom are here. Anyone else on that panel? Very well. Assistant Minister, then, do you propose Regulations 1, 2 and 3?

8.2 Deputy A.J.H. Maclean:

Yes, Sir.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of those regulations? Deputy Duhamel.

8.2.1 Deputy R.C. Duhamel:

Yes, the Assistant Minister did indicate that he would make an amendment to the incorrect figure, does that mean he is proposing that under 1(2) the actual amount to be rounded-up from £16.62 to £17 is to apply consistently?

Deputy A.J.H. Maclean:

No, I said that I would ensure that we looked in the future to ensure that a consistency was achieved; I was not relating to this particular amendment.

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

I do question the value for money that the boat owners are receiving with these dues. There does not appear to be any proper policing of the marinas. I know of 2 people whose boat is kept in the marina and they came back one evening and found it a mere shell, everything had been stripped out of it. You know, we cannot go on increasing fees like this when there is patently no service and no value for money. I would like ...

The Deputy Bailiff:

Deputy, if I may, if you are concerned about the marina that is the next matter.

Deputy S.C. Ferguson:

Sorry, I thought we were doing 1, 2 and 3, Sir.

The Deputy Bailiff:

Well, we are doing at the moment registration of a speed boat and a sail boat and the surf board.

Deputy S.C. Ferguson:

I am terribly sorry, Sir, I will come back in a minute.

The Deputy Bailiff:

Does any other Member wish to speak on these regulations? Very well. Assistant Minister, do you wish to reply to either Deputy Duhamel or Deputy Ferguson?

Deputy A.J.H. Maclean:

No, Sir.

The Deputy Bailiff:

Very well. All those in favour of adopting Regulations 1 to 3 kindly show. Those against? Those regulations are adopted. Do you propose the regulations in Third Reading, Assistant Minister?

Deputy A.J.H. Maclean:

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 the Third Reading.

9. Draft Amendment (No. 33) to the Tariff of Harbour and Light Dues (P.149/2008)

The Deputy Bailiff:

Now we come to the Draft Amendment (No. 33) to the Tariff of Harbour and Light Dues and I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion in accordance with Article 6 of the Harbour and Light Dues (Jersey) Law 1947, to approve the Draft Amendment (No. 33) to the Tariff of Harbour and Light Dues as set out in the Appendix to the Ministerial Decision of the Minister for Economic Development MD-E-2008-0185.

Deputy G.C.L. Baudains:

May I declare an interest before we start? P.148 did not apply to me; P.149 does.

The Deputy Bailiff:

I am sorry, you want to declare an interest?

Deputy G.C.L. Baudains:

I am saying I would like to declare an interest in this particular one, Sir. P.148 did not apply to me; P.149 does.

Connétable A.S. Crowcroft:

Could I similarly, Sir, declare an interest that I have a mooring.

The Deputy of St. John:

Can I do the same, Sir?

Connétable M.K. Jackson of St. Brelade:

Likewise, Sir.

Connétable G.W. Fisher of St. Lawrence:

Also for me, Sir. [Laughter]

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

I did have a mooring but I cannot find it at the moment [Laughter] but I should still declare an interest.

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

Could I declare an interest too?

The Deputy Bailiff:

Well, I hope the Greffier is making a note of all those who have an interest. [Laughter] Yes, Assistant Minister.

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

This amendment to the Tariff of Harbour and Light Dues seeks to increase harbour charges for arriving and departing passengers and vehicles by 2.5 per cent in line with the States Anti-Inflationary Strategy. The amendment also increases the amount paid by cruise liner passengers by £3 in order to meet increased security requirements. They further propose an increase of 3.9 per cent for marine leisure customers in line with the June R.P.I.Y. The administration management of Jersey's marinas and moorings are not a core role of government and as such should not be directly subsidised by the taxpayer. Price increases for these services are therefore not capped at 2.5 per cent. The amendments will implement the decision of this House in September to approve Jersey Harbour's Business Plan for 2009. I propose the amendment.

The Deputy Bailiff:

Is that seconded? [Seconded] Does any Member wish to speak on the proposition? Deputy Duhamel.

9.1.1 Deputy R.C. Duhamel:

We were told by the Assistant Minister that there was a rounding rule that applied to these calculations and if Members care to do the arithmetic, the rounding rule is not being applied in this particular case and indeed the 3.9 per cent increase does not apply; it is in excess of that in quite a few instances. I do not really mind as a Member if we are told things in propositions but one would wish to believe that what we are being told has been applied has been applied, and if it has not for the policies to be brought for this House in the way that we have all agreed. Thank you.

9.1.2 The Deputy of St. Martin:

Very much along the same lines that I spoke previously but maybe I could ask the Assistant Minister to tell us why the leisure dues, it says here on page 5: "The leisure dues are recognised as not being directly related to the Island's inflation rate." I will ask why? Why the leisure rate is not recognised yet commercial rates are? Indeed, are the commercial rates not recognised as being part of the Island's inflation rate? Every year as long as I think anyone can remember leisure charges have been increased at a substantially higher rate than that of commercial charges and the reason being given, as the Assistant Minister mentioned earlier, is that presently the commercial operations subsidise the leisure rates, or the leisure areas. Where is the financial analysis that underwrites this particular assertion? Also, at what stage will the charges be aligned, the leisure be aligned with commercial, so in other words there need not be this discriminatory increase in fares for those who are on the leisure side. If I could just seek a clarification also in respect of the arriving and departing passengers from cruise ships: is the £3 to come in plus £3 to go out, or is it just one £3

fee? Also, is this £3, or it could be £6, in addition to the £1.96 that ordinary passengers are asked to pay? The other thing is the Assistant Minister mentioned the fact that additional security arrangements are required for people coming off cruise ships. Could I be told why we think we have to have more people down there when a cruise ship comes in as opposed to less people when people are coming on Condor or possibly HD Ferries? I cannot see the logic in asking for extra fees from people coming on cruise ships when there are people coming and going the same way as they would be coming off Condor, et cetera.

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

Yes, I would like to just focus on the security. I just think that it is probably one of the biggest jokes ever when you see the level of security now being imposed down on the Elizabeth Harbour for Jersey people going to France where we have a private company with mirrors running under cars, opening boots and everything else. In fact only the other week I was asked 3 times by 3 different people if I had any firearms, if I had any inflammable liquids in the back of my car. I had to go through the system, I had to open my bonnet, show the engine, I opened the boot and in fact ...

The Deputy Bailiff:

Senator, I am sorry, it is not entirely clear this relates to an increase in the harbour dues.

Senator T.J. Le Main:

Yes, because the Assistant Minister is increasing the fee by 2.5 per cent and included with that is the point made by the Deputy of St. Martin about increased security arrangements. I am questioning the need for such security arrangements as now being promoted by the Harbours. In fact, if you go to St. Malo you have no security half the time and, in fact, it is an absolute joke when we are all trying as Ministers or departments to cut back on expenditure and staff when we have such a situation as that. It is the biggest laugh by everyone that goes to France to see the palaver down at the Elizabeth Terminal, and I urge the Assistant Minister and the Minister to really get to grips with the situation and use common sense. We are treating the Jersey people like a bunch of criminals the way they are trying to go down there. I am going to vote against this.

[Approbation]

9.1.4 The Deputy of St. John:

I am sorry I stood up after Senator Le Main because perhaps it is perceived that this area is something to do with Home Affairs. I think we will find that when the Minister responds to this, this is a contract that is firmly between Harbours and the security people; not between Home Affairs. However, the matter of security is a serious issue at all ports, whether it be airports or harbours, and perhaps the Assistant Minister **[Interruption]** - well, that is for the French. Perhaps the Assistant Minister can elaborate further on that because I am not familiar with the exact nature of the contract. However, I stand really with some slight concerns about increases in rates and a question. In the projet it does say that there is an increase in some cases and reduction in others but I do not see many reductions here. One area that I would like to question the Assistant Minister on is that in the marinas, the under 6 metre berths are often empty in the winter because people take their boats out of the water for obvious reasons: it is easier to get a small boat out of the water. So those pontoons lie empty and often the contracts are cancelled. I understand that just recently over 18 contracts have been cancelled for this period and I think partly it is because of the increases of the costs of those berths because those people have the smallest boats and often the smallest budgets to run them. So would that not be an area where the Minister should be considering reductions in that area to keep those boats in the water rather than people trying to find dry storage for them in the winter, whereas other berths it is more difficult to get the boat out and perhaps the budgets are a little bit higher for those people. That was my first question. A number of people have mentioned the facilities around the marina as being somewhat inadequate and I would urge

Members to be patient because, of course, with the world class development that is occurring at the waterfront, various facilities will be put in place eventually but at the moment they are sparse. It lacks the facilities that would be normally associated with a marina: there is no chandlery, you have to walk a huge distance to use a shower or a toilet, and so on, yet, we are charging Rolls Royce prices for it at the moment. But I do accept that the marina must stack up as a business as do the rest of the Harbours Estate whenever possible. But it should be pointed out that the facilities are sparse at the moment. Another thing to consider too, and I do not know how the Assistant Minister will deal with this as the project progresses, but at the moment there is a huge, one of Jersey's biggest building sites next to Elizabeth Marina, and regularly iron filings, dust and dirt ends up over multi-million pound boats and much cheaper boats too causing damage and irritation to owners. They may well be braying for the Assistant Minister's assistance in cleaning the boats and the damage done to them. How is the Assistant Minister going to deal with that matter at the same time as increasing rates? I think there will be some disgruntled marina berth holders as a result of that. By and large I agree with the concept of making sure that the marina stacks up as a business, however, it is at a hiatus in that it is not quite finished with the rest of the facilities around it, so I think Members and the Minister in particular need to be very mindful of securing and making sure that the users of the marinas are very happy going forward and their expectations in the future are met, and in the meantime not to get disgruntled by virtue of the fact you are increasing, it seems to me, across the board, marina charges. Thank you.

9.1.5 Deputy S.C. Ferguson:

Yes, I think it is sometimes overlooked that as far as tourism goes visiting yacht owners make a significant contribution to the economy. I was reminded of this when talking to Deputy Morvan recently. I had had quite an argument with him in 1970 when I was supporting marina development and there was a lot of doubt in the Government as to whether that was worthwhile. But it underlines the importance, it is even more essential that we have separately-published accounts from the Harbours Department so that we can see what is going on and how the costs and income are being allocated. With regard to cruise liners, there were some figures recently in Guernsey, I think they said they had about 50,000 passengers - now, I may be corrected on that - but they were talking about 50,000 passengers contributing about £24 each to the local economy. So I would give warning to those involved that we will need a proper cost benefit analysis before we indulge in expensive construction in order to get cruise liners in. As I started saying before, I question the value for money that Harbours are giving to the occupants of the marinas. It is absolutely true this yacht was berthed there by local people and apparently the thieves had had to get a trolley and they had stripped the boat of everything: the depth sounder, all the new equipment that they had kitted it out with. There was a mere shell. Now where is the security on the marina for which we are paying?

Senator T.J. Le Main:

It is at the Elizabeth Terminal [Laughter]!

Deputy S.C. Ferguson:

Thank you, Senator Le Main. But they obviously are not getting value for money with their increased fees, so I question whether this increase in fees is realistic, has it been properly costed or is it just: "We will stick a bit on, on top of last year's?" We cannot increase fees like this when there are patently great big holes in the service provided. I am not happy about this and I have not decided whether I am going to support it.

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

Very briefly, the report refers to in the event of an increase in cruise liner visits, and we are aware that Economic Development are indeed trying to progress this, and the sentence ends with the words: "... the associated costs are adequately covered" and we read at the end that there are no

manpower implications; that the additional income to be received if this is approved is estimated at £140,000. I would like to ask the Assistant Minister if indeed the cruise liner visits are increased, will there be additional manpower implications for the Customs and Immigrations Service and if so, how will their associated costs be adequately covered? I know from the Customs review that my panel has been undertaking that in the past the Economic Development Department have made some funding towards the pressures of the Customs and Immigration Service, and I wonder whether if they do introduce additional cruise liner visits they will be prepared to cover the associated costs for Customs and Immigration. Thank you.

9.1.7 The Connétable of St. Ouen:

I could not let this occasion go by without bringing to the attention of the House and to the Assistant Minister the problems which are being experienced by certain boat owners at Greve de Lecq. While I accept that the Greve de Lecq boat park is not part of the Harbours' remit, it can only be accessed by going over harbour property and so I think that if I refer to the report it probably comes under development and maintenance of the harbours of Jersey and their associated facilities because I believe it is an associated facility. I think that this goes back to the point which Deputy Ferguson, the Deputy of St. Brelade, raised with regard to security and I think that if we are to increase the fees, then I think that the Harbours need seriously to consider the security measures outside the ones which they do now to protect the property of boat owners who are paying those fees.

9.1.8 Deputy P.V.F. Le Claire:

Unusually, I worked at the Harbours for a number of years on a seasonal contract both at the Elizabeth Marina and also the Elizabeth Terminal. Working for the Harbours on a seasonal contract as many others did with me, some for as long as 14 years on a temporary seasonal contract, gave me a very illuminated insight into the operations of the harbour and this matter that we are talking about today. From personal experience I was quite amazed that on occasions I was the sole person responsible for the security of not only La Collette Marina, St. Helier Marina and the Elizabeth Marina **[Interruption]** - it is such a pity that Senator Perchard has nothing to contribute but snide remarks. Half the time I cannot understand him because he has so little charisma, they are difficult to understand. **[Members: Oh!]**

The Deputy Bailiff:

Can we get back to the subject of the debate please?

Deputy P.V.F. Le Claire:

If I may, yes. The leisure charges which are increased annually as pointed out by Deputy Ferguson perhaps need to be examined in the next session of the Assembly because there certainly is significant income from the tourist sector in this regard. Collecting their money regularly for the berthing of these yachts, some of them bringing over school children on sailing courses from France and taking sums of money in excess of hundreds of pounds for these visits has obviously been an income for the harbour. When one is left to consider the operational side of security at the harbour, one must wonder why it is the rationale of charging more for leisure as being applied by the ministry because if the leisure side, and if the visiting marina side, and the annual side is creating this revenue, then one would expect that that revenue would be put back into some additional security measures that were being paid for to protect the boats that Deputy Ferguson has spoken about. But they are not. They are being secured by general ongoing security or oversight from the States of Jersey Harbour Marina Department. So where is the actual rationale there? Where is the logic to charging more when they are States employees, so they should be charging the same? The practice as highlighted by Senator Le Main of being asked whether or not one has any camping equipment before going to France is as amazing to me as any other. I recently travelled to France for a 4-day holiday, the first time I had been away from the Island for 4 years,

and I was amazed by the security arrangements that were undertaken before we could go on to the boat. I wonder whether or not, if one follows that logic, whether there are any other types of checks - none that I know of - in the other outlying harbours in the Island. Also one would logically wonder if that would extend to the commercial carrier and cargo vessels where their lorries enter and exit the ships every day. Do we see these private security companies with their mirrors underneath these lorries? It is wrong to take a car full of explosives out of the Island but you can take a lorry load full. I think that this needs to have oversight in the next Assembly. I believe that the issues that have been highlighted this morning knowing full well the actual extent to which they apply and having worked at that for a number of years, there is serious deficiency and there seems to be a lack of actual sense here when taking these monies and applying them to the sources that we are deriving income from. The actual visitors spend, when I was last working at the harbour, per visitor was attributed to be £75 per person per visit, so it is a lot of money when one considers the economy that these people are bringing into our Island. I certainly do hope that Deputy Ferguson applies the sort of scrutiny that she applied when determining the recent analysis of share transfer properties to the Harbours Department in the new session.

