

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 29th JANUARY 2008

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

QUESTIONS

1. Written Questions

1.1 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE IMPACT OF CURRENT INFLATION RATES ON THE HOUSING MARKET:

Question

With current rates of inflation in house prices allegedly at 20 per cent, what does the Minister propose to do to address the problems in the current housing market for those who are on low to middle incomes?

Answer

The rate of increase in house prices is something which is of a concern; although we must appreciate that some growth is perfectly normal and is indicative of a healthy and buoyant economy. Members will recall that in approving the Social Housing Property Plan 2007 – 2016 last year, a mechanism was put in place for the sale of some 800 homes to States Tenants over a ten year period with the assistance of a deferred payment scheme. The first tranche of these sales took place in December 2007 and there are more to follow in the weeks and months to come.

Following this, the Minister for Planning and Environment and I turned our attention to how we might assist those other aspiring first time buyers, who were without the means to pay the current market price for a home on a rezoned site. The Minister for Planning and Environment will shortly be putting a paper out for consultation which will discuss our proposals for the introduction of ‘Jersey Homebuy’ a scheme which will allow qualifying buyers to acquire a new home on one of the remaining H2 sites for 65% of the normal first time buyer market price. This will represent a significant step in meeting the growing demand for affordable homes.

1.2 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING APPOINTMENTS MADE ‘IN CAMERA’:

Question

In July 2006 the issue of appointments *in camera* led to consideration of a review of future appointments, for which the Privileges and Procedures Committee circulated an extensive list; some of which were covered by law. Would the President update members as to the progress that has been made, if any, in these areas?

Will the Chairman advise whether changes will be brought to the States to remove the need for uncontentious appointments to be made in-camera and if so, will he ensure that amendments to the list of appointments can be brought if desired by States members?

Answer

As mentioned in the question the issue of appointments made by the States was considered in 2006 after the decision of the States to sit *in camera* to discuss the appointment of a new Chairman of the Waterfront Enterprise Board. At that time PPC nevertheless made it clear

that, in its view, the issue of appointments being made *in camera* was a secondary issue to the more fundamental issue of whether or not appointments should be made by the States at all. Having reviewed the list of appointments in 2006 PPC saw no reason why the majority needed to be made by the States, particularly as many appointments are now made with the involvement of the Appointments Commission.

The requirement for appointments to be made by the States comes, in the majority of cases, from relevant legislation. Some legislation then requires the appointments to be made *in camera*, for example the Financial Services Commission (Jersey) Law 1998 as it relates to the appointment of Commissioners. In addition some legislation requires appointments to be made 'on the recommendation' of a certain Minister which prevents amendments, as mentioned in the question.

If changes are to be made to legislation to remove the requirement for States involvement in certain appointments, or to remove the requirement for these to be made *in camera*, the relevant amendments would not be brought forward by PPC but by the appropriate Ministers who are responsible for the legislation in question. PPC is not aware of any Ministers who have initiated a review into the appointments for which they are responsible since the issue was raised in 2006 and the Committee will therefore undertake to circulate the list of appointments to all relevant Ministers. The Committee will ask Ministers to review whether the appointments need to be made by the States in all cases and, if so, whether there is any justification for a statutory requirement for the appointment in question to be made *in camera*. Standing Orders allow the States to agree to sit *in camera* at any time and PPC's view is that this facility is preferable to a statutory requirement to sit *in camera* even when members have no particular desire to do so.

1.3 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING '(J)' CATEGORY HOUSE PURCHASES AND HOUSING AVAILABILITY:

Question

On 4th December 2007 it was alleged by Deputy G.P. Southern of St. Helier that (j) category house purchases represented 7% of the market, despite the fact that this sector equated to only 2% of the population. Does the Minister agree with these calculations and, if so, does he consider that this is affecting the movement within the housing market and the availability of housing in Jersey?

Answer

It is true to say that (j)s purchase on average 7% of properties, and that the 1,700 (j)s working in the island comprise just 2% of the total population of 89,300. It is equally the case that the total population includes a range of people who cannot buy, or would normally not buy, for example, 9,000 people are not locally qualified for housing purposes, 30,000 are under 16 or over 16, and many more local people will likely live with each other and purchase jointly. As such, while some comparison of these percentages may be instructive, it should not be taken too far.

Ultimately, it continues to hold that the vast majority of purchases - over 90% - are made by people qualified under the Housing Law following a long period of residence, and it is this fact that is most pertinent in understanding changes in house prices.

1.4 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING A MACHINERY OF GOVERNMENT REVIEW OF NON ELECTED MEMBERS:

Question

Does the Privileges and Procedures Committee plan to begin a consultation process regarding the Review of the Machinery of Government in relation to the non-elected members of the States?

Answer

The recent review of the machinery of government reforms, on which the Privileges and Procedures Committee has already reported (R.105/2007 refers), had detailed terms of reference and looked at the changes that had already been made. The Committee is currently consulting on the recommendations made.

The review into the composition and election of the States Assembly was a separate piece of work, and the Committee was disappointed that following lengthy consideration, no changes have been made in relation to the composition and election of elected members.

The Committee has no plans to review the role of non-elected members in the Assembly. Any review of non-elected representatives would have far reaching constitutional consequences and would not be a matter for the Committee alone.

1.5 QUESTION FROM DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING HARBOURS CHARGES:

Question

What increases, if any, have been made in Harbours fees which reflect the cost of living of 4.3% rather than the States recommended anti inflationary level of 2.5%?

Answer

In recent years Harbour Dues have been raised by 2.5% per annum in line with States policy. Harbour Dues relate to the shipping of passengers and freight through the port and represent about two thirds of Jersey Harbours' income.

Marine Leisure fees are generally increased by the cost of living - 4.3% in 2007. Leisure dues are recognised as not being directly related to Jersey's RPI. The Finance and Economics Committee previously commented in the States that: "The Committee believes that it is important that the users of Marinas and moorings do not receive a service subsidised by commercial users of the Harbour or the taxpayer".

Property is reviewed in accordance with the relevant lease agreement. Effectively this is either Open Market Value or Jersey RPI.

It is essential that income is maintained in order to meet budgetary targets, generate sufficient funds for the upkeep, maintenance and capital programme of the harbours and territorial waters without resorting to central States funds.

Notes

Passenger Port

Harbour Dues for passengers and cars – 2.5%

Commercial Port

Harbour Dues for freight and fuel – 2.5%

Pilotage – 2.5%

Quay Rentals – 2.5%

Marine Leisure

Registration Fees – 8% (not increased since 2005)

British Shipping Register – 8% (not increased since 2005)

All other charges – 4.3%

Port Estate

Port Parking – increase from £73 to £138 in 2008 in first step towards achieving market value

1.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING SHARE TRANSFER TRANSACTIONS.

Question

Will the Minister inform members what proportion of new-build flats have been offered for sale as share transfer transactions over the past two years and advise how many of these have been sold as block purchases to either local or overseas investors?

Can the Minister advise the proportion of properties, including 3-bed houses that are purchased by those with qualifications, either resident or not, as investments, thereby reducing the housing stock available for purchase?

Does he accept that with house prices continuing to rise faster here than in other parts of the United Kingdom, the attraction of the Jersey housing market for investment purposes is increasing and if so, will he advise what action, if any, he plans to take to protect the interests of locals who wish simply to purchase and occupy housing?

Answer

Jersey is special in that its Housing Law restricts the ability to purchase property, with free standing property reserved almost exclusively for the ownership of locally qualified persons. The purchase of property by locally qualified persons and subsequent lease of that property to another locally qualified person is not something the housing law seeks to prevent, nor are any measures planned to prevent such a thing occurring.

As to flats, it is highly unlikely that investment is creating difficulties, with prices remaining largely static, and share transfer flats only being able to be leased by locally qualified persons. As to information on purchasing trends for flats, as previously explained in an answer to a question tabled on 15th January, 2008, we do not have information on how many share transfer properties are sold, as their purchase is not controlled by the Housing Law, and there is no requirement to register the sale through the Royal Court. With the introduction of Stamp Duty on share transfer properties this situation will change, and in the meantime, the Statistics Unit have separately estimated that about 3/5th of flat sales in any one quarter are share transfer sales.

1.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE IMAGINE JERSEY 2035 EVENT:

Question

1. Will the Chief Minister explain to members why no meaningful figures for the Social Security contribution rates required to break even on pension provision to 2035 were given to participants who attended the “Imagine Jersey 2035” event on 19th January?

Answer

1. Break even contribution rates are a theoretical indicator of the condition of a strict “pay as you go” pension system and can be used to demonstrate the effect of different scenarios on the system in question. They are based on a series of assumptions described by the Government Actuary as “technical” that would need to be explained in some detail and would have taken a disproportionate amount of the limited time available. However, I must inform Members that in a pension system like Jersey’s Social Security Scheme, increases in the working population, through inward migration or increased fertility, actually reduces the break even contribution rate. Rather than confusing participants with a theoretical indicator, participants were given sufficient information on the impact of the ageing population on the Social Security system.

Question

2. Will he agree to release the figures produced in the Actuarial Report on the condition of the Social Security Fund of December 2000 updated for current projections to members and thereby to the public so that they can be more fully informed about some of the options for coping with demographic change?

Answer

2. The 2000 Actuarial Review is out of date and has been superseded by the 2003 Actuarial Review. This latest review was presented to the States as R.55/2005 and published through the normal channels. The Social Security system contains a statutory provision for an Actuarial Review every three years. The next review for the three years ending 2006 is due to be presented to the States in the autumn of this year.

Question

1. Does the Chief Minister accept that the inclusion of non-mutually exclusive options in Section 6 of the “Imagine Jersey 2035” on-line survey undermines the validity of any results produced?

Answer

- 3 No, I do not. The survey provided a means to explore the initial views and values of the Island's residents in the face of the challenges posed by an ageing population.

The survey represented a valuable and constructive preliminary step in the development of conceptual understanding and the opening of a dialogue between policy-makers and Islanders. In this context, the results of the survey provide considerable, useful insight into the initial thoughts and perceptions of Island residents on the issues facing Jersey over the coming decades.

The survey represents one of a number of ways in which people can express their views as part of this consultation process.

Question

2. Does he further accept that the inclusion of 2 factors (housing the elderly and housing immigrants) in Section 7 of the survey calls any results into serious doubt?

Answer

4. No, I do not. Section 7 of the Imagine Jersey survey was designed to explore the strength of public opinion towards four possible means of providing housing for Island residents.

The introductory text to the set of attitudinal questions was included to provide an illustration as to why more housing units may be needed in future.

The point of the section was to explore initial strength of opinion on possible strategies for accommodating Island residents in future. The results considered in this context provide a valuable insight.

Question

3. Furthermore, does the Chief Minister accept that the change in formulation between questions during the conduct of the 2035 consultation on 19th January from "should people (*in general*) work longer?" to "how much additional tax would *you* pay?" to fund the elderly skewed the results and rendered them invalid for comparison purposes?

Answer

5. The objectives of the Imagine Jersey event held on 19th January 2008 were, in essence, to build an understanding of potential future trade-offs, to enable policy-development to be informed by public preferences and to encourage increased public ownership over future decisions. The questions asked during the event itself were drawn up to facilitate these objectives.

As a former educationalist, the Deputy should be well aware that a pragmatic approach is fundamental to the process of cognitive understanding and ownership of knowledge. It was in this light that the questions were indeed modified in real-time at the event, in response to spontaneous feedback from participants. A small number of questions were asked in terms of, firstly the general, and then the specific. This was done purely to enable deeper understanding of the issues involved and to provide further insight into the strength of attitudes towards these issues.

Rather than rendering the questions invalid, the demonstrated flexibility was important in developing further understanding of issues and opinions, that is in meeting the objectives of the event.

Question

4. Will the Chief Minister inform members how much the “Imagine Jersey 2035” consultation cost and how much was paid to the “Involve” organisation for their contribution to the consultation process, and what elements they were responsible for / contributed to? In the light of the basic survey design flaws indicated above, does the Chief Minister consider that value for money was achieved from “Involve”?

Answer

6. The budget for the whole consultation process, including production of the consultation documentation, translation, event planning, advertising and delivery, the survey and associated costs such as printing, venue and technical support is £59,000. Within this budget, the cost of Involve will be £34,500, plus expenses.

The work Involve has undertaken includes:

- Providing advice and guidance on the consultation process and documentation
- Setting up and operating the on-line survey, including reporting the outcome
- Planning, management and delivery of the event
- Producing a final report on the outcome of the consultation process

In addition, included within the above figure are the costs of delivering two one-day training sessions to States of Jersey officers to develop and improve consultation and facilitation skills across the States of Jersey. This element of the work goes beyond Imagine Jersey 2035 and will benefit future consultation exercises.

Whilst Involve have been responsible for providing expertise with regard to the above items, close collaboration with officers of the States of Jersey with knowledge of the subject matter has been a key part of the approach. Involve have therefore worked together with officers to develop key deliverables, including the consultation document, the survey and the event on the 19th January 2008.

As stated above, I do not accept that the survey has design flaws. In my view the engagement of Involve, a well respected not-for-profit organisation committed to improving decision-making through public participation, has been value for money. Not only have they added considerable value to what is an important consultation process; I believe their work with officers, including the training sessions, will lead to real improvements in the way that consultation with the public is approached in the future.

Question

5. Can the Chief Minister confirm that the scenarios of net annual inward migration levels 325 and 650 heads of households (700 and 1400 persons) in the 2035 consultation were set by economic growth targets of 1% and 2% respectively? Is it not the case that the current economic growth target is 2% and if so, does he accept that this may result in population growth of up to 1400?

Answer

7. No, I do not believe that the current economic growth target of 2% will lead to population growth of up to 1,400. The two scenarios of 325 and 650 (heads of household) were chosen because these were the approximate levels of inward migration that would be required to deliver 1% and 2% real growth on their own. That is, if there were no productivity

improvements in the economy. In reality, productivity growth has taken place in Jersey in the past and is likely to occur in the future which means that the 2% economic growth target is achievable with significantly lower levels of inward migration. Of course, population growth is a function of both inward migration and natural growth (births exceeding deaths) and is affected by a whole host of factors, economic growth being only one of them.

Question

6. Does the Chief Minister accept that economic growth of 7% and the associated rise in immigration of 700 in 2006 is unsustainable? What information does the Chief Minister have on whether this trend will continue into 2007? What targets will he set for managing or controlling growth in 2008?

Answer

8. We know that the Jersey economic cycle includes phases of strong growth and ones of weaker growth, as a direct result of the economy and our prosperity being linked closely to the performance of the financial services industry. The economy in 2006 and in first half of 2007 was clearly going through a phase of very strong growth and it was never anticipated that this phase would last forever. Indeed, the recent trends in the global economy and financial markets show that there is already a degree of uncertainty around the strength of growth in the second half of 2007 and into 2008.

Our targets for managing or controlling growth in 2008 remain those agreed by the States in the Strategic Plan and will remain so unless otherwise agreed by the States.

Question

7. Would the Chief Minister explain how using population growth to solve the demographic problem of the ageing society can be effective in the long term, given that the increased population will itself age and eventually cost more? Is he prepared to accept that the most sustainable solution is to accept lower economic growth and higher tax/contributions at some stage?

Answer

9. The scenarios in the Imagine Jersey 2035 consultation focus on different levels of inward migration, which is not the same as population growth. The statistical population model takes into account long term trends and ageing. It has been used to produce forecasts to 2065 in order that any second order effects are considered. That analysis shows that different levels of inward migration have different impacts on the total population and dependency ratios. One of those scenarios for example – the +250 heads of household – means that the population never rises above 99,000, the working population does not fall and the dependency ratio falls after 2035 and then stabilises. In contrast, the scenarios with higher inward migration show continued growth in population and the dependency ratios stabilise at lower levels.

I certainly do not accept that ‘the most sustainable solution is to accept lower economic growth and higher tax/contributions’. Such a solution with no net inward migration would lead to a falling total population and numbers of working age. This combination of factors would bring a significant risk that the Island could get sucked into a cycle of economic decline because key businesses and people leave the Island, accelerating the population decline and deterioration in government finances. Those Islanders who remained in the Island would suffer the consequences in terms of fewer and lower quality employment opportunities and a significant deterioration in the quality of public services (despite higher

taxes/contributions). There are in fact a range of sustainable solutions to the challenge of our ageing society and Imagine Jersey 2035 is designed to gauge Islander's preferences as to which set of policies are right for Jersey.

Question

8. Will the Chief Minister release to members the results of the questions posed to the public during the Imagine Jersey 2035 consultation day, which were already in his possession on the following day, and if not why not?

Answer

10. Yes. The results of the questions posed on the day were published on the 25th January 2008 and were circulated to Members the same day.

It should be noted that the responses to questions were only one aspect of the conference and two other features, namely:

- a. the concluding exercise where participants were asked to consider the main trade-offs and make choices; and
- b. the comments and suggestions made by participants and recorded by facilitators will be collated and will form part of the final consultation report, which will be produced by the end of February 2008.

Question

9. Will the Chief Minister outline for members the extent of the involvement, if any, of the Corporate Management Board in the research and planning of the Imagine Jersey 2035 consultation process, and will he release to members any notes or minutes of such involvement?

Answer

11. The Corporate Management Board (CMB) has not been involved in the research and planning of the Imagine Jersey 2035 consultation. The work underpinning the consultation was undertaken by a group of officers working to the Chief Executive to the Council of Ministers. Their reports have been considered by the Council of Ministers and have been made available to Scrutiny. Their work has been published in the form of technical papers.

1.8 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE JERSEY ENTERPRISE BOARD:

Question

Will the Chief Minister explain to members why the proposals to set up the Jersey Enterprise Board (JEB) were released to the Corporate Services Scrutiny Panel in June 2007 on a strictly confidential basis and will he advise why the proposition (Jersey Enterprise Board Limited: proposed establishment P.194/2007) was not lodged until late December 2007?

Answer

Projet P.194/2007 was not lodged until 19th December 2007 in order to accommodate revisions to the draft Memorandum and Articles of Association of the proposed Jersey Enterprise Board Limited and to allow for these to be presented to the Council of Ministers

for approval. The proposals were released to the Corporate Services Scrutiny Panel at the earliest opportunity to allow them to have as much time as possible to undertake their scrutiny function.

1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING WINTER FUEL ALLOWANCE FOR THOSE IN LODGING HOUSES:

Question

Will the Minister release to members the number of recipients of Income Support who are resident in lodgings and who will not qualify for a Winter Fuel Allowance under his department's regulations? Will he further inform members what the estimated cost of their inclusion would be?

Will the Minister also inform members what evidence he has to support his Assistant Minister's assertion in the debate on this issue on 16th January 2008, that many lodgers' heating bills are not separate but included in overall rent?

Answer

The term "lodgings" in the Cold Weather Payment Regulations identifies income support units that live in accommodation that is part of another household. The claimant is a lodger sharing domestic accommodation and is unlikely to pay for heating separately.

Individuals that live in lodging houses are normally regarded for income support purposes as occupying bedsits and these claimants are eligible for the cold weather payment, if they satisfy the other necessary conditions.

To date, six claimants have declared themselves as lodgers. Only one of these claimants would qualify for the cold weather payment if it were extended to lodgers. The other claimants do not satisfy the other requirements (i.e that the household includes an individual over 65 years old OR a child under 3 years old OR an individual with a high level personal care component).

The inclusion of one additional claimant would be of the order of £200 per winter, depending on the actual temperatures experienced.

1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING 'FUEL POVERTY':

Question

Recently published U.K. figures show a rise in households suffering from "fuel poverty" to 4.4 million; what are the equivalent figures in Jersey? What measures, if any, will the Minister introduce to eliminate such poverty and in particular what consideration will he give to the introduction of social tariffs for poorer households or measures to improve the energy efficiency of housing?

Answer

My understanding is that the UK's definition of a fuel poor household is one which needs to spend more than 10% of its household income to achieve a satisfactory heating regime (21 deg c in the living room and 18 deg C in other occupied rooms). The 2004/05 Household Expenditure Survey, carried out by the Statistics Unit, shows the percentage of Jersey households in fuel poverty (ie. Spending more than 10% of household income on fuel) was 3.5%. This represents less than 1,300 households.

Fuel poverty in households arises from a combination of factors:

- Low household income;
- Poor heating and thermal insulation standards in homes
- High fuel costs
- A split of responsibility for a property with landlord / tenant
- Under occupation of a property, something which is common amongst the elderly.

As Minister for Planning and Environment, I have very little influence over many of those factors but I do recognise the importance of good quality housing in terms of avoiding fuel poverty. I will shortly be publishing proposals to strengthen the building bye-laws in this regard that will set clear energy performance targets for all new dwellings, and which will require improved insulation standards of existing homes when they are materially altered or extended.

I would like to refer the Deputy to Chapter 5 of the Energy Policy Green Paper which discusses reducing energy use and the thermal performance of the built environment. Specifically, one proposal is to create a body modelled loosely on the Energy Savings Trust in the UK. The role of this local body (termed *Sustainable Energy Jersey*) would be to provide support and practical advice in matters of energy efficiency. In addition, the Green Paper proposes that this body would administer grant aid to low income groups to assist in improvement and insulation for their properties (see pg 106, Policy Option 5 - Energy Policy Green Paper 'Fuel for Thought?'). It was initially proposed that £1.4 million for at least 5 years would be required but the consultation process has shown that this is probably too little. This grant support would be targeted at improving the thermal efficiency of buildings to ensure that overall energy demand (and thus expenditure) is reduced and that the energy used is done so effectively and to the full benefit of the resident.

Of course, these are still only policy options at the green paper stage. The Department is currently working on a set of firm proposals that will be brought to the States for debate in the form of a White Paper by the middle of 2008.

It is proposed that the cost of this grant aid would be raised through environmental taxes. A green paper on environmental taxes was consulted on in 2007 and firm proposals on the way forward will be taken to the Council of Ministers in spring 2008.

1.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING THE REGULATION OF ELECTION EXPENDITURE:

Question

Will the Chairman advise whether his Committee proposes to register “lobby organisations” who wish to involve themselves in elections, and if not how does he propose to regulate or restrict in a proportionate manner such activities?

Would he advise whether he proposes to regulate or police “money received from donations or professional services” knowingly received by candidates and if so, how?

What “wide-ranging assistance” will continue to be allowed from “volunteers”, and what activities, if any, will be disallowed?

Will the Minister advise whether he proposes to regulate and police any “websites that are created for the purposes of encouraging the electorate to vote for or against any particular candidates” and if so, how?

How will the Committee propose to act, should it prove necessary, if such websites are hosted in the USA or elsewhere?

Will the Chairman agree to the release of the law drafting instructions on these matters to members in order that they may gain early insight into what is to be proposed and be ready to work on any improvements that may be needed in a timely manner, and if not why not?

Answer

PPC does not propose to register lobby organisations. Having received advice on the matter of lobby organisations and other unsolicited assistance for candidates, the Committee has concluded that it would not be possible to prevent all unsolicited expenditure for or against a candidate as this would not be human rights compliant. Instead the Committee is considering limiting the expenditure incurred by any third party in support of a candidate without the prior consent of that candidate, and also to limit expenditure incurred by any third party in an attempt to persuade electors not to vote for a particular candidate. PPC is mindful of the approaching elections and therefore intends that the necessary draft legislation will be lodged ‘au Greffe’ as soon as possible.

Arrangements for the policing of electoral expenses will be included in the draft legislation. The legislation will include a series of offences and it is the Committee’s intention that these should be investigated as normal criminal matters.

PPC recognises that many candidates have benefited from voluntary assistance and it sees no reason why this should not continue; however, there is clearly an issue when candidates receive voluntary assistance from individuals and / or organisations in a form which would ordinarily be charged for. Such services could include an offer to print election leaflets without charge or to provide free professional public relations advice. In such circumstances the Committee’s intention is that candidates will be required to include within their return of electoral expenditure an equivalent commercial value of the voluntary service provided.

Regulation and policing of websites during an election could become a very complex matter, particularly in terms of the human rights issues arising. Nevertheless PPC considers that its forthcoming proposals to limit expenditure by third parties will prove useful in this regard. To an extent this approach will limit the importance of the location at which the particular site is hosted.

The Committee has not yet received copies of the draft legislation for consideration and may yet review proposals contained in its law drafting instructions so I do not think it would

be helpful to release these in advance of lodging. The Committee will lodge the proposals 'au Greffe' as soon as possible with the aim of introducing this legislation before the elections.

1.12 DEPUTY S. POWER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING A SEARCH AND RESCUE INCIDENT IN NOVEMBER 2006:

Question

Can the Minister explain the circumstances surrounding a SAR (Search and Rescue Incident) on the 30th November 2006 involving the French Yacht 'Pamplemousse'? If there was human error on the part of Marine Officer staff, is the Minister satisfied that recruitment procedures for such posts are adequate, and what other action has been taken so as to maintain the highest standards?

Answer

The vessel 'Pamplemousse' made an emergency call to Jersey Coastguard at 1100 on 30th November 2006 detailing engine problems. The location of the vessel was such that the Duke of Normandy and another vessel were on scene within minutes and towed the vessel into the port.

The Marine Centre control room took the initial radio call. At this time a new recruit was under the direct supervision of a fully qualified radio officer who oversaw all transmissions. It is routine for the mentor of a trainee to take control of any SAR incident, and the incident was concluded without issue.

Recruitment of all employees is undertaken with full regard to the standards set out in the Appointments Commission Code of Practice together with the guidelines set out within the States of Jersey's Recruitment and Selection Policy and Procedures. This includes ensuring that a job description and person specification is available for each post, and that interviews are undertaken by a panel which includes an independent assessor. The interview questions for this post were based on the agreed competencies for the post and included scenario based questions to gain evidence of knowledge and experience.

All new employees undergo an induction process, and this includes identifying training needs. These training plans are updated on a regular basis, and in addition there is an annual appraisal process in place. We believe that these systems maintain the highest standards of personal performance within Jersey Harbours.

1.13 DEPUTY S. POWER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING PARKING FACILITIES AT ELIZABETH TERMINAL:

Question

Will the Minister advise whether the parking control barriers at the car-park at the Elizabeth Terminal have been broken and inoperable for about three months, thereby allowing free 24 hour parking at this car-park and if so, would he confirm when this situation will be rectified ?

Can the Minister estimate the lost income to the Harbours Department?

Answer

The parking control barriers at the Elizabeth Terminal car park were taken out of action in October 2007. The decision was made to remove the barriers and allow free parking at the terminal due to repeated technical problems during 2006 and 2007. This decision was based upon an assessment undertaken in 2007, This assessment suggested that it would cost the department more to maintain the equipment to ensure a reliable operation that would be received in revenue if the situation were allowed to continue.

The suppliers have been to the Island on numerous occasions to repair the system and discussions have been held about extending the maintenance contract or installing a suitable replacement system.

However, in the meantime, a proposal to build a multi-story car park in this area, to alleviate the impact of lost parking capacity at Esplanade Square, has called into question any capital investment into new equipment.

As a consequence a pay card system will be introduced on 1st February 2008 as an interim measure.

This represents the lowest cost option to remedy this situation.

In 2006, the car park generated £45,000 in revenue. Unfortunately due to machine failures in 2007 revenue was £15,000.

1.14 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING PORT PARKING PERMITS:

Question

Which groups, if any, were consulted concerning the recent proposed increases in charges for Port Parking Permits?

How do the recent proposed increases in Port Parking Permit charges accord with the Minister's expressed desire to increase economic returns from Marina activities?

Answer

Individual shipping companies were consulted on the rise in Port Parking Permits during 2006, as were the Jersey Port Users (Commercial) Association. Port Parking Permits are for commercial port users to use in designated operational areas of the port.

Marina parking is a separate issue to that of parking in the Commercial Port which is covered by Port Parking Permits. Marina berth holders can purchase a parking permit for the relevant marina car park at a cost of £81 per annum.

In line with other marine leisure charges, marina parking charges have been increased annually by the cost of living, however this is also under review by Jersey Harbours and is the subject of communications with users at this time. Jersey Harbours anticipate bringing the charge into line with Port Parking Permits during 2008.

Notes

Marine Leisure fees are generally increased by the cost of living (RPI) - 4.3% in 2008. Leisure dues are recognised as not being directly related to the Island's inflation rate. The Finance and Economics Committee previously commented in the States that: "The Committee believes that it is important that the users of Marinas and moorings do not receive a service subsidised by commercial users of the Harbour or the taxpayer".

1.15 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR HOUSING REGARDING PROTOCOLS TO GOVERN THE RELATIONSHIP BETWEEN HOUSING AND PROPERTY DEVELOPERS:

Question

What specific protocols are in place to govern relationships between the Minister of Housing and property developers?