9.1.9 The Connétable of St. Helier:

Although I declared an interest, I believe I am entitled to speak and to vote on this matter because I support the increases proposed for local harbour dues and I would like to say that I think we get a very good service from the harbour staff. I certainly have been notified when my boat has been found floating around the marina, and it has been rescued by helpful harbour staff. They have come to my aid in all sorts of embarrassing situations. If you compare the harbour fees we pay with those paid in the U.K. and it is possibly also in other parts of the European Union, they are relatively low for harbour charges. So I support that and I will vote for it. However, at the risk of incurring the wrath of the Minister, and I am quite good at doing that, as well as the Assistant Minister, I think something must be said about the effect these increases will have on tourism. Now, the Minister said we should have done this during the Business Plan debate and not now. Well, the Business Plan debate, in case it escaped his notice, was made up of an enormous number of amendments and it would have been impossible, I believe, for Members to have dealt with every single matter at that time. I think it is entirely within our right as Members to raise serious issues about these particular proposals. Recently I was in France and I had a chance to speak to someone who is fairly well connected with the Conseil Générale and I complimented them on the fact that the French Government are putting so much resource into increasing maritime links with Jersey. They looked at me and said: "Well, it is a pity Jersey cannot do something for us" and they specifically mentioned the fact that our fees for incoming ferry operators are prohibitive in some cases. They are making a loss on some routes and yet here we are hiking the charges again because we can get away with it because it comes within our 2.5 per cent increase. I think we need to send a message to the French Government, and indeed we had a statement from the Chief Minister yesterday about all kinds of partnerships with the French Government across the water, we need to send a message to the French Government that we want French tourists to come to Jersey and we are going to do all we can to make it attractive for them to run as many ferries across the water as possible. So I think we are missing a trick here and particularly when we slap on, without any kind of robust analysis, a £3 charge for arriving cruise liner visitors. These cruise liners are big and if we are lucky enough to get any of them, £3 a head - it might even be £6 a head - is going to make a considerable difference to whether they choose to come to Jersey or indeed sail across the water to our delightful sister Island. I have made the reservations about this. I do not think that the detail is in the document before us and I think Members would be well within their rights in voting it down. I would just finish by saying, and this is where I will doubly annoy the Minister, and in fact the Assistant Minister knows this because I have written to him about it, I believe that this House needs a champion for tourism. If the late Senator Rothwell were here he would be on his feet saying: "What are we doing for tourism? How is this going to impact on restaurants and hoteliers locally who need these visitors, who need the visitors to stay open?" Instead we have the Ministers

responsible for tourism, because it comes under the Economic Development portfolio, pushing these increases through. You cannot wear 2 hats. I believe in the new Government, I hope in the new Government, and I know that Deputy Maclean knows my views, and I hope there will be someone who will be a political champion for tourism and will speak for tourism interests in this House. Thank you.

9.1.10 Connétable D.J. Murphy of Grouville:

I would like to follow up the Connétable of St. Ouen's remarks with regard to outlying harbours. We have had a spate of thefts also at La Rocque Harbour and we do not seem to be able to track down the people responsible. I understand our Honorary Police can do so much but we just do not have the manpower to be able to watch the harbours full-time, so I would ask that perhaps a roving sentry is employed in some ways to go around the outlying harbours and keep an eye on them. Thank you.

9.1.11 Deputy C.J. Scott Warren:

Well, I would like to follow up on the Connétable of St. Helier's comments regarding (b) and the £3 on harbour dues for arriving and departing passengers and the tourism industry in Jersey. He has said much of what I was going to say because I am concerned and believe we need to balance what we are bringing in in dues to the harbour with the potential spend in the retail sector from people coming on cruise ships in future years. I think we know our sister Island is well ahead of us regarding cruise ships and I am very concerned. I want to know whether we can take the vote on this in parts, because I really am unhappy to support this £3 for arriving and departing passengers. I would also put on record that I think a future P.A.C. (Public Accounts Committee) ought to be looking at the issue of supporting tourism and increasing tourism in Jersey. I know the Minister for Economic Development and his Assistant Minister have done a lot in this area, but I think we need a cost benefit analysis of what we are asking people to pay when they arrive and depart from the Island in all aspects, but to include the benefits that increased tourists will bring to our economy. Thank you.

The Deputy Bailiff:

Can I just mention one matter as a point of order? I do not think it is possible the way this is done to vote on it in parts because the proposition is to approve the appendix. Now, sorry, I have seen next Deputy Power and then Senator Ozouf.

9.1.12 Deputy S. Power:

I will be brief with 2 questions for the Assistant Minister. Can the Assistant Minister let the Assembly know what services are provided by Jersey Harbours in relation to fees or dues charged at Belcroute Bay? My understanding is that Jersey Harbours have absolutely nothing to do with moorings at Belcroute Bay and it is my understanding that it is the local boat yards that manage Belcroute Bay. Indeed, one elderly St. Brelade told me that he did see a Harbour's launch once working at moorings at Belcroute but that it was steam-driven, it was in 1942 and it was under German command. **[Laughter]** My next question for the Assistant Minister is what does he intend to do to reduce administration costs at Jersey Harbours which are completely disproportionate to the number of leisure vessels on the Island? It is my view that the increase in dues would not be necessary if this were to take place. Finally, the Assistant Minister may wish to comment on this, although it is not directly related to this proposition, the last time I looked at the internal extension directory for Jersey Harbours there were 96 names on it. Thank you.

9.1.13 Senator P.F.C. Ozouf:

I have learnt 2 things in my discharging of my duties of Economic Development and standing here with my Assistant Ministers in the States is that nothing winds States Members up more than propositions relating to fishing matters or harbours. It seems like lighting a touchpaper and we can spend dramatically longer discussing the harbour increases than we do on an important issue of a

foundations law or an issue of fishing legislation. I have learnt 2 things. My Assistant Minister, I am sure will respond in detail to some of the detailed questions and certainly explain the reason why the cruise ship charges are being proposed, et cetera, and what they mean, so I will not steal any of his thunder. I do want to respond to my friend the Constable of St. Helier in his remarks. I know he has been hankering after an Assistant Minister for Economic Development role to look after tourism for some time. I know that that is what he wants and I do wish that he would come clean and say some of the reasons. Because is it the case that there has not been a champion for tourism in the last 2 and a half years? Is it the case that we have failed in a champion for tourism in the last 2 and a half years? Have we failed in dealing with tourism? I would submit that in bringing together the former Harbours and Airports Department with an Assistant Minister and myself having oversight for tourism, we have achieved a great deal. I do not know why Members are standing in this Assembly and either trying to flog the Minister or the Assistant Minister or the tourism industry as a whole. Because I think what we have achieved has been quite simply spectacular in the availability of resources and in the economic climate that we did. If I would have stood here 2 years ago and said we would have increased staying leisure visitors in our hotels, if we would have seen the investment in the Royal Yacht, in the Grand Hotel and in other properties and seeing Les Ormes built and seeing passenger arrivals, I do not believe Members would have believed me. I know that this is an issue ...

The Deputy Bailiff:

Senator, I appreciate the door was opened through the Connétable of St. Helier but perhaps you could revert to ...

Senator P.F.C. Ozouf:

Yes, exactly. I will come back, but it is frustrating. In terms of these charges there is an issue of charging appropriately for services within both the Harbours and Airports Department. Just simply the increase of charges that Members are being asked to approve is not the end of this story because it is the key relationship between the ability of Harbours and Airports to work with Jersey tourism which is the key driver of business into the Island. Deputy Ferguson and the Constable of St. Helier raised the issue of the linkage with these charges here with the French ferry service. If the Assembly wishes to give Economic Development 4 million euros in terms of supporting a Granville service, then they will have a Granville service. I would remind Members that there is a disconnect, or there is not the same thing, of increased charges and the marketing support that is available for ferry companies and airlines, but ferry companies in this context, by bringing business. We are open at Jersey Tourism to doing joint marketing with ferry companies, whether that be Manche Iles, whether that be Condor, whether that be the other daily service, passenger-only service, from Société Morbihannaise that come with the passenger-only services. It is the key relationship between the Harbours as a standalone entity and Jersey Tourism which drive numbers. I would urge Members to understand that there is a requirement for Harbours to recover the cost of providing services and Harbours is an easy department. It seems one of those easy departments for Members to stand up in this Assembly and knock. There are hardworking staff within Harbours that do provide an excellent service, and I get regular feedback of excellent customer service that has been given by our Harbours Department in terms of visiting yachts. Indeed, the Constable of St. Helier rightly says in terms of the service that is available for some of our outlying harbours, and I know where his boat is; it is not in one of the posher marinas, they do work hard and they provide excellent customer service. So I just will leave it at that and the Assistant Minister will answer all of the detailed questions. But it is frustrating when Members stand up and use their position in this Assembly to knock a department that has made a great deal of progress and is, in my view, improving customer service.

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

I do not think there is a knocking of the department, Minister, per se, I think what it is, is that you are responsible and your Assistant Minister, along with the department, for so many aspects and areas. It has a broad public concern both for the local people and for the visitors and it affects Jersey quite considerably. What I would like to say, first of all, is that there has been talk about security around the outlying harbours and can I suggest that everybody just remembers one simple number: it is 612345. You do not get an easier phone number than that. At the other end is a crime reduction officer who provides his services free. Anything you need to do after that might cost you some money but at least you will do it with an expert knowledge that whatever advice he gives, or she, will provide you with the best opportunity of providing better security for your harbours, your airports and any other individual resident or other business in this Island, and it is worth bearing in mind because he is highly trained and will be able to do it. From the sea routes point of view, the sea routes are the most valuable thing we have in this Island. It will arguably be alongside air routes. But in sea routes if we do not have a reliable all year round service, we suffer. So we have to bring in revenue to be able to have a sustainable sea route for the operators of the various ferries, car ferries, freight transport, et cetera. But on the other hand, the department and the ministry must bear in mind the flexibility that is required to be able to ensure that such sea routes are able to be sustained and this is especially so in the winter. Indeed, we also look at the desirability of having cruise ships and providing services to have them onshore or offshore. Therefore, the simplicity of it is going to cost £3, whether it is single or by each way, for security is always going to be an arguable thing, especially when people like myself know about security and standards of security, but the public do not see what the security is giving them. It is essential for the sake of that if Jersey Harbours do not provide a standard that is agreed, then they will be treated as a third country and the security will be then transferred to wherever the ships go, whether it be in France, U.K. or elsewhere and then that comes as an inconvenience. So there is a balance, but I wish that the harbours, like the airport, would show in a sealed container, a display unit, some of the things that they have confiscated to show that they are effective. If they do not have anything, then I would suggest there might be a question on the quality of the security or the amount of security that is required. But as far as our partnership with France, we have been talking to our neighbouring authorities in France, both in Brittany and Normandy, and they do see it unfair that they are supplying vessels, they are supplying support, they are opening up their ports to suit Jersey's thing but they perceive that we do not do enough and I can confirm with that. I think that this is an area that we must look to further and it is not as simple as the Minister said: "Give me £4 million and we can do this." It is something that we have to look at to provide best value and best service. So it is a combination of resources. But I would just like to finally say that if we do not get it right, we might have tour operators and others providing very economic fares for tourists to come into the Island, but if we do not look after our ordinary people with other concessionary fares too, then they will stop using the vessels and we will not have a credible service which will only affect the rest of the Island. So it is not an easy solution for these things, but working together we can improve with what we have now and that is what I ask: reassurance from the Assistant Minister that they will review many of the things that are going on now for the benefit of what will be a dwindling tourist situation and dwindling local people travelling unless we start making some alternative arrangements and look at things in a different way to what we have done up to now. Thank you.

9.1.15 Deputy G.W.J. de Faye:

I am not aware whether the Assistant Minister for Economic Development owns a lifejacket [**Laughter**] but I suspect he would rather wish he was wearing one this morning because it is pretty apparent that he has sailed into some pretty choppy waters. However, in true nautical fashion, I will throw him a lifeline and despite the fact that I have been paying his department for some time for some moorings at La Rocque Harbour which I cannot currently find [**Laughter**] as the entire tackle seems to have disappeared under the shifting sands, I trust that they remain in virtual reality, if nothing else. I will support his proposition because as a Minister, I know, and I suspect that he has found as Assistant Minister that whatever your intentions are about keeping budgets tight,

matters catch up with you. Additional costs are accrued. I am sure, certainly knowing that while he is calmer now, he was a very “angry man” a few years ago, and I have every confidence **[Approbation]** - indeed he was - I have every confidence that the Assistant Minister has been doing his very best to keep a close eye on the budgeting. Nevertheless, I would ask for a number of assurances. Deputy Fox has quite rightly pointed out, and I suspect this may not even be within the auspices of the Assistant Minister’s authority, that security has to be increased at the Elizabeth Terminal in order to comply with international conventions. I believe it may be the S.O.L.A.S. (Safety of Life at Sea) Convention, but I am sure I will be corrected if that is wrong, and without the extra security we would simply not be able to enjoy even the relatively limited international shipping services that we enjoy at the moment. So, the Assistant Minister has my sympathy on that particular score. I would like though the Assistant Minister to give us an assurance, because I myself have concerns about the potential of cruise liner traffic and I sense other Members are concerned, and I hope that before he presses ahead on a straightforward trading basis that the States will be fully reassured and informed that appropriate cost benefit analyses have been undertaken and this is proven to be the right way to go. I have to say that if berthing facilities costs are going to run into millions of pounds, the information that I am picking up from Deputy Ferguson, for example, that the value, the notional value, not even a measurable concept, but in fact the notional value of a cruise liner passenger, assuming they come ashore, is £24 per day and that the Harbours Department merely are reaping £3 or £4 out of that £24, we are going to have to see an awful lot of cruise liners come in and an awful lot of passengers coming ashore before we start paying back these several millions of pounds that will be invested upfront. So, I think that that whole area needs to be very carefully outlined before we start proceeding with any swiftness into that particular genre of tourism travel. Obviously, as a yachtsman, I am usually enthusiastic - a very small yachtsman **[Laughter]** - well, that is to say a very large helmsman but a very small yacht. **[Laughter]** I am usually enthusiastic about our local marinas and indeed I do think that we have missed a trick over the years. It is a shame we do not have more substantial marinas that we cannot accommodate more visiting yachtsman. There is no question that France is well ahead of us on this front and are constructing massive new marinas on our neighbouring coastline. Guernsey has been ahead of us for many, many years now and we are realistically playing catch up. It is also entirely apparent that every time we do build a new marina, it is immediately taken up primarily by local yachtsman. So there is a demand, not just locally, but there is a demand, I believe, on the tourism front. So, I am encouraged to know that Deputy Maclean, due to his recent electoral success will be with us for another 6 years, that he has indicated his enthusiasm for a role in Economic Development, and I hope that pursuing increased marina opportunities for both local and international leisure will be one of his main themes. Now, the other area that I do want to bring to Members’ attention, so I can bring it to Deputy Maclean’s attention as well is, of course, the disparity between Harbours’ operations. There is a very vast difference between what goes on down at St. Helier Harbour, which is essentially a commercial port, and what goes on in all the smaller harbours around the Island. I think this is a situation that does need to come under review, and I hope that the Assistant Minister may care to reflect on this briefly so he may be able to offer a response. There is currently a mix-up in terms of responsibilities. Transport and Technical Services, for example, will maintain potentially a railing along what is called the sea wall because the department is responsible for sea defences. But at the time when the sea wall turns into the bit that is the harbour, then that becomes the responsibility of the Harbours Department. Now, I do not believe this has happened but clearly the potential is there for Transport and Technical Services to paint the railings white so far and then Harbours will paint them green down to the end of the pier. It really does seem to me that there is plenty of opportunity here to rationalise the effort. Harbours Department officials will go down and empty Harbours’ bins, T.T.S. (Transport and Technical Services) officials and officers will empty T.T.S. bins and that is before I even stray into what Property Holdings are doing and all this, and so on and so forth. So I think that there must be an opportunity here for us to rationalise the differences between the commercial ports in the Island and what might be described as the smaller leisure and fishing ports, their operation, who operates them, who services them and whether any,

as a result of rationalisations, efficiencies and savings be made. In the current state of play, I would urge Members to give Assistant Minister Maclean as much backing as possible in respect of this proposition, simply on the grounds that we will wear him out over the next 6 years with all these extra duties and responsibilities.