Answer

All meetings which take place in my official capacity are governed by guidelines which require that Officers are present. Of course, this is a small Island and I am sometimes approached informally by developers who wish to discuss matters. Where such approaches require that I may have to make a decision in my official capacity discussions and in particular decisions are deferred until such time as Officers can be present.

1.16 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE MOTOR TRAFFIC (THIRD PARTY INSURANCE) (JERSEY) LAW 1948:

Question

The Motor Traffic (Third Party Insurance) (Jersey) Law, 1948, allows vehicles owned by certain persons (eg States of Jersey, Parishes and persons who have deposited certain funds with the Accountant-General of the Supreme Court of England in accordance with section 144(1) of the Road Traffic Act, 1988 of the UK) to be used without a third party insurance policy.

Would the Minister advise the amount that is currently required under that Act?

Answer

The amount currently required to be deposited in accordance with the provisions of section 144(1) of the Road Traffic Act, 1988 of the United Kingdom is £500,000.

1.17 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER OF HEALTH AND SOCIAL SERVICES REGARDING INCIDENTS OF WHIPLASH INJURIES OVER THE LAST FIVE YEARS:

Question

Would the Minister advise whether his Department keeps statistics relating to car whiplash injuries and, if so, would he give figures for each of the last five years?

Answer

I would like to advise the Deputy and, indeed other States Members, that injuries, illnesses and diseases are described in precise clinical terms. This is because clinicians can then use these very precise terms when they discuss individual cases – or indeed, the incidence of specific injuries, illnesses and diseases within a given community. The clinical data therefore, is not readily susceptible to lay terms such as “whiplash injuries”. (A recent question from a States Member about “alcohol related injuries” was difficult to address for the same reason).

Having said this, a “whiplash” injury normally presents in the Accident and Emergency (A&E) Department as an injury to the spine, in particular to the cervical spine. Such an injury is coded as either a soft tissue injury to the cervical spine or a sprain, strain, ligament, tendon or muscle injury to the cervical spine.

From the table above, the closest match that can be made to the ill defined “whiplash” injury are the figures pertaining to cervical spine injuries as follows:-

2003:- 29 cases

2004:- 26 cases

2005:-
21
cases

2006:-
23
cases

2007:-
18
cases

1.18

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Count of Attendance arrival date	Anatomical site code 1	Year					Grand Total
		2003	2004	2005	2006	2007	
LOCAL SOFT TISSUE INJURY	CERVICAL SPINE	16	15	10	5	4	50
	DORSAL SPINE	1	1		4	2	8
	LUMBAR SPINE	4	8	5	10	7	34
LOCAL SOFT TISSUE INJURY Total		21	24	15	19	13	92
Sprain/Strain/Ligament Injury	CERVICAL SPINE	12	10	11	17	13	63
	DORSAL SPINE	1	3		6	1	11
	LUMBAR SPINE	6	9	9	9	7	40
Sprain/Strain/Ligament Injury Total		19	22	20	32	21	114
Tendon/Muscle Injury	CERVICAL SPINE	1	1		1	1	4
	DORSAL SPINE		2				2
	LUMBAR SPINE	2	4			2	8
Tendon/Muscle Injury Total		3	7		1	3	14
Grand Total		43	53	35	52	37	220

MENT OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING BIO-FUEL PRODUCTION IN JERSEY:

Question

Would the Minister advise whether he is currently investigating the possibility of bio-fuel production in Jersey? If so, would he further advise:

- (a) whether he is working in conjunction with the Minister for Planning and Environment,

Answer

- (a) The Minister for Economic Development sits on the Ministerial Steering group for Energy Policy along with the Minister for Planning and Environment and the Minister for Transport and Technical Services. The Energy Green Paper 'Fuel for Thought?' was produced with the input of the steering group as well as other stakeholders and was lodged in the States in October followed by a period of consultation between 4th October and 7th December 2007.

Question

- (b) approximately how many vergées of land he believes may be available for such an enterprise,

Answer

- (b) Chapter 6, (in particular Paragraph 1.297 -1.306) of the green paper examines the potential for the local production of bio-fuels crops in Jersey and uses the information from a study that was carried out by consultants to inform Energy Policy¹. In summary, it is apparent that there are two major challenges to *growing* bio-fuels locally :-

- (i) Economies of scale – the availability of sufficient appropriate land (in particular avoiding land of biodiversity value) in order to grow and manufacture sufficient quantities of biofuels locally
- (ii)Gross-margins of crops - The gross margins from biofuel crops is low in comparison to alternative / existing land uses such as food crops grown for export.

Given this latter point it is likely that in order to be economically viable, any crops grown for biofuels would need to be on agricultural land that is currently uncultivated and/or as a second crop after the potato crop.

Bearing in mind these 'constraints' along with local land conditions etc, oil seed rape is considered a potential candidate for the production of biodiesel. The area available for its production are estimated to be approximately 320 hectares (1800 vergées) of spring oil seed rape as a green crop following the Jersey Royal Potato crop, with a further 220 hectares (1250 vergées) planted on other agricultural land. The total land available after the potato crop is constrained by factors such as slope and good rotational practice (with a one year in five rotation).

Using these figures it is estimated that up to 500 tonnes of biodiesel could be produced locally, although please see section c which describes work that is being carried out locally.

¹ Development of Energy Policy (March 2007) - A Report commissioned by the States of Jersey by AEA Energy and Environment Ltd. A full copy of the AEA report is available on <http://www.gov.je/PlanningEnvironment/Environment/From+global+to+local+policy/Energy+Policy+Green+Paper+Launched.htm>

The potential for the production of bioethanol from wheat from the land areas shown above, has also been explored and it is estimated that up to 1,500 tonnes could be produced locally.

In addition, biofuel is produced locally from waste vegetable oil. In June 2007 the Transport and Technical Services department contracted a partner to collect waste cooking oil from commercial catering premises and convert it to biodiesel for use in local diesel vehicles. The company, Channel Island Biodiesel Products Ltd., is now in the early stages of production and will soon be marketing the product to large volume consumers such as transport and haulage companies.

Question

(c) whether he is contemplating a States' owned processing plant or a co-operative,

Answer

(c) There is already a commercial pilot study to produce biodiesel from oil seed rape that has been supported by the Rural Initiative Scheme. In 2007 three varieties were investigated for yield as a crop post potatoes, in partnership with the Planning and Environment Department. The results from this first year show that oil yields per hectare are comparable to that in the UK (approx 0.9 t/ha locally compared with 0.95 t/ha in the UK, assuming 100% extraction). The next stage is to extract the rapeseed oil and produce bio-diesel. The completion of this pilot phase will allow production costs to be calculated and local feasibility to be more accurately calculated. Understanding the feasibility of local production will assist energy policy development and the placement of such initiative.

Question

(d) which type of crop he believes would be most appropriate, or whether he is considering a range of different ones?"

Answer

(d) A range of crops have been considered for biofuel production. For example, in addition to oilseed rape and wheat, barley could be grown locally to be manufactured into bioethanol. However, current agricultural practices appear to favour an oilseed rape crop. As work on the energy White Paper continues we have not discounted any options at this stage and further work will be required in order for the States to discuss the options. In addition to the economics there are many factors to consider, in particular learning from elsewhere where the benefits of growing biofuels have been counteracted by the impact on natural habitats and the displacement of food crops.

1.19 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE USE OF THE HEALTH INSURANCE FUND SURPLUS:

Question

With regard to his recent decision to dispense with prescription charges, can the Minister confirm that this will not be achieved by using cheaper, less effective, brands of drug?

Would the Minister confirm that his decision was based on addressing a surplus in the Health Insurance Fund (established under Article 30 of the Health Insurance (Jersey) Law, 1967) that subsidises prescriptions and, if so, state whether he considered using the surplus to assist with other

medical charges, such as dentists' fees? If the Fund cannot be used for other medical charges, has the Minister considered bringing an amendment to the Health Insurance (Jersey) Law, 1967?

Answer

Neither the Minister nor the Department promotes the use of "less effective" drugs, so the answer to the question is an emphatic "yes".

The Minister presumes the question is directed towards the use of generic medicines, which are equivalent to patented drugs, but far less expensive.

The promotion of generic prescribing is accepted practice throughout the world as a means of delivering cost effective treatment. The NHS in the UK was recently criticised for its poor use of generic prescribing, leading to high cost growth in the NHS, whereas in Jersey we have a high rate of generic prescribing and there is no doubt that the healthy financial position of the Health Insurance Fund results in part from the pharmaceutical advice provided through the Department and the professionalism of GP's and Pharmacists in the Island.

As the Minister has already made very clear, the decision to increase the pharmaceutical benefit by £2.10 per prescription and thereby provide free prescriptions to all who are eligible under the Health Insurance (Jersey) Law 1967, is a result of an increasing surplus in the Health Insurance Fund.

Whilst the Health Insurance Law provides for the possibility of Dentist and Ophthalmic benefits, these have never been considered or approved by the States. The future primary care services and those to be delivered through the Health Insurance Fund will be determined by the New Directions Strategy and the Department has been and will be actively involved in that strategy's development and implementation.

Until measures consistent with and promoted by that strategy are delivered, the Minister will continue to use the Fund only for those benefits already approved by the States.

1.20 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE INSTALLATION OF SPEED HUMPS:

Question

Would the Minister advise how long his Department has been installing speed humps which combine a pedestrian crossing, approximately how many exist, and whether his Department has any safety concerns with such an arrangement?

Answer

I understand that the first 'humped crossing' was installed in Sand Street as part of the improvement works in that area in 2002. Since then, another 14 crossing have been installed, some on the same section of raised carriageway (for instance, 3 crossing at the junction of The Esplanade and Conway Street). All of these are in the central town area of St Helier.

Although some of these crossing are unlit, they are all within the town area where there is street lighting and the department has no record of any accidents on these crossing (2007 data is still awaited). Moreover, there is little doubt that the raised humps are effective at slowing down traffic

speeds and the 'shared space' principle within the town environs has appeared to work very well, especially for pedestrians. Also, all but one of these crossings are on single width carriageways with traffic approaching from only one direction. Given the above, I have no specific safety concerns for those crossings currently in place.

1.21 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING PARKING CHARGES AND VEHICLE EMISSION LEVELS:

Question

- (a) Advise why he has chosen exhaust emissions instead of lifetime carbon footprint and if his decision was based on concern about the possible effect on climate change caused by transport, would he advise whether this was based on conclusive evidence; in which event would he give references for this scientific evidence

Answer

- (a) The discounted parking scheme is based on exhaust emissions because the figures are readily available to both TTS and the public, making the scheme both cost effective and simple to operate. Furthermore, low exhaust emission vehicles tend also to be small so they are more likely to have a low lifetime carbon footprint in any case. Hybrid vehicles, with a limited overall CO₂ emissions rating, were included in the scheme due to their ability to operate in slow town centre congested traffic conditions on an electric motor. The Intergovernmental Panel on Climate Change acknowledges the existence of climate change and highlights a collective responsibility to minimise emissions in an effort to slow down, stop or even reverse the effects. This is the rationale I have used to introduce such a scheme.

Question

- (b) Advise whether he has considered the implications on the less well-off who are unable to afford the latest more energy efficient models?

Answer

- (b) The scheme is not intended to penalise the less well-off in our society but to encourage car drivers who may be considering purchasing a new car, to consider a car which will have a significantly less impact on global, as well as local, air quality rather than the larger models which are available.

Question

- (c) Advise the current level of emission of 3-nitrobenzanthrone and 1.8-dinitropyrene from the Connex bus fleet, together with the level of CO₂, expressed in kg CO₂/ passenger mile.

Answer

- (c) Emission levels of 3-nitrobenzathrone and 1.8dinitropyrene are not measured by the National Atmospheric Emissions Inventory (NAEI), a body which monitors serious atmospheric pollutants in the U, and are not incorporated in the Euro Standards specifically for measuring vehicle emissions. The NAEI does, however, state that Polycyclic Aromatic Hydrocarbons, to which group these chemicals are allied, have reduced by 95% in the UK since 1990 because of changes in industrial manufacturing processes. No research figures

are apparently available for diesel engine emissions under load in respect of these two chemicals, although it is accepted that they are also created in this manner.

As far as CO₂ is concerned, these emissions are not defined in the same way for commercial vehicles as they are for cars in the manner requested in the question. Car engine emissions are given as kg/km CO₂ but trucks and buses are quoted as g/kwh CO₂ (that is, as a function of engine power) and cannot be compared in any meaningful manner to car emissions.

For the current Connex fleet, the emissions are as follows:

Euro III vehicles - 68% of fleet	CO ₂ = 2.1g/kwh
Euro II vehicles - 18% of fleet	CO ₂ = 4.0g/kwh
Euro I vehicles - 14% of fleet	CO ₂ = 4.5g/kwh

1.22 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HOME AFFAIRS REGARDING AN AMENDMENT TO THE FIREARMS (JERSEY) LAW 2000:

Question

With reference to answers to an oral question on 15th January 2008, regarding the carrying of weapons such as knives, would the Minister clarify whether the amendment to the Firearms (Jersey) Law 2000 to which she referred is already in place, or whether it is a matter which will come before the States for debate in due course? Further, as knives are clearly not firearms, would she explain why she has chosen the Firearms Law as the appropriate vehicle with which to address this issue?

Answer

The amendment to the Firearms Law with respect to knives is drafted but has not been lodged for debate as yet. There is still a period of consultation to complete before the Law is lodged.

I have taken the route of adding the amendment to the Firearms Law as this already has provision for offensive weapons, including knives, in Article 43. This provided the most expeditious route for implementing the new offences, as previously described.

However, I am looking into whether it may be more appropriate to create a freestanding Law to cover the issue, given the potential significance of such offences.

1.23 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE USE OF THE H2, H3 AND H4 SITES REZONED BY THE 2002 ISLAND PLAN:

Question

Would the Minister, with regard to the H2, H3 and H4 sites rezoned in the 2002 Island Plan, update members as to how many homes have been envisaged, but not yet built, on each of those sites?

Answer

On a point of clarification, only the H2 sites were rezoned for Category A housing purposes as part of the 2002 Island Plan.

The H3 sites were identified for further consideration as Category A housing sites with a view to the most suitable being brought forward for rezoning, as required, following a public consultation exercise to confirm their acceptability.

The H4 sites were identified and safeguarded as potential longer-term Category A housing sites. These include a number of urban town sites and / or sites zoned in previous approved development plans and propositions. In addition, there are seven peripheral sites which were only to be brought forward in response to future demand, if their development status was confirmed following public consultation.

Most of the H2 sites are either completed, or are nearing completion (eg H2 (7), Field 690A, Maufant and H2 (9), Field 40, St Clement). The approved or anticipated yield from those remaining is around 140 homes, as detailed in the following table.

Site	Total Homes	Status
H2 (1): Fields 848, 851, 853 and 854, Bel Royal, St. Lawrence	102	Under construction
H2 (2): Field 1218, Mont-a-l'Abbe, St. Helier	Up to 14	Proposed extension to Clos Vaze development – yet to receive planning consent
H2 (8): Fields 190, 191 and 192, La Rue de la Sergente, St. Brelade	27	Planning application recommended for approval
H2 (10): Field 873, Bel Royal, St. Lawrence	0	Not pursued – due to circumstances of owner.
Total Outstanding H2 Site Homes	143	

An internal department review in February last year identified those H3 sites which were considered most suitable for Category A housing purposes and the envisaged potential yields at that time were of the order of 300 homes. Details on a site by site basis are given in the following table, but it is important to stress that:

- estimates for any individual site could change as a result of more detailed site feasibility work, or future public consultation, or, indeed, any future application process
- the table lists sites included as Members' Amendments in the Island Plan 2002 debate. These sites might not be suitable.

Site	Est. Homes
H3 (1): Field 391 (part of), La Longue Rue, St. Martin	28

H3 (2): Field 1368, La Rue de Mont Sejour, St. Helier	12
H3 (3): Field 821A, Bagot Manor Farm, St. Saviour (already developed)	12
*H3 (4): Fields 413, 415, 415A and 470, Five Oaks, St. Saviour	37
H3 (5): Field 139, Les Quennevais, St. Brelade	25
H3 (6): Field 525, La Rue de la Mare Ballam, St. John	22
H3 (7): Field 76B, La Vallette, Gorey, Grouville	24
*H3 (8): Channel TV site and Field 1248, La Pouquelaye, St. Helier	64
H3 (9): Field 402, La Grande Route de Faldouet, St. Martin	17
H3 (10): Fields 890 and 888, La Rue de Cappelain, St. Peter	14
H3 (11): Field 410, La Rue des Buttes, St. Martin	19
H3 (12): Field 633, La Verte Rue, St. Peter	10
H3 (13): Field 1341A, Le Mont de la Trinité, St. Helier	0
H3 (14): Land to east of Field 729, Le Fonds de Longueville, Grouville	0
H3 (15): Field 423, Le Mont de la Mare Ste. Catherine, St. Martin	0
H3 (16): Field 1551 and 1552, Westmount Road, St. Helier	23
Total envisaged potential homes	307

** sites included in current public consultation exercise on housing sites for lifelong retirement dwellings and first time buyer homes.*

Potential yields from those H4 sites within the town (Nos. 1 - 10) were investigated as part of a recent in-house 'Town Capacity Study' undertaken by the Department. This involved a desk-top calculation of potential yield based on gross site areas and a range of development densities. The study envisages that the total yield from the 10 sites in question could range anywhere from a low of 350 homes to a high of 760 homes. However, it should be borne in mind that many of these sites may not be available for development in the near future for one reason or another (including the continued viability of the existing use and the need for a suitable site to relocate the existing use).

It is presently envisaged that the remaining H4 sites (Nos. 11 – 21) might potentially yield in the region of 410 homes, subject to further detailed feasibility work and future public consultation.

2. Oral Questions

The Deputy Bailiff:

We come then to oral questions and I would inform Members that Deputy Mezbourian has requested that her oral question to the Minister for Planning Environment be moved from seventh place to the end of the list and the questions renumbered accordingly. We come first to a question that Deputy Southern will ask of the Minister for Social Security.

2.1 Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding ...

Will the Minister advise Members how many applicants for income support have been informed exactly what their benefit, including the Household Medical Account, will be as of 28th January 2008, and what it will be after October 2008?

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

By Monday, 28th January - which was yesterday - 7,534 applicants for income support had been informed of the value of their income support benefit to be paid from yesterday, 28th January. Household medical accounts have been set up for 2,454 claims and all these claimants have been informed of the value of their Household Medical Account. With regard to informing applicants of the rates after October 2008 this is not possible because, I am sure as Members are aware, the Income Support Law requires Members to limit the Minister to review the rates at least once a year. I have already stated publicly that the income support rates will be reviewed on 1st October 2008. The new rates will be subject to a States' debate and will be set in the light of a number of factors including obviously the retail price index (R.P.I.), the earnings index and also feedback from the first few months of the income support scheme. In October 2008 the first reduction in protective payments will take place. All claimants receiving protective benefits have been informed that there will be a reduction. They will receive individual information regarding their protective payments by the middle of this year. One other aspect to take into consideration will be the possibility that claimants' own incomes may change between now and October.

2.1.1 Deputy G.P. Southern:

Is the Minister aware that there was a 20-deep queue for most of the day in the Social Security Department for income support inquiries and could he inform Members what the bulk of those inquiries were about and what proportion were about the payment of cross-checks to people without bank accounts?

Senator P.F. Routier:

I obviously cannot give the detail of that. I was aware the department was extremely busy. I was there myself and witnessed that obviously there was a queue. It was to be expected obviously - the first day of the system - and we are gearing-up to ensure that we are able to provide people with the service they would expect, but with a new system there will be obviously a need to ensure that we do staff-up at an appropriate level. With regard to the cross-checks, I am aware that there have been a number of people who have needed to have their form of payment changed and we have done that for them.

2.1.2 Deputy G.P. Southern:

Could the Minister inform Members what procedures he has in place to inform recipients of income support who receive H.M.A. (Household Medical Account) if they consider that their assessments for the number of visits is inaccurate, what they should do? If they have to receive visits from a G.P. (General Practitioner) rather than go to the G.P. which costs extra, what are they to do?

Senator P.F. Routier:

The matter of when people go to a doctor or the doctor goes to their home is something which is a negotiation between the doctor and the patient. If the doctor thinks it is appropriate for somebody

to receive visits at home or to attend to the surgery, the doctor will make that clinical decision. It is not really a financial decision that my department would take into consideration and the Household Medical Account will be credited for the appropriate amount.

2.1.3 Deputy G.P. Southern:

The Minister must be aware that the maximum allowed is 12 visits, so monthly visits, unless exceptional circumstances, exist. Are recipients and are doctors aware of what procedures need to be followed if that limit on the H.M.A. is to be exceeded either by visits from the doctor or by a greater demand?

Senator P.F. Routier:

The medical profession have been visited and are being visited on a one-to-one basis and I could not say that 100 per cent of G.P.s know exactly what to do but the department has been trying to get appointments with many of them to ensure that they are aware of how to proceed. As far as the public are concerned, their visits to their doctors, as I said earlier, is a medical matter which they need to take into consideration with their G.P. and I would assure them that if they have a medical need to go to the doctor, they should go to the doctor.

2.1.4 Deputy G.P. Southern:

A point of clarification, Sir, if I may: could the Minister clarify for Members that in fact the majority of recipients of income support - over 4,000 - have not had an H.M.A. assessment made? The Minister looked confused. 2,500 I believe he said have been done. That leaves about 4,500-5,000 not done.

Senator P.F. Routier:

There is no need for the remainder of them to have a Household Medical Account because they have managed to pay for their doctors themselves in previous time. The majority of people are people who have been getting housing benefits and only housing benefits and so there has been absolutely no need for them to... because they have not been getting free medical support through the H.I.E. (Health Insurance Exemption) system. The majority of people who are... in fact, all of the people within that group are the H.I.E. people who have been transferred over to the new system. I do not think we would even expect to have - and would not want to have - all of the people on income support having a Household Medical Account.

2.2 Deputy P.V.F. Le Claire of St. Helier of the Minister for Health and Social Services regarding the 'out of hours' G.P. service:

Will the Minister advise whether the out-of-hours G.P. services is in need of a computer so that doctors can verify records to ensure that they do not prescribe drugs to patients to which they may be allergic, and if so, when will such a computer be provided?

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

I would like to thank the Deputy for the question. It is an issue I am aware of. When a patient presents for treatment at the G.P. Co-operative, the duty G.P. has access to the following forms of information: the General Hospital's computer system which provides demographic details and - to answer the very specific question asked by the Deputy - provides details of any allergies which patients on the computer system are subject to. They also have access to the patient's history as taken by the duty G.P. when the patient attends for treatment. Also to G.P. Co-operative patient records accumulated since the inception of the service in April 2006 and the confidential ledger, which provides G.P.s with information about vulnerable patients and their medication history who present with some measure of frequency. However it is certainly true that the new G.P. Co-operative does require a new computer system and it is something at Health that we are actively

looking to move forward. There are obviously questions about I.T. (information technology) resources that are available and the overall cost.

2.2.1 Deputy P.V.F. Le Claire:

I would like to thank the Minister for his answer which was comprehensive. May I just dig a little deeper? What exactly are the costs of providing the G.P.s with a computer that will be able to tap into the hospital's computer that has this amount of information that is useful? Then the following question would be: at what stage will this hospital computer be linked to G.P.s' practices in general in Jersey so that a thorough continuity of care can begin to occur in Jersey?

Senator B.E. Shenton:

I have been in contact with the G.P.s and the system that they require is one that is used throughout the U.K. (United Kingdom), the Isle of Man and other E.U. (European Union) areas. The cost would be in excess of a 6-figure sum and we have a new... an excellent Director of Information Services within our department that is currently looking at resources, but we also have to look at the funding issue and who pays for it but it is an issue that we are actively monitoring ourselves.

2.3 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the options available to curb the growth of inflation:

Will the Minister outline the options available to him to curb the growth of inflation in the Island and state what he intends to do about house price inflation in particular?

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

It is important to put the latest increase in inflation into context. Inflation, as measured by R.P.I.X. (Retail Prices Index excluding mortgage interest payments), has still been within 0.5 percentage points of the States 2.5 per cent target for 10 out of the last 12 quarters. It is also important to bear in mind the causes of the recent increase in inflation; this was mainly due to global oil and food price pressures, something which is outside of Jersey's control and therefore harder for us to manage. However, if it feeds through into higher wages to a better extent than elsewhere it will undermine our competitiveness and economic growth. The outlook for the global economy has weakened with the resumption of financial markets turmoil. Weaker stock markets and slower growth in the key export markets could slow economic growth in Jersey and ease inflationary pressure. Everybody in the Island has a role to play, whether it is the States, employers or employees and, to ensure that the States plays its part, the Council of Ministers asked the Economic Adviser last year to update our current anti-inflation strategy and that will be published in the very near future. Without going into detail at this stage that strategy will reinforce key policies that help keep inflation under control and cover issues such as the Fiscal Policy Panel and the advice about the Stabilisation Fund, setting policy relating to the economic cycle and the degree of spare capacity in the economy. Strengthening competition policy, including supply capabilities with productivity improvements and managing resources effectively through the Regulation of Undertakings Law and housing policy. In terms of house price inflation, again one must bear in mind what is driving these increases. They are the direct result of the economic success we have experienced in recent years. This has meant higher local employment combined with higher earnings and relaxed lending. In terms of what the States can do to address things like house price inflation, there are 3 options which are already underway, and that is looking to bring new sites forward for development; to develop a new shared equity type scheme for first time buyers; and to revive the Island Plan to improve the supply of housing.

2.3.1 Deputy G.P. Southern:

Will the Minister concede that we are largely at the mercy of world prices and that inflation is a difficult thing for a small Island to control? Furthermore, does he accept that house price inflation

in particular is the result of rampant runaway 7 per cent growth which has produced 700 immigrants in 2006 and rising over the last short period?

Senator T.A. Le Sueur:

I would certainly agree that there are many factors affecting inflation which are outside our control and that is why our inflation strategy concentrates on those which we can impact or influence in some way. What is important is that where inflation is rising we need to compare that with what is happening in other jurisdictions and make sure that the Island does not become uncompetitive as could occur, for example, if the inflation was fed through into higher wages. As for house price inflation, that is certainly partly due to the economic growth and also I think perhaps an imbalance between supply and demand as a result of that economic growth, and that is why it is important that we look at new housing sites in order to maintain that greater sense of balance.

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

There is a public perception that the increase in prices is due to “buy to let” from internal and external purchases as well as the aforementioned influx of (j) category individuals. Will the Minister undertake to provide the figures regarding these which would allay or confirm public fears regarding this?

Senator T.A. Le Sueur:

I certainly undertake to be as helpful as I possibly can but in terms of properties acquired by share transfer it is sometimes difficult to ascertain who is going to be occupying those properties. The extent to which house price inflation may be affected by either “buy to let” properties or the impact of (j) category people is something which we can look at but the information I have from the records provided by the Housing Minister is that neither of those 2 areas create any significant impact on the overall house price inflation, which is predominantly driven by local residents seeking properties of higher value.

2.3.3 Deputy P.V.F. Le Claire:

I think just to be specific the recent changes in regards to taxation - and I am surprised the Minister did not mention it - for stamp duty on share transfer properties has been introduced so that we can better understand that three-fifths, we estimate, of all flat sales are share transfer properties. Would the Minister not agree with me that while the market continues to take the finite space and turn it into investment opportunities for share transfer holders to let out to people who cannot afford to buy anything else that is being built, it is just an ever-continuing circle and it needs to be addressed? Would the Minister not agree that there is an issue: about three-fifths of all flats being built being share transfer, and would he also confirm that share transfer property is only available to be let to people with housing qualifications? If he does not have knowledge as to who should be in there, he certainly should have.

Senator T.A. Le Sueur:

I am not sure if I certainly should have, Sir. That is a matter for the Housing Minister but, yes, it is true that any flats have to be occupied by people with local residential qualifications. I do not believe that the tax changes we brought in regarding share transfer properties have any impact on the price of them. Certainly it appears to be the case that the majority of flats are sold by share transfer and that is for very good conveyancing reasons, but I think what it does show is that additional accommodation is being provided in areas where it is needed.

2.3.4 Deputy G.P. Southern:

Will the Minister concede that the figures reveal that (j) cats. - now given permanent residents' qualifications in Jersey - (j) cats. at 2 per cent of the population account for over 7 per cent of 3 and 4-bedroom house sales? Does he not accept that this is a major contributor to the spiral upwards of house prices?

Senator T.A. Le Sueur:

I do not have at my fingertips details of how much of a percentage of (j) category people own and occupy 3 or 4-bedroom houses and I have no reason to dispute the figures of Deputy Southern, but I do not see that that is necessarily relevant to the large increase in house price inflation when (j) categories account for a very, very small percentage of the market.

2.3.5 Deputy P.V.F. Le Claire:

The Minister said that in relation to share transfer properties the accommodation is being provided where it is needed. The need for accommodation in this Island is for people with housing qualifications in an area where they can afford it. Not in an area where it becomes achievable such as shared equity systems. Will the Minister not agree to try to understand that continuing to supply share transfer flats for people to invest in, in Jersey, creates opportunities for owners not necessarily where it is needed? Those owners are not necessarily in Jersey.

Senator T.A. Le Sueur:

In my view the need for the Island is to have accommodation for people of a type that is needed. Clearly the accommodation, whether it be flats or houses, is being occupied and, therefore - in my view - reflects the fact that it is meeting a need. Whether it is owned through share transfer or through any other way does not alter the fact that it is accommodation that is being provided for people with local housing qualifications.

2.3.6 Deputy G.P. Southern:

Does the Minister not accept that with 3 and 4-bedroom house price inflation running at over 20 per cent and flat/apartment inflation very low, that the government's policy of building cheap units of accommodation - build them cheap, pile them high - has failed miserably over the last period of years?

Senator T.A. Le Sueur:

I believe that the fact that house price inflation in flats is rather lower than that on 3 and 4-bedroom houses is probably a greater balance of supply and demand in that particular market. The fact that there is a growth in the economy and more spending power available, it does drive people to look for better accommodation and maybe even move up to a 3 or 4-bedroom house which has increased in demand in that particular area as a result of economic growth. To that extent, Sir, yes, I accept that economic growth has driven an increase in the house price index.

2.4 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding the policy of the States of Jersey Police in respect of the recruitment and retention of officers with criminal convictions:

Will the Minister outline the policy of the States of Jersey Police in respect of the recruitment of officers with criminal convictions and the retention of serving officers who acquire criminal convictions, and advise whether this policy is compatible with that followed by the Honorary Police?

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

The States of Jersey Police currently operates to guidelines formulated by the former Home Affairs Committee in 2001. Certain offences such as murder, abduction, robbery, perverting the course of justice and sexual offences are an absolute bar to becoming a States of Jersey police officer. Where other offences are concerned, disqualification is not automatic but discretionary in line with the guidelines. The guidelines are comprehensive and deal with such issues as the nature of the conviction, aggravating factors, the penalty imposed and the age of the person when the offence occurred, present character, et cetera. Any criminal conviction by a serving officer would

constitute a breach of the discipline code and would be dealt with by the Chief Officer in accordance with established disciplinary procedures. In the time available, Sir, and owing to the Attorney General's absence from the Island, I have not been able to find out whether the guidelines are compatible with those followed by the Honorary Police but I will take the matter up with the Attorney and provide this further information to the House at the earliest opportunity.

2.4.1 The Deputy of St. Martin:

Is the Minister able to inform the House how many officers there are serving within the States Police who do have criminal convictions, albeit maybe not within -- or within the guidelines?

Senator W. Kinnard:

I would need notice of that question.

The Deputy of St. Martin:

Would the Minister be able to provide that information to the House at a later date?

Senator W. Kinnard:

I will endeavour to, Sir, but it may take some time.

2.5 Deputy C.J. Scott Warren of St. Saviour of the Minister for Health and Social Services regarding reported incidents of 'Clostridium Difficile':

Would the Minister advise Members the number of reported incidents of Clostridium Difficile at the General Hospital during 2006 and 2007, whether this infection is currently a significant problem in Jersey and following the temporary closure of Corbière Ward to new admissions due to an increase in incidents of M.R.S.A. (Methicillin-Resistant Staphylococcus Aureus) whether a similar provision to Operation Deep Clean in the U.K. hospitals is considered necessary throughout the General Hospital?

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

Before I give the figures I had better just explain how they are calculated. The figures I will give out is for M.R.S.A.; it is the incidents per 10,000 bed days in hospital and for C-Diff it is the incidents per 10,000 bed days occupied by patients aged 65 years and over in hospital. These are the way the figures are calculated by the N.H.S. (National Health Service) and obviously for your calculating statistics you have to do it on a like-for-like basis. For C-Diff in 2006 the figure is 1.44 whereas in the U.K. it is 2.45. For 2007 it is 0.94 compared to in the U.K. of 2.38. M.R.S.A. 2006: there were no cases in Jersey in 2006. In England: 1.69. 2007: 0.69 Jersey; 1.67 in England. The figures are obviously good news and I am very grateful for our healthcare professionals in this area for producing such a good performance. In the U.K. the Department of Health issued an important strategic document, which I think the Deputy refers to, entitled *Clean Safe Care in Reducing Infection* in which a 3-year strategy aimed at improving infection control performance was highlighted. The Health Department will carefully consider this document and determine its insights of how best to implement some of the recommendations over here. It is very clear that hospital-acquired infections are transforming clinical practice in the spheres of cleaning, screening, germicidal gels in wards and departments, style and design of uniforms and the way in which patients are treated and cared for in our wards.

2.5.1 Deputy C.J. Scott Warren:

Would the Minister agree to look into the figures for M.R.S.A. for 2006 in Jersey as I do know that there was M.R.S.A.... I cannot honestly comment on internal M.R.S.A. but certainly skin - outer, M.R.S.A. - there were cases in Jersey during 2006. I would like him, if possible please, Sir, if the Minister could come back to me on that. I would like to ask, Sir, would the Minister agree that it is

extremely important that everyone from consultants, doctors, nurses, to people working in whatever capacity on hospital wards, also hospital visitors, should always use Spirigel or wash their hands with soap and water upon entering or leaving a hospital ward?

Senator B.E. Shenton:

I will be happy to provide the Deputy with very detailed and comprehensive information regarding the 2006 figures and I would totally agree with her that these are issues that we need to address going forward, and that it is paramount that we maintain the highest standards within the hospital and in the other areas.

2.5.2 Deputy P.V.F. Le Claire:

I was informed by a friend of mine whose wife is a nurse that the incidents of M.R.S.A. in Jersey is appearing to be lower than the United Kingdom because nurses are not tested in Jersey for M.R.S.A. whereas in England they are. I am not an expert and I do not begin to propose to ask the Minister to do anything. I just would like to ask the Minister, based upon that piece of information that I received, would he look into the issue as to whether or not testing does occur in the United Kingdom for nurses and whether or not it does occur in Jersey and report back to the States with that information please?

Senator B.E. Shenton:

I can assure the Deputy that testing is undertaken in Jersey for nurses. What I will need to provide him with is the detail of when and how often and which nurses in particular are tested and the procedures therefore which I can provide him with separately.

Deputy P.V.F. Le Claire:

I am pleased. Thank you very much for that.

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

I thank the Minister for his answer. It seems slightly strange to me that we would be looking to how the U.K. operates its health service in a hospital, however, I appreciate that this is a strategic document and there might be issues that hospitals can pick up on. What I really wanted to ask the Minister is to give an undertaking that he keeps this extremely important issue under review and keeps the Assembly informed of the cases and the policies and procedures he is putting in place to minimise it.

Senator B.E. Shenton:

I can just assure the Deputy that this is a very important issue and we will do all we can to make sure communication flows to the Chamber and to the population at large is excellent.

2.5.4 Deputy S.C. Ferguson:

Would the Minister not agree that there are a few quick wins that could be adopted in this such as all long hair tied back and not drifting over the patient; uniforms only changed into in the hospital? I have seen people driving into work in their uniforms with a car full of children and dogs, or else walking around town in their hospital uniforms. I cannot think that is terribly good and I think it may be that you need to look at the cleaning policies and the way this is done. These are quick cheap easy wins. Will the Minister look into these?

Senator B.E. Shenton:

Obviously I am not an expert on infection control procedures but I will have a word with the relevant department to make sure that everything possible is being done. The general feedback about the cleanliness of the hospital is very good and I think with any large organisation there is always room for improvement no matter how hard you try. But this is, as I said before, a very, very important issue and it does take high priority at Health.

2.5.5 Deputy A.E. Pryke of Trinity:

Could the Minister advise if patients are swabbed for M.R.S.A. prior to admission to hospital or transfer from another hospital?

Senator B.E. Shenton:

Yes, they are and one thing I will say is the old style wards do not always lend themselves well to the treatment of M.R.S.A. and other infections. When you take a patient in sometimes it would be ideal to put them in an isolated inner room initially when they go in, and certainly moving forward I think you will find a change in the way wards are handled, the way wards are designed and we have to move forward on this. This is going to be a problem going forward and it is something that we have to handle with great professionalism and we have to have utmost care in this area.

2.5.6 Deputy C.J. Scott Warren:

Can the Minister inform Members whether Corbière Ward is currently receiving new admissions or whether it remains closed to new admissions?

Senator B.E. Shenton:

My understanding is that Corbière Ward is now operating as normal.

Deputy C.J. Scott Warren:

I thank the Minister for his answers.

2.6 Deputy R.G. Le Hérissier of St. Saviour of the Minister for Education, Sport and Culture regarding the local recruitment of local residents for principalships in Jersey secondary schools:

What policies are in place to ensure that local candidates are able to compete effectively for principalships in Jersey secondary schools?

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

Education, Sport and Culture has a structured approach to developing leadership for Jersey teachers. We have a programme that is designed to meet recognised national standards covering the major components for leadership, learning and management. We currently provide 4 leadership programmes. The 2 most relevant to headships in Jersey secondary schools are the established leaders' course. This is aimed at teachers who have been in senior posts for a significant period of time but are not head teachers. It looks to recognise their experience and talent and ensure that best use is made of these within schools. The course also exposes participants to new leadership and management techniques. Perhaps most relevant is the N.P.Q.H. (National Professional Qualification for Headship). This is a national programme that we adhere to. In England it is essential for a teacher to have this qualification before they can apply for headship. This is not essential in Jersey but we do attempt to support all experienced deputies and assistant head teachers who wish to undertake this course. It is based on the nationally recognised standards for headship and the course is designed to prepare senior teachers for headship. It is a comprehensive and very challenging course which culminates in a school-based assessment. This is a popular course and in high demand. Forty seven local senior teachers have been through this course since 2001; 11 of those teachers who completed this course are now successful head teachers in Island schools.

2.6.1 Deputy R.G. Le Hérissier:

Notwithstanding those excellent courses I wonder if the Minister could outline how the appointments process assesses the fit between the candidate's ability to work in Jersey and the qualifications they bring to Jersey?

Senator M.E. Vibert:

For headships we run an assessment centre which is being proved to be the most successful way of attempting to fit a person to a job. It takes place usually over 3 days and is a very demanding assessment and we will always, if possible, shortlist a local candidate for any senior position and that local candidate will be assessed against any outside candidates. Of course, the possibility and importance of them fitting into Island life, understanding Island life and being able to settle in Jersey, is a criteria that is given attention to during the assessment.

2.6.2 Deputy R.G. Le Hérissier:

Could the Minister outline, in the light of recent experience, whether his department has come to any conclusions where this process has not worked and, if so, what lessons have they learnt for the future?

Senator M.E. Vibert:

We look back after each process and we continually try to refine the process. We take the advice of the Appointments Commission - a body set up by this Assembly - and we try to ensure that we have a continuous improvement in our selection process.

Deputy R.G. Le Hérissier:

I wonder if he could be more specific and ask what specific lessons have been learned from recent experience?

Senator M.E. Vibert:

The lesson to be learnt from every experience is to try to continually improve and always choose the best person for the case taking into account as many criteria as possible.

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

Notwithstanding the fact that the Minister said that people are encouraged to attend these very worthwhile courses, will he advise the House whether there is a clear succession planning policy in place for these positions?

Senator M.E. Vibert:

We encourage all deputy head teachers and assistant head teachers to consider applying for headships when they become available and we have annual reviews with all our senior staff in which their future development is considered and discussed.

2.6.4 Deputy R.G. Le Hérissier:

Would the Minister explain why in recent situations the policy appears not to have worked and what steps are being put in place to make it work more rigorously?

Senator M.E. Vibert:

I do not believe the policy has not worked. There have been unfortunately some recent appointments that have not been for the length of time one would have hoped or have not worked out as one hoped, but that is not necessarily a fault of the appointments process. I was pleased to see recently that a deputy head teacher was appointed head teacher of a secondary school and I hope that we will see more such appointments in the future and we will continue to give people the opportunity to be prepared through programmes for such opportunities, and we will encourage them to apply when they come up. We will try to carry out the best assessment possible because our aim is to ensure that we appoint the best head teachers possible.

2.7 Deputy K.C. Lewis of St. Saviour of the Minister for Transport and Technical Services regarding the release of car registration details to wheel clamping companies:

Would the Minister advise whether confidential car registration details, names and personal addresses, are supplied to wheel clamping companies and, if so, under what circumstances are such details being given?

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

I can confirm that Driver and Vehicle Standards do pass on the names and personal addresses to wheel clamping companies and the circumstances are as follows. If the owner of a property or his or her authorised agent has evidence that a vehicle was parked on the said property without authorisation - in other words a trespass has been committed - under Article 19(2) of the Motor Vehicle Registration (General Provisions) (Jersey) Order 1993 as amended, there is reasonable cause for that person to request the particulars of the keeper of the offending vehicle. So, under those circumstances the department is under a requirement to supply details. I should also say that there are a number of other inquiry applications that are received by Driver and Vehicle Standards. These tend to come from insurance companies or solicitors requiring keeper details on vehicles that have been involved in collisions where the driver of a vehicle has provided bogus details of name and addresses. Other applications may possibly be in respect of repossessions of vehicles where a keeper has defaulted on a loan.

2.7.1 Deputy K.C. Lewis:

Is the Minister satisfied, Sir, that these people who are unregistered and unregulated should have access to highly confidential personal details, and is the Minister satisfied that there is no breach of data protection?

Deputy G.W.J. de Faye:

As I think I have just outlined to the Assembly, my department is responding to a requirement under the Law. In that sense I do not think the data protection issue is a relevant issue.

2.7.2 Deputy P.V.F. Le Claire:

It is interesting that the department is responding to a requirement under the Law when we heard only last session that the Law is unclear in this area. Is it not the case that this sends out a worrying signal to most Islanders having followed the United Kingdom's recent incidents of data being shared, that we are giving over to private companies details of people's personal addresses, *et cetera*, that give them cause for concern in an area where there is doubt over the legality of the process?

Deputy G.W.J. de Faye:

I would suggest to the Deputy that if there is a worrying trend on this Island it is the utter disregard for some people for other people's property.

2.7.3 Deputy P.V.F. Le Claire:

Would the Minister not agree that that includes their personal information?

Deputy G.W.J. de Faye:

I think we need to understand that (a) the value of a car registry and the idea as to whether this is top secret, highly confidential or confidential is really a matter of perception. There are clearly circumstances where it is utterly right and proper that details held on a vehicle registry should be passed on to people who ought to know them.

2.7.4 Deputy S.C. Ferguson:

Would the Minister not consider that this seems to be totally inconsistent with the recent cases we have had within Home Affairs and the police force where his staff are giving out details? I think it

is argued that the legal side could be argued for both cases but one lot of people are in fact giving out details and the other lot of people are being penalised and taken to court over it. Does the Minister not see inconsistencies in this?

Deputy G.W.J. de Faye:

I think what some Members may be overlooking is the extreme distress that trespass can cause to owners of property and quite frankly while wheel clamping is an interesting and topical issue in the media and Members may have their own views on whether the charges imposed are excessive or not, the fact remains that if drivers did not trespass in the first place wheel clamping would not be an issue.

2.7.5 Deputy D.W. Mezbourian:

Will the Minister advise the House how an owner has to prove trespass in order to get the information that they request?

Deputy G.W.J. de Faye:

I would suggest to the Deputy a photograph would be a quite reasonable response for that.

Deputy D.W. Mezbourian:

I wonder if the Minister would advise us whether that is the required proof of trespass for his department to divulge information?

Deputy G.W.J. de Faye:

I am not in a position to advise Deputies whether that is a single required proof or whether further proof is required.

Deputy D.W. Mezbourian:

Perhaps the Minister will come back to the House to give us that information please.

Deputy G.W.J. de Faye:

Perhaps I might, Sir.

2.7.6 Deputy G.P. Southern:

The Minister referred to giving people's personal data to "appropriate bodies" I think was the words he used. Surely that in itself raises a question about data protection if that appropriate body is also a government department. It is government information being passed to other arms of the government. It is a very different thing being passed to other members of the public. Does he not agree?

Deputy G.W.J. de Faye:

Personal information, Sir, is a very fascinating subject. I have always maintained the rule that the innocent have nothing to fear.

2.7.7 Deputy A.J.H. Maclean of St. Helier:

Would the Minister not say that incidents of hit and run are also somewhat distressing and would he undertake to converse with the Home Affairs Department - in particular the police - who are not prepared to divulge information on driver registration numbers in instances where there is hit and run? Surely the 2 departments should work together and ensure they have a consistency of approach.

Deputy G.W.J. de Faye:

I am grateful to the Assistant Minister for his views. I am entirely satisfied with the way the vehicle registration system works at the moment. I am also equally satisfied with the relationship

between Transport and Technical Services and the Home Affairs Department. If any Member retains concerns about the operation of the Law I would suggest the Member brings a proposition to the States.

2.7.8 Deputy P.V.F. Le Claire:

Would that proposition include a vote of no confidence in the Minister for his responses this morning [Laughter] and would he not also undertake to investigate whether or not when people are trespassing on property with vehicles that the option to inform the police to come and tow the vehicle is not the preferred one than giving out personal details to a private company of somebody's personal information?

Deputy G.W.J. de Faye:

The personal details we are talking about are name and address. Mine is in the telephone book. I think that really underlines the issue at stake.

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

In the light of what the Minister has been saying just now, could the Minister tell the House whether he is in favour of the principle of wheel clamping and, if so, does he believe that such activities should be regulated in his considered opinion?

Deputy G.W.J. de Faye:

I am certainly in favour of owners of property having some level of redress against people who abuse their property. Currently wheel clamping is an entirely legal practice and precipitates what may otherwise be very lengthy and expensive civil action through the courts. I see no reason why wheel clamping should not be regulated. If anything, that may bring into line what may be perceived as excessive fines. I see absolutely no reason why owners of private property should not be in a position to take action against people who are trespassing on their property.

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

Clearly these inquiries take a certain amount of the department's time. Would the Minister confirm whether the department makes a charge for issuing this information?

Deputy G.W.J. de Faye:

Yes, Sir, the department does make a charge and I regret I do not know the precise amount.

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

It seemed earlier that the Minister was easily pleased. There are other people who are not so easily pleased, Sir. Could the Minister advise what steps his department takes to verify that a request for information is valid? Somebody may well phone-up and ask for the number of a car saying that it is trespassing on their property. What proof does his department have before they release that information? What checks do they carry out?

Deputy G.W.J. de Faye:

Sir, as I indicated, under Article 19(2) of the Motor Vehicle Registration (General Provisions) (Jersey) Order 1993 a person must show reasonable cause for requiring the information. It is up to department officials to determine whether they think that cause is reasonable or not.

Deputy G.C.L. Baudains:

He has failed to answer my question. I asked what steps his department take to verify that position.

Deputy G.W.J. de Faye:

They read the request made to the department. Regrettably the Driver and Vehicle Standards are not a police force and, therefore, they do not conduct investigations into the voracity of people they deal with.

2.7.12 Deputy P.V.F. Le Claire:

Has the Minister undertaken inquiries with the Law Officers to determine whether or not such sharing of information is lawful from one States' department to another and then on from there to a private company?

Deputy G.W.J. de Faye:

No, Sir, I have not because I am apparently satisfied that the position is entirely lawful.

The Deputy Bailiff:

Deputy Lewis, do you wish to ask one question or not?

2.7.13 Deputy K.C. Lewis:

One final one, Sir. The wheel clamping was touched on. Does the Minister think a fine of between £150 and £175 as a release fee is justified?

Deputy G.W.J. de Faye:

I think it is a useful deterrent, Sir, but it ought to be notified to people before they are obliged to suffer it.

Deputy P.N. Troy of St. Brelade:

Before you move on to the next question, Sir, can we ask the Solicitor General perhaps to comment on the legal issue regarding giving out personal data?

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

I can certainly comment on it but I cannot really add to what the Minister has said. His department has a statutory obligation to provide the information in the circumstances set out in the Regulation and if someone satisfies the requirement of the Regulation then it is not a matter of discretion; it is a statutory obligation. The information shall be given out.

2.8 The Deputy of St. Martin of the Minister for Home Affairs regarding the staffing of the Civil Aviation Authority and associated costs:

During oral question time on 20th November 2007 the Minister was unable to advise Members of the number of staff that would be required to support the Director to the Civil Aviation Authority and the annual staffing and administration costs. Is the Minister now able to provide these details to the Assembly?

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

An existing States' employee previously employed at Jersey Airport has transferred to the new post of Director of Civil Aviation. No dedicated support staff are required to support the director. The cost for the last 2 months to 2007 were £22,959 made up of £20,816 for salaries and £2,143 for equipment and general set-up costs. The estimate for 2008 is £109,000 made up of £5,000 in general expenses and possible accommodation costs, which are currently free until April, and £104,000 in salary costs. The financial cost of the office, including staff costs, will be met by payments by Jersey Airport of a licence fee; therefore there will be no net costs to the Home Affairs Department.

The Deputy of St. Martin:

Members will be aware that, just this morning, the Draft Civil Aviation (Jersey) Law 200-(P.18/2008) has been put on our desks. No doubt Members will have an opportunity to raise further questions of the Minister, when it comes up for debate. Thank you, Sir.

2.9 Deputy K.C. Lewis of the Minister for Transport and Technical Services regarding the opening hours of the new bus and transport centre:

Will the Minister undertake to open the new bus and transport centre beyond 7.00 p.m. to enable waiting bus passengers to shelter from the inclement weather. If not, why not?

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

In planning for the opening of Liberation Station the opening and closing times of the facility were discussed on many occasions between Transport and Technical Services and Connex. It was quite clear that a balance had to be struck between the service to the customer and the potential risk to the facility as well as the cost of keeping it open. I should point out that, currently, on the winter service, only 3 services operate throughout the entire Island after 6.30 p.m. They are the Number 1, Number 3 and the Number 15. That constitutes a total of 14 departures from Liberation Station after 7.00 p.m. On Sundays that is halved to 7. However, Liberation Station is still new and both the operator, Connex and Transport and Technical Services are refining its operation. If, at some time, it is felt that later opening could be safely and reasonably achieved, I would be happy to consider the implications and review the position. I would also remind the Deputy that the facility will, in fact, close at 8.00 p.m. in the summer, although I acknowledge that the weather is likely to be more favourable later in the year.

2.9.1 Deputy K.C. Lewis:

I thank the Minister for his reply, Sir but even though it is not a full service after 7.00 p.m., it is a bus service and we must have a service for the community. I have been contacted by many people who have to wait on the pavement for a bus in wind and rain, who can only gaze longingly through the windows at the new comfortable transportation centre. With several car parks due to close and people being encouraged to use the public transport, this is a ridiculous situation. Does the Minister not agree?

Deputy G.W.J. de Faye:

It is essentially a matter of funding, Sir. I would be delighted to open the Liberation Station longer than currently but, as I have said earlier to the Deputy, it is a question, ultimately, of balance of how funds are expended.

2.9.2 Deputy D.W. Mezbourian:

I had the pleasure of using that new facility for the first time on Saturday evening, when I counted as many as 70 plus young people using it as a meeting place. At my age and my size I do not get easily intimidated but I do think that perhaps some older people in our society may well feel that way if they encountered as many youth in one place. The Minister mentioned in his response that his department had had discussions with Connex and they considered the risk to the facility, as on Saturday evening the station was being used as an indoor football stadium. Would the Minister please advise the House what is considered a risk to the facility?

Deputy G.W.J. de Faye:

I regret to say that one of the risks that has to be considered is what I will broadly describe as the exuberance of local young people, but I shall qualify that by saying that we do have very significant problems with the youth of the Island and their use of Liberation Station. There have been incidents of unacceptable behaviour. For example, it seems that our local school children think nothing of lighting-up cigarettes inside the premises, which is one of the matters that has had to be

dealt with. They also like to play football, throw plastic bottles at each other, indulge in racial abuse and they insult our elderly commuting customers. I have to say that, in the light of that, that is one of the factors that we have to weigh about opening the building up in the evening, when there is a strong suspicion it would probably be abused by young people who gather there, already, in significant numbers.

2.9.3 Deputy D.W. Mezbourian:

In follow-up to that response from the Minister, he is talking about keeping the bus station closed, but these problems are taking place during the day and the Minister has not told us what his department or Connex are doing about preventing these problems from taking place at any time of the day.

Deputy G.W.J. de Faye:

Well, Sir, during the day there are clearly staff on hand and, in some ways, forming a security element to the behaviour that goes on at the station, but clearly the circumstance I have outlined indicate the problems that do beset us and also indicate the importance, I believe, of having some dedicated youth facility down in the Liberation Square waterfront area which would not result in a bus station being used as a glorified youth club.

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

I probably feel I know the answer to this question but I must ask it anyway. Given the explanation of the youth, which I am told lead by example, I think the description that the Minister made probably could describe many people of well over 21, 31, 41 who are standing at the taxi rank on a Friday and Saturday night. Are there any plans to make this what Liberation Station should have been; a transport centre? Move the taxis and get these people off the street and somehow police it much more satisfactorily.

Deputy G.W.J. de Faye:

I cannot remember how many times I have been over this particular issue but clearly Deputy Martin has not got the full picture yet. The issue of the taxi rank at the Weighbridge has been the subject of very high level intense discussions across a number of departments. It has been made quite clear that the police prefer the taxi rank to stay where it is because of the location of closed circuit television cameras. It is also perhaps worth mentioning that the recent initiative of Safer St. Helier of installing security guards who monitor the Weighbridge taxi rank on Friday and Saturday nights has proved to be extremely successful and cut down very dramatically on the trouble that was being created there and indeed has, as I understand, anecdotally, has encouraged more rank drivers to come out and offer their services to the public because they simply feel safer operating at the Weighbridge. The future of the Weighbridge taxi rank will clearly have to come under consideration at some point in terms of whether it stays or goes because, as Members will be quite well aware, there are discussions about a linkage between Liberation Square and the piazza on the Weighbridge that has now been freed-up due to the removal of the former bus station and, obviously, a linked square would prevent the current convenient exit of taxis turning east through Fort Regent. So, obviously, there will be further consideration of that rank in due course.

2.9.5 Deputy D.W. Mezbourian:

Will the Minister advise the House whether any consultation has taken place between his department and Education in order to ensure that an outreach worker for young people spends some time at the bus station on weekend evenings? They have a captive audience there, Sir.

Deputy G.W.J. de Faye:

There have been no direct discussions between Transport and Technical Services and the Education Department as far as I am aware, Sir. However, certainly the result of my involvement with the St. Helier Youth Committee, which fund - courtesy of funding from the ratepayers of St. Helier -

outreach work to youth. I am satisfied that at the appropriate juncture, that type of outreach work will take place.

2.9.6 Deputy K.C. Lewis:

I thank the Minister for his reply, Sir but with any sort of bad behaviour, we must bring them up to our standards, not us down to them by closing the facility down early. Will the Minister undertake to review the situation?

Deputy G.W.J. de Faye:

I am sorry if the Deputy had not heard me earlier. I said that I am very happy to review the position on an ongoing basis.

2.10 Deputy R.G. Le Hérissier of the Chairman of the Privileges and Procedures Committee regarding the Draft Freedom of Information Law:

Would the Chairman update the Assembly as to the progress his Committee is making in delivering the States' decision to introduce a freedom of information law?

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

The P.P.C. (Privileges and Procedures Committee) believes in the importance of access to information, and it has been working to produce an acceptable draft law to comply with the in-principle decision of the States. P.P.C. has considered 2 draft laws to date. The first draft was put out to consultation in April 2006. Comments included concerns that the draft law as overly complex for a small jurisdiction and would cost around £500,000 a year to implement. The Committee put a simpler document out to consultation in June 2007, which it hoped would be less costly. However, comments maintain that the cost will be the same. It is only fair to say that P.P.C. is not convinced that the above costs relate only to the delivery of an F.O.I. (Freedom of Information) law. It is possible that part of this £500,000 is necessary to enable departments to comply with the Public Records Law introduced in 2002 and the F.O.I. law is not solely responsible. Nevertheless, P.P.C. felt it would need to provide the States with compelling evidence that the Code of Practice on public access to official information was not working or could not be improved at lower cost. A precursory review of the annual reports for 2001 to 2006 shows that the existing appeals procedure under the code has never been exhausted. Over this period 731 applications for information have been recorded, of which 20 - or less than 3 per cent - have been refused. There have been 2 appeals for the President or Minister, as the case may be, and there have been no appeals to the States of Jersey Complaints Board. Monitoring the code has been relatively rudimentary because the focus was on delivering a law. P.P.C. has decided to review, again, the detailed provisions of the second draft law at its next meeting and it will decide whether to review the performance of the code in depth before going on to recommend legislation. The Corporate Services Scrutiny Panel has deferred its intended review of the resources implication of the draft law until P.P.C. has confirmed the direction it wishes to take.