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

I will be very brief, but it seems to be an enjoyable pastime today bashing the Assistant Minister and giving him a hard time. But I would just like to say to him why is that none of the 84, 94 people - I cannot remember how many Deputy Power said - 96 people, why is that none of the 96 people down there have not looked at investing in proper C.C.T.V. (Closed Circuit Television) with infrared cameras, webcams, linked into the harbour office and if people are there acting suspiciously then boats could be protected through a simple telephone call to the police who could be alerted and come down to the harbour and carry out investigations. That is something that would be quite cheap to invest in a good system; a good system like that, in comparative terms, rather than having officers walking around the place all the time. That would be a much cheaper option than employing people to be there on a 24-hour basis: to invest in a proper system like that linked through to the main harbour office where you have someone watching screens and alerting the police when required. So, that is all I wanted to say, but really somebody needs to do some thinking down there.

9.1.17 Connétable P.F.M. Hanning of St. Saviour:

A couple of matters. The cruise ships and the charge to those, I am a little surprised because the vast majority of cruise ships stay at anchor down by the Demi, the passengers come in on tenders and, therefore, the cost of operating them from the harbour is very small indeed. There is no work for the harbour other than landing the passengers. I accept that there are security matters and they will have to be checked even if they are coming in from there. Whether this warrants the additional charge I am not altogether sure, but it will drive cruise ships away. The other security matters are, to be honest, a nonsense. We have security officers ticking boxes. I have been checked taking a car in and out of Jersey. I have been asked many times do I have explosives, et cetera, et cetera. Fair enough, that is reasonable. One occasion I was coming back from doing some boating in England and I had a knife on my person which one would have if you are boating, and when asked did I have a knife and I produced it and he said: "Oh, I do not know what to do about that. I will have to get my superior officer." He came and looked at it and I said: "Well, look, would it be better if I put it in the car in the back?" So he said: "Yes, that is fine." So, that was quite acceptable for me to put it in a bag in the back of the car. The fact that I could then take the bag out with me when I went on the boat made a nonsense of the whole thing. They are ticking boxes. Carrying on to the time that we now have for flogging the Assistant Minister, I am afraid I am going to continue with that, because the conditions down at the marina are not good. It is a building site, there are no facilities there for people - we are talking about the Elizabeth Marina. The facilities are not very good down there for people. There are no chandlers, there are no shops, there are no cafes, all of which we were promised when the marina was developed and it has not happened. The one area where we thought there was going to be something has now been let to an office; the rest of it is a building site. So, people are being charged ever-increasing fees and the service is not being provided. The marina itself and the facilities of the marina, apart from the ongoing problem of coming in and out because the tide runs too fast, the facilities are good in the marina and the marina staff are great when you see them. The problem we have is that the boats are affected by the dust and the fact that it is a building site. I believe fees should have been held for the last few years until the facilities were provided and until the building work had been stopped and the damage to boats stopped as well. But they have carried on putting them up and the reason they do that is because there is nowhere else to go. They can put them up and we cannot take our boats anywhere else. I am sorry if I am continuing to flog him, but that is the way it is. There is general dissatisfaction from nearly all of the boat owners down there. Because of my connections,

past and present, with St. Helier Yacht Club, to a lot of the members there, there is general dissatisfaction of the harbour users. Please go and talk to the Boat Owners Association. They will tell you they are not happy. The general belief is that it runs all the way from the top. They are not happy with the way the harbours are run. I will be abstaining because this will affect my costs.

9.1.18 Senator J.L. Perchard:

Just briefly, maybe the Assistant Minister when summing up could explain why increases levied on boat owners ... he cannot answer for the general policy of why increases levied on services provided by the States generally are not subject to an order, but why are increases by his department on boat owners not subject to order if these increases are set within limits set by the States? Every time we raise a mooring fee, will we have to endure this type of debate?

The Deputy Bailiff:

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

9.1.19 Deputy A.J.H. Maclean:

Right, it seems a long time ago. Deputy Duhamel has raised points which we have largely discussed about the pricing and the rounding up and rounding down, and I have undertaken to look at the discrepancies that appear with his mathematical expertise and I will ensure that in future if there is, indeed, a discrepancy we will not be repeating it in future years. The Deputy of St. Martin was asking about leisure rates and commercial rates and why indeed it was suggested that commercial rates are treated as inflationary and leisure rates are not. I think it is pointed out in the documentation that it was, in fact, the committee of the day that did some work on that particular matter. As far as I am concerned, clearly 98, 99 per cent of all produce coming into the Island comes through the harbour. If we start increasing harbour charges on the commercial side, then we are going to see an impact which has a far wider effect on the economy. That is why there is an inflationary effect on the commercial increase in harbour fees, whereas the leisure side is a fairly small market. It affects far less people and, therefore, does not have anything like the same level of impact from the inflationary perspective. Financial analysis, the Deputy of St. Martin was also asking the question about that. Well, there has, in fact, been a review being undertaken which I was hoping would have been completed by the first or second quarter of 2008. It is a review undertaken by an organisation called Fishers. They specialise in this particular area and they are looking at the financial governance, financial viability and the commercial optimisation of the port. It is a very important piece of work that they are carrying out. We have just received the first draft and I would expect that we will have the conclusions and be able to work through covering many of the areas that Members are most concerned about with regard to charging to ensure consistency is achieved in future. I have to share a lot of the views of Members here. I am not satisfied with the way in which fees are applied in certain areas and in certain ways. There are lessons to be learned, and I think that this review is an extremely valuable piece of work that has taken some considerable time to draw up. I would hope that the conclusions and the results from that piece of work will avoid the length of debate that we have had today. Rest assured that Members will feel far more comfortable in the future than they are perhaps at this precise moment. The issue of cruise liners and the £3 charge, again I am not particularly surprised that Members are concerned by what appears to be a charge at a time when we as a department, Economic Development, are trumpeting the benefits of cruise liners and the wish and the desire to increase that particular important market. That is something that we are very keen to do. Jersey in 2007 got 1,700 passengers from cruise liners. In 2008, this year, year to date, we have 3,500. It is a reasonable increase but it is not enough. Certainly when we compare it, I think it was Deputy Ferguson, Senator-Elect Ferguson, who suggested that Guernsey had 50,000. Well, she is wrong. They had nearly 80,000 passengers; it is even worse in that respect. But they are better positioned than we are with their natural environment to accept cruise liners. There would be significant investment required if we are going to get to anywhere like that number. However, there is potential to improve and that is what we

need to do. We need to look to increase the 3,500 that we have currently got. Now, the charge, the £3 charge, is not some wizard wheeze idea that Harbours have come up with to generate a little bit more revenue. The £3 charge, the security charge, is an international requirement. It is a requirement that has been introduced by all ports, not just Jersey, but all ports on a national and international basis. It is nothing unusual and I can assure you that cruise liner firms expect to pay for security. It is not a charge that is made on every passenger on the boat; it is only when they are landed in the harbour. But there is a requirement and we are falling in line. In fact, the £3 suggested is at the bottom end of what the national and international charges tend to be. They tend to be £5 to £8, I understand. So we are merely coming in line with what is expected in that regard. Incidentally, that particular charging started in or was introduced in 2004, so we have absorbed ... because of the low level of traffic that we get we have not applied it in the past. But with the desire to increase and develop cruise liners, it is appropriate that it is included so that it can be charged if we so wish. One other final point that I ought to make on that: some cruise liner firms do indeed provide their own self-security and if that is the case and it meets the necessary standards, which many cruise liners do, then there will be no charge applied. So, just to put that particular issue into perspective. Senator Le Main I know is concerned. He has raised this before, I remember, a year or 2 ago about security. I think we all find security frustrating. Security is frustrating when you go to the airport. There is significantly more in international airports than nevertheless what you see at Jersey. There are different regulations that apply between air travel and sea travel. I agree with Senator Le Main with regard to Jersey Harbour and he raised the point about France. The French, I am afraid, have entirely different interpretation to international regulations on security. We have the majority of our business comes from the U.K. and it is absolutely right that we should follow best guidelines laid down nationally by the U.K. and internationally. It is frustrating. The level of security at harbours is significantly lower than what you would see at airports. I think that unfortunately is likely to change in the future. It will just take one catastrophe with regard to a vessel, a commercial vessel, and we will see it increase still further. The Deputy of St. John raised some points about small boats, 6-metre boats, berthing and contracts being cancelled. Yes, we are doing quite a lot of work with berthing. We have done it particularly driven by the Boat Show. We are also looking at stacking systems to allow small boat owners to bring their boats out and be stacked. There is a cost, obviously, involved in such devices but we are looking at the benefits. We are keen to ensure that all boat owners, whatever the size of their vessel, are suitably looked after. Again, with all the building works going on there are issues. One has been reported about dust damage. We are trying to do what we can to mitigate that as a problem. It is an ongoing issue while building continues down at the port and there is a lot of work to be done. But I have to say that as far as I can see the Harbours Department staff have worked significantly harder than in previous years. They are delivering a much better quality of service now than they were, and I think the relationship with customers has improved significantly. I accept there is work to be done still. They do tend to add as much value as they possibly can with increased fees. That is what the instruction they have received from the department is. We want added value and that is what I expect them to deliver and that is what I am beginning to see as a result of that. Deputy Ferguson raised a number of points. I will concentrate on her interest in the accounts. Like the rest of the States, we are moving towards G.A.A.P. (generally agreed accounting principles) accounting. That will deliver the transparency she talks about. She is absolutely right, Members of this Assembly and members of the public should be able to see where their money is being spent and the current accounting system across the States, and I include the Harbours Department, at the moment is not satisfactory in that regard. She also raised a point about damage to a particular boat for some local people. I am aware of this incident. I am assuming it is the one that I am thinking of. The boat was almost destroyed. A lot of stuff was taken out of it. I believe it was, in fact, a domestic issue that resulted in that, just as a point. But on a serious note there is some investment in C.C.T.V. cameras. There are some already around the port. We need more. There is a cost involved. It is in the budget and that includes not from a C.C.T.V. camera point of view but certainly outlying harbours we are looking at ways in which we can improve security. There is a private security firm

that goes round the harbour. Evenings and weekends are particularly problematic. There is a cost associated, but it is an important issue that needs to be resolved to improve the level of security all round. Deputy Mezbourian raised the issue about Customs and Immigration and Home Affairs. I have to say that in 2005 under the Fundamental Spending Review the Customs and Immigration Department cut their staffing levels at a time when passenger arrivals were at their highest. That was somewhat covered up in 2006 as passenger numbers after the loss of Emeraude fell. We have had more of a problem. There has been some very useful dialogue between Economic Development and Home Affairs on this matter. We have, in fact, provided some funding. However, I am of the opinion that funding for what is effectively a statutory requirement should be received out of the funding and budget of Home Affairs, not be supported by Economic Development or, indeed, any other department. We need to be completely transparent where money is being spent. It is a statutory requirement. If Home Affairs do not have the budget to deal with it, then that is an issue that the States need to consider, but certainly they should not be receiving additional funding from other departments. The Constable of St. Ouen touched on points regarding outlying harbours. Again, he is right as far as security issues are concerned and concerns with regard to boat owners for the protection of their vessels. I think more work needs to be done in terms of assuring that protection is appropriate in those areas. Deputy Le Claire, I mean, effectively we need to meet international standards as far as security is concerned. That is the big tick box whether we like it or not. The Constable of St. Helier, he has quite rightly pointed out that he has an interest in tourism and I clearly welcome that and I would certainly hope that he will become more and more involved. He has done a lot of work in terms of promoting St. Helier on a more national and international basis and I think his interest in that particular area of tourism and his links with France and, indeed, Funchal and so on are very positive as far as the Island is concerned. It is difficult for Jersey. We have limited budgets. We cannot put the same amount of money into promoting the links between France and Jersey in the same way as the French Government. Government funding and regional French Government funding is almost a bottomless pit. Of course, the French pay significantly higher taxes in order to be able to fund that. We have, however, spent quite a lot on improving, for example, the Albert Terminal. We are spending £250,000 on the Elizabeth Terminal shortly. The condition down there I think is shoddy, it needs improvement, and £250,000 has been put into a refurbishment programme improving screens and so on. We have done quite a bit of work with ferry operators to provide incentives and we will continue to do so. It is important that we drive passenger arrivals from France. I think that with the increase in the euro we hopefully will see more French visitors coming to Jersey. We need to do more in terms of encouraging them and we need to help the ferry operators with their marketing. Those are areas we do through Jersey Tourism already and we will continue to do so. We have done considerable amounts for tourism on a wider sphere, certainly with the airport. We put substantial amounts of money, as Members will know, into supporting air routes and that has delivered the results that you would expect. We have seen passenger numbers at the highest level last year since 1993. I accept economic times are more difficult now. We are going to have to work even harder to maintain the routes and the passenger numbers that we have got. We assess all passengers on a landed basis: what do they bring to our economy? How much do they spend in our hotels, our restaurants, our shops? We invest based on the return that we are going to get. It is taxpayers' money. We have to get a reasonable return and we have to ensure that by doing that we are supporting our valuable tourism industry. A champion for tourism? Yes, Constable, I thoroughly agree with you and I believe that tourism has perhaps had 2 champions over the last 3 years, both the Minister and myself and, indeed, my fellow Assistant Minister, the Constable for St. Lawrence has done his bit as well. We believe in tourism. Tourism matters and we will continue to do that for the rest of this term. The Constable of Grouville, La Rocque Harbour security, the same point as others have raised and we do need to look a little bit more perhaps on the outlying harbours to ensure that small boats are looked after. Deputy Scott Warren, I have covered the point on cruise liners, I hope clearly, about the fee. I think you asked whether it was £3 in and £3 out.

[Interruption] Yes, you did, sorry. Deputy Scott Warren also asked about that. It is £3, that is it. It is not in and out. It is not £6. So as long as Members are clear, it is £3, not £3 in and £3 out.

The Deputy of St. Martin:

Could I just ask if the £1.96 is also in addition or is that the same? Because I did ask that question at the time.

Deputy A.J.H. Maclean:

Indeed, the Deputy of St. Martin did ask that and I can confirm that the harbour due remains. This is a security charge, solely a security charge, and that is on top of the £1.96 which is the harbour due. Again, that is following practice which is relevant to all national ports and international ports. Deputy Power, Belcroute charges; I think we need to bear in mind, first of all, the charges in outlying harbours are very low in comparison, but most importantly where do those charges go? What are they for? You may not see anybody wandering around; I think you referred to a German gunboat was the last time any vessel was seen.

The Deputy Bailiff:

Through the chair, please.