2.10.1 Deputy R.G. Le Hérissier:

Would the chairman indicate why there is no cost in operating a code and why there is such an enormous apparent cost in operating a law?

The Connétable of St. Clement:

The replies we have had from the various departments in consultation did not indicate that they had any costs, as far as the code was concerned. They had costs in relation only to the F.O.I. law.

2.10.2 Deputy C.J. Scott Warren:

Does the chairman accept that the implementation of some laws - such as the introduction of a Freedom of Information Law - should be measured against the overall benefit, which ensues to the community, rather than the cost and that if you look at the cost saving, it could set a dangerous precedent for some very much needed laws in our society? Thank you.

The Connétable of St. Clement:

Yes, I would agree entirely with the Deputy but the responses we got from the departments were that there was a cost and we need to look at that as well.

2.10.3 Deputy A. Breckon of St. Saviour:

I wonder if the chairman of P.P.C. would agree with me that if people had greater access to information, especially financial - including us as well as the public - then it could lead to savings? He has mentioned a sum of money there and the question, Sir, is would he support better reporting and access to information in general terms?

The Connétable of St. Clement:

Yes, Sir, I think I would. Again, I just emphasise that the costs have been indicated to us by the departments. This is not something that P.P.C. has invented.

2.10.4 Deputy R.G. Le Hérisier:

Could the chairman indicate, given the rather surprising result, that the much simplified law apparently resulting in precisely the same cost as the more complex law? Obviously, suspicions must have been aroused by that finding. Could he indicate whether he has looked at the experience of other jurisdictions as to see whether this is indeed a valid objection to the law?

The Connétable of St. Clement:

We have, indeed, looked at other jurisdictions but I do not think we have related it to cost.

2.10.5 Deputy R.G. Le Hérisier:

If, indeed, the chairman has accepted cost as the main obstacle to the implementation of the law, is it not rather surprising that the Committee's research has not embraced the cost of implementation in other jurisdictions? Why is the Committee accepting this evidence, uncritically, from departments, some of whose motives, quite frankly, are open to question?

The Connétable of St. Clement:

I think I indicated my answer that we are looking at the law. We are not accepting, uncritically, the cost that the departments have indicated. We have already said, in my statement, that we think that some of those costs are related to the Public Records Law rather than to the F.O.I. law. We will look at other jurisdictions. I am not certain that we can relate what happens in Jersey to what happens in bigger jurisdictions.

2.11 Connétable A.S. Crowcroft of St. Helier of the Minister for Treasury and Resources regarding the readiness of local businesses for the implementation of G.S.T:

Would the Minister advise what work has been carried out by his department to ensure that local businesses are ready for the implementation of G.S.T. (Goods and Services Tax)?

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

The Income Tax Department has been engaged in a G.S.T. awareness campaign since January 2007. The main work activity is a rolling programme of advisory and educational visits to businesses and charities, following advertising in the local press. Every opportunity has been given and nobody has been refused. The team recorded 358 such visits in 2007. A further 67 will be

completed in January this year. The general feedback on the programme, including an independent Chamber of Commerce survey, has been very positive. This programme will continue and, with the Law in place, can now be more targeted. To coincide with the second phase of G.S.T. registrations, which are commencing on 18th February, all newly registered G.S.T. taxpayers will be invited to a series of educational evenings, around 40 people at a time, at a convenient town venue. Formal presentations on G.S.T. implications and obligations will be followed by open questions. During 2007 a G.S.T. team have also been involved in 26 awareness seminars, mainly involving trade representatives, associations and accountancy firms. These events are ongoing and 4 similar events are booked in February 2008. I am aware that there also needs to be a greater information and awareness presentation to consumers, many of whom are still unsure of the way in which G.S.T. will operate. The focus, to date, has been primarily and rightly on making businesses more aware of the arrival of G.S.T. and the implications for their business. Self-help G.S.T. information has been available since mid-2007, in the form of booklets, leaflets and information sheets. Updated versions and new releases will be issued in early February. These are available electronically on the States' website, as are frequently asked questions for consumers and businesses. Queries are also dealt with at the income tax help desk, G.S.T. help line and the Jersey Tax e-mail address. Despite all this, I cannot be certain that all businesses are at present fully geared up for the implementation of G.S.T. Sadly, as with I.T.I.S. (Income Tax Instalment Scheme), many leave it until the last minute to prepare. We shall be stepping-up our awareness campaign as G.S.T. day approaches. Finally, I reiterate the commitment I made when introducing G.S.T., that in the early months introduction, the Tax Department will be taking a sympathetic view and seeking to assist rather than challenge businesses which have initial difficulties.

2.11.1 The Connétable of St. Helier:

I thank the Minister for his comprehensive and helpful answer. With the implementation date a mere 3 months away, I would be interested to know what degree of readiness the Minister feels that the local business community has? Is it, for example, 50 per cent of local businesses or are more local businesses ready for the new tax?

Senator T.A. Le Sueur:

That is a very difficult question to answer because it would vary from business to business. Businesses which are on the ball will be well aware of any implications with G.S.T. and be fully prepared for it. Other businesses who may be tempted to bury their heads in the sand clearly will be less so. I suspect that the degree of readiness is probably about 50 per cent and we will need to do a lot more over the next few months, to bring it up to a higher level. But that is always the way, Sir. People like to leave things to the last possible minute.

2.12 The Connétable of St. Helier of the Minister for Transport and Technical Services regarding the use of blances to provide later opening times for car park lifts:

Would the Minister state the balance of funds in the car parks trading account and agree to investigate using some of these funds to provide later opening times for car park lifts?

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

The issue of lifts in multi-storey car parks came up during question time a fortnight ago and I said then that I was very happy to pursue discussions with Members, so I am delighted that the Connétable has decided to open discussions today, albeit in a rather unusual format. The draft accounts for 2008 indicate a balance of £9.9 million in the car park trading fund, £30,000 of that per year is already allocated for the ongoing maintenance of all the lifts in the multi-storey car parks. In 2008 a further £30,000 is being provided to improve lifts to facilitate disabled access. So, in that context, Sir, I am happy to assure the Connétable of St. Helier that I am prepared to investigate looking at funds for opening the lifts later. Perhaps, Sir, if I could just indulge you

momentarily, I did... and I apologise to the Assembly for misleading - I was given slightly inaccurate information last time when I informed Members that all multi-storey car parks close at 10.00 p.m. That is not accurate. I am now informed that in fact Sand Street lifts close at 8.00 p.m. and we keep the lifts open at Patriotic Street until 11.00 p.m. in order to accommodate the shift changes for nurses and other personnel working at the general hospital. I apologise to Members for having provided inaccurate information earlier.

2.12.1 The Connétable of St. Helier:

I thank the Minister for his clarification on the last set of questions. It is encouraging to note that lifts can be kept open later without being prone to vandals. I would be interested to know whether this whole matter will be part of the long awaited integrated traffic and transport plan and when we may hope to see that?

Deputy G.W.J. de Faye:

Well, I am very grateful to the Connétable for his encouragement, Sir. I would also encourage him to bolster his Honorary Police force which is currently very severely depleted and perhaps reconsider his policy of selling-off public toilets and turning them into restaurants, all of which would help cut down on the abuse of multi-storey car parks, with people using them as an alternative public convenience, urinating, defecating, vomiting and, of course, the Honorary Police might help us with the drug issue because there are numerous needles left in multi-storey car parks as well. I encourage the Connétable in his endeavours. [Laughter]

2.12.2 The Connétable of St. Helier:

I guess we knew it could not last; the spirit of helpfulness has deserted the Minister. The Minister did not answer my question and I repeat it for the Minister. Will the Minister be making the later opening of these car park lifts part of the long awaited integrated traffic and transport policy and when can we hope to see it?

Deputy G.W.J. de Faye:

I said I would investigate the matter. That is not necessarily a guarantee that it will form part of the integrated travel policy which, for the information of Members, I will be reviewing the final draft with my senior officers at Transport and Technical Services this Friday.

2.12.3 Deputy K.C. Lewis:

I am encouraged by the Minister's reply, Sir. I too have had correspondence on this matter. It is encouraging that Patriotic Street is open until 11.00 p.m. to enable nurses changing shifts to use the lifts. I would be grateful if the Minden Street car park could also be changed to 11.00 p.m. to enable senior citizens and theatre goers at the Art Centre to be able to use the ones in Minden Street at 11.00 p.m. I also understand that there is a toilet block adjacent in Minden Street block, which hopefully will be used. As I stated previously, Sir...

The Deputy Bailiff:

Can you come to your question, please?

Deputy K.C. Lewis:

Yes, as I stated previously, Sir, that we should not surrender to the hooligan and the vandal. Does the Minister not agree?

Deputy G.W.J. de Faye:

Yes, I do agree, Sir.

2.12.4 Deputy C.F. Labey of Grouville:

I too have correspondence on this particular matter from the Minister, even though he claims that he had not had any communication on it at the last sitting. His e-mail to me of 1st May stated that there were various closing times for each of the car parks. Could I request a closing time of midnight so theatre goers, cinema goers and people that go to town for entertainment, meals, et cetera, can know exactly what time the car parks are going to be closing, rather than having all these various differing closing times, which are completely confusing to everyone? Thank you, Sir.

Deputy G.W.J. de Faye:

I apologise to the Assistant Minister. Sometimes it is not clear, when you receive e-mail communications, whether Deputies are inquiring in a Deputorial capacity or an Assistant Ministerial capacity. Therefore I do apologise for what I thought was a personal inquiry which, in reality, turned out to be an official inquiry from the Department of Education. Sir, I do apologise to the Deputy of Grouville for not having understood that clearly the first time round. I am also grateful to the Deputy, when she raised the matter earlier. As a consequence, we put up notices of the closing times of the lifts in the lifts so that anyone using lifts would know when they were going to cease operation. That seems to have proved relatively successful bar, of course, the predictable vandalism of those signs by people who do not agree with the closing times. I have said I would investigate the matter. I will certainly look into the possibility of a midnight closing time but, at this stage, I regret I cannot make any guarantees.

2.12.5 The Deputy of Trinity:

Just a couple of points. The Minister just stated about the signs. As I understand, I think the signs are just stuck on with a bit of Blu-Tack in the lifts themselves, so I will leave that to people to think what they like. Would the Minister clarify a point that he said a couple of minutes ago? He mentioned that there were quite a great number of used needles found in car parks or was he specifically saying that there are a great number of needles found in the lifts? Thank you, Sir.

Deputy G.W.J. de Faye:

Needles, regrettably, Sir, found both in the car parks but, more commonly, in substantial numbers, at the bottom of lift shafts and indeed there have been occasions where the maintenance staff have had to basically wear special protective equipment in order to deal with that particular problem. I am pleased to hear that the Deputy has been inspecting our notices thoroughly. I was not aware they were attached with Blu-Tack but that is fascinating. I do need to, though, remind Members that in the course of providing public services, a balance has to be struck and I would remind Members of what I said last time. The majority of the use of Minden Street car park, which is the one in question, Minden Place car park, well over 80 per cent of its use is during the day time, of course. It is a shoppers' car park and I know the Connétable of St. Helier would agree with me, it is absolutely vital we encourage shoppers to come into the Island's retail centre. That is why we have to consider an earlier closing time in order to ensure that overnight damage does not occur, which then renders the lifts inoperable for the key use the next morning.

2.12.6 The Deputy of St. Martin:

We have heard about the perceived vandalism around the area and also the unruly behaviour but is it possible, maybe, to request the Minister to have a roundtable discussion maybe with the Constable of St. Helier and the Minister of Home Affairs to discuss how this could be policed because, to me, it does not seem a huge problem to have the odd officer around these areas at around 10.00 p.m.? We are not asking people to stay out all night but surely around 10.00 p.m. or 11.00 p.m., can I ask will the Minister take steps to arrange meetings with the Constable of St. Helier and the Minister of Home Affairs to see if this area could be better policed?

Deputy G.W.J. de Faye:

It is always a pleasure to see the Deputy of St. Martin so enthusiastic about policing and security issues but I have to say I think I would be wasting the time of the Minister of Home Affairs and the

Connétable of St. Helier has got far better things to do than consider posting guards late at night on our multi-storey car park lifts. Frankly, I do not really think that is the way forward.

The Deputy of St. Martin:

I have to say I really am surprised at the defeatist attitude of the Minister.

2.13 Deputy D.W. Mezbourian of the Minister for Planning and Environment regarding building on green field sites:

Those members of the public who attended the recent Imagine Jersey 2035 event overwhelmingly rejected the idea of building on green field sites. Will the Minister please advise the Assembly whether, as a result of the current Island Plan consultation, any green field sites have yet been identified for consideration for rezoning?

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

The Island Plan 2002 reserved a number of green field sites, including glass house sites, for possible use as future category A housing. Under Policy H3 there are 15 sites and under Policy H4, 10 sites. One of the H3 sites - Longueville Road - was subsequently zoned and has since been developed. None of the remainder is zoned for development and the States would need to agree their formal rezoning prior to development. Indeed, both the Minister for Housing and I have reservations about the suitability of some of the sites, several of which were the result of private Members' late amendments in the Island Plan debate in 2002. The current consultation on sites for retirement homes and first time buyer housing contains 12 green field sites, of which 3 have glasshouses on them. The Island Plan Review, which Members will know has now commenced, has not yet formally considered any specific sites for zoning. The results of the Housing Needs Survey, together with other research, would better identify the demand for housing. I must say that my personal preference is to concentrate on town regeneration to first provide the required housing units and only to look at rezoning additional green sites over and above some of the H3 and H4 sites if the town cannot provide the required number of homes. It is imperative that we preserve our traditional countryside and any suggestion of green field rezoning must only be in exceptional circumstances. Any such exception should be in the context only of preserving our traditional parish communities. I am sorry if I sound a bit slurred but I have just returned from the dentist.

2.13.1 Deputy D.W. Mezbourian:

I thank the Minister for his response, bearing in mind that he has had dental work carried out this morning. [Laughter] Nevertheless I am sure that Members will be prepared to question him further on this. Notwithstanding the fact that my question did specifically use the word "site" and asked whether any green field sites have yet been identified, I wonder whether the Minister would be able to advise us whether any specific areas have been considered for rezoning?

Senator F.E. Cohen:

No specific areas have as yet been formally considered for rezoning. At the moment I do not know when we will get to the point of being able to produce a paper suggesting any sites, should there be sites for specific rezoning.

2.13.2 Deputy J.A. Martin:

I am not sure which Minister is misleading the House but it was under my impression that Imagine Jersey 2035 and the options given were on the understanding that every development identified in the Island Plan 2002 - especially the town ones - would be developed to its full density providing up to around 2,000 new homes. Then, obviously, the scenarios were given and this was reaffirmed at the Island Plan update meeting to States Members, Sir. My question is, which is true? Many of these are green fields. People were asked to make a decision on how many more homes were

needed and where they would be built. Was it made completely clear and is it completely clear in the Planning Minister's mind that these have to be in the minimum developed to get anywhere near the amount of immigration that was voted for on Saturday, the 19th? Thank you, Sir.

Senator F.E. Cohen:

I can assure Members that I certainly am not misleading the House and neither are any other Ministers. The position is relatively simple. It is for the States to decide whether or not they wish to accept the rezoning of the H3 and H4 sites. The Housing Minister and I have looked at these sites. Some of them are not particularly suitable for housing. If any particular Member has a particular site that they wish to discuss with me or the Housing Minister, we are more than happy to do so but it is down to the States, at the end of the day, to decide whether or not they wish to rezone these sites. They are not formally rezoned as yet.

2.13.3 Deputy J.A. Martin:

Sorry, Sir, a supplementary, it is about policies that the Chief Minister is making under his department, which is to say that these sites will be presumed to have the yield of homes put on them and then the Planning Minister - and it will happen, Sir - will then come back to the House or the States will decide, we cannot have even this amount of homes. So, I am sorry, Sir, I am not happy with the Minister's answers and he has really got to agree that if it is not these sites, there will be other green field sites. They will have to be built on to provide the number of homes because they cannot all be built in St. Helier even if everybody in St. Helier was wishing them. There is just not the space.

Senator F.E. Cohen:

I am not suggesting that all the homes that we need may, with certainty, be created in St. Helier. What I am saying is that some of the H3 and H4 sites may not be suitable for housing and may have been included in the Island Plan simply for the purpose of expediency at the time. It is possible that they may not provide suitable housing and I would not expect that the States would, at that point, wish to rezone unsuitable sites but I will bring them to the States, for the States to decide. Thank you, Sir.

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

Policy BE5 is almost a presumption against buildings taller than 5 storeys. Given the views expressed by the Minister towards continuing to protect green fields and also the views expressed in Imagine Jersey 2035, does the Minister feel that now might be the time to review that policy in order, for example, to further encourage regeneration of St. Helier or other urban areas within the Island? Finally, would the Minister be prepared to commission, perhaps, a small working party to specifically consider that matter?

Senator F.E. Cohen:

I think the suggestion of a small working party is a very good idea. I am very happy to do that and, personally, I think that there is a case for taller buildings. I have always made that clear, providing they are excellently designed and provide excellent, quality accommodation. I do not think that there should be a presumption of a particular height. Thank you, Sir.

2.13.5 Deputy G.P. Southern:

Does the Minister accept, because he was there on Saturday at the Imagine Jersey 2035 event, that the impression was given that the low numbers of immigration could be catered for and would be catered for by H2, H3 and H4 sites, that were already in the pipeline and that this was presented as a *fait accompli* with no further expansion?

Senator F.E. Cohen:

I am not quite sure what the Deputy is getting at. I have made the position very clear that it is my intention to, in conjunction with the Housing Minister, further review the H3 and H4 sites and to bring those sites to the States for the States to consider their rezoning. We do not know the final housing numbers that will be required until the Housing Needs Survey is completed. We need to have the most up to date and accurate information. When we have that, we can match supply to demand. Thank you.

2.13.6 Deputy G.P. Southern:

If I may, the Minister professes not to understand my English. I do not understand what his problem is but nonetheless, I will try again. Does the Minister accept, because he was there, that the presentation given to 130 participants at Imagine Jersey 2035, gave the assurance that the numbers in the H3 and H4 sites could cater for the small number of immigrants at the low end of the scale, of the options. Does he accept that that presentation was given?

Senator F.E. Cohen:

No, I do not. I do not, Sir. The position is very simple. It is that until we have the Housing Needs Survey completed and other information, we do not know the exact demand numbers. Once we have done that, we can feed all those numbers in and come out with a proposal to adequately match supply to demand but we are not at that point yet.

2.13.7 Deputy D.W. Mezbourian:

I do have a final question, thank you, Sir. When the decision about the H3 and H4 sites has been made - and I gather from what the Minister said this morning, he believes that some of those already designated may not be suitable for rezoning - I am sure that we will be looking to rezone green field sites and I wonder whether the Minister will tell us how much influence a willing seller will have on the decision to rezone when measured against public rejection of proposed green field sites?

Senator F.E. Cohen:

In relation to the current proposals for the provision of retirement housing, I am sure that willing sellers have been a major part in the sites that have been put forward by the Connétables but, in general principle, I think that we should be trying, once we have identified more accurately the demand, we should be trying to deliver the best sites and to encourage the owners to make those sites available for housing. I do not think we should compromise ideal housing sites by the question of willing seller in most cases. Thank you.

3. Questions to Ministers without Notice - The Minister for Housing:

The Deputy Bailiff:

That concludes questions on notice. We come now to questions to Ministers without notice and the first query is to the Minister for Housing. Does any Member wish to question the Minister for Housing?

3.1 Deputy R.G. Le Hérisier:

In a written answer to myself from the Minister of Housing, he mentions that when he is involved with developers and there is an issue of decisions, he has officers present. Does that mean, for the rest of the time, he carries out negotiations, discussions, *et cetera*, on his own? What record are there of these negotiations? What reassurances do we have that there are not promises being made, conflicts appearing, over which we have no control and which may have serious consequences down the line?

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

I am not sure in relation to what the Deputy is talking about but if the Deputy is talking about developers or landowners, the issue is quite clear. If I am approached by a landowner or a developer, I cannot make a decision. I do not make a decision but in nearly all cases, I refer, if you like. Several I have referred to the Constable of Grouville, where I have supported the Constable of Grouville, but I have passed them over to the Island planners or the other departments, but I certainly cannot and do not make any decisions. Unfortunately, because I have a fairly open door at home, I never know who is going to knock on my door, who requests to see me, but invariably I try to sift out those who want to see me and find out what they want. No, I do not make any decisions at all. Any decision on development or planning is for the Planning Minister.

3.1.1 Deputy R.G. Le Hérissier:

While for a moment not underestimating and undervaluing the Minister's drive and enthusiasm, does he not think it is very odd and indeed not to be condoned, that he meets with developers and he may well be seen as favouring one particular project over another? Does he not think that this is, quite frankly, behaviour that needs to be tightly regulated?

Senator T.J. Le Main:

Well, I do not know where the Deputy gets that. I do not meet with developers and I would like to, if you have got any evidence that I do... Over many years ago States Members - and I can always remember one or 2 planning presidents at the time - used to go out for lunches and entertaining with developers. I can give you a categorical assurance that this Housing Minister does not entertain or go out or associate with developers. If developers or landowners do approach me, I would give you a categorical assurance that they are passed on to the appropriate department.

3.2 The Deputy of Grouville:

With such an overwhelming need for first-time buyer and, as we are led to believe, retirement homes, does the Housing Minister consider 65 units of supposed self-catering accommodation above the Transport Centre, as is highlighted in the Hopkins Master Plan, to be a good and fair use of new accommodation in the Island?

Senator T.J. Le Main:

This Island has still got to live, work and breathe and raise income and while I will always remember when I was invited on to the Planning Committee by Senator Quérée at that time, that I said to him: "Look, although I am the Housing President, you will not get me on board for any redevelopment that I think is unsuitable. Not at any cost." But, in this case, I have no firm views on the self-catering because it is a very important part of the tourism infrastructure in the Island. Quite honestly, I do not think that if that was (a) to (h) accommodation or first-time buyer, I will rankle on the Abattoir site. Personally, I do not think it is a suitable site. At the end of the day, I welcome any developments in St. Helier that will meet the needs of what my department is trying to achieve but there is a balance to be met.

3.2.1 The Deputy of Grouville:

This is not meeting the needs of people on his housing lists, so can he tell us what he is going to do about these 65 units that are going to be - well, I have used this expression in the past - (j) categories and unqualified through the back door that are basically going to service the finance industry when he has lists of local people in desperate need of first time buyer accommodation?

Senator T.J. Le Main:

I have got to say that the self-catering apartments placed upon that site would carry - if they come out of self-catering - a condition that they would have to be let for (a) to (h) and the local market. I have to say, again, that the Island needs self-catering and there is a balance to be met. I would not want to interfere with that balance at the present time because whatever the need it is meeting, it is meeting a need in this Island and self-catering, whether it is short-term for people that are working

on the Island or otherwise, and I believe that we have to strike a balance. So, although I sympathise with what the Deputy is saying, I have to say that, as Housing Minister, I welcome self-catering as part of the overall product of the Island.

3.3 Senator J.L. Perchard:

What checks are undertaken by the Minister to ensure that the terms of any agreement with a successful 1(1)(k) applicant who takes up residence on the Island are honoured? What options are available to the Minister, if the terms of any agreement with that 1(1)(k) resident are not complied with?

Senator T.J. Le Main:

A 1(1)(k) applicant or resident have terms agreed with the Comptroller of Income Tax and I am assured that the terms that have been arranged are legally binding inasmuch that the Comptroller of Income Tax can now legally pursue that as a debt.

Senator J.L. Perchard:

Perhaps the Minister would like to answer the second part of my question? What options are available to the Minister if the terms of any agreement are not complied with?

Senator T.J. Le Main:

I am not sure about that question. It has not arisen yet and perhaps the Solicitor General would be kind enough to perhaps dig me out of a hole on this one. [Laughter]

The Deputy Bailiff:

I am not sure that we will be doing all questions without notice...

Senator T.J. Le Main:

Well, I would have to come back and let the Senator know but I would suspect that if they fail to meet the terms under which permission was given, then they would fail and it would lose their status but I will find out, Sir.

Senator J.L. Perchard:

I would appreciate if the Minister did come back with an answer to the question and also add a little extra question, if I may?

The Deputy Bailiff:

No, I do not think you may, Senator. You have had 2 already and one has to be fair among different Members here.

3.4 Deputy G.P. Southern:

Is the Minister surprised to see figures that indicate that two-thirds of flat sales are currently share transfer sales, which are by and large bought by investment consortiums from outside the Island, thereby taking properties out of the housing market?

Senator T.J. Le Main:

How many times have I got to tell the Deputy that he is talking absolute nonsense? It is not true. Yes, many of the flats are share transfer because over a period of years that was the only way that multiples of units of accommodation could be transacted. Now they have got flying freehold that came out a relatively short period of time ago, several years ago. But, up to then, you could only acquire a flat through share transfer. There are no - no - large investors in share transfer. Give me the evidence. I see the Deputy, Sir, pulling faces. [Laughter]. My department have heard these rumours for a considerable amount of time and, in fact, we had mention of several... a unit of accommodation recently built by share transfer in Gloucester Street and other areas. We checked

out all the applications that came through on applications to occupy and those that did not come through, we physically checked out - knocked on doors, checked it all out - and we can give the assurance to the Assembly that there are no large investors that are buying share transfer accommodation for investment purposes. I can say that honestly.

The Deputy Bailiff:

To be honest, I think you have answered it. There are a number of Members who want to ask questions, so I would ask you to be as concise as possible in your answers. Do you wish a follow-up question, Deputy Southern? No. Very well, the Constable of St. John.

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

I wonder if the Minister could advise the House what action he would take if it were found that an existing States' tenant was applying to buy one of the shared equity units that they are selling-off and it was found out that they already owned one or 2 properties abroad? Thank you, Sir.

Senator T.J. Le Main:

Well, this is another issue that I get and there are several Members of this Assembly that have continuously said to me that: "I know someone who has got a large property in another country." Every time I have asked them to give me the name so that I can investigate, not me personally, but the department can investigate: "Oh, we cannot do that" or: "We do not want to drop ourselves in it." I urge the Constable, if he has such evidence, if that is the case, then we would take action and they would not be able to purchase a shared equity States' property. But I urge any Member, instead of going on the radio all the time, espousing the view that this was happening, that was happening, please give me the information, which I will pass on to my fraud investigators at the Housing Department and they will look at it and come back to you.

3.5.1 The Connétable of St. John:

Can I just ask a second question on that one, Sir? Would the same apply to existing States' tenants that are occupying States' properties? Because I understand that it is against the department's policy that you can own a property and live in States' accommodation.

Senator T.J. Le Main:

No, it is not against the policy of the department. For many years people are assessed on their needs. One has to remember that 25 per cent of our clients are clients that pay a full fair rent and we need that kind of income from those paying full fair rents to maintain our budget. But there are families that never go on holiday but may have a little mobile home or a little house in France or things like that...

The Deputy Bailiff:

I think the answer is either yes or no, Minister, as to whether it would apply.

Senator T.J. Le Main:

There is a policy that people can have some home ownership.

3.6 Deputy P.V.F. Le Claire:

On the issue of large investors and the share transfer market, it is interesting that all the Members are shouting it down. The reality is that the share transfer market is a lucrative investment opportunity for people that do not belong in Jersey, or they do belong but they do not live in Jersey and they rent it out to people who have got housing accommodation. On the website of a very large developer...

The Deputy Bailiff:

I am sorry, what is your question?

Deputy P.V.F. Le Claire:

This is the question, Sir, on the website of a very large developer in Jersey, beginning with a “D”, they not only build share transfer accommodation, they sell it on the site; they offer it as share transfer...

The Deputy Bailiff:

Deputy, you must ask your question, please.

Deputy P.V.F. Le Claire:

They arrange, they build, they purchase and they let the management of these properties. Does that not give the Housing Minister cause for concern that most of the available new accommodation in flats in Jersey is there for share transfer owners, not the residents, who wish to purchase, themselves?

Senator T.J. Le Main:

No, Sir, that is not true, again. I have got to say that we keep a very tight rein on this. We look at it and we assess it. In fact, tomorrow morning, Sir, my Assistant Minister and I, we have a policy meeting on (j) categories or accommodation and all those issues but the issue is this Island does need investors in the home market because, you know, we have got... For instance, years ago Health and Social Services, and Education used to cry out for accommodation. They used to have staff accommodation all over the place. That is totally inexcusable. Thank goodness we have got people that do invest in local property, that nurses and teachers can access (a) to (h) accommodation because they are entitled to under their (j) licence’s special concession. But we do need people to invest in local property. But the biggest issue at the moment is that 3 and 4-bedroom homes are being bought up by local Jersey people to let out. Quite a lot are going, the Miladi Farms, Maufant Village are being bought up by local families - Jersey born and bred for hundreds of years - who will see this as an investment. Those homes are occupied by Jersey people, which has given us much more ability to not have to provide them in the States’ rental accommodation.

3.7 Deputy P.V.F. Le Claire:

A follow-up question, then, Sir, is that, very succinctly, will the Minister not recognise that the reason there is such a low rate of home ownership in Jersey is because of these very 2 factors; people renting houses and people renting flats without the ability to purchase them?

Senator T.J. Le Main:

Home ownership, as we all know, is very low, compared to other countries and this is an issue that the Housing Department and my Assistant Minister and I are trying to address through the sale of 800 homes but certainly the issue is that, over the years, a shortage has been accumulated because of many broken marriages where there are 2 now occupying a 3-bedroom home. I have never seen so many; I do not think there is another place in the world where so many single people have bought family homes. Particularly on even some of the first rezoned sites of 1999. Young people do not stay at home in Jersey now, if they are working in the finance industry. They are occupying and they are living and renting. But the issue is that there is still the shortage, Sir, of one-bedroom flats with parking spaces, in St. Helier, to purchase. A great shortage and, although the market is static and flat at the moment, the information coming back from the estate agents is telling us that some investors who had bought some years ago are now selling and trying to get out because they are not making any money on their investments.

The Deputy Bailiff:

I know there are other Members who want to ask questions but I am afraid the time allowed has now expired so we come now to questions of the Chief Minister.

4. Questions to Ministers Without Notice - The Chief Minister:

4.1 Deputy A. Breckon:

I wondered if the Chief Minister could tell the House what progress has been made at the dairy, bearing in mind it is about a year ago that the House gave the vote of confidence that the industry wanted but, unfortunately, there is no movement that people can see and I know negotiations were at a protracted stage at one point, Sir and I wonder if the Chief Minister could explain exactly where we are at the moment?

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

Yes, Sir, I can. The negotiations which the Deputy quite rightly says have been extended, have nevertheless been successful and there is agreement now on the way forward, to restructure the industry. The Deputy will also be aware because of the work his Scrutiny Sub-Panel did on the future of the industry some time ago, that it is planned and, as this House agreed, that a new dairy will be built on the Howard Davis Farm site. There is still, sadly, a hitch over the Howard Davis Farm site because of the covenant issue, which the Property Office is urgently seeking to resolve. But as far as the future of the industry is concerned, the size of the industry has been agreed, the restructuring of the industry has been agreed and I expect to see the new structure emerging in the very near future.

4.1.1 Deputy A. Breckon:

Could I just follow that up by asking the Chief Minister if that has general support of the industry, if not unanimous general support?

Senator F.H. Walker:

I cannot say it is unanimous, certainly I can say it is very widespread and certainly would qualify as genuine, yes.

4.2 Senator J.L. Perchard:

Some time ago, Sir, I asked the Chief Minister if he would bring forward a report for public consultation that explores the social and economic consequences of the Island changing its time zone to Central European time. Could the Chief Minister advise the Assembly as to when we can expect this report and the consultation process to begin?

Senator F.H. Walker:

Yes, Sir, given an hour or 2 either way, at the beginning of March. **[Laughter]**

4.2.1 Senator J.L. Perchard:

It is a very serious question. When can we expect the report to be made publicly available and the consultation process to begin, and does the Chief Minister agree with me that any formal proposal to move to Central European time could be put to a referendum this autumn?

Senator F.H. Walker:

I did answer the question and said the beginning of March, which is a case where it would help if the Senator listened to the answers given to his questions, but we will pass on that. It will be the beginning of March. It is currently out for consultation, it has been out for consultation; many views have been sought, many views have been expressed. As for a referendum, I think it probably is a very good topic for a referendum because it is, as all referenda need to be, a simple yes or a simple no, and that is something that will be given serious consideration.

4.3 Deputy R.G. Le Hérissier:

Would the Chief Minister indicate why the existing terrorism laws could not be used to control the whole issue of possible terrorism financing through charities? Secondly, Sir, would he indicate whether by using the proposed law we are indeed, by a back door, getting the finance industry to register trusts that operate under a level of charity, which has been a move previously resisted successfully by that industry.

Senator F.H. Walker:

The changes are, I am afraid, essential if Jersey is to get the very, very important good, clean bill of health from the I.M.F. (International Monetary Fund). Nothing is being introduced which is not necessary in that respect. There is no hidden agenda here; there is no plan to introduce additional controls, compliance or whatever other than - as I have said - that required to get a good, clean bill of health from the I.M.F.

4.4 Deputy R.G. Le Hérisssier:

Regarding a question I asked the Economic Development Minister a couple of weeks ago, would the Chief Minister indicate what other methods were looked at as opposed to using this very indiscriminate, all-powerful instrument of the J.F.S.C. (Jersey Financial Services Commission) to see whether, for example, the St. Ouen's Scout Group is a funding channel for Al Qaeda?

Senator F.H. Walker:

The Deputy manages to put on this, as ever, a very negative spin and chooses a very interesting example. The fact is that it has been widely agreed, including with consultees, that the way forward is the best way forward under the current circumstances and I am very happy to agree to that. I support that. I believe that what Jersey is doing here is appropriate, is sensible and absolutely essential to protect the future of our economy.

4.5 Deputy G.P. Southern:

Does the Minister accept that research on survey design shows that inclusion of non-mutually exclusive options, rolling 2 options into one and changing the wording of questions to change the emphasis, renders surveys and questionnaire work unreliable and does he not accept that this happened, unfortunately, with the Imagine Jersey 2035 surveys, both on Saturday and on the computer?

Senator F.H. Walker:

I do not. It saddens me that the Deputy has sought to rubbish Imagine Jersey from day one until he was in possession of anything remotely approaching the facts. He made it very clear he does not agree with us consulting with the public. He made it very clear that his answer to the inevitable ageing of the population is quite simple; he has come to his own conclusions, never mind the views of the public, that we need to downscale the economy and pay more in tax. The fact is that Imagine Jersey was a genuine, well constructed and very widely and warmly appreciated exercise in consulting with the public, which came up with some very helpful information, and which will help this House ultimately make better decisions in how we manage the inevitable consequences of the ageing population.

4.5.1 Deputy G.P. Southern:

Supplementary if I may, Sir. The Chief Minister, as ever, tries to put words in my mouth. He is incorrect but I would like to ask him further what qualifications he has in survey and questionnaire design, because I have some.

Senator F.H. Walker:

I have no qualifications in survey design nor, I do not think, would many Members of the House expect me to have. I rely on people who do and I am absolutely satisfied that Involve, whom we used both for the survey and for the Imagine Jersey event, are very experienced in design, make

their living out of advising governments throughout the world in consulting with the public, including recently a major exercise with the Government of California, and I am very satisfied that they know considerably more about this topic than does Deputy Southern.

4.6 Deputy P.V.F. Le Claire:

The recent plans that have been unveiled by the Durrell Wildlife Organisation represent a fantastic opportunity for development in this field and also to identify a honey pot within Jersey for visitor attractions. Does the Chief Minister support the outlying plans, and if so, will the Chief Minister bring at the earliest opportunity real support by way of a proposition to allow the States to decide whether or not they can help to fund this exciting project?

Senator F.H. Walker:

I have absolutely total support for the plans that Durrell have put forward. I think they are innovative, they are exciting and they are excellent for Jersey. Whether, though, anyone is ready for a proposition to be debated on possible States' financial support for the scheme I think is a little premature. There is a lot of work to be undertaken yet in terms of the business base that underpins the vision and only when we have a clearer picture of what the actual financing arrangements are and what the business plan is, could we seriously consider coming to the States with any such proposition. But, I reaffirm my support in principle for it.

4.7 Deputy K.C. Lewis:

Following recent media stories, in Lisbon the European Union states met recently in Portugal with a view to changing the constitution of the states. This was recently highlighted by Deputy Le Claire. Is the Chief Minister...

Deputy P.V.F. Le Claire:

On a point of order, Sir, the Deputy may have inadvertently said that they met in Lisbon to talk about the constitution of the...

Deputy K.C. Lewis:

The Lisbon Treaty.

Deputy P.V.F. Le Claire:

The member states, not the States of Jersey.

Deputy K.C. Lewis:

The member states of the E.U. (European Union) met to discuss the Lisbon Treaty with a view of changing the constitution of the European Union. Is the Chief Minister keeping himself fully abreast of changes in the European Union to protect Jersey's interests?

Senator F.H. Walker:

Absolutely, and can I make the point that, perhaps contrary to some media comment, the Lisbon treaty in no way changes - in no way changes - the existing Protocol 3 arrangement between Jersey and the E.U. member states. But nevertheless, a very close watching brief is being maintained to ensure that that remains the case.

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

I just wondered if the Chief Minister could confirm an approximate timescale that he might be able to answer through his Council of Ministers in relation to the question on Durrell and its future, because I think it would help to have an indication of a timescale that he might feel he would be able to report back to the House.

Senator F.H. Walker:

I understand the Deputy's concern. At the moment, the position is in the hands of Durrell. I met with representatives of Durrell late in December and we agreed at that meeting, as I mentioned in my response to Deputy Le Claire, that they were to put a lot more work into a more well-defined business plan underpinning the vision, including full details of the financing required, the likely returns and so on, and as soon as we have that information from Durrell we will be able to assess it. I do assure the Deputy and the House that I will be responding to that as quickly as I possibly can.

4.9 Deputy J.A. Martin:

In answer to questions last time in the House the Chief Minister seemed surprised that I was not aware that the consultation on-line on Imagine Jersey 2035 had been agreed at the request of the Chairmen's Committee to continue to the end of February. My question is, Sir, after 19th January, the Royal Yacht - the on-line consultation paper - has now disappeared. Could the Minister advise me how then we are having consultation with the public, on-line or in any other form, to the end of February?

Senator F.H. Walker:

I was unaware it had disappeared and I will look into that straight away. I had no idea it had disappeared, but of course the hard copy consultation documents are still in circulation, there are other means of contacting my department and the consultation does indeed continue until the end of February. I will look into that issue the Deputy has raised on the on-line issue.

4.9.1 Deputy J.A. Martin:

He does make it clear where people can now find this information but anyone now filling in any consultation, with it already being put together by Involve, would they not see this as a waste of time as figures already put together on the 19th are being presented to members of the public in the States as a *fait accompli*. We had this last Friday at the Island Plan Review. Half an hour on the outcome of Imagine Jersey 2035. It was only the electronic one, Sir, not even the on-line. How is this a fair cross-section of the community of Jersey that is going to go into 2035?

Senator F.H. Walker:

The Deputy has made it very clear that she thinks the whole exercise is a waste of time and not just where we are at present. But it is not a waste of time and again the Deputy misunderstands what has been put in the public arena since the Imagine Jersey event. There is no *fait accompli*. The results of the Imagine Jersey event are the results of the Imagine Jersey event. They are the results of the people, the opinion of the people who attended the event. Nothing more. There have been no commitments made, no guarantees given that that will be the final policy coming forward to this House and, of course, it will be for this House to decide what the future of Jersey looks like in any case. So it is absolutely not a waste of time for anyone to provide us with their opinions until the end of February and I encourage as many people as possible to do just that.

4.10 Deputy G.C.L. Baudains:

Following a previous question to the Chief Minister, Sir, regarding Ministerial responsibility, I was sad to see that the minutes of the Council of Ministers have agreed that procedures were not in need of change. My experience over the Christmas period was that I tried to contact the Assistant Minister for Economic Development: he was leaving at noon. The Minister was out of the Island, so I e-mailed the Chief Minister who I found was also out of the Island. When I tried to get hold of the Deputy Chief Minister, he was unavailable as well. Would the Chief Minister now agree that a list of which Minister is responsible for which department is needed before each recess?

Senator F.H. Walker:

Yes, Sir. The Deputy could, of course, have got in touch with the department in any of those cases and I think in every case Ministers were available, should it be necessary, on the end of a telephone.

I know I was. Nevertheless, I take the Deputy's point. The Council of Ministers has responded to it and the list that he has requested will indeed in future be published.

The Deputy Bailiff:

Very well, the time for questioning the Chief Minister has now expired. Before we move on to the next matter, Deputy Southern I think you asked a question of the Minister for Home Affairs about whether there was wheel clamping on States' properties at the last meeting and she said she would revert. I understand this is more properly a question for the Minister for Housing and if the Assembly agrees it might be convenient to ask him to give a reply to that question as the Minister for Home Affairs had promised it.

Deputy G.P. Southern:

I would love to hear a response, Sir.

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

Thank you for allowing me to respond. The Minister for Home Affairs has asked me to try to respond to Deputy Southern's query. The issue, as far as Housing are concerned, is that Housing have a contractor that does wheel clamp on Housing property. All illegally parked vehicles or vehicles with no permits have a notice placed upon them at least once and sometimes twice. If that vehicle continues to park illegally, then they are clamped and afterwards removed. I have to say that there have been issues where we have specific disabled clients who have specific disabled parking areas and illegally parked vehicles on those are removed immediately.

The Deputy Bailiff:

I am not sure we can allow much on this, but one supplementary.

Deputy G.P. Southern:

One supplementary, Sir. That is very kind of you, if such a thing exists in a Deputy Bailiff, kindness. Would the Minister inform Members what fees are charged for this wheel clamping service?

Senator T.J. Le Main:

I think it is £80, Sir.

The Deputy Bailiff:

Very well. We move on to J. There is nothing under J - Personal Statements. Under K - Statements on a Matter of Official Responsibility - and, if he were here, I think the Chief Minister would make a statement regarding the introduction of additional retail price indices for Jersey.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

5. Statement by the Chief Minister regarding the introduction of additional Retail Price Indices for Jersey

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

My apologies. I overlooked the immediacy of the statement. The statement is about the introduction of additional retail price indices for Jersey. I would like to draw attention to the recent publication by the States of Jersey Statistics Unit of 3 additional retail price indices. Thanks to the availability of these new indices and their future quarterly publication, we will be better placed than ever before to develop social policy based on the economic needs of Jersey households and particularly for the potentially most vulnerable in our community. The 3 indices published for the first time by the Statistics Unit on 23rd January and relating to December 2007, were: R.P.I. (Retail Price Index) Pensioners, based on the spending of households which are headed by a person of

States' pension age, which came out at 3.5 per cent; R.P.I. Low Income, based on the spending of households in the lowest fifth of total income, which came out at 3.7 per cent; and R.P.I.Y. (Retail Price Index excluding Mortgage Interest Payments and Indirect Taxes), which will provide further insight into the underlying rate of inflation for all households in Jersey. In response to a Question Without Notice from Deputy Southern on 16th January 2007, I indicated that the concept of more specific inflation rates, particularly for pensioners, merited investigation. I subsequently asked the Head of Statistics to research the matter and on 5th June 2007 I was able to confirm to this House the publication of such an index designed to measure the inflation rate for pensioner households was indeed feasible. Furthermore, soon after this, the Head of Statistics - stimulated by discussion with the Statistics Users Group - informed me that his unit would also be developing a similar index designed to measure the inflation rate for households in the lowest quintile, i.e. the lowest fifth, of total income in Jersey. The publication of such an index will be particularly important in the context of the new income support system. The third new price index produced by the Statistics Unit is R.P.I.Y. and this will be an important tool in providing further understanding of underlying inflation in future. The index achieves this by removing the contribution of both mortgage interest payments and indirect taxes. In Jersey, the latter includes Parish rates, impôt, Vehicle Registration Duty (V.R.D.) and, from May 2008, G.S.T. The R.P.I.Y. thus measures the movement of base pre-tax prices and therefore allows a deeper understanding of underlying inflation than that already provided by the R.P.I.X., which removes mortgage interest payments only. This extensive and robust price index development has only been made possible by the superb response of the people of Jersey to the household expenditure survey, which provided the detailed data underpinning the statistical methodology. The new indices are a result of this rich dataset and the expertise, which I warmly acknowledge, of our resident independent Statistics Unit. In conclusion, the new price indices, together with those which the unit have been publishing for years, mean that we will be particularly well informed in order to develop policies designed to safeguard the needs of all Jersey residents.

The Deputy Bailiff:

Does any Member wish to put a question? Yes, Deputy Southern.

5.1.1 Deputy G.P. Southern:

May I first congratulate the Chief Minister for responding so promptly and so comprehensively to my request, and can I seek his assurance that by and large the R.P.I. will be used as an indicator for wage claims in the future and not the R.P.I.Y. and, furthermore, does he accept that the R.P.I. for pensions, at 3.5 per cent, appears to be higher than the underlying rate of 3.2 per cent from the R.P.I.X., which is the natural comparator for the 2 because housing costs are fairly stable for pensioners.

Senator F.H. Walker:

I am not going to give any assurances about how future wage negotiations are going to be handled. I have never done that in public and I do not intend to do so now. As far as the pension rate is concerned, I accept the Deputy's point, but I would point out that the rate of inflation for pensioners, at 3.5 per cent, is well below the rate of average earnings upon which pensions are calculated. That is the crucial point. It is keeping a gap between an increase in pensions calculated on average earnings and the cost of living for pensioners in Jersey and that is absolutely - thankfully - the situation at this time. But I thank the Deputy, Sir, for his warm comments at the beginning of his question.

The Deputy Bailiff:

Are there any other questions of the Chief Minister? Very well, then we move next to a statement which the Minister for Treasury and Resources will make regarding the proposed sale of Jersey Telecom.

6. Statement by the Minister for Treasury and Resources regarding the proposed sale of Jersey Telecom

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

When I was asked in this House 2 weeks ago, I indicated that while I remained perfectly convinced that a sale of the majority interest in the Jersey Telecom group was the right thing to do, I acknowledged that there were a number of uncertainties at the present time in the minds of many States Members. I have reflected on this over the last 2 weeks and listened to the views of a significant number of fellow States Members. I have come to the view that the majority of the Assembly probably believes that, with competition and regulation still relatively new features of the local telecommunications environment, this is not a sensible time to press forward with a debate on the sale of the company. The proposition currently lodged would not in itself have been conclusive since it required me to come back to the States in due course once certain matters had been resolved. Nevertheless, I have come to the view that even this intermediate step should not be taken while the current level of uncertainty remains. I am aware that the delay and uncertainty over the resolution of issues surrounding the sale of Jersey Telecom has been detrimental to the company and its employees and I have no wish to exacerbate or prolong that situation. I have therefore regretfully come to the conclusion that the correct course of action at this time is for me to withdraw Projet 153/2007 and to put the issue to rest for the foreseeable future. I have discussed this course of action with the directors and senior management of Jersey Telecom who, while disappointed, have reinforced my view that the ongoing uncertainty has been detrimental to the activities of the company and that what is now needed is a period of stability and certainty. Assuming the States Members agree with me that a debate in the States on the sale of the company should not proceed, I will be having further discussions with the board of directors on how the company should be positioned in the future to address the undoubted challenges that lie ahead without access to the economies of scale the sale to a global entity would bring. We anticipate it could take up to 3 years to reshape the business to meet changing circumstances. I have total confidence in the company, the board, its management and its staff and ask all Members to join with me in giving Jersey Telecom group our full support as they face these future challenges. Therefore, Sir, I am announcing the withdrawal of Projet 153.

The Deputy Bailiff:

Does any Member wish to ask a question?

6.1.1 Deputy G.P. Southern:

If I may, Sir. May I first of all congratulate the Minister for seeing the light. I think it is a wise decision to withdraw. I have a statement later to make in brief, if Members will bear with me, but may I just ask a 2-part question; when he says for the foreseeable future, what sort of length of time are we talking about? Presumably not less than the 3 years which is required to reshape the business to meet changing circumstances. Could he tell us if he has any thoughts about those changes in the 3 years?

Senator T.A. Le Sueur:

My view is it would not come back to this House for at least 3 years, I suspect. The only way it could come back was if an offer came out of the blue which the States could not resist, then I would bring that issue back to the States, and discuss it with the board first, but I would not initiate a sale in the next 3 years. As to what the changes will be, that is really for the board of management and the company to decide for themselves how they can best position the company for the future and I will be having discussions with the company in the coming weeks in order to ensure that that can happen.

6.1.2 Connétable D.J. Murphy of Grouville:

I would like to congratulate the Minister on a decision very well taken and I am sure the staff are extremely relieved as well. However, can I ask him what the cost of this exercise has been in advisory fees?

Senator T.A. Le Sueur:

The cost of this exercise has been in the region of half a million pounds or just a little bit under, and I also took the view that rather than incur further fees on perhaps an abortive process, fees that could be considerably more than that, now is the time to draw the line.

6.1.3 The Deputy of St. John:

The Minister does not sound entirely certain about his decision here. He says regretfully, for example. Is he completely sure about his decision here and how has he been influenced to make this decision, and is his decision partly as a result of a global downturn in markets? In other words, does he think it is a bad time to consider selling the company? Does he still agree with the principle of privatising this particular utility?

Senator T.A. Le Sueur:

An interesting question, Sir. The decision ultimately is not one for me to take, it is one for the States to take and I am both pragmatic and politically aware and I believe that, even though my personal view is that we should sell this company, I also believe that the view of States at the present time was that they need further information. Faced with that situation, Sir, I believe that the political and statesman-like thing to do is to give Members the chance to get the information they require before making a decision.

The Deputy of St. John:

Has politics got in the way of good business sense, Sir?

Senator T.A. Le Sueur:

It is a democratic House, Sir.

6.1.4 Deputy D.W. Mezbourian:

Will the Minister for Treasury and Resources acknowledge the influence on his decision that has been made by the scrutiny of this issue?

Senator T.A. Le Sueur:

I do not think my decision was necessarily influenced very much by the Scrutiny Panel decision. I made my decision last week before the Panel review had been published. I am pleased to say that, on this occasion, the Panel and I are of one accord, but we have reached our views independently and perhaps for slightly different, but not significantly different, reasons. So I do not think I can add very much to that comment.

6.1.5 The Connétable of Grouville:

I am sorry, I did have a follow-on question but I was so overtaken by shock that I did not have time to push my button, Sir. In view of the fact that he is paying half a million pounds in fees for a non-performing act on behalf of the advisors, will he now take steps to repay the £8 million he took from Telecom last year as a special payment?

Senator T.A. Le Sueur:

No, Sir.

6.1.6 Senator J.L. Perchard:

One more question if I may? Can the Treasury Minister confirm the position with regard to his colleague on the Council of Ministers, the Minister for Economic Development's drive for structural separation of the company? Is that now off the agenda?

Senator T.A. Le Sueur:

I think the issue of regulation - what form of separation - is not off the agenda; it is an ongoing issue and I think the Scrutiny Panel report makes that clear. In my view, structural separation is not an appropriate way forward but others may disagree. The general question of what form separation might take is, I think, still an ongoing issue.

6.1.7 Deputy P.N. Troy:

Given that we were advised over many months that delay of this issue would seriously affect the valuation of the company and its future, does the Minister feel that this is genuinely the wrong course of action because I think myself that he is pulling this for all the wrong reasons and he should really be carrying on and proceeding with it. Does he, Sir, feel that there is a danger that the valuation of this company could be affected by the continued delay, as he has previously stated?

Senator T.A. Le Sueur:

I am sure, Sir, that the value of the company is affected by a number of factors, and delay is certainly one of them, but the value of the company in itself is only one aspect. It is only one asset that the States owns and I think the economic wellbeing of the Island in the future with a good telecommunications industry are also factors to take into account.

The Deputy Bailiff:

Very well. We come next then to a statement to be made by the Chairman of the Economic Affairs Scrutiny Panel regarding the proposed sale of Jersey Telecom.

7. Statement by the Chairman of the Economic Affairs Scrutiny Panel regarding the proposed sale of Jersey Telecom

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

Just briefly, Sir, in the light of that previous statement I have cut out great chunks of what I am about to say, but I believe it is appropriate that we do examine the reasons why that decision has been taken. Members will find on their desks a copy of the Economic Affairs Scrutiny Panel Supplementary Report into the proposed sale of Jersey Telecom - S.R.3/2008 - in which the Panel has assessed developments in the 2 major reservations contained in our previous report, S.R.5/2007. The Panel is of the opinion that there should be an immediate review of the J.C.R.A's (Jersey Competition Regulatory Authority) skills base, resources and legal powers. Such a review should be part of any privatisation planning and should be completed before the States are asked to decide whether to sell. There is widespread agreement among all stakeholders involved in the telecommunications market that the powers and resources of the J.C.R.A. do indeed need to be reviewed. The Minister for Economic Development is in the process of setting up such a review. The Panel recommends that the J.C.R.A. be given the fullest powers of inquiry, determination and fining in order that a fully competitive marketplace can be achieved. Irrespective of the proposal to sell Jersey Telecom, the debate on separation needs to be resolved. The issue of separation and the powers required to enforce appropriate levels of separation need to be fully resolved before consideration is given again to the sale of Jersey Telecom. It would have been very difficult, if not impossible, to enforce separation following the sale of J.T. (Jersey Telecom) into the private sector. In an attempt to address the concerns raised by Scrutiny and by the comprehensive cost benefit analysis, the Minister has produced a list of assurances pertaining to the 'sale' and the 'process' of the sale. The Panel's conclusions from this supplementary review have shown that these assurances could not be guaranteed. Consequently, as a result of the evidence examined, the Sub-

Panel had recommended that the proposed sale of Jersey Telecom should not proceed at this time. Furthermore, it recommended that a lengthy period of stability should be guaranteed to the management and employees of Jersey Telecom following this protracted period of uncertainty. I am glad that the Minister and the Panel are now of one mind and I believe that what we are seeing here today is the result of effective and rigorous scrutiny.

7.1.1 Deputy R.G. Le Hérisier:

In their considerations, other than preserving Jersey Telecom, did the Panel come to the view that, for example, had there or were there to be a strategic alliance, this would be a much better way of retaining the strength of Jersey Telecom in the face of intense globalisation?

Deputy G.P. Southern:

If the Member would care to return and revisit our original report, he will find the evidence on the balance of the processes suggested by the Treasury Minister are fully explained in that. This most recent review has not covered that central issue but issues, as I have said, of the powers of the J.C.R.A. and the assurances given by the Minister for Treasury and Resources.

7.1.2 The Deputy of St. John:

Does the Panel now expect the States of Jersey to invest significant sums of money into Jersey Telecom in order to keep it competitive and up to date with new technology?

Deputy G.P. Southern:

The Scrutiny Panel have every faith in the management and employees of Jersey Telecom and are convinced that the history of privatisation and liberalisation of markets will be repeated in Jersey and that, where competition does bite, Jersey Telecom, as the dominant operator, will be able to effectively compete and retain a share of a growing market.

The Deputy of St. John:

The Deputy did not answer the question. Is that without significant investment by the States of Jersey?

Deputy G.P. Southern:

Jersey Telecom has been incorporated and makes investment decisions based on sound commercial sense, I am sure it will continue to do so.

7.1.3 Deputy R.G. Le Hérisier:

Just to press the broader picture, because I notice the Panel did take evidence on number portability. Would the chairman indicate whether the advent of number portability, given the quite unconscionable delay, will indeed change the competitive landscape considerably?

Deputy G.P. Southern:

The issue of mobile number portability, is one that serves to illustrate the lack of powers of the J.C.R.A. in being unable to bring about this change in a reasonable length of time. As I have said previously, the likelihood is that in a competitive liberated market the market will grow and that J.T. will be able to compete on equal terms with all its competitors in a growing market. I see a positive future for Jersey Telecom.

PUBLIC BUSINESS

8. Draft Health and Safety at Work (Asbestos - Licensing) (Jersey) Regulations 200-(P.168/2007)

The Deputy Bailiff:

We come now to Public Business and the first item on the agenda is the Draft Health and Safety at Work (Asbestos - Licensing) (Jersey) Regulations 200- - Projet 168 - lodged by the Minister for Social Security. I will ask the Greffier to read the citation.