Deputy A.J.H. Maclean:

My apologies. But nevertheless, what the investment is for is for safety at sea. It is for our coastguard primarily, and among the most important things is that that is properly funded and part of the fees that are paid for the outlying harbours are relevant to safety at sea and coastguard. Reduced administration, yes, I would like to see reduced cost. More importantly, I would like to see value for money delivered by the Harbours Department and, indeed, for all departments across the States. I think it is absolutely essential. It is a duty of all States Members to ensure that we get value for money. The Fisher review that I referred to earlier I believe will help us see much more clearly where funds from the Harbours Department are allocated. I think it is absolutely appropriate that that will be the area that delivers the value for money that I would like to see. Deputy Fox made as usual his comments about sea routes and their importance and I thoroughly agree with him on that matter. He touched on the importance of France and bringing tourists into the Island and working with operators. It is an ongoing review to support sea ferry operators; we will continue to do so. Deputy de Faye asked whether I had my life jacket. No, I have not. I should tell him and Members or remind them I do, in fact, get sea sick, although today I am feeling a little sick and I am not near the sea. I was disturbed to hear that Deputy de Faye has lost his tackle in one of the outlying **[Laughter]** ... in one of the outlying harbours and I hope he recovers it very soon. But if he needs any assistance I am sure the department will be more than happy to assist him. The other point that he raised among others was about the Harbours Department. Yes, he raised a serious point about the work with T.T.S. and the Harbours Department in terms of painting railings and so on. When they reach the harbour you get 2 different groups, they are not very well joined up, and I have to say when we had the move of workers from Jersey Harbours to T.T.S. the initial relationship did not work particularly well. I think the Minister is aware of that. There is now in place a service level agreement. T.T.S. have also - and I am sure the Minister is aware of this - appointed a manager to ensure that the relationship between Harbours and T.T.S. staff works more efficiently and that the programme going into 2009 is far more efficient so that we can avoid these ridiculous situations where you get part railings painted by T.T.S. staff and the rest of it dealt with by Harbours staff. It should improve and I hope it will lead to efficiencies and, indeed, I hope we can reduce the costs that we currently pay to T.T.S.

The Deputy Bailiff:

Could we have a bit more quiet on the senatorial benches, please? It is very difficult to hear.

Deputy A.J.H. Maclean:

Thank you very much, Sir. I am being asked to wrap it up, but I would remind Members they were the ones who asked the questions so I am going to answer them. **[Laughter]** I am almost ready to wrap up. Going back just briefly because I think the point was missed particularly on the senatorial benches about the relationship with T.T.S. We have a service level agreement and we pay a fairly significant amount of money to T.T.S. to carry out services to the Harbours Department and, indeed, are hopeful efficiencies will be driven in due course as that relationship develops and moves into a different area. I am hopeful that will deliver the efficiencies that, indeed, I am glad to hear the Minister shares. Deputy Troy, C.C.T.V. cameras, it is already in the budget. We are looking to improve on that. I have to say, though, it is not a cheap option, which I think he referred to. They are hideously expensive; I was quite surprised. If you are going to do it properly, I might add. The Constable of St. Saviour, I think I have covered the points on cruise liners and other issues. The only issue that I will mention, he talked about Elizabeth Marina and, yes, I agree. I think it was badly designed. I am pleased to say I had nothing to do with that. There are all sorts of problems. There have been issues with parking, there are issues with getting goods from the car parking area now to boats that are in the harbour, and there is a lack of facilities. It should have been thought out far better at the time. It is very difficult to work with it now when there is no immediate space available around it. But it is a problem. As far as his comments about boat owners, I have attended a meeting with boat owners which was enlightening, I might describe it as. I hope that the relationship with the Harbours staff and boat owners has improved; I accept there may well be a long way to go yet. I want to see continued improvement and better customer service and better value for money for boat owners for the fees that they pay. I think that is what we have to drive towards. All of which is a direction that the Harbours staff are very clear about. Improvement, yes, I want to see it. Finally, will I talk to boat owners? Just in summary to that, yes, I would be more than happy to do so and, in fact, in light of what the Constable has said, I will ensure that we set up a meeting and I hear their views firsthand again as I did about 18 months or so ago. I do rely upon clearly the information I get through the Harbours Department. I do like to hear firsthand. That is why I went to see them something like 18 months ago and I will do it again because I want to make sure the department is working in the way that I would expect it to and that I am sure Members would expect it to. I do understand there are reservations about this. I would ask Members, despite their reservations, to bear in mind the Fisher review that has reached its conclusion. It is in draft stage. It will make a difference to the future in the way in which charges are applied, the differences between leisure charges and commercial charges. I would ask Members to support this particular amendment in this instance and I do understand and have taken on board the reservations that they have and that we can hopefully move away from that in the future. May I propose the amendment?

The Deputy of St. John:

Can I have a point of clarification, please, just briefly? The Assistant Minister said that security is a mandatory requirement and funded through passenger charges. He then said immigration was also a mandatory requirement, which it is, as is Customs, but that should not be funded through a per passenger charge. I wonder how the Minister intends to square that circle.

Deputy A.J.H. Maclean:

I do not believe that I said - and I stand to be corrected - that the security was mandatory. We are obviously under obligations but clearly you have a differential from a statutory point of view as far as Jersey is concerned with immigration, because customs and immigration this is, and I believe I think I made the point that, in fact, it is how we account for the cost, such as Home Affairs, I believe that the Home Affairs Department should be properly funded. I know they went to the Council of Ministers for additional funding to be able to provide the appropriate immigration and customs facilities that are required and expected and needed, and I do not believe they were successful in getting that funding for whatever reason. The point I was making was that it is

through the budget of Home Affairs that this should be allocated and not through different departments or other departments.

Deputy R.C. Duhamel:

Could we have an appel, please?

The Deputy Bailiff:

Yes, the appel is called for, then, in relation to the proposition.

POUR: 29

Senator P.F. Routier

Senator M.E. Vibert

Senator P.F.C. Ozouf

Senator F.E. Cohen

Senator J.L. Perchard

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. Martin

Connétable of St. John

Deputy J.J. Huet (H)

Deputy C.J. Scott Warren (S)

Deputy R.G. Le Hérissier (S)

Deputy J.B. Fox (H)

Deputy of St. Ouen

Deputy P.J.D. Ryan (H)

Deputy of Grouville

Deputy of St. Peter

Deputy J.A. Hilton (H)

CONTRE: 11

Senator S. Syvret

Senator T.J. Le Main

Senator B.E. Shenton

Deputy R.C. Duhamel (S)

Deputy of St. Martin

Deputy P.N. Troy (B)

Deputy J.A. Martin (H)

Deputy S.C. Ferguson (B)

Deputy D.W. Mezbourian (L)

Deputy S.S.P.A. Power (B)

Deputy of St. Mary

ABSTAIN: 4

Connétable of St. Helier

Connétable of St. Brelade

Connétable of St. Saviour

Deputy of St. John

Deputy G.W.J. de Faye (H)

Deputy P.V.F. Le Claire (H)

Deputy J.A.N. Le Fondré (L)

Deputy of Trinity

Deputy A.J.D. Maclean (H)

Deputy K.C. Lewis (S)

Deputy I.J. Gorst (C)

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

Very well. The adjournment is proposed so the Assembly will reconvene at 2.15 p.m.

LUNCHEON ADJOURNMENT

PUBLIC BUSINESS (continued)

10. Plémont Holiday Village Site: Negotiations for Purchase (P.152/2008)

The Deputy Bailiff:

Now, I understand it is suggested that the projet 151, which would be the next one, which is to be *in camera* should be taken at the end, it has been suggested to me. Do Members agree that because it means going into *camera*? In which case we would move to projet 152, Plémont Holiday Village Site: Negotiations for Purchase, lodged by the Connétable of St. Ouen. 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 request the Minister for Treasury and Resources (a) to open negotiations with the current owners of the Plémont Holiday Village Site, St. Ouen, with a view to ascertaining their willingness to sell the site and, if appropriate, determining an agreed value for it; and (b) to present the outcome of the negotiations to the States to enable Members to decide what further action, if any, they may choose to take.

10.1 The Connétable of St. Ouen:

In the proposition which I brought in 2006, the States agreed that it would be in the public interest that the headland of Plémont, the former Pontins site, should be preserved as open space for the enjoyment of the public. That proposition further requested the Council of Ministers to consider all options to implement this decision and return to the States with a preferred option with the least possible delay. To date I have been very patient but do not believe that the Council of Ministers have given this matter the due consideration which the 2006 proposition required them to do. Originally, following the acceptance of the proposition in 2006, the Council of Ministers decided that the Minister for Planning and Environment had to decide the application which had been submitted to his department prior to my proposition before they could consider what action could be proposed. The Minister for Planning and Environment's decision was made in June 2008 when he refused the development application. The Council of Ministers have not had this issue on any agenda since. As Members will observe from the notes which accompany my proposition, a number of questions have been asked since my original proposition culminating in that of Senator Norman in September this year. On that occasion, the Chief Minister in reply to the question of when the preferred option would be presented to the States said, and I quote: "I cannot give a precise date in response to that question. We do await further input from the Minister for Planning

and Environment who in turn is consulting on and assessing the options.” I assumed from that answer that no action was imminent and decided to bring this proposition to the House. This proposition is a very simple one. It seeks to request the Minister for Treasury and Resources to open negotiations with the owners to identify their willingness to sell and, more importantly, to decide an agreed value for the site. With such an identified agreed value, the States can then consider what could or should be done with this site. Without such a value, no action can ever be considered. Unfortunately, with most questions today, there is always good news and bad news contained in the answer. The good news in this case with regard to this question is that the owners have indicated their willingness to open such negotiations but at the same time have submitted a further application, this time an application for a development of a self-catering complex which they claim would be a continued tourism use. Again, the ball will fall in the lap of the Minister for Planning and Environment and I suggest to Members that on this occasion he may have difficulty in issuing a refusal. I ask Members, therefore, to support my proposition so that the Minister for Treasury and Resources can come back to the House with an agreed valuation which will enable Members to seriously consider a way forward. The valuation would also assist the public of the Island. Over 10,000 of them signed a petition to protect this area and keep it in public ownership or return it to public ownership. Many people have phoned me and said that they would be prepared to assist financially with the acquisition of the site but not until a valuation is agreed. I can understand them not wanting to commit without a valuation being known. I suggest to Members that urgent action needs to be undertaken before the opportunity is lost. This proposition is merely the first step, a very important first step. It does not tie the hands of the States to any decision, it merely seeks to identify the value in order to assist a future States to reach any decision which they feel appropriate. I make the proposition.

The Deputy Bailiff:

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

10.1.1 Deputy K.C. Lewis:

I fully support this proposition. This is probably the last chance that the public of Jersey have got of acquiring the headland at Plémont, so I fully support the Constable of St. Ouen in (a) and (b). The last time the similar proposition came to the States it was also mooted that there could be a possibility of a land swap included in the deal. In the present economic climate, I would suggest that that is a possible way forward.

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

Just very briefly, in case Members are not aware, Treasury are supporting the proposition.

10.1.3 Deputy C.J. Scott Warren:

Just briefly, I agree with the Connétable of St. Ouen that urgent action is necessary. All possibilities should be pursued to return this land, which is a beautiful area, back to the public.

10.1.4 Deputy A.E. Pryke of Trinity:

With my environmental hat on, as we all know the north coast footpath passes beside the site to the west and round the site to the north and the areas where puffins have been successfully breeding. Let us not forget that the purchase of this site will provide the opportunity to return an area back to its open, undeveloped state, but I also stress that the purchase price would be only one part of the financial cost. The buildings would need to be demolished, the material removed from the site. The site would need to be restored to a heathland condition in keeping with its surroundings, and a budget would be required for the ongoing maintenance. So I congratulate the Connétable of St. Ouen bringing this proposition and he has my full support and I hope it is successful.

10.1.5 Deputy J.B. Fox:

I too give my full support, but it must be recognised that the reason for the long delays and the countless applications being put in for planning permission is the onus of trying to ascertain what value the land is, and until such time as the Minister is able to say yes to a proposal, the land value is not determined. So it might, I am afraid, Constable of St. Ouen, take a little longer but it is the right process that we have to go through to see if the time is right for being able to get an agreement.

10.1.6 Connétable G.F. Butcher of St. John:

I have reservations on this particular projet. One, I commend the Connétable for what he is trying to do for the Parish of St. Ouen. Did we not have many years ago a similar thing with the Bal Tabarin site where planning permission was passed and that site ... I do not venture to St. Ouen too often these days, but I understand that it is still barricaded off and not in public use. I think we spent close on £1 million at that time. No, I have reservations on this one. To enter into negotiations would indicate a willingness to buy and may tie the future House.

10.1.7 Senator P.F. Routier:

As one of the 21 candidates in the recent elections, I think every one of the candidates managed to agree to support looking after Plémont. Just following on from a comment from a previous speaker about the Connétable doing this for St. Ouen, I think he is doing it for the Island. **[Approbation]** I think the whole Island can benefit from this being returned to its natural state. I walk up there quite regularly and I do recognise that what we currently have is a blot on the landscape and as soon as it is returned to its natural state the better.

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

I am sorry I have to speak because at the moment I find it very hard to speak, but I do have to speak. I cannot agree with any of the previous speakers. We have been here before and we are going to have all the prudent people who have been tightening the purse strings stand up and say: "What a jolly good idea." Even 10,000 people signed a petition to say: "Let us have this back in public ownership." Not one of them were asked: "Would you like your hard-earned taxes to pay for this back in public ownership?" No, they were not. All we have got from the public opinion is supposedly around 150 people at St. Ouen Parish Hall about 2 or 3 years ago. I have not changed my opinion from the last debate. Of course it is nice to have and if somebody was going to do it for us and the owner ... I mean, I am really glad to hear the owner is now open and up to being in negotiations. Well, he has just had 36 type (b) houses turned down, so you are talking over £20 million worth of goods up there anyway. I am just a layman; the Minister for Planning and Environment is saying I cannot put a figure on it. Obviously it is not rocket science for anyone in this House to work out what a rough evaluation is going to be. As the Deputy of Trinity has just pointed out, our environmental ... who takes care of the environment, if we do put this back it would cost extra money and it will be ongoing, so people will have to maintain it. I just do not know where people are coming from when we read again this is no ... there are no foreseen financial costs to this. Well, we pay our Law Officers very good money; in fact, we upped their budget in the Business Plan on an amendment. Now, these are paid by the hour. This would be work, I am presuming, that they would enter into. There is a financial cost to this. It might be some sort of hidden cost. Of course, again as everybody said: "Well, it is only ... let us do the work, let us put a price on it", and if we do this I think ... and if you do come around between anything over ... well, to me I have looked through the transcript and it started from a million, from a developer talking around about £10 million. As I say, it does not need to work out much if you can get around 30 (b)-type houses on the site or very good self-catering apartments. We all know the value of that. Where is this money going to come from? It has main drains. We are all told everybody wants main drains, so if we are going to have housing ... and I have not checked on *Hansard* but I thought the argument with St. Ouen when we had to rezone some land there I think ... or maybe we did not rezone it there, which is another argument for maybe having a few houses,

but I am not even arguing for the houses. I want to know which way the Constable of St. Ouen has voted for every other Parish to have more housing on green sites. I think I know the answer. I think he supported most of them. But the actual hard nose reality is nobody in Jersey ... and I am talking as a town Deputy. We have waited 7 or 8 years, I am telling you, 7 or 8 years for a town park and supposedly to get that we have to have an 800-space car park to probably facilitate many of St. Ouen's residents parking in St. Helier every day. Sorry, I would love that little bit of St. Helier returned to its natural landscape, have a little bit more green there. Never in a million years would that come to this House and get anybody's support, except for a few Deputies in St. Helier. It is stupid, this proposition has no merit. Go away and do your work and I will tell you now, when anyone comes back to this House it will not be supported because the public will not be behind it. Go out and ask them. Have a proper consultation. The Deputy of St. Ouen presumes the public wants this returned to them. Well, why presume? Where has the consultation been? Where is the Minister? I will say that the Chief Minister's Office has been lacking. They should have been out to consultation. If the public want this done, how much money are they prepared to put forward? As it seems I am getting my voice back as I go on, **[Laughter]** I say I know that, you know, all the people who normally ... and I do not know where ... and he is not here. Senator Norman kept asking questions. He voted against the proposition last time, so he has been pushing for a ... it has maybe come to a head because he probably would not approve ... he voted the right way, I presume, because it is not going to be supported financially unless somebody comes forward with whatever the amount of millions are to take out of one of our service budgets, health, education or something else, because we have not got it floating around anywhere else. As I say, it costs nothing to go away and talk except once you start opening up these negotiations with developers you have to start talking about amounts. That will be confidential but they will then have a drop back and that will be a final offer. You are giving them a very good stand to say: "This is what we want" and I am sorry, on behalf of my parishioners, I am not prepared to pay it.