The Greffier of the States:

The Draft Health and Safety at Work (Asbestos - Licensing) (Jersey) Regulations 200-. The States, in pursuance of Article 9 of the Health and Safety at Work (Jersey) Law 1989, have made the following Regulations.

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

These Regulations will replace the existing Asbestos Licensing Regulations 1997, without any real substantial amendments. The amendments that are made are generally of definition, but there is one which removes the requirements for the work with thin textured decorative coatings, they are commonly referred to as Artex, and they will not be needed to be undertaken by a licensed contractor. This latter amendment follows scientific evidence that the risks associated with such materials to be much lower than that for other licensed materials, and lower than that with asbestos cement, which has never been subject to a licensing regime. These Regulations arise from the changes to the licensing aspect of asbestos-related legislation currently and recently introduced into the U.K. and they are intended to ensure that there is a consistent approach to the protection of workers from the risks associated with exposure to asbestos fibre. The Regulations will also ensure that the requirement for work with asbestos materials to be restricted to licensed contractors is proportionate and reflects current practice. Sir, I propose the Regulations.

The Deputy Bailiff:

Are the principles of the Regulations seconded? [**Seconded**] Does any Member wish to speak on the principles? Deputy Duhamel.

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

I rise, Sir, principally to talk about 2 issues. This is our response to the U.K. Regulations and in the U.K. there are funds that have been set up in order to help those persons who have contracted asbestos-related diseases - mesothelioma and others. In Jersey we do not have any recourse, as far as I am aware, by those persons who have come into contact with the asbestos materials and perhaps developed some of the particularly nasty lung diseases as a result. As a consequence, Sir, I wonder whether or not it is absolutely right on page 3 to suggest that the uptake of these proposed Regulations have no implications for the financial manpower resources to the States, in terms of what might happen in the future in terms of compensation cases that may well be brought to the court. Indeed, Sir, the second point that I would like to be assured of is that in accepting legislation, which is in line with the U.K., I am not at all sure whether or not the Minister, by issuing licences, indirectly takes on a liability for any of the diseases that may be contracted by people working within the area. I think possibly, but I am not a lawyer, that in issuing licences there must be some element of responsibility that does apply to the Minister in granting these licences and although, moving on to Regulation 4, part 5, there is the negative of granting exemptions and it suggests that the: "Minister will not grant an exemption unless he or she is satisfied, having regard to the relevant circumstances, that the health and safety of people who are likely to be affected by the exemption will not be prejudiced as a consequence of the exemption." It does strike me, Sir, that by putting in this negative clause, there is some liability or responsibility that is accruing to the Minister for making the negative decision in exempting somebody from having to take a licence. So I would argue, Sir, that perhaps the reverse does apply as well and that the Minister, in granting licences, would find himself, perhaps at some stage in the future, in being responsible up to a point for the health related problems that a worker with asbestos might incur. Perhaps the S.G. (Solicitor General) would like to advise on that particular point if indeed she thinks fit. A third issue, Sir, is perhaps we could have some assurance that, as a consequence of the

moves in the U.K. for persons who have come into contact with asbestos over a period of years, and indeed within this Island, there are a number of people who have the nasty lung diseases who have done work on States' buildings in the past, that are not covered by any compensation legislation. Is it the intention of the Health Minister, in working with the Social Security Minister, and in response if this licensing Regulation does go forward, to bring forward at the earliest opportunity mechanisms to allow those persons affected by these serious diseases to have some recourse to living their lives out in some element of security and comfort due to the materials that this House would be allowing them, through the licence, to handle through their working careers?

8.1.2 The Connétable of St. Brelade:

Once again my eye is drawn to the proposed Regulations having no implications in financial terms. I would like to be clear in my mind, and perhaps the Minister would confirm, that in fact this will not be the case? Have States' properties got none of the material in question embedded in them and in fact, Sir, could the Minister also confirm that he has consulted with the building trade on this to ensure that there will be no great cost implications for members of the public who may, once again, have this material embedded in their properties?

8.1.3 Deputy A. Breckon:

I would like to just indulge Members just for a couple of minutes because in a former life I used to work with this stuff and that was at the gas works. It was widely used for insulation on pipes. It was used to stop the heat getting out and years ago it was mixed wet in containers and there was wire netting around, but things have moved on. Then it was wrapped in rubber and a lot of steam pipes, and things where hot water was moving were generally wrapped with this. There was, Members will probably remember, a stoke house in Tunnell Street that was literally full of it. Having said that, and this is what this is about, there are now safe systems of work for disposing of this and employers, to touch on what Deputy Duhamel said, have a duty of care. In the main, this stuff is okay until you start disturbing it and poking about with it and then it becomes dangerous and in a building or for insulation, if somebody becomes aware it is now disposed of, I would think, safely. The issue that Deputy Duhamel mentioned - I am not summing-up on behalf of the Minister - is that trade unions over the years, as in the mining industry, have sought compensation when these issues have come to light; asbestosis, silicosis, and that sort of thing. There are methods where people can get compensation and ideally you do not want to be injured by anything that is harmful to you in the first place but there are ways of doing this that do not involve the state, although the state have put up some funds in the U.K., especially in the mining industry. So in general terms, Sir, Regulations like this to come before the House may seem to be in the minutiae, but they are necessary and I hope Members will support what the Minister is proposing.

8.1.4 Deputy G.C.L. Baudains:

Contrary to the previous speaker, I am not sure whether I will be supporting this or not, Sir, and I am looking to the Minister to assist me, possibly when we come to the articles. I do not think there can be many people, Sir, who are not aware of the problems caused by certain types of asbestos, it is not every type of asbestos, but I am concerned that this legislation may not create the benefits that some may assume that it will. It is not an automatic situation. For example, Sir, it is not going to stop a do-it-yourself person when he is drilling or sawing through a wall, ignorant of the fact that asbestos lies behind the decorations. It is not going to make any difference in that situation. When you are dealing with asbestos, it is a matter of commonsense and I have found in the past, Sir, that when we have tried to legislate for commonsense we merely make things more complicated but no better. For example, Sir, most builders are quite capable of handling asbestos, it is really quite simple when you know the product. It is basically a question of keeping it wet. What I am concerned about, Sir, is that what we will do is end up, as a result of this legislation, with expensive experts who possibly perform no better than builders currently do. I am concerned because I have seen it elsewhere. Once we have what is essentially an approved list of contractors, we will have,

as for example we have with those who are allowed to dig up the roads; it is only an approved list - nobody else can do it. We will then have virtually a list of people who are licensed to print money, where people who require work to be done and have asbestos that needs to be treated, will be charged over the odds because basically the competition has been taken away. You only have this possibly short list of people. Because of all the Regulations and complications and bureaucracy involved many builders simply will not bother and they will turn their customer towards an approved contractor. Why should they bother if it costs you a fortune? It is no skin off their nose. I am not saying that I do not understand the risks of asbestos, of course I do. As I said when I started, I believe most people do. I am just not sure that this will achieve what we are thinking it will do.

8.1.5 Deputy P.N. Troy:

I would say that any approved contractor or company would presumably have public liability insurance and, as such, if they are qualified to deal with asbestos-related products in undertaking the work they would be fully aware that they should follow the correct procedures and, additionally, that they have a legal liability in relation to the fact that they charge for their services. As Deputy Baudains said, if someone is charging for their services and they are providing the services, they are aware of the dangers of dealing with asbestos and they will have an insurance liability policy in place to protect any of their staff and any members of the public that they come into contact with, Sir. I personally feel that it would not be the Minister's liability as he is not carrying out the work.

8.1.6 Deputy S.C. Ferguson:

I must say I do support some of Deputy Baudains' doubts about this. While we have a long list of the particular products that are covered, there is no distinction between the types of asbestos. As people may or may not know, the ones you have got to avoid are the blue and brown. The white is, while not the safest thing in the world, much easier to dispose of. The problem is that you get experts in dealing with asbestos and they will immediately come in ... I do know of a case where the builder said, as they do: "Tsk, tsk, tsk, it is asbestos." Pound signs gleamed. Basically, it was not blue asbestos, it was not brown asbestos, it was white asbestos and through judicious consultation with a number of experts in the U.K., the asbestos was removed at a reasonable price, bearing in mind the degree of danger from this particular type. We have got a sort of blanket set of Regulations here which are going to just make the situation for the asbestos experts such that they can charge top rate when perhaps it is not always a totally dangerous job to dispose of it. I would have thought the more difficult part was for T.T.S. (Transport and Technical Services) to remove the stuff out of the Island. I am not totally convinced by this.

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

I am very pleased to see this here, but I have to say I am disappointed in a way because, and I am sure that Deputy Duhamel will remember this, when we first came into the States in 1993, 1994, there were concerns about asbestos then. That is what... how many years ago? We will not go into that. Planning, as it was in those days, used to have a Deputy - Deputy Johns I think - and a lot of people thought he had a bee in his bonnet because he used to talk about asbestos in those days and say how dangerous it was and I have to say I am really disappointed because I thought this had been put in place a long, long time ago. Maybe not through Social Security, but it was not put in place by Health or Planning, but has just been left to drift and it worries me whether there are any others around.

The Solicitor General:

Sorry, Sir, I wonder, perhaps I could assist the Deputy. These Regulations replace the 1997 Regulations - which are to the same effect - which do require a licence, which do create exemptions and which generally regulate the same thing. It has a more detailed definition of asbestos.

Deputy J.J. Huet:

Thank you very much. You have heard of putting your foot in it with both feet, well I have just done that so thank you and I apologise to the House.

The Deputy Bailiff:

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

8.1.8 Senator P.F. Routier:

I do not think Deputy Huet is the only person who put both feet into it during that debate because, as I said at the outset, this is a replacement regulation for Regulations that already exist and operate in exactly the same way as we are proposing today. All that is happening is... and I think it was Deputy Ferguson who was concerned about the different types of asbestos, you will see the most current thinking from the professionals about the type of asbestos that needs to be worked with very, very carefully and I can assure Members that this is the most up-to-date list. In fact, in my opening comments, I mentioned that we are taking out one type of asbestos, which was in the original Regulations, which is Artex. That is no longer considered to be a dangerous asbestos which removal needs to be carried out by regulated and licensed operators. The comments that Deputy Duhamel made which widened it a lot wider than what this debate is about into having funds for compensation, that is an issue which could be taken up by some others. It is not for these Regulations but certainly, as Deputy Troy said, the operators will have indemnity insurance to ensure that they are covered for any problems that may occur when they are working with it. I have to say, these Regulations are really important. They will protect workers who are working with asbestos. I thank the S.G. for her intervention earlier. I do not know if she would be prepared to comment on the other point about whether the Minister may lay himself open to any liability by granting or refusing licences?

The Solicitor General:

I cannot think of any way in which these Regulations would operate in that way. Obviously cases are fact-specific and one cannot think of every hypothetical situation, but certainly the general rule is that a statutory authority carrying out a statutory function is liable if either the authority acts in knowing excess of powers or, alternatively, through ulterior motives through bad faith. Those are grounds upon which a licensing authority can be sued, but I would not have thought that a proper exercise in good faith of the powers conferred by the Regulations would give rise to liability.

Deputy R.C. Duhamel:

The reason I was asking, Sir, was because of the long incubation period for this particular disease, for some 20 to 30 years. A public liability indemnity insurance might not still be in existence by a particular building company who had carried out the work, whereas the statute will remain on the books and we would still be in the position of licensing people or having licensed them in the past. In that context, I was wondering whether or not liability could be transferred by the disappearance of the building company, but still exist in relation to the licensing authority?

The Solicitor General:

I do not think that changes my answer.

Senator P.F. Routier:

I thank the Solicitor General for her comments. The Constable of St. Brelade was also concerned about whether there were any financial implications for this. As I said earlier, these Regulations are just replacing existing Regulations, so there are no new financial concerns with this. The States' buildings themselves, if identified that they have asbestos in, then they will have to be dealt with as they would have had to be dealt with under the existing Regulations or just continue with

the new Regulations. I thank Deputy Breckon for his recognition that these are important Regulations. I maintain the Regulations, Sir.

The Connétable of St. Brelade:

The Minister did not answer the question about whether there had been consultation with the industry.

Senator P.F. Routier:

Sorry, I forgot that. Yes, certainly there has been and the industry themselves recognise that there is no change for them from the existing Regulations, except they no longer have to concern themselves when they are faced with Artex in the future. In fact, it is of benefit for the industry as well because it mirrors the Regulations that are in the U.K. so if there are any workers who have been used to working within the U.K. environment, they will have the same conditions to work in in the Jersey environment.

The Deputy Bailiff:

All those in favour of adopting the principles of the Regulations kindly show? Those against? The principles are adopted. Deputy Breckon, do you wish this matter to be referred to your Scrutiny Panel?

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

No, Sir.

The Deputy Bailiff:

Very well. Do you propose Regulations 1 to 7 *en bloc* Minister?

8.2 Senator P.F. Routier:

Yes I do, Sir.

The Deputy Bailiff:

Is the proposal seconded? [**Seconded**] Does any Member wish to speak on any of the individual Regulations? Deputy Baudains.

8.2.1 Deputy G.C.L. Baudains:

On reading Article 2, Sir, I see, following on from my previous comments, that Article 2, subsection (2), part (a), there is an element of commonsense in this legislation to a degree, but when I read that paragraph (1) does not apply if the work does not require more than one hour's work by any one person in a period of 7 consecutive days. It does seem to me, Sir, that first of all it does not specify which type of asbestos as far as I can see. Secondly, this material is either dangerous or it is not dangerous. We know that some aspects of it are. But what I find curious, Sir, is that work is not, as far as I can see, specified. Now there is a world of difference if you are taking a sheet of asbestos off a wall carefully without breaking it - perhaps it is screwed and you undo the screws - or whether you spend an hour sawing it up with an electric saw. It just simply does not specify. I do find that rather curious. I wonder if the Minister could comment.

The Deputy Bailiff:

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

8.2.2 Senator P.F. Routier:

I am sure, because I have just spoken to my Health and Safety people about this, that any work to deal with the asbestos which is listed within the interpretation of asbestos... If any of those types of asbestos - if somebody is working with those - if they work with them at any level for up to an hour

(that is permitted for up to an hour) then they must then move it to the next stage and get a license to work with it. I maintain the Regulations, Sir.

The Deputy Bailiff:

All those in favour of adopting the Regulations kindly show. Those against? Regulations 1 to 7 are adopted. Do you propose the Regulations in Third Reading, Minister?

Senator P.F. Routier:

I do, 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.

9. Draft Employment (Minimum Wage) (Amendment No. 4) (Jersey) Regulations 200- (P.179/2007)

The Deputy Bailiff:

We come next to the Draft Employment (Minimum Wage) (Amendment No. 4) (Jersey) Regulations 200- - Projet 179 - lodged by the Minister for Social Security. I ask the Greffier to read the citation.

The Greffier of the States:

Draft Employment (Minimum Wage) (Amendment No. 4) (Jersey) Regulation 200-. The States, in pursuance of Article 17 and 104 of the Employment (Jersey) Law 2003, have made the following Regulations.

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

This proposition increases the maximum amounts that may be offset against the minimum wage from 1st April this year. These apply where an employer provides food and accommodation to employees as part of their employment package. The increase is the same as that applied to the minimum wage and trainee rates to avoid the distortion effects that would occur if the rates were increased in isolation. The increases have been based on the recommendation of the independent consultation body, the Employment Forum, which was presented to me on 1st October last year and is attached as an annex to this proposition. That recommendation was a follow-up to the Forum's more detailed review issued in January of last year which had recommended a formula for setting new rates in both 2007 and 2008. The intention was to give businesses more notice of new minimum wage rates by calculating and improving them further in advance. The Forum recommended that the hourly minimum wage for April 2008 should be set by reference to 40 per cent of the average gross weekly earnings across all sectors as reported in the June *Average Earnings Report* as based on an average of a 40-hour week. This results in the following amounts which may be offset against the minimum wage and that is £63.47 a week where accommodation is provided - that is a £4.37 increase - and £84.63 where accommodation and food is provided - that is a £5.83 increase. The increases to the minimum wage and the trainee rates have been made by Order and will come into force on 1st April. That is increasing the minimum wage to £5.80 - that is a 40 pence increase - and the trainee rate to £4.35 - a 30 pence increase. I propose the Regulations, Sir.

The Deputy Bailiff:

Is the principle seconded? **[Seconded]** Does any Member wish to speak on the principles of the Regulations?

9.1.1 Deputy A. Breckon:

While welcoming this, it is qualified in my opinion that I do that because although we had to start from somewhere - and that was July 2005 - when we look at this it is £232 a week for somebody. In reality what does that buy in Jersey? The answer to that is probably not very much. The reason I say that, Sir, is perhaps in endorsing that we are supporting low pay in some instances and we are supporting employers that do that. Perhaps we should shake some of this out. I would ask the Minister to bear this in mind perhaps for 2009 because there is a cost to us as a government in low pay in that we give people income support and benefits and whatever else to make up whatever they may need to live on; rent allowances and family allowances and the rest of it. In effect we are supporting employers - perhaps even people who have a hobby who run a business - to do this. There is also the cost to us of supplementation which is now heading towards £62 million this year. There is a cost to government, I would contend, in low pay as indeed there is to no pay. The difference between Jersey and the U.K. is narrowing. I think the U.K. has marked theirs up significantly in the last year or 2. I think they have also realised that if they do this then perhaps there is a cost to somebody but there is also a benefit perhaps to government itself. I would ask the Minister to bear that in mind, Sir. I know he does have some discretion with this. In percentage terms it does look a sizeable increase but it depends where you are coming from. Just to repeat, if somebody receives £232 the first stop will take £12 or £13 off them in social security so you are coming down below £220. I would ask Members to just consider for a moment or 2 if you had that much money in your hand on a Friday night what can you do with it? That is the reality of somebody existing with 40 hours on this rate of pay. As I say, although from July 2005 we started from somewhere, I think, Sir, we still have a way to go before a minimum wage is in fact a living wage.

9.1.2 Deputy G.P. Southern:

I too would like to congratulate the people responsible for moving the basis on which we set our minimum wage away from an arbitrary figure plucked out of the air, which says we can just about afford this to one which is related to average or to relative poverty levels. So that is to be recommended wholeheartedly. Whether or not we have achieved significant progress in that, if we accept the principle - and this does - then we can build on it in future years. What I am concerned about - and I have not had time to examine the figures - is what the combined effect of lifting 3 factors at the same time is: the minimum wage itself and then the offsets against food and accommodation. I do not see any figures that demonstrate that relatively we are making the same progress for all sectors of the low wage economy, those on minimum wages. What I would suggest is that certainly by the next time the Minister comes to the House with a set of figures we have probably got enough figures there to be able to say what the trend is, and that we are not disadvantaging one set of workers over another within the relative movements of the 3 factors. I look for assurance that we have got the right formulas there and that the steps, the changes, in each of the margins has been equitable. Having said that, I welcome the change towards marking against average or relative poverty levels.

The Deputy Bailiff:

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

9.1.3 Senator P.F. Routier:

I am grateful for the positive comments that have been made by the 2 speakers but I have to say that I have come to the House with these figures and it has gone forward, with the Employment Forum's recommendations, not unchallenged. I have been challenged by the farming community who are struggling. I have taken note of their comments but I have continued along with the thought the Employment Forum's recommendation has been because of the position that they are finding themselves in at the present time, which is a good increase compared to last year - it is a 7.4

per cent increase - they feel that their businesses will be affected quite badly this year. I do recognise that there is a need to... I am pleased that we are continuing along the route of increasing the minimum wage higher than the cost of living - the R.P.I. - because I think it did need to have that step up. We have now reached the level at which we are stepping ahead of the U.K. level which we had not been doing before. We were always playing leapfrog with the U.K. I think that now we can feel a bit more comfortable with that. But, as I do say, we have to be conscious of what the farming community are saying to us. Deputy Southern is pleased about the formula that we have moved to. I too think that it has been a good mechanism to use to get us to where we are today. The Employment Forum will review that formula and the mechanism in their next round of consultation for next year. I can assure him that the percentage increases that were given to the minimum wage and the offsets mirrors; they are exactly the same. They are both at 7.4 per cent. So with those comments, Sir, I maintain the proposition.

The Deputy Bailiff:

Those in favour of adopting the principles kindly show. Those against? The principles are adopted. Deputy Breckon, do you wish to have this matter referred to your Scrutiny Panel?

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

No, Sir.

The Deputy Bailiff:

Do you propose the Regulations *en bloc*, Minister?

Senator P.F. Routier:

I certainly do, Sir.

The Deputy Bailiff:

Are they seconded? [**Seconded**] Does any Member wish to speak on any 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 them in Third Reading, Minister?

Senator P.F. Routier:

Yes, please, 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.

10. Draft Advocates and Solicitors (Amendment No. 4) (Jersey) Law 200- (P.189/2007)

The Deputy Bailiff:

The Draft Advocates and Solicitors (Amendment No. 4) (Jersey) Law 200- - Projet 189 - lodged by the Chief Minister. I ask the Greffier to read the citation.

The Greffier of the States:

Draft Advocates and Solicitors (Amendment No. 4) (Jersey) Law 200-. A Law to amend further the Advocates & Solicitors (Jersey) Law 1997. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

I would like to ask that the Constable of St. Ouen, one of my Assistant Ministers, acts as rapporteur for this item please.

10.1 Connétable K.P. Vibert of St. Ouen (Assistant Minister, Chief Minister's Department - rapporteur):

The purpose of this projet is to make 2 relatively straightforward amendments to the Advocates and Solicitors (Jersey) Law 1997. The 1997 Law lays down the academic and other requirements for admission to practice as an advocate or as a solicitor of the Royal Court. Before the mid 1800s the appointment of members to either branch of the profession was within the discretion of the Bailiff to assess in every respect, both in terms of academic qualifications and in terms of good character, whether or not an applicant was a fit and proper person to be admitted to the Bar or as a solicitor to the Royal Court. The 1997 Law set a range of academic qualifications and vocational experience, in addition to certain requirements of citizenship. For a person who wished to be admitted, whether as an advocate or as a solicitor, a person who satisfied the statutory criteria and who wished to be admitted had to apply to the Attorney General. If that statutory criteria was met a sitting of the Royal Court was then convened. At that sitting the Attorney General would submit the application and the accompanying documentary evidence to the Royal Court, together with his conclusions. There is, however, nothing in the 1997 Law that appears to require the Attorney General and, in turn, the Royal Court to be satisfied that the applicant is of good character. In order to overcome this deficiency in the 1997 Law, this draft amendment would add a requirement that upon an application for admission as an advocate or as a solicitor, the Royal Court would in addition to all other criteria have to be satisfied that the applicant was a fit and proper person to be admitted. The second amendment takes into account modern practices where those preparing to become either advocates or solicitors are no longer likely to remain with a single firm or even on the Island for the duration of their apprenticeship. This amendment, therefore, changes the qualification periods for advocates from the present 2 years to 2 years in the previous 3 years of taking an oath. For solicitors the change will be from 3 years to 3 years in the preceding 4 years of taking oath. Feelings in the profession are that this amendment will make qualification easier. I now make the proposition.

The Deputy Bailiff:

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

10.1.1 Deputy G.W.J. de Faye:

I have to say I very much regret having to stand up and address this issue but I am concerned about just what is meant by a fit and proper person and whether it should be a requirement effectively for the Attorney General to carry out some sort of investigation. I regret the position because I agree with the second feature of this proposition that there should be a number of years of active practice. That appears to me an extremely good idea. But unfortunately the 2 amendments seem to be rather inextricably intermingled and I may find myself having to vote against the proposition as a whole. It is clear from the report that over time examination results have been deemed to be more and more important in determining whether someone is likely to make a good lawyer in Jersey or not. Obviously the second amendment, which would require some practice, would tend to assure that somebody has both academic qualifications as well as an ability to work on the coalface as it were - on the shop floor - under supervision from people who are themselves qualified and respectable lawyers. But I wonder as to what it is that satisfies the Royal Court that an applicant is of good character and is indeed a fit and proper person. If you have a mistress, for example, does that mean you are not of good character and are not a fit and proper person? How many speeding convictions have to be mounted-up in order to be not of good character and not a fit and proper person? Just how much is required to tip the balance from being of good character to being not of good character? I am troubled that here we see as it were - and possibly rightly so - a conflict between a number of elements of our legal system and how we tackle social engineering within our society.

Let us take a fairly extreme example of someone who has been not of good character and has committed a criminal offence requiring custodial sentencing. The object of custody is both to deliver punishment, to offer disincentives to people who may be considering crime but also to rehabilitate offenders. There must be a number of examples of people knowing that they are facing a length of term at Her Majesty's pleasure, who wish to rehabilitate themselves, may undertake a course of legal study. When they emerge in due course they may well take up quite properly as citizens who have done the crime but also done the time and have paid their debt to society - this all comes under what we have encapsulated in law as something called the Rehabilitation of Offenders Act - may take up studies that bring them towards the Bar exams or advocacy and so forth. How would someone like that fit with being a fit and proper person? Sir, I am not at all happy that this type of approach of assessment is likely to comply with the operation of our current Rehabilitation of Offenders Law. Indeed we know that there are exceptions within that Law that allow banks and financial services to explore much more deeply into people's background. Admittedly those are for jobs of a fiduciary and trust nature. It may be that Members think that is entirely acceptable. But I simply ask Members to consider the situation. How far should one penetrate into people's backgrounds? How long do you hold past records against people, particularly those who under these circumstances were to have turned themselves round to such an extent that they have succeeded in legal examinations and they have also succeeded in acquiring jobs given to them by entirely reputable people, themselves respected lawyers, and have held down those jobs for, according to this amendment, 2 or 3 years? Sir, I have to say with the greatest of respect to the Royal Court and the Attorney General and the Solicitor General and their role, I believe that this is an onerous requirement upon the Attorney General to delve into the past background of erstwhile promising young advocates. I do have a serious objection to this particular amendment.

10.1.2 Deputy I.J. Gorst:

I find myself encountering a rather strange experience speaking as an accountant listening to politicians lecturing lawyers on what might be a fit and proper character or persons of good character. Sir, I propose that we either adjourn for lunch or move to the vote as quickly as possible.

The Deputy Bailiff:

Does any other Member wish to speak on the principles?

10.1.3 Deputy R.G. Le Hérissier:

It is a well known fact that some of the best books in prison libraries are in fact law books, partly to prolong the appeal process and partly so people can retrain. **[Laughter]** I was going to raise the same point as Deputy de Faye, Sir. Just to add to it, I would ask the good Connétable, Sir, whether he could say if the Attorney General is to find against a person what ground or process of appeal lies from that rather vast judgment that you are not fit and proper?

The Deputy Bailiff:

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

10.1.4 The Connétable of St. Ouen:

I am not absolutely sure that I am qualified to reply but as far as Deputy Le Hérissier's comment is concerned, I do not believe that it is the Attorney General who will make that decision anyway. He will purely present what evidence he has to the Royal Court and the Royal Court makes that decision. But as far as what defines a fit and proper person, I am afraid that I am going to have to ask the S.G. to try and help me out on that one.

The Solicitor General:

It means a fit and proper person in the context of what the court is deciding which is, is this person fit and proper to be entrusted with the legal affairs of members of the public? A lawyer gives a

client advice. A lawyer handles client's money. A lawyer receives client's confidences. When a lawyer appears in court it is the traditional position that the court is entitled to rely upon the word of the lawyer as being an officer of the court without any other formalities. Fit and proper means a person who can be trusted to discharge those various functions and responsibilities. To illustrate that, if I may take the example which was given of someone who has been convicted of an offence and served a term of imprisonment using the time to qualify as a lawyer. One has only to suppose a position where someone was employed in a position of trust and, by fraud and deception, defrauded those who had trusted him, for example, as one occasionally gets a secretary of the thrift club and similar things; qualifies - which proves that you have studied the subject and are intellectually up to answering the questions but nothing at all about your character. The question is, is that person fit and proper to be entrusted with the affairs of clients who should be able to put an implicit trust in their lawyers?

The Connétable of St. Ouen:

Can I thank the Solicitor General for that and maintain the proposition?

The Deputy Bailiff:

Very well. All those in favour of adopting the principles kindly show. Those against? The principles are adopted. Deputy Mezbourian, I think that this falls within the auspices of your Scrutiny Panel.

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

I do not believe it is my Panel, Sir.

The Deputy Bailiff:

I do beg your pardon. Whose Panel is it? I have got down Education and Home Affairs. It is Corporate Services, right. Do you wish to have it referred to you?

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

No, Sir.

The Deputy Bailiff:

Do you propose Articles 1 to 4 *en bloc*?