10.1.9 Connétable S.A. Yates of St. Martin:

It is early in the debate, but basically I do not think we need to go too much further because this is a very, very, very simple proposition. It is either a yes or a no. The talk about puffins, talk about coast footpaths, clearing the site, the environment, whether it is going to be houses or self-catering is irrelevant. It is a simple proposition: do you want to get negotiations to establish a price and then bring it back to the States to discuss it? That is the time for all this debate **[Approbation]** and I think, quite frankly, the answer to the question must be yes, end of story.

10.1.10 Senator P.F.C. Ozouf:

Very briefly, I agree that this matter needs to be brought to a head. I am obviously in the middle of an election; I was not diligent enough to read the wording of the proposition, I have to admit, prior. I knew of its existence but I did not read the proposition until a few days ago. I think that the wording of the proposition is potentially not going to take us forward, and I would interpret it, if I were involved in anything to do with any negotiations, as agreeing with the owner what a price is or, as has been mentioned by somebody else, another Member, either a price or a land swap of some land that is in existing States ownership, and to present the States with a proposition of a yes or a no. I think this tortuous process of moving on, of maybe, maybe, we are not sure, we do not know what the amount is, is not serving expectations. I think the matter needs to be brought to a head and I am interpreting this request to Treasury and Resources as an instruction by the States to enter negotiations to identify a price or a combination of a price and a land swap and bring forward a proposition for the States to determine yes or no whether or not that is going to be done, rather than this endless series of debates that: "Oh, we quite like it but we do not know what the price is." That is certainly my interpretation of what the next step would be if the States was going to agree it.

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

Going back to the Connétable of St. Martin and he was saying it is simply a yes or no, well, maybe in St. Martin it might be. I am St. Helier. We could not get this Chamber to agree to pay rates in St. Helier for the buildings. "Oh, no, much too expensive, could not possibly do that." You know, we would have to put it on the rates, could not do that. But we are going now ... well, I do not know if it is just ladies that see this. You want to know how much but is it going to be a yes or a no, and I am going to say right now, no matter what the price is, unless we are going to buy it for £1 million I am not going to think it is good value for money. Why would I think it is good value for money? We cannot afford the rates. We cannot afford to do the town park. But yes, you know, go ahead, lovely little deal, let us do this. You know, maybe we would like to buy it, £20 million just like that. Ridiculous. We have not got £20 million. **[Interruption]** I know it is the proposition. I do not need somebody to tell me. I am telling them it is not good value for money. They do not need to go away to find out. I am telling them it is not good value for money because where are we going to get the money from? Out of the kitty? Are we having the cheek to sit here thinking that we might have money in the kitty to buy this? We will not. Ridiculous before it even starts. So just let us say no, finish it, put it to bed, go home.

The Deputy Bailiff:

I take it you are going to be voting no? **[Laughter]**

10.1.12 Senator J.L. Perchard:

Just a question, I do rather hope the Minister for Planning and Environment will offer a little contribution to this because I think he is the one that can answer the question that I will pose. While I have every sympathy with the previous speaker and the views expounded by Deputy Martin as to prioritising public spending and where our priorities lie in the provision of proper health and social care or in the purchase of a headland, these are political debates that will need to be had but not today. The question here is establishing the value of the site and opening negotiations with the owners. I feel we are bound to support this proposition because I think - and this is where the question for the Minister for Planning and Environment comes in - he is surely bound to determine this application. There is an application from developers. They have every right to have their application determined and we as a responsible government and as a responsible Minister will seek to provide a reasoned response to any application. If the Minister is planning to speak then I would like him to advise the Assembly as to how much or does he feel it is now time to determine this application and would he welcome this proposition being approved.

10.1.13 Deputy R.C. Duhamel:

We heard this morning some Members telling us that they thought there should be a champion for tourism, and I would like Members to cast their minds back to not so many years ago when we had a policy of securing sites within the countryside for the benefit of tourism. Because hotels, who had been given the permissions to set up in bay areas and areas that are generally countryside, were wanting to take their accommodation out of that particular designation and to realise their pensions or whatever or move on. So the Tourism Committee at the time thought it was a good idea, along with Planning, to try and secure these areas. Now, while I would agree that taking out such areas - and, indeed, the Plémont Holiday Camp is one such site that comes under the designation of an outworn, outmoded holiday site - nevertheless there is an application or there is a suggestion that perhaps there could be a further use for tourism in that it could be used for holiday self-catering apartments. Indeed, this type of argument, it is not the first time that it has come before the House and, indeed, again, going back a number of years, we had a similar situation at L'Etacq where we had an ex-States Member proposing that again self-catering apartments be allowed to be created as Mariner Apartments or whatever. Within a very short period of time ... and I think there was an application fairly recently for those very units to pass out of the tourism designation into full residential, and I think to some extent that has downgraded the argument that I am trying to put across. I think there still is a very real requirement in the Island for us to safeguard as far as

possible areas that are in the countryside and that do have a potential use for tourism to keep them in that particular category. While I was not particularly in favour of the sites to be converted into full-blown residential accommodation, I do, however, feel very strongly that if the owner has the intention to allow the site, that does have permission to operate in a tourism way, to continue to be operated for tourism, then I think that really is the best that we could hope for in all the circumstances. It does strike me that we are almost moving into an area where we are setting up not just a north/south divide, we hear it in terms of housing that most newcomers to the Island would prefer to have a house in the countryside, indeed we all would, but the actual economic reality for most people is that they have to live in the urban areas. So there is a north/south divide as far as possible and I think that if we start to consider under the Island Plan designation and if we look at the double green areas, we do have our national park, which starts round about the bottom end of St. Brelade and takes in the whole of the St. Ouen Bay area and then stretches along the north coast, and then when we get round to Fliquet Bay and Gorey Castle it tends to drop off. I think if we go along with this proposition we are not only suggesting north/south divide but perhaps we are suggesting an east/west divide. I do not think it right, not because I have lived most of my life in the east of the Island, but maybe that is what is getting me to think this way. I do not agree that west is best and east should have the least when it comes to amenity provision. **[Members: Oh!]** This sentiment has been picked up by Deputy Martin and, indeed, Deputy Huet. We do not have equivalent areas or the same feeling that is coming forward for the purchase of large areas of land in the east of the Island for the purposes of recreation, mainly for those persons who do live in the east or to the south in our main town. I think that is wrong. So I did not support this particular plan last time for the smallish amount of land to be purchased for the benefit of predominantly those who do live in the west. I think there is an ongoing requirement for the land as far as possible to be kept in a tourism type interest and I think the proposition, although it is well meaning on behalf of the Constable of St. Ouen, does have the potential to set up, wrongfully in my view, a jealousy, if you like, from those persons who live in the east of the Island who do not have the opportunities to share in the amenities that do appear to be being stacked more and more into the west, which in my book is wrong. So on those grounds I do not think I can support the argument.

10.1.14 Deputy A.J.H. Maclean:

It does strike me as slightly ironic that Members spent the best part of an hour bashing me around before lunch over my attempt to raise harbour dues by a few pounds, and yet in one fell swoop Members are suggesting that we spend millions of pounds. Or, if I am to be absolutely correct, Members are suggesting that we set the ball rolling to a decision that may lead to the spending of millions of pounds. But in all seriousness, the requirement or the need or the desire to return Plémont to its natural state is a desire that we should all share. I am sure many Islanders support the idea of Plémont returning to its natural state. It is a beautiful part of the Island and I know that the Constable is not looking at it purely from the point of view of St. Ouen but from an Island-wide perspective. That should be commended and is absolutely right. I think where I have the biggest concerns about this particular proposition is the wording in it. It asks the States to open negotiations to determine the agreed value of the site. Now, I think the Constable went on to say in his opening remarks that the owners have expressed their willingness to open negotiations. Well, I am not surprised. If I was the owner I would be licking my lips at the prospect of the States jumping on board and looking for an established value of the particular site. It is not the way, in my opinion, to go about acquiring land from the point of view of the States and from the point of view of the public and for ensuring that we are utilising public funds in the best possible way that we can. We want to get the best value we can, and if we want to return that piece of land to public ownership for the benefit of the Island, then we should sit tight and we should wait. We should wait in particular for the Minister for Planning and Environment to make his decision as to what he is going to do in determining any future planning applications that come forward. He will be forced into a position at some point or another to make a determination of a future planning application that will come in, possibly tourism related, and he will make a determination. Only

when that has been achieved will we be in a position to have a fair view on what the realistic, real, fair value of that site is going to be. If we start the ball rolling now asking for valuations, the owner of that site quite rightly - and he is probably listening - is licking his lips thinking ... or he may even be in the gallery. He will be thinking: "This is absolutely fantastic. We have the States, what a track record they have in acquiring land at fair value and market value." No, that is not the way we should be going about it. I would also suggest that there may well be an opportunity ... I know the National Trust have done a tremendous amount of work and have quite understandably a great interest in this area. Now, perhaps we should be looking at supporting the National Trust in their endeavours to purchase or acquire the land at some point in the future. I would prefer some mechanism like a joint arrangement, even a private/public joint endeavour, to match funding that the National Trust can get to purchase the land. We may as the States be able to support that, but it should be much, much further down the line. It should not be at this particular juncture. There is at the moment an eyesore up there and whatever happens it is going to be improved by the decisions that the Minister for Planning and Environment will be forced to make sooner or later by planning applications that come in. We need to sit tight. We need to wait and the time will come when we will, if necessary, be in a position to support either the National Trust or another appropriate body in ensuring that that beautiful part of Jersey is maintained in as natural a way as it possibly can be.

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

I am very pleased that some Members consider this to be a very easy proposition to understand because good for them. I think this is a rather difficult proposition and in some respects an unhelpful one. It must be a matter of some considerable regret that the track record of the Plémont Holiday Camp has been in essence a catalogue of rather poor decision-making. I do not know whether it was the Island Development Committee or whatever they were called, the Beauties and Public Locations Commission previously ... thank you, the Natural Beauties. But clearly it was a controversial decision in the first place to put a holiday camp on one of our prime headlands. Nevertheless, it was probably a decision taken when the economics of tourism were the prime motivator in political and economic thinking of the time. It has also been deeply unfortunate - and again probably the result of a catalogue of poor decisions - that a once flourishing holiday camp has been allowed to turn into effectively a demolition site, a complete eyesore in an area that should be attractive to the eye. So the saga continues, but I regret to say that I cannot see support for this proposition being anything other than yet another poor decision because what exactly is it going to achieve? I do not believe that you can bind or to - what is more correct - request the Minister to go away and negotiate prices with a land owner without there being a strong inference that the States is an interested purchaser. But we are not issuing any requests about a purchase, and what do we really want to purchase? The fact of the matter is that there is a very broad body of public opinion that says we should nurture these types of site, these natural locations, but I certainly advise the Minister for Planning and Environment to keep his head down in this debate, and I am sure he will, because ultimately he has to determine the decisions and his view should not be known. But we have a crisis of planning. It was probably a poor planning decision in the first place. It has been a lax operation in determining the issue over a number of years, which way the site was going to go, and look at the evidence of the last year in respect of the strange effects we get from planning or lack of planning. I can name 2 hotels that have beachfront locations, one would consider prime beachfront locations, that have shut themselves down and will now be seeking to turn themselves into apartments or residential accommodation of one sort or another. I dare say the Minister for Planning and Environment will be very hard-pressed to prevent them from doing so. Frankly, what a disaster that is that prime tourist locations, smack on a beachfront, are going to end up in private hands as very expensive apartments, almost certainly for successful members of our financial services industry. I have nothing against that level of personal career achievement, but nevertheless it deprives the public and tourists as a whole of locations that would be better served in the wider interests rather than private hands. This itself, the Plémont site, is in some respects a similar situation: was originally a tourist site, and quite rightly in some respects, fantastic views, access to

the beach. So before we go rushing into negotiations, how much of that land does the States want? Do we want the bit with the puffins on it? Do we want the amount of land that has the puffins on it plus a buffer space to make sure the puffins are safe but there is public access as well? Do we want all the land? Because for those Members who have kept an interest on this matter, there have been numerous plans put forward which show the residential accommodation to be considerably removed from where the headland area that is of the prime public interest is. Clearly, there are a number of options in how this particular landscape could be utilised, could be broken up for the benefit of wildlife, for the benefit of the public and, ultimately, for the benefit of the developer, whoever that developer is. Now, what I find absolutely staggering about this proposition is that it is basically saying: "Let us go and talk." Well, why has anyone not been talking up to now? Talking is free. Talking is picking up a telephone and discussing with the negotiator. What on earth do we need a States proposition to ask somebody to talk to somebody else? Because if there is a significance about it, we had better hear what the significance ... do you have something to say, Deputy Gorst?

Deputy I.J. Gorst:

Indeed I do. I am somewhat surprised at the Minister's question why have we not been talking when it is my understanding that the Council of Ministers were asked to talk and the previous speaker is a member of that Council. So I think perhaps we could ask him why he has not been talking.

Deputy G.W.J. de Faye:

Well, in the event that the Assistant Minister ever is a Minister I should explain to him that while Council of Ministers sessions are very thrusting and hard-working, we do not talk about everything. Certainly, as far as I am aware, the matter of Plémont does not come under my remit. I do not know whose remit it does come under, but it would be the responsibility of ... **[Interruption]** **[Laughter]** It is not often I am set up by hecklers. **[Laughter]** But I would remind the hecklers that I am a puffin slayer not a puffin ... not a puffin nurturer. My regret about this proposition is that I do not think it carries us any further forwards than where we are now. Worst of all, it has an implication that the States is determined to commit itself to some form of purchase and I have no idea what it is that the States is intending to do here because it is simply not clear. It is not clear whether we wish to acquire all the land, whether we wish to acquire the land by agreement or ultimately by compulsory purchase because we are that insistent about it, it is not clear whether we feel that there is room for some development, just not all the development that has been suggested so far. Let us also face facts. At the end of the day, if the current owner of the land comes back with simply a reconstruction of the existing foundations, there is absolutely nothing that the States or the Minister for Planning and Environment can do about it. So we are all talking hot air **[Approbation]** and I am glad one or 2 Members realise that. We are simply wasting our time because if the latest proposals that are going to come forward is to rebuild that holiday camp on the former footprint into self-catering tourism accommodation with nice swimming pool and other amenities, that has to be approved because that is effectively the extant permission. So I just think that I am sorry, I am not prepared to sign up to a proposition that is simply more talking. I think we need to be quite clear on how we want to go forward before we go forward. Where we are now is not an acceptable position to be in.

Senator J.L. Perchard:

Can I just ask a point of order from the previous speaker? He implied once the application has been determined the site would have no value. Far from it.

The Deputy Bailiff:

I must confess I did not hear him say that.

Deputy G.W.J. de Faye:

Well, I know it is a long way away from the back row here to the second row over there, but I do not recall saying that. I think in reference to the planning application I said there have been a number of variant planning applications of a residential order but the fundamental reality is that the existing owner is entitled as of right as of now to reconstruct a tourism-style development.

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

I feel a lot of “puffin” here and “puffin” there coming from some particular Members. But I think there are one or 2 facts that should be borne in mind and one right at this moment that financially the Island cannot afford to purchase it. **[Approbation]** That is hard facts that I think should be taken into account. But having said that, I think that if you look at the proposition, I know it has been pulled about by certain Members as not being a very good proposition in its current form, but very clearly under (a) in the middle line it states: “... with a view of ascertaining their willingness to sell the site.” Now, that has to be established in the first instance, and then it goes on in the content of (b) to state about the course they may wish to take and it states: “... if any.” Surely, the simplicity of it is that if a letter is sent, for example, to the owner: “Are you willing to enter into negotiations to sell the site?” and it comes back with an emphatic “no”, that is the end of the story. At least we will know and have on record once and for all that that is the position. If the answer comes back as a positive one, well, then there is perhaps scope to enter into negotiations. That would at the end of the day still be subject to having the ability financially to even consider purchasing the site if that was to be the outcome finally. I think at the moment we are certainly making extremely heavy weather of it and I think rather than rounding up or rounding on and criticising the mover of this proposition, I think that he should be accorded at least a little bit of gratitude for at least putting it before us. I can just imagine if suddenly he would have gone along and made it known on the headlines of the media that the owner of the site has agreed to sell because: “I have made a telephone call” or: “I have sent a letter”, I can hear a lot of people, Members of this House, saying: “What right did you have to ask that question?” He has taken the absolute precaution of doing it this way and I do not think he should be criticised.

10.1.17 Deputy G.C.L. Baudains:

From some speeches it almost occurs to me that there may be a few Members who buy goods first and ask the price afterwards. I certainly do not and nor should the States. We really do need to know and have an indication of the price before we can make any further decision. I was interested by Deputy de Faye’s contribution. I thought at one time he was probably trying to get his own back for the dog licence debate. After Deputy Huet’s contribution I am not sure which way she is going to vote. I was likewise interested by Deputy Maclean’s contribution. For a moment I thought Mulberry might have been offering *pro bono* facilitation of this. But I despair. This really is simple. I cannot think of a simpler proposition coming before this House and I have no difficulty whatsoever in supporting it.

10.1.18 The Deputy of St. John:

I am quite concerned that this whole debate both outside the House and inside is very emotional and not very practical. I am disappointed that the Minister, despite what I thought was a superbly designed project being presented to him, that he decided to not consider it further. I do hope the developers submit another proposal. I even heard the Constable of St. Ouen say to me not so long ago that he quite liked the design but did appreciate that maybe the headland should be perhaps returned back to the puffins. But the development, as Members will remember, is well away from the cliffs, the areas which were most affected from a point of view of the natural environment. I do not think - and I do hope the Minister might reconsider this - that this area is a total no-no for some development and then it is no cost to the public at all. At the moment we are running a risk here of presenting an idea to the public that the States can afford this when we clearly cannot and that it is what we should be doing when there are lots of other alternatives, mixed opportunities, public/private partnerships, call them what you like, so that the public purse is not affected. So I

think this is quite disingenuous, it is sending the wrong message to the public that we have deep pockets, deep enough to spend what could be millions of pounds to purchase a piece of land and suggest to the public that it is possible when clearly in the current environment it is not and neither should we be considering it. The developer, I am disappointed that he has not come back to you and submitted some other clever ideas. Perhaps he needs to appoint a world-class architect because there are things that could be done on that site that would be a benefit to the whole Island, to the benefit of the residents of St. Ouen and the benefit of the natural environment as well. I thought that is what the Minister was about: mixed developments, sharing developments so that all boxes are ticked. It is possible. It is a small Island that we live on and sometimes you have to compromise. I do not see why we cannot compromise on that site and not run the risk here of a huge bill for the public when I do not believe it is entirely necessary. I walk around that area with my children and my dogs and I look at the Plémont site and it is an eyesore. The developers were planning obviously to remove that and improve the area dramatically for the benefit not just of the people that will own those houses, they will obviously benefit, but so will the public. There is a way of doing this that will cost the public nothing and, in fact, the Parish of St. Ouen will even benefit, they will have extra rates and then maybe they can put in more footpaths and develop that area themselves. You have to compromise. Mixed developments of this kind are possible in the natural environment and I am very disappointed that the Minister has completely dismissed that as a prospect by turning down his application and I do hope the developer comes back with an even more sympathetic proposal and that we can seriously consider it or the Minister for Planning and Environment can seriously consider it so that everybody benefits: home owners, the ratepayers of St. Ouen, the public generally and, of course, the Treasury who at the moment are under threat of having to find millions of pounds for a purchase I think is totally unnecessary. I really cannot support this proposition.

10.1.19 Senator F.H. Walker:

I have seldom, even over a period of 18 years, heard a number of such irrelevant speeches, absolutely irrelevant. **[Approbation]** This proposition is about entering negotiations to establish the owner's willingness to sell and what value they would seek for the site should the States - should the States - decide to go ahead. There is no question of commitment in this proposition of any sort whatsoever. Nor is there a suggestion, contrary to a couple of speakers, including the Deputy of St. John, nor is there any suggestion that even if a value was established the States would end up paying for it. Yes, there are private/public sector partnerships. Yes, the National Trust could be interested. Yes, we have heard from the Constable of St. Ouen other private individuals would be interested. So where Members get the idea there is any commitment to spend public funds on the back of this proposition I just do not know. That would be a decision for the States to take at a later stage if the States was so minded. What we have here is one of the most valuable pieces of countryside in Jersey. That is what we have. What we are looking to do is make progress towards finding a satisfactory resolution, but there is no commitment. This issue has been hanging around for goodness knows how long and at long last we have the opportunity of making at least some progress. Let us for goodness sake stop waffling, let us for goodness sake stop introducing issues to the debate which are totally irrelevant, open these negotiations, get on with it and then try and find a resolution which satisfies everyone at a later stage. I can tell Deputy Maclean, he mentioned the National Trust. One of the reasons this proposition has come to the House today is that I was approached by the National Trust, had discussions with them and, on the back of that, I had discussions with the Constable of St. Ouen. That is one of the reasons why this has come forward today. The National Trust are, indeed, very interested in the outcome and may well be involved or would wish to be involved in any final conclusion. So please let us not work on the basis this suggests to the public we have deep pockets. It does not. All it suggests to the public is that we want to get on with resolving an issue relating to one of Jersey's prime pieces of countryside which has been an eyesore for far too long. Let us stop the waffling and get on with the vote.

10.1.20 Deputy P.V.F. Le Claire:

I think the Chief Minister's speech really did deal with a lot of what I was going to say, so I am very grateful for that. Absolutely right, the issues that are before us today ... and I congratulate the Constable of St. Ouen for bringing this. It was not too long ago that we had a recent situation with the Inn on the Park where somebody promised to call the negotiations into the owner, and it is just promises to the electorate, promises to the electorate, and it just fell away and it was lost. Here the Constable of St. Ouen is giving us an opportunity for the Minister for Treasury and Resources to go away, ask the owners if they are willing to sell, ask what they would be willing to sell with, maybe a land swap as mentioned by Senator Ozouf, in conjunction with private purchasers, and we could give a steer in supporting this proposition to the Minister for Planning and Development that development on the headline or the ... development on the coast and the headland - that is the word I was looking for - is unacceptable in these circumstances. Areas of outstanding natural beauty. If you stand on these cliffs and you look to left to right and you do not see any buildings, it is an amazing difference to when you look the other way and you see anything built. Because a built environment in these settings completely changes the view, completely changes the feel. If we are going to continue to adopt policies which pile more and more and more and more and more people into St. Helier then the buy-in for that was that we retain the outstanding natural beauty in the countryside. Not a bit of both. Not build in the countryside and build in town. One thing is for certain, just to finish off what I am saying, one thing is for certain, let us not be fools. If it is turned into self-catering apartments you can bet your bottom dollar it is going to be turned within 2 or 3 years on the grounds that they cannot make a dollar, turned into houses. Then we will have lost the opportunity. Let us try for once to think like our forefathers thought when they purchased Noirmont Point for the headland for the ... they set it aside for the Islanders, for those that had suffered the occupation. It is made there; it is available for us all to go and enjoy. People from town and country all go to that place and all enjoy the outstanding views and we have all got free access to walk around it. The problem with living in town is that we have nowhere to go, so having an opportunity to go to a headland and walk around and enjoy the beautiful views is something that I do not think we should pass up. I do not think we are committing any money by agreeing to this proposition. I think all we are doing is giving the green light to the Minister for Treasury and Resources to go away and come back with what it would entail, perhaps a land swap.

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

I will not be participating in the debate, but I will answer Senator Perchard's question. The circumstances at this time are that there is currently no registered application in relation to this site. He asked what would be a reasonable period in relation to the determination of any application and I will answer generally and not with specific reference to this site. That is that the Minister for Planning and Resources has an obligation to determine all applications within a reasonable period of time, but what is reasonable allows the Minister for Planning and Environment to take into account numerous issues including, perhaps, States decisions.

10.1.22 Senator S. Syvret:

I will certainly be supporting this proposition. It is, in effect, simply endorsing and re-emphasising previous decisions made by this Assembly. I was quite interested to hear some of the speeches of those who are opposing it, for example the Deputy of St. John's and one or 2 others, who seem to suggest that, well, if the development takes place, as long as a chunk of the land is left open down by the coast that will make everything just fine. That will be an environmental gain. Well, perhaps from a twee merely aesthetic point of view that might be the case, but from an ecological point of view I am afraid if you really want to have this area as a natural area you have to remove any large-scale developments from it. So merely surface aesthetics are not the grounds upon which one decides what is suitable for the future of this site. If one is serious about making a genuine ecological decision, it should be returned to its natural state. I am going to support the proposition, as I said, but as I think I said in the previous debate I support it only with the proviso that it is all

well and good us spending money possibly - because we are not being committed to spending money by this proposition, again contrary to the impressions given by some speakers - but in the event that we spend money on this area so that it be returned to its natural state, I do not want those representatives of the country parishes and people who live there to then wash their hands of areas like St. Helier, the urban districts, the forgotten parts of the Island. I think there is a *quid pro quo* here for supporting the protection, the preservation, the restoration of this piece of countryside. I very, very much hope that people like the Constable of St. Ouen and other Members of this Assembly will be serious about the urban environment, too, and that we will press ahead with areas like the town park, for example, which will provide an open, green lung in the very heart, the very centre of the most neglected, deprived, densely populated part of Jersey. I am all for supporting and protecting the Island's countryside. I am certainly going to fully vote for this proposition but I just make that proviso. If we are serious about making our environment good, do not let it just stop in the country parishes and let us also apply the same standards to our poor, neglected urban areas.

10.1.23 Deputy S.C. Ferguson:

Members will remember in the Warren Farm debate that Noirmont was sold to the States at a price lower than that offered by a developer and this was done in the best interests of the Island by the owners of Noirmont at the time, the Seigneur of Noirmont Manor. Sadly, this issue that we are discussing underlines why the public are disillusioned with our 1(1)(k)s who are developers by trade. I will not say that development is a profession. The fashion, as I have said at the hustings, among modern millionaires is to buy land to set aside for conservation. It is a great pity that Jersey is so far behind the fashions. I am concerned, as are other Members, that passing this proposition gives the current owners the incentive to think that they can get an inflated price from the States. I may support the proposition but I give the owners due warning that any sort of inflated price for this piece of land I will oppose.

The Deputy Bailiff:

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

10.1.24 The Connétable of St. Ouen:

I quite sympathise with Deputy Maclean who thought he had a simple proposition coming to the States this morning and finished up with pages of notes, as I have done. I think I would like to start with Deputy Martin because she obviously felt that she saw much more in the proposition than I certainly intended. I am still waiting for that phone call from her to pick her up to come and see St. Ouen and its natural beauty, an offer which I made in 2006. **[Laughter]** In fact, in the argument she put forward she was talking to the converted. When this proposition was first lodged and the press contacted me, I said at the time that the decision today was a reasonably simple one, but the decision next time round will be a very difficult one because once we have identified the value we will then be faced with an amount of money that we will need. Today we are not faced with that. Today my proposition merely seeks to move forward. Since 2006 we have not moved forward and I think that it is time that we do. I do not intend going through every speaker because a number of them **[Approbation]** were speeches of support of my proposition and I thank those Members who did that. I would at this point invite the Connétable of St. John to come and see a beautiful Parish **[Laughter]** and I might invite Deputy Duhamel with him so that I can prove to him that the west is best. Can I say that I think that Senator Walker and Senator Syvret hit the nail on the head. I think that we have got here I think coming towards the final chance to do anything with this headland. As Deputy de Faye said, we are faced with a situation where over years the wrong decisions have been made over this headland. If we want to preserve it for the Island then we must start doing something about it. The one thing which the developers said following my lodging of this proposition was that so far no one had talked to them, and I think that is very sad. So I think that my proposition in 2006 should at least have started or opened a dialogue, which unfortunately it did not and hence this proposition. I would like to agree with Deputy Le Claire when he pointed out

that the problem we have with a development which we are told is coming along quite shortly for self-catering we have already experienced in St. Ouen. As Deputy Duhamel said, the old marina site at L'Etacq was developed for self-catering and within 3 years became residential. I have to say that it looks far less attractive as a residential development than it ever did when it was self-catering. It accumulates a lot more vehicles, bicycles and all the other clutter that goes with residential housing. I have to say that I agree with many of the comments that were made, especially the one that Senator Walker made which said that this particular headland has been an eyesore for too long. That is well known. It is well voiced by many people who would like to see this area sorted out rather quickly. I would like to say to the Deputy of St. John, and I know one or 2 Members said it, that I am not bringing this for the Parish of St. Ouen. I happen to be the Connétable but I believe that this proposition and the previous one that I brought had to be brought on behalf of the Island. I think that when the States debate or whatever comes forward in the future, they must realise that it is for the sake of the Island and not just for the sake of St. Ouen. I entirely agree with what Senator Syvret said when he said that we need to identify a value. We will then need to decide what we are going to do with that value, but I think at the same time we must commit ourselves to protecting St. Helier. I have to say that I have supported the town park and I am very sad that it has not moved further than it has already, although I am aware that the commitment is there and most of the funding is there. Finally, I think I need to tell the Deputy of St. John that, yes, I agreed that the last design was better than the previous one. The previous one, after all, was for 117 houses and a shop complex. It was better but it was not still the ideal that a lot of people would like. I have not opposed development in the Parish of St. Ouen in my 14 and a half years. In fact, I have added to the village community that existed when I took over and I have supported other developments in the Parish where I felt that there was a parochial need. Doing nothing, as a few Members suggested, Deputy Maclean being one of them - I notice he did not say that at the hustings at St. Ouen but I do not know why **[Laughter]** - doing nothing is not an option. I think that Deputy de Faye puffed in this matter - "puffin" this matter? No, do not worry about it - and asked why no one has talked so far. I suggest that no one has talked so far because no one has been given the leadership. No one has been given the encouragement to do so. This proposition is intended to give a lead and get the thing moving forward. I did not intend this being a debate about whether or not we could afford it in the future. This debate was about getting the process started and I maintain the proposition.

Deputy J.A. Martin:

Can I ask the speaker, the proposer, for a point of clarification? He has just said in his closing speech that nobody has been talking. He distinctly said in his opening speech that the owner has said they are now in a position that they are willing to either negotiate or sell. Who are they talking to? Where is he getting this information from if nobody is talking, please?

The Connétable of St. Ouen:

Sorry, I should have made that quite clear. The press interviewed me following my lodging of this proposition and that was a press statement following my press release. So, in other words, they replied to my press release. That is, in fact, where I found out that there was a future proposition with regard to self-catering. I have not seen one officially.

The Deputy Bailiff:

Very well, the appel has been called for in relation to the proposition of the Connétable.