The Connétable of St. Ouen:

Yes, Sir.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of Articles 1 to 4? Very well, all those in favour of adopting Articles 1 to 4 kindly show. Those against? Articles 1 to 4 are adopted. Do you propose the Bill in Third Reading?

The Connétable of St. Ouen:

Yes, Sir.

The Deputy Bailiff:

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

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

The adjournment is now proposed so the Assembly will adjourn until 2.15 p.m.

LUNCHEON ADJOURNMENT

COMMUNICATIONS BY THE PRESIDING OFFICER

The Deputy Bailiff:

Before we move on to the next matter can I just inform Members of 3 matters which have been lodged? First of all, amendments to the “Draft Proceeds of Crime (Substitution of Schedule 2) (Jersey) Regulations 200-“ - P.127/2007, lodged by the Minister for Treasury and Resources. Secondly, “Income Support Medical Appeal Tribunal: appointment of members” - P.20/2008, lodged by the Minister for Social Security. Finally, “Goods and Services Tax: restriction on amendment of 3 per cent Rate” - P.19/2008), lodged by Deputy Southern. I think the last 2 are about to be distributed to Members.

Senator F.H. Walker:

Would it be possible for me just to give Members an update on a question I was asked this morning, please? Deputy Martin asked why the *Imagine Jersey* consultation document had been removed from the website, from the on-line. In fact it has not. What has been removed is the census form which was always planned to run for 6 weeks culminating at the end of December but the full consultation document is still on the website, has not come off the website, and is available still and is being used on a regular basis. A number of responses are being received by my office every day.

PUBLIC BUSINESS (continued)

11. Draft Court of Appeal (Amendment No. 8) (Jersey) Law 200- (P.190/2007)

The Deputy Bailiff:

We come then next to the Court of Appeal (Amendment No. 8) (Jersey) Law 200- - Projet 190 - lodged by the Chief Minister. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Court of Appeal (Amendment No. 8) (Jersey) Law 200-. A Law to amend further the Court of Appeal (Jersey) Law 1961. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

Can I ask the Connétable of St. Ouen to act as rapporteur again, please?

11.1 The Connétable of St. Ouen (Assistant Minister, Chief Minister’s Department - rapporteur):

The requirement for this projet stems from the Sir Godfray Le Quesne report following his review in 2000 of the workings of the Court of Appeal. One of the main purposes of this proposition is to implement most of the recommendations contained in that review. However, this proposition is not confined merely to the implementation of the Le Quesne recommendations. It also makes other extensive amendments to the Court of Appeal Law instigated by the Attorney General. As the report says this is very much a lawyer’s law. It deals predominantly with proceedings and procedural matters of the Court of Appeal. The amendment to give the A.G. (Attorney General) power to seek an appeal for cases which he or she feels were sentenced too leniently was, in my

opinion, quite rightly highlighted by the *J.E.P. (Jersey Evening Post)* last evening. I believe that this amendment is the one which attempts to address an area of real public concern. The other amendments cover such items as civil causes, criminal and quasi criminal matters. They also cover the right of appeal concerning confiscation orders. This draft law is the first thorough overhaul of the Court of Appeal (Jersey) Law 1961 since it was enacted. Many of the reforms are overdue. As I have said already, it unfortunately can only be described as a lawyer's law but these amendments are designed to ensure that the machinery of appellate justice in Jersey, both criminal and civil, is properly suited to the 21st century. This Law has received consultation with the Bailiff's Office as well as your own, Sir, with the Law Society and most importantly the judges of the Court of Appeal. All of them are in support of these amendments. I do not intend addressing each amendment individually at this stage but merely making the proposition and then talking to each amendment when the articles are debated. I propose a preamble, Sir.

The Deputy Bailiff:

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

11.1.1 The Deputy of St. Martin:

I had a bit of a wry smile over this because I see this is a recommendation following the Godfray Le Quesne review carried out in the year 2000. Only a couple of months ago I brought a proposition to the States trying to get the States to agree to a recommendation made by Sir Godfray Le Quesne in 1990. My 2 ladies on my right are nodding in agreement with me because here we are, we are speeding things up. Who knows? We might even get something recommended this year and passed at the end of the year. Who knows? But I think I rise really to speak in support of it, but I think there are a load of things in here that obviously are pluses. Indeed to say it is a lawyer's charter is quite right. I will be raising an issue later on, on page 37, but I will wait until we come to that. But I think it is something that the States should welcome. Although it has taken a long time, we are getting there.

The Deputy Bailiff:

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

11.1.2 The Connétable of St. Ouen:

I thank the Deputy of St. Martin. The only thing I would say to him is that everything comes to him who waits. **[Laughter]** I maintain the proposition, Sir.

The Deputy Bailiff:

All those in favour of adopting the principles kindly show. Those against? The principles are adopted. Deputy Ryan, I am advised that this is a matter which falls within the Corporate Services Scrutiny Panel. Do you wish to have it referred to your Panel?

Deputy P.J.D. Ryan of St. Helier (Chairman, Corporate Services Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

Connétable, how would you wish to take the articles?

The Connétable of St. Ouen:

It is an option which I did discuss with you yesterday. I will take your advice on it. I propose in the first reading Articles 1 to 4.

The Deputy Bailiff:

Very well, speak on Articles 1 to 4.

11.2 The Connétable of St. Ouen:

Articles 1 to 4 are the interpretation and references to the principal Law. They provide remuneration of ordinary judges in the Court of Appeal to be decided by administrative decision of the Minister for Treasury and Resources. Currently the remuneration is set by Order made by the Minister. Article 3 relates to the right to practice law in the Court of Appeal. The effect of the amendment is to provide for the same restrictions in respect of references by the Attorney General to the Court of Appeal following acquittal in criminal cases and in respect of proposed references with the court by the Attorney General in respect of lenient sentences, which come up later.

The Deputy Bailiff:

Very well, are Articles 1 to 4 seconded? **[Seconded]** Does any Member wish to speak on any of Articles 1 to 4? All those in favour of adopting Articles 1 to 4 kindly show. Those against? Articles 1 to 4 are adopted. Then, Connétable?

11.3 The Connétable of St. Ouen:

I would now propose Articles 5 to 10, Sir, which in fact are the articles which deal with civil jurisdiction.

The Deputy of St. Martin:

Could I ask the rapporteur just to mention the pages we are going through because I do not want to miss what I have got to say?

The Connétable of St. Ouen:

Pages?

The Deputy of St. Martin:

The page numbers for the articles so they tie-up.

The Connétable of St. Ouen:

Article 5 is on page 21, Sir, to Article 10 which is on page 22.

The Deputy Bailiff:

It is not.

The Connétable of St. Ouen:

I beg your pardon, Sir.

The Deputy Bailiff:

Connétable, I think it is on page 28, the actual article itself.

The Connétable of St. Ouen:

I am sorry?

The Deputy Bailiff:

You may be referring to the explanatory note, are you?

The Connétable of St. Ouen:

I am, yes, sorry.

The Deputy Bailiff:

Is that what you wish, Deputy, the explanatory note or the actual article?

The Deputy of St. Martin:

The articles I think on page 28.

The Connétable of St. Ouen:

If you will give me a second, Sir, I will draw out the actual proposition. I have got it here somewhere. I do apologise, Sir, my explanatory notes do not number in the same way as the... so we are looking at Article 5 on page 28 through to Article 10 which begins on page 29 and finishes on page 30. Article 5 concerns the civil jurisdiction of the Court of Appeal. The jurisdiction includes all of the appellate jurisdiction and powers formerly vested in the Superior Number of the Royal Court. The effect of the amendment is to insert in the principal Law a self-contained definition of the jurisdiction of the Court of Appeal. In other words, one that does not refer back to the jurisdiction previously exercised by the Superior Number of the Royal Court. The jurisdiction of the Court of Appeal is redefined, will continue to include the power to deal with appeals from the decisions of the Royal Court sitting in the latter's own appellate capacity and at first instance. Article 6 relates to a limit on rights of appeal in the Court of Appeal in civil matters. At present there is a right to appeal in relation to certain matters to the court only with the leave of either the court whose decision is the subject of the appeal or the Court of Appeal itself. An exception is made, however, where the value of the matter in dispute is £3,000 or more where appeal is available as a right without the leave of any court.

Deputy R.G. Le Hérissier:

Sorry, if I can beg the leave of the speaker? I do not see how Article 6 relates to the verbal report that the speaker was giving us; Article 6 at the foot of page 28.

The Connétable of St. Ouen:

I am speaking from the notice that I have had. **[Laughter]** You may be ahead of me, Deputy.

The Deputy Bailiff:

I think Article 13 is to do with the rights of appeal and presumably I am guessing that as subparagraph (d) shall be deleted that maybe the matter you are referring to about the amounts involved.

The Connétable of St. Ouen:

Yes, Sir.

The Deputy Bailiff:

I suspect your notes are correct.

The Connétable of St. Ouen:

Thank you, Sir. One effect of the amendment is to remove that exception so that in future all such appeals will require the leave of the court. The amendment also provides that an application to the Court of Appeal for leave to appeal is to be made in the first instance to a single judge of the court instead of the full court. The judge may grant or refuse leave to appeal or refer the applicant for leave to the full court. If any Members are confused, especially Deputy Le Hérissier, Sir, we are looking at A2 of the report which might help him considerably. The single judge's decision will be final. Before anybody rises to ask why that is, the decision which the single judge is likely to make is the decision of whether an appeal can be heard or not; it will not be a decision of whether the appeal is accepted or not. The opportunity has also been taken, as Deputy Le Hérissier will notice, to substitute for the word "infants" the word "minors". In Article 7, Sir, this alters the right of appeal to the Privy Council from the decision of the Court of Appeal. Currently there is a right of appeal to the Privy Council from the decision of the Court of Appeal in a civil matter only with the leave of that court or the special leave of the Privy Council. Such leave is not required, however, if the value of the matter in dispute is £10,000 or more. The amendment removes that exception. The

amendment also specifies that there is to be no right of appeal in relation to a decision of the Court of Appeal to grant or to refuse to grant leave to appeal to the court against the decision of the Royal Court or the Privy Council. Article 8 is concerned with the practice and procedure of the Court of Appeal in a civil matter, if no special provision is made in the principal Law or the rules of court. At present the Court of Appeal is to exercise its jurisdiction in those circumstances as nearly as may be as the Superior Number of the Royal Court would have done on an appeal from the Inferior Number of that court. The effect of the amendment is to require the Court of Appeal to do so instead in such a manner as it considers just and convenient. Fortunately Deputy de Faye is not here so we are not going to have an argument on that one, Sir. **[Laughter]** Article 9 relates to the powers that may be exercised by a single judge in the Court of Appeal pending the hearing of an appeal in a civil matter. The effect of the amendment is to provide explicitly that an appeal that is pending includes an application for leave to appeal or for an order authorising service of a notice of appeal if the determination of such an application is itself pending. The amendment will take account of the decision of the Court of Appeal in *Classic Trading Co. v. Declercq* (1992), J.L.R. 34. Article 10, Sir, amends Article 19 of the principal Law in consequence of the insertion by Article 28 of this draft Law. I propose Articles 5 to 10.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on any of Articles 5 to 10?

11.3.1 Deputy R.G. Le Hérissier:

I wonder as a general point whether... the rapporteur is doing a manful job I should add. I wonder whether he could indicate has there been any either diminishment or any extension in the rights of appeal as a result of this exercise?

11.3.2 Deputy G.C.L. Baudains:

I would be grateful if he could clarify all the things he said. **[Laughter]**

The Deputy Bailiff:

Does any other Member wish to speak? I call on the Connétable to reply.

11.3.3 The Connétable of St. Ouen:

In response to Deputy Le Hérissier, Sir, I think we have to wait for the Law to come in to find out what the consequences are going to be, Sir. **[Laughter]** As far as the Deputy of St. Clement is concerned, if he sees me later I will go through it with him. **[Laughter]** I maintain the proposition.

The Deputy Bailiff:

All those in favour of adopting Articles 5 to 10 kindly show. Those against? Articles 5 to 10 are adopted. Then, Connétable?

11.4 The Connétable of St. Ouen:

May I now propose Articles 11 to 24 which deal with the criminal appeals? Article 11, Sir, is again a consequential amendment because of what is being changed in the Law. Article 12 relates to appeals against sentence. Under Article 24 of the 1961 Law a person has a right of appeal with the leave of the Court of Appeal against a sentence passed on a person on conviction unless the sentence is fixed by law. The effect of the first amendment is to widen the right of appeal to include the case in which the sentence is passed in subsequent proceedings unless it is fixed by law. The amendment follows the change made in English law in section 9 of the Criminal Act 1968. Article 24 of this 1961 Law, as amended in 2005 by the Criminal Justice (Mandatory Minimum Periods of Actual Imprisonment) (Jersey) Law, gave the Attorney General a right of appeal against an order under the 2005 Law if it did not impose a mandatory minimum period of imprisonment of sufficient length. These grounds would be subsumed by the right of review in new Article 45(a) which will follow. The right under Article 24 is accordingly being repealed. Article 13 inserts a

new provision in the principal Law to the effect that an order made by the Court of Appeal or the Superior Number of the Royal Court on an appeal in a criminal matter should have the same effect and may be enforced as if it were made by the court from whom the decision of the appeal is brought. Article 14 is concerned with the time for appealing in criminal matters. At present a person who wishes to appeal or to seek leave to appeal against conviction or sentence must give notice within 10 days of being convicted. One effect of the amending article is to extend the time for appeal or seeking leave to appeal from 10 days to 28 days. The longer time would be the same as that given to the Attorney General on references for the review of sentences under the new Article 45(a) and on appeals under the new Article 45(d) in respect of confiscation orders. Another effect of the amendment is that the period of 28 days will, in the case of an appeal or application for leave to appeal against sentence, run from the date of sentencing. The opportunity has also been taken to remove obsolete references to capital punishment and corporal punishment from Article 32 of the principal Law. Article 15 relates to the provision of the Court of Appeal by the presiding judge in a criminal trial of the notes of the trial and a report giving the judge's opinion on the case. At present this is a mandatory requirement. The effect of the amendment is to provide instead that the presiding judge shall have a discretionary power to provide a report on the case and that the Court of Appeal shall itself have a discretion to require the judge to do so. The amendment also provides that rules of court may prescribe the parties to whom copies of the report are to be given. Article 16 is concerned with the right of an appellant to be present on the hearing of his or her appeal in a criminal case where it only involves a point of law. At present the appellant is only entitled to be present - in other words to attend as a right - if he or she does not have a lawyer or if Rules of Court give the appellant a right to be present. The effect of the amendment is to remove this limitation. The amendment does not alter the existing limitations in Article 36 of the principal Law on the appellant's right to be present at proceedings that are preliminary or incidental to the appeal. Article 17 relates to the granting of bail pending appeal in a criminal case. At present the Royal Court has the power to grant such bail. The effect of the amendment is to provide instead that the Court of Appeal would have power to grant or revoke bail. Article 18 relates to the calculation of the length of a sentence of imprisonment where the convicted person has spent time in custody pending the determination of his or her appeal. At present the following rules apply: (a) if under prison rules the person is specially treated as an appellant, 6 weeks of the time spent in custody pending appeal are to be disregarded when calculating the time served under the sentence of imprisonment; (b) however, paragraph (a) does not apply if leave to appeal has been granted or the trial judge has certified that it is a fit case for appeal against conviction or the Court of Appeal itself directs that the whole or part of the period of 6 weeks is to be taken into account. The effect of the amendment is to provide instead that time spent in custody pending the determination of an appeal is to be taken into account in reckoning the length of the sentence served unless the Court of Appeal directs otherwise. The Court must state its reasons for such a direction. In any event, it may not give that direction if leave to appeal has been granted or if the trial judge has certified that it is a fit case for appeal. Articles 19 and 20 are both consequential articles. Article 21 amends Article 41 of the principal Law to allow a single judge of the Court of Appeal to exercise its powers in respect of the granting and revoking of bail in a criminal case. It also amends that article in consequence of the insertion by Article 28 of this draft Law. Article 22 enables a record of proceedings at a trial or indictment to be taken by electronic means. The opportunity is also taken to update a reference to States Revenue so as to reflect terminology now in use. Article 23 amends Article 43 of the principal Law. If a right of appeal lies to the Court of Appeal against a conviction or indictment in the Royal Court or against the sentence, in our case the Lieutenant Governor of Jersey who would replace the Secretary of State in the English law, may at any time refer the conviction or sentence to the Court of Appeal. This amendment also removes an obsolete reference to capital punishment. Article 24 amends Article 44 of the principal Law. In that article the expression "sentence" is defined for the purpose or part 3 of the principal Law to include any order of the court including an order of banishment made on a conviction with reference to the person convicted or the person's wife or children. This wording is similar to that in section 21 of the

United Kingdom Criminal Appeal Act. One effect of the amendment is to provide instead that the expression “sentence” includes an order made by a Court when dealing with the person convicted. This follows wording now used in section 50 of the United Kingdom Criminal Appeal Act. The amendment also specifies a conviction order as defined in the Drug Trafficking Offences (Jersey) Law 1988 or the Proceeds of Crime (Jersey) Law 1999 as a particular kind of order that for the purpose of part 3 of the principal Law is a sentence. I propose Articles 11 to 24.

The Deputy Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on any Articles 11 to 24?

11.4.1 The Deputy of St. Martin:

I ask the rapporteur of the House to go back to page 31 under 15(3). I ask the rapporteur if indeed whether you furnish a report to the Court of Appeal only if required, is this the same as a judgment? In other words, when the Court has made its decision will there be no written record of that decision, because maybe I am confusing what is considered to be a judgment as to a report. But I would like to seek clarification whether in actual fact there will be anything written afterwards.

The Connétable of St. Ouen:

On a point of order, I got page 31. Can I just ask the Deputy to repeat which...

The Deputy of St. Martin:

Okay, the difficulty is it is under 15, then we go under 33, Judges Report on Appeal. If we move down we have 3 sub-paragraphs. Under sub-paragraph 3 it says: “At present the court before which the person is convicted or sentenced, as the case may be, shall furnish such a report to the court if required by the Court of Appeal so to do.” My question really is, is that the same as a judgment? Are we having here occasion where a court may well make a decision but there would be no written record of it? That was my query. I would also then move on to the next paragraph which is under Article 16, which amends Article 36 also on page 31 because that is going to come... I could ask it now and I have to repeat it again when we come to page 38. That is to do with the right of a person to be present when a matter is being considered about that person. If I can refer Members to Article 16, still on page 31, where Article 16 amends Article 36? I ask Members to look at 1(a): “However, an appellant shall not be entitled to be present at proceedings preliminary or incidental to the appeal except where ...” and it gives the reasons. The question I would ask, is that infringing one’s personal or one’s human rights in that one is not entitled to be present when matters pertaining to that person are being discussed? I did note that it was the case that this is human rights compliant. I would ask whether it is human rights complaint because I shall also raise that when we come on to page 38. I hope that is clear so the Assistant Minister can give some assistance.

11.4.2 Deputy R.G. Le Hérisier:

I wonder if under Article 15, Sir, the rapporteur can define or can confirm that it is indeed optional that an appellant will receive that report; it is optional, it is not mandatory. Is Article 18 an attempt to define conditions under which if there is indeed thought to be a frivolous appeal 6 weeks will, in fact, be added to sentence? Is that its intent? I cannot quite understand it. If he could explain under Article 18 whether the 6 weeks which is mentioned, is that to be added or not to be deducted? Is the sentence lengthened because the person is thought to have mounted a frivolous appeal? Under 23, Sir, could he define the extra powers that the Lieutenant Governor will be inheriting from the Secretary of State? Could he define those? It is just mentioned without telling us what the particular powers are.

11.4.3 Deputy P.N. Troy:

In Article 14 and 23 I think it was, the Constable mentioned that reference to the death sentence as being removed as obsolete. I wonder whether these should stay in, Sir, because with the rising

terrorism in the world, Sir, we may need within Terrorism Acts to introduce the death sentence at some point in the future. I wonder whether these should stay in. I wanted to ask the Connétable if we had terrorists suddenly fly an aeroplane into Cyril Le Marquand House and kill hundreds of people, what would be done about it and what remedies would we have?

11.4.4 Senator S. Syvret:

That is all very funny, but really it is quite a serious matter to talk about things like the death sentence. If you look at many of the most despicable regimes and countries in the world they have the death penalty where they use it liberally with gross miscarriages of justice and in the most appalling ways. Does it stop people committing the offences in those countries? No, it does not. The evidence is absolutely clear the death sentence does not work and certainly when you are dealing with, as the Deputy alluded to, a group of people who are prepared already to die for their cause, what possible deterrent would the death sentence be? It is utter nonsense. The State should set a higher example and should not kill. It is wrong to kill people no matter how disgusting their offences. Sometimes people do commit offences that are so grotesque that life should mean life, that they should not be released on occasion. But the State must strive for a higher purpose than resorting merely to the killing of people which has been done throughout human history without any great effect in deterring crime or addressing the problems of society.

11.4.5 Deputy G.C.L. Baudains:

Having just heard that last speech, I felt I had to rise to say that I have not heard quite so much rubbish in a long time. The Senator suggested, of course, that the death penalty has never had any benefit at all. If you just look at somebody who has committed multiple murders, he would have stopped after the first one so there is a benefit immediately. I have to say that I do agree with Deputy Troy and some of the appalling injuries and treatment which even very small children have suffered at the hands of what can only be described as evil people, one wonders sometimes if the death sentence is not too good a sentence for them and I happen to be a great believer in capital punishment.

11.4.6 Senator W. Kinnard:

Could I just say that I deplore this kind of attitude that has been displayed in this House and, indeed, if someone had murdered an individual if they were caught and sentenced and imprisoned then they would be prevented from committing a further murder. One does not need, indeed, to use the death sentence to deal with that particular situation. But can we go back to the real point of this debate. It is about, purely and simply, some extra powers given to the Attorney General in respect of the draft Court of Appeal. That is what the subject is and please, can we go back to this debate forthwith.

The Deputy Bailiff:

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

11.4.7 The Connétable of St. Ouen:

I may not deal with them in the order they have been said because I think I may have to leave the Deputy of St. Martin's in the hands of the Solicitor General but as far as Deputy Le Hérissier is concerned, it is my understanding that the Lieutenant Governor will only have the same rights as those which the Secretary of State on the mainland has and no further rights than that.

Deputy R.G. Le Hérissier:

What were those rights?

The Connétable of St. Ouen:

I would refer you to the Appeals Act in the U.K. which I am sure you will be able to pick up on your computer quite quickly this evening.

The Solicitor General:

I wonder if it would be of assistance; what this is doing is substituting the Lieutenant Governor for the Secretary of State in the relevant article in the existing Law and it is a power to refer a matter to the Court of Appeal. In other words, for example, if it appears to the Lieutenant Governor there has been a miscarriage of justice in some case, he can refer the case to the Court of Appeal which will then determine it as an appeal. There have not been many exercises by the Secretary of State. There was one, a case called *Brian v. McLean* in which some time after the event it became apparent that there had been possibly perjury committed at the trial and the Secretary of State referred the case to the Court of Appeal which then determined it as if it were an appeal.

The Connétable of St. Ouen:

The other question which I think Deputy Le Hérissier raised was about the 6-week period and it is my understanding that the Court of Appeal would have discretion how they use that 6-week period but must state the reasons for what they have done at the time of their judgment. In other words, they have to say why they are going to take into account whatever they have taken into account. As far as Deputy Troy is concerned, I think if he wanted to remove that from the Law he would have needed to have brought an amendment to that effect and did not do so. I have to say I entirely agree with the sentiments of Senator Syvret and Senator Kinnard on that matter. The item which the Deputy of St. Martin raised, I think I may have to ask the Solicitor General to help me on that one.

The Solicitor General:

The question was whether the judge's report is the judgment of the court. No, the judgment of the court is the judgment which goes into the public domain and is before the Court of Appeal and is, indeed, generally a transcript of what went on in the Royal Court. The judge's report is something which is provided for in the Law as it is currently enforced, and the provision requires the person presiding in the Royal Court to furnish the judges of the Court of Appeal with a report giving his views on the case and on the appeal. The removal of this was one of the recommendations of Sir Godfray Le Quesne. He pointed out that the article was copied from the English Criminal Appeal Act of 1907 and that that has now gone there. He expressed the view that it served no useful purpose and he queried, in any case, why the judge of the court below should be providing reports to the Court of Appeal. It now is a discretion for the Court of Appeal to require a report if it wishes but there is no longer this mandatory, automatic obligation to furnish one, but certainly the actual judgment will be before the court.

The Connétable of St. Ouen:

Can I once again thank the Solicitor General and maintain the proposition of Articles 11 to 24.

Deputy P.N. Troy:

Can I ask for an appel on Articles 14 and 23, combined?

The Deputy of St. Martin:

I do not know whether the Solicitor General is going to answer the question about it being human rights compliant when we come to 38 because they are, I think, very similar.

The Solicitor General:

I am sorry, I overlooked that one and yes, that is human rights compliant because this does not refer to the determination of the substantive appeal. It is just on preliminary and incidental proceedings.

The Deputy Bailiff:

Deputy Troy, you want to have a specific vote on which articles?

Deputy P.N. Troy:

14 and 23 combined Sir.

The Deputy Bailiff:

What we must do then, I think, is take Articles 11 to 13 inclusive. Would all those in favour of adopting Articles 11 to 13 inclusive kindly show. Those against. Those articles are adopted. Then we take Article 14 separately on its own. Would all those in favour of adopting Article 14 kindly show.

Deputy P.N. Troy:

Can the appel be called for?

The Deputy Bailiff:

The appel is called for in relation to Article 14. For or against. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 36		CONTRE: 2		ABSTAIN: 0
Senator S. Syvret		Deputy G.C.L. Baudains (C)		
Senator L. Norman		Deputy P.N. Troy (B)		
Senator F.H. Walker				
Senator W. Kinnard				
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy G.W.J. de Faye (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Deputy Bailiff:

Then, if Members agree, we take Articles 15 to 22 inclusive. Would all those in favour of adopting those articles kindly show. Those against. Articles 15 to 22 are adopted. There has been a request for Article 23 to be taken separately so that is now before the Assembly. Would all those in favour. An appel is called for in relation to Article 23. The Greffier will open the voting.

POUR: 34		CONTRE: 4		ABSTAIN: 0
Senator S. Syvret		Deputy R.C. Duhamel (S)		
Senator L. Norman		Deputy of St. Martin		
Senator F.H. Walker		Deputy G.C.L. Baudains (C)		
Senator W. Kinnard		Deputy P.N. Troy (B)		
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy G.W.J. de Faye (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Deputy Bailiff:

Finally, Article 24. Would all those in favour of adopting Article 24 kindly show. Those against. Article 24 is adopted. Then, rapporteur?

11.5 The Connétable of St. Ouen:

I now move Articles 25 to 28. Article 25 replaces the heading to part 4 of the principal Law. Part 4, at present, deals with the references of a point of law by the Attorney General to the Court of Appeal following an acquittal in a criminal trial. Replacing the part heading takes account of proposals for the review of sentences on the Attorney General's application and of appeals by the Attorney General in respect of confiscation orders in respect of the Drug Trafficking Offences, (Jersey) Law 1988 and the Proceeds of Crime (Jersey) Law 1999. Article 26 amends Article 45 of

the principal Law so as to update a reference to the States' annual income to reflect terminology at present in use. Article 27 inserts new articles relating to applications by the Attorney General for the review of sentences and appeals by the Attorney General in respect of confiscation orders. The provisions relating to the review of sentences are based on section 36 of the Criminal Justice Act 1988 of the United Kingdom and Schedule 3 of that Act. Those in respect of appeals in respect of confiscation orders are based on sections 31 and 32 of the Proceeds of Crimes Act 2002 of the United Kingdom. The new provisions are as follows. Article 45(a), the reference to a Court of Appeal for a review of sentence. Under this article, the Attorney General may apply to the Court of Appeal, with leave to refer to that court for review on the grounds that it is unduly lenient a sentence imposed in a criminal case by the Royal Court. The article only applies in respect of an offence if the maximum permissible penalty is a term of one or more years or the States have, by Regulations, declared it to be an offence in which the Article applies. It does not apply in respect of confiscation orders. Article 45(b), court's powers on reference under Article 45(a) by the Attorney General. This article provides that on such a reference, the Court of Appeal may quash the sentence imposed by the lower courts and substitute a sentence the Court of Appeal considers appropriate. The Court of Appeal shall not, in making the decision as to sentence, take into account the fact that the person is being sentenced twice for the same offence. The substituted sentence must be one that the Royal Court could lawfully have imposed. Article 45(c) is the calculation of sentence passed on review. This article provides for the way in which a sentence passed by the Court of Appeal under Article 45(b) is to be calculated. Unless the Court of Appeal directs otherwise, the sentence that is substituted is to run from the time it would have begun to run if imposed in the proceedings in the Royal Court. However, this provision does not apply where the Court of Appeal substitutes a custodial sentence for a non-custodial sentence. If he or she is in custody pending the hearing of the reference for review, the defendant's time spent waiting for the determination of the reference will be reckoned as part of the term of the sentence. Article 45(d), appeal by the Attorney General in respect of confiscation orders. Under this article, the Attorney General may, with the leave of the Court of Appeal, bring an appeal to that court against the terms of the confiscation order made by the Royal Court or against a refusal against the Royal Court to make a confiscation order. However, the article does not give the Attorney General a right of appeal against a refusal to make a confiscation order on 3 points; (1) where the defendant has absconded or died, (2) on a reconsideration of a case in which a confiscation order was not considered initially, or (3) a reconsideration of a determination that a defendant has not benefited. Article 45(3), court's powers on appeal by the Attorney General. This article gives the Court of Appeal jurisdiction on an appeal by the Attorney General to confirm, quash or vary a confiscation order already made by the Royal Court. It also enables the Court of Appeal, on an appeal by the Attorney General against a decision of the Royal Court, not to make a confiscation order either to make such an order itself or to direct the Royal Court to reconsider whether to do so. Article 45, matters to be taken into account on appeal in respect of confiscation order. This article stipulates matters that are to be taken into account by the Court of Appeal or the Royal Court on an appeal by the Attorney General in respect of a confiscation order. Article 28 substitutes for Article 46 of the principal Law relating to rules of court for the purpose of part 4 of that law, several procedural and general provisions relating to that part. The new articles will continue to provide the rules of court. I make the proposition, Sir.