POUR: 37

Senator S. Syvret

Senator F.H. Walker

CONTRE: 6

Connétable of St. John

Deputy R.C. Duhamel (S)

ABSTAIN: 2

Senator F.E. Cohen

Deputy G.W.J. de Faye (H)

Senator P.F. Routier	Deputy J.J. Huet (H)
Senator M.E. Vibert	Deputy J.A. Martin (H)
Senator B.E. Shenton	Deputy A.J.D. Maclean (H)
Senator J.L. Perchard	Deputy of St. John
Connétable of St. Ouen	
Connétable of St. Mary	
Connétable of St. Peter	
Connétable of St. Clement	
Connétable of St. Helier	
Connétable of Trinity	
Connétable of St. Lawrence	
Connétable of Grouville	
Connétable of St. Brelade	
Connétable of St. Martin	
Connétable of St. Saviour	
Deputy of St. Martin	
Deputy G.C.L. Baudains (C)	
Deputy P.N. Troy (B)	
Deputy C.J. Scott Warren (S)	
Deputy R.G. Le Hérisier (S)	
Deputy J.B. Fox (H)	
Deputy S.C. Ferguson (B)	
Deputy of St. Ouen	
Deputy P.J.D. Ryan (H)	
Deputy of Grouville	
Deputy of St. Peter	
Deputy J.A. Hilton (H)	
Deputy P.V.F. Le Claire (H)	
Deputy J.A.N. Le Fondré (L)	

Deputy D.W. Mezbourian (L)

Deputy of Trinity

Deputy S.S.P.A. Power (B)

Deputy K.C. Lewis (S)

Deputy I.J. Gorst (C)

Deputy of St. Mary

11. Waterfront Enterprise Board: Appointment of Director (P.153/2008)

The Deputy Bailiff:

Very well. We come next to projet 153, which is the Waterfront Enterprise Board: Appointment of Director. Chief Minister, this is a matter where an amendment has been proposed. Is there agreement between the parties as to whether this matter should proceed today?

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

There is agreement always in an effort to keep Senator Shenton happy, although sometimes I do not know why. I have agreed and I have consulted with Deputy Fox and other members of the board of Waterfront Enterprise Board that this matter should be deferred with States consent until the next sitting.

The Deputy Bailiff:

It is open to you to do it without States consent as it is before the matter has been listed, so you withdraw it from this day?

Senator F.H. Walker:

Yes, please, withdraw it from this sitting and put it down together with the amendment for debate on 2nd December.

The Deputy Bailiff:

Very well, that matter is deferred until the next sitting subject to the Assembly's approval.

12. Jersey Community Relations Trust: Appointment of Chairman (P.154/2008)

The Deputy Bailiff:

Then we come to Jersey Community Relations Trust: Appointment of Chairman, projet 154 lodged by the Minister for Home Affairs. 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 appoint, in pursuance of paragraph 5.1 of the Constitution of the Jersey Community Relations Trust, as amended, Dr. Elena Moran as the chairman of the Jersey Community Relations Trust for a period of 3 years from the date of appointment.

12.1 The Deputy of St. John (The Minister for Home Affairs):

It gives me great pleasure to propose that Dr. Elena Moran will be hopefully the chairman of the Jersey Community Relations Trust. She will be replacing Reverend Bill Matthews, who has been the acting chair since January, and I would like to pay tribute to the work that he has done as the temporary acting chair. But I would ask Members to support the proposal that Dr. Moran should be appointed as the chairman, or chairperson perhaps, of the Jersey Community Relations Trust.

The Deputy Bailiff:

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

12.1.1 Deputy S.C. Ferguson:

As far as I can understand it, a lot of the sort of *raison d'être* for the Community Relations Trust is going to be taken over by the Anti-Discrimination Law. I therefore wonder why we need to retain the Community Relations Trust when we have an Anti-Discrimination Law coming in. It seems as if we are going to be double counting and double expensing.

The Deputy Bailiff:

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

12.1.2 The Deputy of St. John:

The Deputy, or Senator-Elect, raises an interesting point. The way I see it is that with the advent of the Discrimination Law, which is yet to be debated by this House, there is even more need to have a body that would ensure that we apply the law correctly and that people have a place to go to find out what their rights are and how to go about interpreting that law. So I would hope that the Community Relations Trust, who have been very involved with consultation on that particular law, will be a great asset to us during the progress of hopefully implementing that particular piece of legislation. Unless there are any other further questions, I propose the appointment.

The Deputy Bailiff:

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

13. States Members' Remuneration Review Body: Appointment of Members (P.155/2008)

The Deputy Bailiff:

We come next to projet 155, States Members Remuneration Review Body: Appointment of Members lodged by the Privileges and Procedures Committee. 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 refer to their Act dated 13th May 2003 in which they agreed that an independent States Members Remuneration Review Body comprising persons who are not Members of the States should be established and to appoint the following persons as members of the body for a period of 3 years: Mr. Julian Rogers, chairman; Mr. Brian Bullock; Mr. Maurice François Dubras; Advocate Christopher Gerard Pellow Lakeman; Mr. John Mills, C.B.E. (Commander of the Order of the British Empire).

Senator S. Syvret:

As a matter of procedure, is there a requirement for the Assembly to suspend Standing Orders or declare a general interest because of our financial interest in this matter?

The Deputy Bailiff:

I would not have thought so, Senator. This is only to appoint a panel. They will come up with a decision. I do not see this as being direct or financial interest of that nature. Very well, chairman?

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

I would like, first of all, to start by thanking the members of the previous body for their services. They have performed a well worthwhile function in the interests of States Members solely. It was decided by P.P.C. (Privileges and Procedures Committee) that we needed to reconstruct this body and, as a result, it was decided that vacancies should be advertised in an open and transparent way

in the *J.E.P.* on Friday, 22nd August, and Tuesday, 26th August, and also an information sheet was prepared for potential applicants. Unfortunately, very little response was received and as a result it was decided to re-advertise on 8th and 9th September. This advertisement was accompanied by the issue of a press release which caused some coverage in the local media about the vacancies. By the time of the second closing date, there had been 5 applicants for the 5 vacancies. P.P.C. considered the applications and decided that all 5 should be nominated for the appointment, and they are listed on the proposition and, as Members will see, there are complete details of them in the proposition itself. They all, to the P.P.C.'s mind, are suitable members who have all had wide experience in various fields, including this Assembly, and they are all appropriate members to serve on this body. I make the proposition.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Deputy Le Hérissier.

13.1.1 Deputy R.G. Le Hérissier:

I think it is excellent that there is such a body and there were some grave misconceptions journeying around yesterday as to the role of this body. Just to, if I may, divert slightly, the intention is not that when the body reports we then second guess them and go over all the ground. The intention is that their report is laid in front of the House, there is a period to reflect upon it, and if there are no objections it automatically is deemed as being approved. The idea being to put the emphasis very much on their independence rather than us engaging in never-ending exercises to second guess them. The one point I would make, and I have sent this correspondence forward to the P.P.C., is while the Members are undoubtedly eminent members of society - and I have the honour and pleasure of knowing all of them in one way or another - while they are indeed that, there is the issue of to what extent do they broadly represent Jersey society. I think that is a real issue and I was lobbied - and I did pass on this material to the P.P.C. - by one individual, and have been approached by another, who felt he ... this person had not seen, unfortunately, the press advertisements, but this person did come from another segment of Jersey society and the feeling was that this body, as constituted, all being individuals good and true, was not a broad representation. By way of example, there are no women on the body, for example. There are people who have played, generally speaking, fairly senior roles in Jersey society. There is no one from a trade union. There is no one from a non-governmental organisation, although I know several of these people have worked within such organisations. There is a distinct possibility that given the background to these people, eminent and excellent though they be in individual sense, that we will not get that broad experience which will lead to good discussions and which in my view will lead to the right decisions.

13.1.2 The Deputy of St. John:

I would like to emulate some of the words that the Deputy has just mentioned. I know most of the people on this list, too, and they are certainly honourable, clever, highly reputable people. But my concern is that out of the 5 of them, 4 of them are effectively public sector, 2 politicians in other words, and 2 people that worked in the public sector, one a chief officer and the other one a senior teacher. There is only one person there that does not tick those boxes. I would be very concerned that a number of these individuals, but clearly well meaning, would have preconceptions, prejudices and the like. So I do not think that any of these, with the exception of possibly one, can have a very open mind about States remuneration, which is a very important issue particularly among those sitting around me today. Not least the public, too, who want to see a more mixed Chamber which will benefit from a review of remuneration. I am disappointed that so few people have come forward and I do appreciate how difficult it is to get people to give their time up in an honorary capacity to sit on such bodies. But I would hope the short debate we may have about this today may attract some other people because I do not really feel it is representative at all. It is far too narrow of people that have only worked in the public sector and all the people on that list ...

sorry, at least 80 per cent of them will have prejudices which I do not think will benefit such a review board. So I would find it very difficult unless I could be persuaded otherwise by the chairman of P.P.C. to vote for this. I do apologise because that is no reflection of the people on the list whatsoever, but I do not think it represents the people of Jersey and it certainly does not present to me open-minded people to sit round a table and discuss this issue.

13.1.3 The Deputy of St. Martin:

I am afraid I am going to be very much in the same vein that the 2 previous speakers have and again also declare that I know most of these and I have no problem at all with any of them. However, it is the narrowness I think of those who are selected. But I think in fairness, rather than look to blame anyone, we ought to get from the chairman of P.P.C. was it really ... if there were only 5 applicants, no doubt there can only be 5 people here. Now, I do not know how many people did apply, but maybe we could be told how many did apply and what sort of selection process ... **[Interruption]** Oh, did I miss that? I missed that, I am sorry. Therefore, then, if indeed there were only 5 applicants how can one then go any further? Obviously I am sorry I missed the section about 5, so probably all I can do is sit down and just say if they only have 5 to select from we will probably have to either say no and allow the process to start again or support it, but there is very little alternative.

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

I just asked the chairman in his summing up to confirm the process that the remuneration body follow in considering remuneration of States Members because it is my belief, and I know it is a number of years ago, but when the remuneration of this Assembly and States Members was considered a number of public meetings were held and, in fact, the public were encouraged to comment and have input into the decisions that obviously the board would ultimately make. Could you confirm if that is the case and if that same process is going to be followed this time?

13.1.5 Deputy C.J. Scott Warren:

I also received the email that Deputy Le Hérissier mentioned expressing the concerns that he has outlined. I believe that these people being nominated are, to put it one way, good people and true, but I do believe it is to be regretted that more people did not apply. I would recommend that a future Privileges and Procedures Committee for another ... if there is another for similar nominations maybe looks at wider publicity in future. I do not know if this was put on web pages. This has obviously been a fair procedure but it is not ideal to have 5 candidates for 5 places, albeit that I must say that these are good, commendable people who have come forward.

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

I think it is quite difficult to put forward names for people who have not applied for a post to take up that post. I would just like to thank the people who have put their names forward. I think one of the problems that this Assembly will face in the future will be trying to find people prepared to put their names forward, and that is partly because I am afraid on too many occasions in the past members of the public who have put their names forward have been criticised by Members of this House using the immunity of the privilege of this House, and I think instead States Members should in future recognise that people give voluntary service and applaud them for it and not criticise them for it, then maybe more people would come forward. **[Approbation]**

13.1.7 Deputy P.N. Troy:

Privileges and Procedures, I would just like them to get their procedures right in relation to font sizes on this proposition. The actual report, the font size is about size 6 or 7. Any member of the public who has poor vision or needs reading glasses would find it extremely difficult to read this. I think it is something that the Greffe should take on board that when these things come forward the font sizes, when a government communicates with the people, whether it is through these propositions which are on the web site and so on, I do think they should use font sizes that are

easily readable by those who have impaired vision or who need reading spectacles or glasses. So, just a point that I would like to make. It has absolutely nothing to do with the individuals concerned, but there we are.

13.1.8 Deputy J.J. Huet:

I do not know exactly how this was advertised. I presume it was advertised in the *J.E.P.*, but I am very disappointed that there are no ladies on it. Then I did wonder, I cannot be the only one that I never look at adverts in the *J.E.P.*, never, ever. I think there are a lot of ladies like that. We sort of skim over the *J.E.P.* and miss the adverts because we do what interesting bits are there, hatches, matches and despatches and so forth, you know. You do not look at the adverts. I was just wondering not maybe this time but I would have liked to have seen it that maybe an advert could have ... not an advert, maybe something could have been put on the radio because I find a lot of ladies listen to the radio a lot more than they would read the adverts in the *Evening Post*. Maybe, I do not know, but maybe this is why we are missing out. Because I know and you know that there are a load of ladies, nurses, health workers and so on, that have retired, even. They must be there. We just are obviously not contacting or in connection with them. So, somewhere we are slipping here and I would like to think that maybe we could try a bit harder or a slightly different way and not just rely on an advert in the *Evening Post*.

13.1.9 Deputy G.W.J. de Faye:

I am a little disconcerted to hear that my Assistant Minister skims through the adverts in the *Jersey Evening Post*. Perhaps I could advise her that there is a forthcoming election for Deputies coming up next month just in case she misses it. **[Laughter]** I very much support the entirely sensible remarks made by Senator Vibert and I am very grateful for these members of the public being prepared to come forward and support the public service in the way that they do. I have to say that it strikes me that the point of these types of approval debate is reasonably specific and that it does any States Member have a particular issue with one or more of the names, the nominees being put forward? Are they right and proper people for the job? Is there some blemish on their character that needs to be considered, and so on and so forth. I think that Members should restrict themselves to that form of consideration. Clearly, the general view is that these are entirely reputable people and we are very pleased to have their assistance. I would say to those Members who have got criticisms, whether it be the proportion of former public service employees or the gender issues, that realistically those matters need to be taken up quite separately with the Privileges and Procedures Committee and the Appointments Commission. They are not really part of this debate and should be considered separately. Quite bluntly, if Members do have issues with the names being put forward, they really ought to be coming up with other names themselves as alternatives, otherwise frankly it is a rather pointless state of affairs.

13.1.10 Deputy G.P. Southern:

I just rise to my feet to echo the words of Deputy Le Hérissier who pointed out the peculiar nature, in a sense - I use the word correctly, I think - of the people who have come forward in that they are uniformly men in suits. Whether or not it is the form of advertising or whether it is the form in which we access our public, they are not ... they are far from a representative cross-section of our public. If they are serving to decide how and to what extent we are paid, then it would certainly be useful to get a better cross-section from the public than we currently appear to be able to do.

13.1.11 Senator S. Syvret:

Although it is all largely academic as far as I am concerned and this matter will not have a great deal of effect on me, I will certainly be opposing this proposition. If ever there was a way calculated to bring the remuneration processes and systems of this Assembly into disrepute and to reinforce the widely held view that certain factions wished to retain the political environment to those who are wealthy enough to afford it, you would be hard put to have come up with greater

confirmation of that in terms of the membership of this panel that has been brought forward here. Indeed, so absurdly conflicted are at least 2 of the members of this panel that frankly this would be a vote of no confidence issue in P.P.C. were they not so close to the end of their lifespan. This is the very, very worst example of quangocracy, of democratic deficit, of handing over important sections of power to unelected, unaccountable bodies formed of the usual suspects drawn from the ranks of the customary files of the great and the good. This is no way representative of a cross-section of our community at large and it is wholly wrong, I think, to proceed in this path. If P.P.C. were doing their job properly, they would have reviewed the entire procedure. It is certainly true that the States should be offered independent findings and guidance by an independent body for its remuneration, but it is abundantly clear that given the very small and highly partisan nature of factionalism in Jersey that you are never going to get a load of people of this nature drawn from the ranks of the usual suspects to be even faintly regarded as being impartial and objective. If I were responsible for P.P.C. I would be looking at recruiting an entirely independent specialist remuneration assessment organisation - Hay, whatever it might be - from the United Kingdom to undertake the work and make the recommendation, a group that had no prior connection with Jersey whatsoever and came to the whole situation completely impartially and with clean hands. That is not what we have before us today. This is a panel that will support rich Members and will not advance the causes of ordinary people being represented properly in this community. Julian Rogers routinely writes letters to the *Jersey Evening Post* slagging me off, so I can imagine how much of a kind of interesting amount of support I am going to get in terms of remuneration from him. Really, it is sheer incompetence on the part of P.P.C. that they failed to notice the man is politically active in the community in that sense. Brian Bullock, a senior retired teacher. Well, I am sure he is going to be well disposed to people like me. Former Deputy Maurice Dubras, this is a man who brought a proposition successfully to this Assembly to cut the reimbursement of the employer's proportion of social security repayment, probably costing me, I do not know, about £10,000 all told. This is a man who when he was in the States was rabidly committed to the traditionalist approach of making life as difficult as it could possibly be for those without independent means and racking up all the advantages for those who are wealthy or had made the arrangements that so many Members make to be employed by their own company, thus minimising at a stroke their social security contributions and instead looking to the taxpayer to supplement most of it. Advocate Lakeman, I get on with Advocate Lakeman on a personal point of view, but he can hardly be described as somebody who is going to be well disposed toward rank and file anti-establishment, as it were, candidates or members of the public. His politics are well known. Working down the list, John Mills, this is a man who when Chief Officer for Policy and Resources Committee bullied out of office, bullied into resignation Debbie King, a highly respected civil servant in the community. John Mills is also, as was very controversially and well noted publicly 6 years ago, a close friend and supporter of Senator Ozouf when he appeared in that photograph at Senator Ozouf's election party 6 years ago. Now, such is the degree of utter incompetence exhibited by this Privileges Committee in bringing forward a slate of such bias as this that, as I said, it would be a vote of no confidence matter. But really, if Members do not like these kind of matters being debated and they do not like this kind of "unseemly" and "inappropriate" kind of discussion of these issues, well, you know, it is a 2-way street. If you bring forward proposals that are manifestly absurd, laughable and just cannot be taken seriously in this manner, then you are going to get these kind of debates, I am afraid.

13.1.12 Deputy G.C.L. Baudains:

It does occur to me from the last speech that the Privileges and Procedures Committee are possibly being encouraged to go out and abduct some people off the street in order to fulfil this position, because I am not quite sure how you can get people to do a job if they do not want to do it in the first place. But what has occurred to me is there possibly could be an advantage in only 5 people applying for the 5 positions on this review body. That is over the last few years there have been a number of people complaining that States Members are overpaid. Well, as they have not been

coming forward for this position, presumably they are now satisfied and they will not complain any more.

13.1.13 Senator P.F.C. Ozouf:

I do get concerned with the increasing character assassination that people have to undergo in this Assembly. John Mills is not a friend of mine. He is known to me in a political capacity. I have probably spoken to him 3 times in the street, I think, since his departure from the States of Jersey. One of a number of, I am afraid, inaccurate assertions made by Senator Syvret. I think that this proposition from Privileges and Procedures, they advertised, certain people came forward and I have to say that after hearing the remarks of Senator Syvret and his continual assassination of other people ... character assassination of other people, I am not surprised more people did not apply. [Approbation]

Deputy C.J. Scott Warren:

On a point of order, I do wonder if this debate can continue because after this I am not sure these people still will be putting their name forward.

13.1.14 Deputy J. Gallichan of St. Mary:

Just very briefly, I would just like to remind Members, of course, that apart from stating again that this requirement was advertised on 2 separate occasions, twice for each, there was a press release which generated considerable media interest so it was covered on the radio, these were the only 5 candidates. There is absolutely no question of having sidelined anyone else or whatever. But I would just like to remind the House that, of course, these are just the board members. They do not make recommendations in isolation. They will be holding public meetings. They will be advertising for public opinion. They will be considering what the public have to say. So if anybody listening feels that they maybe could have made a contribution but did not see the advert or did not want to respond, perhaps for reasons already given they felt that they would be criticised or harangued if they did, they are going to have the opportunity, I believe, to make public submissions. So there is no doubt that the full breadth of public opinion will be catered for in any decisions and recommendations that this remuneration body do put forward.

13.1.15 Senator P.F. Routier:

Just very briefly, I would like to thank the people who have come forward, who are prepared to do this work for the Privileges and Procedures Committee. I want to disassociate myself with any of the comments that Senator Syvret has made about these people. I believe they are doing this in a public spirited manner and I believe that it is wrong to prejudge what might come out of their work, as Senator Syvret has done, and I do, as I say, thank them for coming forward.

The Deputy Bailiff:

Does any other Member wish to speak? I call upon the chairman of P.P.C. to reply.

13.1.16 The Connétable of St. Clement:

I would like to support solely exactly what Senator Routier has said. These people are public spirited. They have put their name forward. But I would also point out to Senator Syvret that we are merely filling vacancies of a body that was established by this Assembly on 13th May 2003. That is all we are doing. We are re-establishing it and filling the vacancies, just putting people in the place. There is a need, I think - Deputy Huet and Deputy Le Hérissier have said there is a need - probably to look at the way it is being advertised. We have done our best, we put it in the local paper, we issued a press release, but it is up to the media whether they use that press release. So the only other way of doing it is to advertise. That is the only way we are going to get the names forward. So public meetings, the Deputy of St. Ouen said would they be wholly public. Yes, definitely. They would go along the same lines as they established last time in that they will invite members of the public to come and express their opinions, and they did, they did come along and

express their opinions. I am sure that these people are all good and have independent minds. I am sure they have no preconceived ideas of what they are supposed to be doing, and we do know from the last panel that they do listen to the public because that is evidenced in the report that they issued. So I would like to propose these names. They are all good people and despite what Senator Syvret said, we are grateful that they came forward, they offered their names. It is a pity that there were no ladies, but no ladies applied so they could not be appointed.

The Deputy Bailiff:

Very well. All those in favour of adopting the proposition kindly show?

Senator S. Syvret:

The appel.

The Deputy Bailiff:

The appel is called for, then, in relation to the proposition.

POUR: 36

Senator F.H. Walker

Senator P.F. Routier

Senator M.E. Vibert

Senator P.F.C. Ozouf

Senator B.E. Shenton

Senator J.L. Perchard

Connétable of St. Ouen

Connétable of St. Mary

Connétable of St. Peter

Connétable of St. Clement

Connétable of St. Helier

Connétable of Trinity

Connétable of St. Lawrence

Connétable of Grouville

Connétable of St. Martin

Connétable of St. John

Connétable of St. Saviour

Deputy R.C. Duhamel (S)

Deputy J.J. Huet (H)

CONTRE: 5

Senator S. Syvret

Deputy G.P. Southern (H)

Deputy P.J.D. Ryan (H)

Deputy P.V.F. Le Claire (H)

Deputy of St. John

ABSTAIN: 0

Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy P.N. Troy (B)
Deputy C.J. Scott Warren (S)
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy S.C. Ferguson (B)
Deputy of St. Ouen
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 K.C. Lewis (S)
Deputy of St. Mary

14. Jersey Heritage Trust: Appointment of Chairman (P.156/2008)

The Deputy Bailiff:

Very well. Then we come next to the Jersey Heritage Trust: Appointment of Chairman, projet 156 lodged by the Minister for Education, Sport and Culture. 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 appoint Mr. Clive S. Jones as Chairman of the Jersey Heritage Trust for a period of 4 years with immediate effect.

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

Could I ask that my Assistant Minister with responsibility for culture, the Deputy of Grouville, act as rapporteur, please?

14.1 Deputy C.F. Labey of Grouville (Assistant Minister for Education, Sport and Culture - rapporteur):

It gives me great pleasure to propose Mr. Clive Jones as chairman of Jersey Heritage Trust for a period of 4 years. Mr. Jones has a keen interest in heritage and has already served as a trustee of the Trust for 3 years. He also, very importantly at this time, has a financial background. He has served in senior management positions which include President of the Bankers' Association and

being founder member of Jersey Finance Limited. Mr. Jones, after due process, was chosen and thought to be the best candidate for the job. So I make the proposition.

The Deputy Bailiff:

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

14.1.1 Senator M.E. Vibert:

Yes, and can I add my support to and thank Mr. Jones, who I believe is an outstanding candidate, for coming forward to act as chairman of the new Jersey Heritage Trust, new chairman, and put my thanks to Jurat de Veulle, the retiring chairman, for his outstanding service as chairman of the J.H.T. (Jersey Heritage Trust) and to Jersey. [**Approbation**]

The Deputy Bailiff:

Does any other Member wish to speak? Deputy Power, are you wishing to speak?

14.1.2 Deputy S. Power:

Yes, Sir, I would. I am also very happy that this candidate, Mr. Clive Jones, has made some very encouraging remarks about Elizabeth Castle and I agree with him fully that it is the jewel in the crown in some of Jersey Heritage Trust's properties. However, I do hope that this incoming chairman revisits the decision to acquire the 2 machines that were purchased by the Heritage Trust from Pure Adventure earlier this year. May I remind Members and take this opportunity - and Deputy Lewis is nodding furiously there - that I was criticised for asking many questions about this acquisition. May I also remind Members that one of these machines has been sitting on axle stands since last July in the fair Parish of Trinity and a certain commercial vehicle repairer company has been paid thousands and thousands of pounds to keep the other one at West Park alive. I finally remind Members that there are 3 perfectly serviceable machines sitting in the fair Parish of St. Saviour.

14.1.3 Deputy G.W.J. de Faye:

It is very rarely I take issue with Deputy Power but I have to say that it is my belief the jewel in the crown of Jersey Heritage Trust is, in fact, the recently fabulously refurbished Mont Orgueil Castle. [**Approbation**] I would perhaps issue a word of caution to the incoming President of Heritage Trust about placing early investment into Elizabeth Castle, a wonderful heritage site albeit. Deputy Power is to this extent right. I think there are issues about investing money into a site that is regularly cut off by the tide because obviously that limits income generation possibilities particularly in the light of an irregular ferry service. What I would like to put forward is the Cinderella outfit which is the increasing number of buildings that come under the forts and towers project.

The Deputy Bailiff:

Deputy, I am always reluctant to interrupt [**Approbation**] one of your speeches ...

Deputy G.W.J. de Faye:

Sorry, Sir, is this an inopportune time to offer advice, perhaps? [**Laughter**]

The Deputy Bailiff:

I think the issue before the Assembly is who should be the chairman rather than what he should do when he gets there.

Deputy G.W.J. de Faye:

I have no doubt that if the chairman is prepared to take hints he will do a fine job. [**Laughter**]

14.1.4 Deputy P.V.F. Le Claire:

Just to say very briefly I am very pleased to see Mr. Jones' name coming forward because I think he is a very hardworking, intelligent and good guy to have in the job. I am very pleased to see he has taken up the appointment, demonstrating yet again his commitment to the community. I am very pleased to support his nomination.

14.1.5 Deputy G.C.L. Baudains:

I would just express my hope that under the new chairmanship things may run possibly slightly better than they did in the past. I have never forgiven the Heritage Trust for the damage that was done to Mont Orgueil Castle. There were many other issues as well that I will not go into now, well documented of unsatisfactory work by the Heritage Trust, and I look forward to better results in future.

The Deputy Bailiff:

Very well, I call upon the Deputy of Grouville to reply.

14.1.6 The Deputy of Grouville:

I would just like to thank all Members who have spoken. Deputy Power, if I thought his remarks were relevant to this debate I would make comment on them, other than to say that Mr. Clive Jones was a board member when the new ducks were purchased. At this time, as my Minister did before me, I had just prepared a few words to say about the retiring chairman which might hopefully restore a bit of faith in people that put themselves forward to voluntary service in the Island. Jurat John de Veulle O.B.E. (Order of the British Empire) retired as chairman of the Jersey Heritage Trust in June this year having completed 2 terms in office. His influence on the organisation goes back, however, far beyond the tenure of chairman. He has been involved for more than 20 years, the bulk of the time as the Trust's honorary financial adviser, such involvement from the earliest days of the Trust to the point where it now runs 20 sites and is responsible for a diverse range of heritage sites. To the office of chairman he has brought personal qualities for which he is widely known and respected. A considerable intellect and a deep love of his Island and heritage and the rare ability to engender what I thought was harmonious working relationships between individuals and bodies. With a strong family background in the life of the Société Jersiaise, he has provided an invaluable link between the 2 organisations. As Jersey Heritage Trust's honorary financial adviser, he played an important role in the transformation of the Trust during the 1990s, a period when it opened the new Jersey Museum, the Maritime Museum, established the Jersey Archive and took responsibility for the castles. Later, during his period as chairman, his skills came into the fore in the resolution of a number of very complex planning issues surrounding Mont Orgueil Castle and its successful reopening in 2006, which has since attracted many thousands of visitors. This period has also seen a number of other notable achievements including the successful delivery of forts and towers programme which we are more than happy to receive Deputy de Faye's advice on at some stage in future, the development of site specific conservation plans for historic sites, and the formalising of specific advice to the Planning Department on listed buildings. Members will recognise the enormous personal commitment that Jurat John de Veulle has made to the Jersey Heritage Trust over a very long period and I am sure we will all wish to publicly thank him for his service to the Island. **[Approbation]** So it gives me great pleasure to propose Mr. Clive Jones, who has a very hard act to follow.

The Deputy Bailiff:

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

15. Jersey Financial Services Commission: Appointment of Commissioner (P.151/2008)

The Deputy Bailiff:

We have one final matter; that is the Jersey Financial Services Commission: Appointment of Commissioner. Under the law, that has to be held *in camera* but the proposition must be read in open session and then we will go *in camera*, so I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion in pursuance of Article 3 of the Financial Services Commission (Jersey) Law 1998 to appoint Advocate Deborah Jane Lang, née Nance, as a Commissioner of the Jersey Financial Services Commission with effect from 30th November 2008 for a period of 3 years.

Senator B.E. Shenton:

I am delighted to say that I am conflicted on this issue and will have to leave the Chamber.

Senator F.H. Walker:

I am equally delighted to say I, too, am conflicted on this issue and have to leave the Chamber as well.

The Deputy Bailiff:

Very well. Could I ask the media to withdraw, please?

[Debate proceeded in camera]

The Deputy Bailiff:

Very well, all those in favour of adopting the proposition kindly show? Those against? The proposition is adopted. That concludes Public Business.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Deputy Bailiff:

The only other matter is the Arrangement of Public Business for the Future. Chairman, do you wish to speak to that?

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

I would like to propose the Arrangement of Public Business listed on the Consolidated Pink Paper with the addition on 2nd December 2008 of P.153, the Waterfront Enterprise Board Limited: Appointment of Director, together with the amendment.

The Deputy Bailiff:

Does any Member wish to offer any observations? Deputy Le Claire.

16.1 Deputy P.V.F. Le Claire:

Just as a matter of courtesy, I have not had a chance yet to speak to the President of P.P.C. but I do intend to lodge a proposition in the next 2 days that I would ask to have included on the day for 2nd December 2008. It is an issue that has unfortunately forced me into bringing at this stage with quite significant support from people I have spoken to already, and I will as soon as possible circulate that to Members so that they know.

The Deputy Bailiff:

That will be a matter presumably for P.P.C. to decide with the Greffier whether to add to the agenda. I do not think we can add it at the moment because it does not exist.

16.2 Senator P.F. Routier:

I have no idea what the content of the proposition would be, but surely it is this House as a whole that would decide what gets put on to the agenda, it would not be just P.P.C. that would make the decision.

The Deputy Bailiff:

No, the House would have to decide at the time whether to take it. Very well, does any other Member wish to offer any observations? Then do Members approve the arrangements for 2nd December 2008? Very well, that concludes the ...

The Deputy of St. John:

If I may have a brief moment, a number of Members have asked me whether I intend to bring forward a proposition or talk to the Council of Ministers about appointing an Assistant Minister. Could I just let Members know that at the moment, and I will take further advice on this, but there is only 6 weeks to run and for somebody to get up to speed with the whole of the portfolio for Home Affairs would be quite difficult. I have not ruled out the possibility and will take further advice on it, but I do thank Members who have approached me with a view to offering their services. I will take further advice and come back to them. They were obviously very brave. One other minor thing, I had intended saying a few more words during the appointment process, but I accept Members need to get on with business. However, a number of questions were asked of me afterwards and I will circulate a brief memorandum of what I was intending to say, which may satisfy some of those questions.

The Deputy Bailiff:

Thank you, Deputy. Very well, on that basis the Assembly will close and reconvene on 2nd December 2008.

ADJOURNMENT