The Deputy Bailiff:

Are those articles seconded? [**Seconded**] Does any Member wish to speak on Articles 25 to 28?

11.5.1 The Deputy of St. Martin:

It is very much in line with what I spoke about earlier about the right of a person be present, and I still find it difficult because I do support the principle of the Attorney General having the right to appeal but I find it difficult coming to terms whereby the person they are talking about does not have the automatic right to be there unless the Court of Appeal gives that person leave to be

present. Again, I am just looking at equality here and, again, I do not doubt what the Solicitor General said that this is human rights compliant, but I just wonder whether it is whereby the Attorney General would be talking about someone yet that person they are talking about does not have the automatic right to answer back or may not want to agree with what generally is being said. But I raise that question because I do question whether, in fact, it is human rights complaint.

11.5.2 Senator S. Syvret:

I wondered if the rapporteur, when he responds, could address a few questions I have. This section concerns the Attorney General having a right of appeal to the court in the case of sentences being too lenient, and I have a few questions in respect to that which I wondered if the rapporteur could address. For example, what is the proprietary - the protocol - of victims or family members or loved ones of victims writing to, approaching or writing or lobbying the Attorney General in respect of making such an appeal? The Attorney General, personally, may not feel particularly minded to make such an appeal under a particular case but victims or relatives who think that the sentence has been too lenient may wish to lobby the Attorney General to undertake such an appeal. Likewise, could such a right of address, as it were, be conferred to ordinary members of the public when they consider that cases have been too lenient? I ask this because, although I did take it up with the Bailiff at the time, there was a case early last year when a male pensioner had, basically, attempted to seduce and rape 3 female children and he was sentenced to 2 years' probation. This is one of those sentences that lives in infamy, certainly among the ranks of the police force. That is precisely the kind of thing that should have the ability to be appealed against. This man should, of course, have received a substantial custodial sentence. There are also other sentencing anomalies. I have come across a particularly stark one recently, and these are cases that are now both concluded so I can refer to them. One of my constituents, a 19 year-old boy who I was assisting, was convicted, admitted his guilt in dealing in Ecstasy and received a 3-year custodial sentence. A matter of weeks later the same judge, upon the conviction of a prominent local businessman, or "an established local businessman", I think the phraseology was, who was convicted on conspiracy to import cocaine, a far more dangerous drug, into Jersey and was given 240 hours community service. Certainly, the massive disparity and anomaly in those sentencing approaches was pretty widely remarked by a lot of people. Again, there are circumstances there where people may feel the need to seek the agreement of the Attorney General to go forward and to appeal on an over-lenient sentence. Finally, I would like to ask what happens in such cases under the circumstances when either the Attorney General or the Solicitor General might both be conflicted for one reason or another in such particular cases. What happens then? Who makes the decision?

The Deputy Bailiff:

Does any other Member wish to speak on any of Articles 25 to 28? I call on the rapporteur for a reply.

11.5.3 The Connétable of St. Ouen:

I am trying to find the note that I have on the question which the Deputy of St. Martin raised, it seems to me that I have read that the appellant is only entitled to be present if he or she does not have a lawyer. The question of them not being represented does not occur. I think if we go back to Article 16. My understanding of Article 16 is that at present the appellant is only entitled to be present, in other words, to attend as of a right, if he or she does not have a lawyer where the rules of court give the appellant the right to be present and the amendment did not change that in any way.

The Deputy of St. Martin:

Could I just ask the rapporteur, could he ensure what he is saying is in law because I do not have a problem with it if, indeed, the appellant is represented and his interests are being represented. That is what I am concerned about, the fact that he or she is not being represented. That is my main concern.

The Connétable of St. Ouen:

That certainly is the information in my notes and I have had a nod from the Solicitor General.

The Solicitor General:

Yes, I can confirm if an appellant is acting for himself then, obviously, he will be present because otherwise his case cannot be presented. If he is represented by a lawyer then there are the provisions relating to the need for leave in some of the circumstances.

The Connétable of St. Ouen:

As far as Senator Syvret’s questions are concerned, it is certainly my understanding that any individual or any family, *et cetera*, has the ability to lobby the Attorney General at any time.

The Solicitor General:

I can confirm that anybody can write to the Attorney General and many people do and I would add that it is usual, depending on the nature of the case, but certainly for cases of personal violence, sexual abuse and so on, for there to be a victim impact statement which is something the prosecution receives from the victim before the case goes to the Royal Court. Anybody can write in and give their reasons. The power to make the reference to the Royal Court is exercisable by the Attorney General because the Attorney General, of course, has to and can assess the prospects of a successful reference. There is no point making a reference to the Court of Appeal if it is quite clear on the authorities or possibly even on the statute that the Court of Appeal is not going to change the sentence.

The Connétable of St. Ouen:

Going on from that, I mentioned in the preamble to the Law that I think this is a very important amendment and one which the public is interested to see included. I can say from my discussions with the Law Officers when preparing this proposition that the Law Officers themselves have, on occasions in the past, observed sentences which they felt they would have liked to have appealed against the leniency of the sentence given. I am sure that both the public and the Law Officers are well served by this amendment. The Senator finished on a point if the Law Officers were conflicted, and I have to say that I do not have an answer to that question.

The Solicitor General:

I know of no occasion in the past when both Law Officers have been conflicted in the same case. The amount of personal involvement that we have with any particular offender is very slight. They come before us as prosecution files. I have no doubt that in a case, if there were to be a case where both officers were conflicted, a solution would be found. Suppose somebody attacked simultaneously both Law Officers so that they were both the victims of the same assault then there may be a personal interest. In fact, I think there would be a personal interest but I am sure there would be some way found of dealing with it.

The Deputy Bailiff:

Would all those in favour of adopting Articles 25 to 28 kindly show.

The Deputy of St. Martin:

Could I have the appel on Article 28?

The Deputy Bailiff:

If we take Articles 25, 26 and 27 first. Would all those in favour of adopting those 3 articles kindly show. Those against. Those 3 articles are adopted. The appel is asked for in relation to Article 28 so I invite Members to return to their seat and the Greffier will open the voting.

POUR: 33		CONTRE: 3		ABSTAIN: 0
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Senator S. Syvret				
Senator L. Norman		Deputy of St. Martin		
Senator F.H. Walker		Deputy G.C.L. Baudains (C)		
Senator W. Kinnard		Deputy P.N. Troy (B)		
Senator P.F. Routier				
Senator M.E. Vibert				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy J.J. Huet (H)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy J.B. Fox (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Deputy Bailiff:

Do you propose Articles 29 to 31, rapporteur?

11.6 The Connétable of St. Ouen:

Article 29 is a consequential amendment. Article 30 amends the Royal Court (Jersey) Law 1948 so as to provide for the remuneration of the Commissioners of the Royal Court to be determined by administrative decision of the Minister for Treasury and Resources rather than by order. Article 31 provides for the manner in which the amending law may be cited. I propose those.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on any of articles 29 to 31? Would all those in favour of adopting articles 29 to 31 kindly show. Those against. Those articles are adopted. Do you propose the Bill in Third Reading, Connétable? Seconded? **[Seconded]** Does any Member wish to speak in Third Reading?

11.6.1 Deputy R.G. Le Hérissier:

Just to add to what was mentioned a couple of weeks ago when we were looking at scrutiny of complex finance legislation, I do not envy the rapporteur his job for one minute. He has done, as I have said, a very strong... I was going to use the term “manful” but obviously that is not a gender-

free term but he has done a very complex job and I congratulate him on that. But it does strike me that it is not a lawyer's law. There are some basic and fundamental principles and it is the job either of legislative scrutiny or of the Legislation Advisory Panel to capture these issues and to highlight them. I think it was a mistake to introduce it as a lawyer's law and it just is another case where I think, against my earlier instincts and judgment, where legislative scrutiny has a proper role to play and I do not think the Advisory Panel should see itself as that. It should see itself as a body that is there to make individual representations, to stand up to the law and to find out exactly what principles are underlying it. We are just not there as conduits, shall we say.

11.6.2 The Deputy of St. Martin:

I do remain concerned about Article 16 and Article 28 because I, again, do not see it in the legislation here that anyone, when the Attorney General discusses the merits of whether he wants to make an appeal, that the appellant or the person concerned is being represented. While I know it says he may be present if he is not legally represented but it does not say in the Law, unless someone can show it to me, where it says that he need to be there or he not need be there if there are legal representatives. Again, I would welcome the rapporteur telling me where in the Law that says that he will be represented.

11.6.3 Deputy G.W.J. de Faye:

Very briefly, to thank the rapporteur for his presentation and also, of course, pay appropriate credit for Sir Godfray Lequesne, Q.C. who has undertaken an enormous amount of work over the years for the benefit of the Island and this is another example of it.

The Deputy Bailiff:

Does any Member wish to speak? Do you wish to reply, rapporteur?

11.6.4 The Connétable of St. Ouen:

I think the only thing I can say to Deputy Le Hérisier is that I am certainly much clearer on this Law than I was when I started. I accept the points which the Deputy of St. Martin has made. They are his opinion. I am confident that the Law, as written, addresses those points and maybe if I go back to Deputy Le Hérisier, the comfort which I have in proposing this Law is that it has been through the scrutiny of the Bailiff's Office, the Deputy Bailiff's Office, the Law Society and the judges of the Court of Appeal. I am sure that if one of them had not spotted something which should not be there, I would be very surprised. I am sure they are more qualified to do it than any other body and I agree with Deputy de Faye, I think finally, at last, the work of Sir Godfray Le Quesne has been recognised and I hope that this will have completed the work that he began. Finally, before I sit down, may I take this opportunity of thanking Steven Pallot of the Law Officers' Department for the amount of work that he has put into preparing this paperwork for this presentation today and to Robyn Webb of the Law Draftsman's Department for having drafted it.

The Solicitor General:

I wonder if on the question of where in the Law it says that the appellant who is not legally represented has a right to be present; I wonder if it would assist the Deputy if I did point to it before the vote is taken. In Article 36(1) as it is currently drafted, and that is not in this Law but it is in the Law as it is at the moment, it sets out where the appellant cannot be present but it makes some exceptions and those exceptions are: "Except where the Court of Appeal gives the appellant leave to be present or where he or she is not legally represented." That is the existing exception and if he is not legally represented then he is entitled to be present. Article 36 which is substituting a paragraph 1 and a paragraph 1(a) for the existing paragraph 1, if Members look at page 31 and the paragraph 1(a): "An appellant shall not be entitled to be present at proceedings, preliminary or incidental, except where" and then a third of the "except where" is "where he or she is not legally represented." So, if they are not legally represented they are entitled to be present, but someone who is legally represented falls within it.

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.

12. Draft Legitimacy (Amendment) (Jersey) Law (P.191/2007)

The Deputy Bailiff:

The next item on the agenda is the Draft Legitimacy (Amendment) (Jersey) Law 200- - Projet 191 - lodged by the Chief Minister and I would ask the Greffier to read the citation.

The Greffier of the States:

The Draft Legitimacy (Amendment) (Jersey) Law 200-. A Law to amend further the Legitimacy (Jersey) Law 1973 and for connective purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

Can I ask that the Connétable to act as rapporteur again?

12.1 The Connétable of St. Ouen (Assistant Minister, Chief Minister's Department - rapporteur):

This provision makes 2 amendments to the Legitimacy (Jersey) Law 1973. That Law creates the presumption that a child born or conceived during a marriage is the child of the husband. This presumption existed in Norman customary law as it did in most other European countries. Under the 1973 Law, the presumption can only be rebutted by evidence of circumstances or events which are specified in Article 2 of the Law. I would refer Members to the list of circumstances on page 6 of the proposition, points (a) to (e). This amendment retains the standard of proof but removes this list of circumstances and replaces it with the words: "The fact that a child is born or conceived during the subsistence of a lawful marriage raises a presumption that the husband is the father of the child which may be rebutted only by strong and satisfactory evidence to the contrary." This new wording will allow such evidence as D.N.A. (Deoxyribonucleic Acid) to be used. The use of such evidence is catered for in Article 72 of the Children's (Jersey) Law 2002 and, therefore, does not need inclusion in this amendment. The second amendment expands the present Law which restricts the persons who can apply to the Royal Courts to a man who is presumed, in accordance with Article 2 of the Law, to be the father of a child who was either born in Jersey or born abroad of a mother domiciled in Jersey at the time, or any person who has rights to moveable or immoveable estate in Jersey is affected by the legitimacy of a child wherever born. This amendment also gives the right to the mother of the child and to the man who claims to be the father of the child. Furthermore, the Law will be applicable if a child born not only in Jersey, but a child born abroad of a mother domiciled in Jersey. I propose the Law.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the principles of the Law? Would all those in favour of adopting the principles kindly show. Those against. The principles are adopted. I am advised this falls within Education and Home Affairs Panel. So, Deputy Mezbourian, do you wish to have this referred to?

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

I think it comes under the Corporate Services Scrutiny Panel. It has been brought from the Chief Minister's Department.

The Deputy Bailiff:

Do you wish to have that?

Deputy P.J.D. Ryan of St. Helier (Chairman, Corporate Services Scrutiny Panel):

No thank you, Sir.

The Deputy Bailiff:

Do you propose the articles *en bloc*? Articles 1 to 4? Seconded? **[Seconded]** Does any Member wish to speak on Articles 1 to 4? Will those in favour of adopting Articles 1 to 4 kindly show. Those against. Articles 1 to 4 are adopted. Do you proposed the Bill in Third Reading. Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? Would all those in favour of adopting the Bill in Third Reading kindly show. Those against. The Bill is adopted in Third Reading.

Senator F.H. Walker:

It may have occurred to Members that I have relied very heavily on the Connétable of St. Ouen as my Assistant Minster over the last few pieces of legislation and I cannot let it go without warmly thanking him both personally and, I think, on behalf of Members and congratulating him for the amount of work he has put into this and the amount of detail that he has mastered and for the way he has presented it. I think he has done the States a great service. **[Approbation]**

13. Ratification of the Agreement for the Exchange of Information Relating to Tax Matters between the Kingdom of the Netherlands and the States of Jersey (P.192/2007)

The Deputy Bailiff:

We come next to ratification of the agreement for the exchange of information relating to tax matters between the Kingdom of the Netherlands and the States of Jersey - Projet 192 - lodged by the Chief Minister. 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 to ratify the agreement for the exchange of information related to tax matters between the Kingdom of the Netherlands and the States of Jersey as set out in the appendix of the report of the Chief Minister, dated 29th November 2007.

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

Surprisingly, I am taking this one myself. Members will recall that we agreed a tax information exchange agreement, or T.I.E.A. as it is called for short, with the U.S.A. in 2002; and then in June of last year I signed on behalf of Jersey a further T.I.E.A. with the Government of the Netherlands. This T.I.E.A. is identical to that entered into by the Isle of Man with the Netherlands and also totally consistent with the original T.I.E.A. with the U.S.A. in 2002. Accompanying the Netherlands' T.I.E.A. is a Memorandum of Understanding (M.O.U.) in which the Netherlands' Government does a number of things. It recognises, firstly, Jersey's commitment to comply with international standards on money laundering, terrorist financing and financial regulation, and the effect of that is that there should be no barriers to Jersey finance institutions undertaking legal business within the Netherlands. The M.O.U. also confirms that negotiations will continue with the objective of achieving a Double Taxation Agreement and that should now happen immediately, assuming the States ratify the agreement today. That negotiation should commence immediately afterwards. The M.O.U. also agrees to apply to Jersey certain tax provisions that are generally available to other jurisdictions and confirms that Jersey will be treated as fairly and favourably as other jurisdictions in this respect. The finance industry was consulted throughout the negotiation with the Netherlands through Jersey Finance Limited and is particularly supportive of the proposal for a Double Taxation Agreement. There has been some concern expressed by members of the industry and, indeed, the Corporate Affairs Scrutiny Panel about the lack of a level playing field in respect of T.I.E.A.s and it is true that Jersey's original commitment was given on the assumption that there would be a global level playing field which would mean that countries such as

Switzerland, Singapore and Hong Kong would also be signing-up to these Information Exchange Agreements. I think, as Members are well aware, they have not. But a conscious decision was taken and this was made clear at the time of the agreement of the U.S.A. T.I.E.A., that because that global level playing field will not be delivered for some time - although I have to say there is some progress now towards its delivery, particularly bringing Switzerland closer on board - it will not be fully signed-up in the near future. Because of that, it was decided that one of the legitimate reasons for continuing to pursue T.I.E.A.s was to gain economic advantage as a result. I am satisfied and my department is satisfied and, indeed, in this particular agreement certainly the finance industry generally is satisfied that this is an agreement that should be ratified. As I said, it was signed in June of last year subject, of course, to the ratification of this House. There are already tangible examples of economic benefit arising from our willingness to sign up to Information Exchange Agreements. For example, Jersey recently had a delegation from the European Union in relation to wire transfer s which is extremely important to our finance industry. We would not have received that had we not shown our willingness to sign up to T.I.E.A.s. Also, a nice little side benefit here, potentially, is that assuming we sign a T.I.E.A. with France, then the 3 per cent property tax which Jersey residents who own property in France currently have to bear would be removed. So, there are tangible economic benefits both to the industry and, in this particular case or in the case of a potential agreement with France, tangible benefits to Jersey individual residents as well. There is nothing new in this agreement. It mirrors the U.S.A. agreement. It is consistent with the policy I have put to this House in the past and I ask Members to ratify the T.I.E.A. with the Netherlands' Government.

The Deputy Bailiff:

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

14. Draft Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 200- (P.193/2007)

The Deputy Bailiff:

The next item is the Draft Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 200- - Projet 193/2008 - lodged also by the Chief Minister and I will call upon the Greffier to read the citation

The Greffier of the States:

Draft Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 200-. The States, in pursuance of Article 2(1) of the Taxation Implementation (Jersey) Law 2004, in paragraph 185 of the Strategic Plan 2006-2011 approved by the States on 28th June 2006, and following the decision of the States taken on the day these Regulations are made to adopt P.192 of 2007, have made the following Regulations.

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

This is a consequential proposition in one respect and that is, of course, the Regulations are required to enable the Tax Information Exchange Agreement with the Netherlands to be brought into force. The Netherlands' authorities have confirmed that their parliamentary procedures have been completed and that with the adoption of the Jersey Regulations, the agreements will come into force in the Netherlands 30 days thereafter. The Regulations are the same as the Taxation (United States of America) (Jersey) Regulations 2006 which were adopted by the States in May 2006. In the case of the U.S. T.I.E.A. the Regulations adopted were specific to that jurisdiction and what has now been decided and what is being proposed here is that rather than have separate Regulations for each T.I.E.A., for example, a separate agreement in respect of each of the 7 Nordic countries who

have recently signed agreements with the Isle of Man and with whom our own negotiations are almost complete, that there should be a general Regulation applying to T.I.E.A.s with all third countries with whom we agree to sign such agreements. Article 1 of the draft Regulations defines a third country as a country or territory that is listed in the first column of the schedule to the regulations. I would like to make a point here. I have referred in the earlier proposition to some concern within the industry about a level playing field and consequential upon that concern is a concern that Jersey should not proceed too far too fast in terms of signing T.I.E.A.s with too many other nations, and that word of caution we have very much taken on board. At the moment negotiations are very close to completion with the Nordic countries and the industry has no problem with that. They are very close to completion, indeed I will be hopefully signing an agreement with Germany in the very near future and there is no suggestion that that should not proceed. Other negotiations are continuing of which the industry is fully aware. We have taken on board the concerns of the industry and we are determined and are being successful in gaining economic benefit to Jersey by signing these agreements and the reputation that it gives Jersey. The security comfort level that the States have now in dealing with Jersey is, in itself, of tremendous economic benefit. Of course, one of the absolute stipulations of any agreement is that if we remain or if we are currently on any lingering blacklist published by government saying institutions should not do business with Jersey, one of our bottom-line principles is that we will not enter into agreement without being removed from such a blacklist and without having market access in the country concerned. So, we are not pressing ahead and some negotiations are currently stalled. In particular we are looking for a significant improvement in the economic benefits currently offered by the U.K. We do not consider that the draft agreement at this point constitutes sufficient economic benefit for Jersey and we have informed the U.K. Government of that and negotiations continue. It is that agreement, the T.I.E.A. with the U.K., that the industry, quite rightly, is most concerned about. But we have already given a commitment that we will not sign-up on the present terms and we are looking to negotiate very much stronger economic benefits before we agree to sign. For example, one of the negotiating points we put to the U.K. Government is that we should be treated in exactly the same way as overseas territories in relation to higher education fees and that is very much one of our bargaining positions at this point. I ask the House to approve the Draft Taxation (Exchange of Information with Third Countries) Regulations both to enable the agreement with the Netherlands to be brought into force and to establish a format for these regulations for future such agreements.

The Deputy Bailiff:

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

14.1.1 Deputy P.J.D. Ryan:

Can I just say, as many Members will be aware, we are in the process of carrying out a review of the level playing field. I think Members will know that. Can I also thank the Chief Minister for his words and, shall we say, his realism on this. There have been one or two concerns but the words that he has spoken have given us some comfort. Indeed, we were already fairly well aware of the progress on the U.K. one. What this means is that we can carry out the review in a relaxed manner, in a careful manner and, in this particular area, I think that all Members of the States need to be aware we need to tread particularly carefully and I can assure the Chief Minister's Department that we will do that. But, nevertheless, this is an area where I know that States Members are very interested and we shall carry out our review, as I say, carefully and with sensitivity and report in due course.

The Deputy Bailiff:

Does any other Member wish to speak on the principles? Do you wish to reply, Chief Minister?

14.1.2 Senator F.H. Walker:

I am grateful to Deputy Ryan for those comments and I warmly welcome the review that his Panel is undertaking and we will, as always, work closely with them to bring it to a successful conclusion. I maintain the principle.

The Deputy Bailiff:

Would all those in favour of adopting the principles kindly show. Those against. The principles are adopted. Deputy, do you wish this matter to be referred to your Panel?

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

We are already reviewing it, Sir, but we can take our time and carry on with that.

The Deputy Bailiff:

How do you wish to propose the Regulations, Chief Minister?

14.2 Senator F.H. Walker:

I would like to have a stab at proposing them all *en bloc*, if I can. I think they are pretty straightforward. They do, as I said in my introduction, mirror the Regulations which the States approved last year in the T.I.E.A. with the United States. They are an exact copy of that, obviously substituting “Netherlands” for “United States”. So, I will have a stab, if I may, in proposing them *en bloc*.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? Would all those in favour of adopting Regulations 1 to 17 kindly show. Those against. The Regulations are adopted. Do you propose in Third Reading? Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? Would all those in favour of adopting the Regulations in Third Reading kindly show. Those against. The Regulations are adopted in Third Reading.

15. Legislation Advisory Panel: appointment of Members (P.3/2008)

The Deputy Bailiff:

The next matter is the Legislation Advisory Appointment of Members - Projet 3/2008 - lodged by the Chief Minister and the Greffier will read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to appoint the following persons as members of the Legislation Advisory Panel; the Deputy of St. Mary, the Deputy of St. Peter.

Senator F.H. Walker:

Perhaps if we go back to the more regular speaker on behalf of the Chief Minister. If I could ask the Connétable to act as rapporteur again.

15.1 The Connétable of St. Ouen (Assistant Minister, Chief Minister’s Department - rapporteur):

With the introduction of Ministerial government some 2 years ago, the old Legislation Committee fell away and the matters concerning the Legislation Committee were moved to the Chief Minister’s Department. The Chief Minister set up an Advisory Panel which consisted of myself as Chairman and 2 members of the Executive and 2 non-Executive members. With the elevation in office of Senator Shenton and Senator Perchard, who were at the time the 2 non-Executive members on the Panel, we had 2 vacancies on the Panel. The Chief Minister and I sat down and

considered some names and I asked the 2 Deputies, the Deputy of St. Mary and the Deputy of St. Peter, if they were willing to stand. They were willing Members and I so propose.

The Deputy Bailiff:

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

15.1.1. Deputy D.W. Mezbourian:

Notwithstanding that I am a new Member to the House and have no idea, really, of what the former Legislation Committee undertook as part of their duties, I also do not know what the function of the Legislation Advisory Panel is. Bearing in mind that there has been some criticism recently about the scrutiny that is being applied to legislation within the House, I wonder if the Assistant Minister would remind us of what the remit is of the Panel, please

The Deputy Bailiff:

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

15.1.2 The Connétable of St. Ouen:

I think, basically, the remit is to look at any legal matters which do not fall under the remit of any other Ministry. So, they would tend not to be considered by anyone else. I think that is about all I can say on it. I will propose the 2 Members.

The Deputy Bailiff:

Would all those in favour of adopting the proposition kindly show. Those against. The proposition is adopted.

16. Jersey Overseas Aid Commission: appointment of non-States Commissioner (P.6/2008)

The Deputy Bailiff:

We come next to the Jersey Overseas Aid Commission: appointment of non-States Commissioner - Projet 6/2008 - lodged by Deputy Huet and I would ask the Greffier to read the proposition.

The Greffier of the States:

States are asked to decide whether they are of opinion to (a) appoint in accordance with clause 7(4) of the Constitution of the Jersey Overseas Aid Commission, as set out in Schedule 1 to the Jersey Overseas Aid Commission (Jersey) Law 2005, Mr. Geoffrey George Crill as a non-States Commissioner for a period of 3 years; and (b) to appoint in accordance with Clause 7(2) of the Constitution, Deputy Ian Joseph Gorst of St. Clement as a States Commissioner.

Deputy I.J. Gorst:

As I am named in part (b) of this proposition, I will be withdrawing. Thank you.

16.1 Deputy J.J. Huet:

It gives me great pleasure, obviously, to bring these 2 gentlemen to your attention and to say that, obviously, Mr. Crill would be for a period of 3 years but Deputy Gorst would be just until the November elections when the elections come up and then it rolls over again. What I really wanted to say, and I hope you will bear with me for just 5 minutes, is that in this Assembly, anybody that has ever been on Overseas Aid, even though they leave it and they go on to something else, they always seem to remain part of it. I have to say I always seem to receive great support from people like Deputy Le Claire, Deputy Troy, Deputy Fox, Deputy Breckon. Whoever has been on it always seems to stay on it even if it is in the background, if you know what I mean. Even when they have left the Assembly, they always seem to put their name forward to help or to do things and I do not think some of these people receive enough praise or appreciation. But we do appreciate it because

it could not be run like it is without all those people and I would just like to quote just a small story, if you would bear with me. Mr. Syvret, who was the Deputy here and was one of the non-States Commissioners, one of the first ones to join and he has given up now, we were given an ambulance by St. John Ambulance, very kindly. It was a long-wheel base Land Rover which must be the dream of anybody and only had 8,000 miles on the clock and your mind sort of jumped and you thought: "Fantastic, a mobile clinic that we could use in the Third World." But we ran into government Regulations. Because it was over 8 years old, although it was perfect, no government would take it because they could not claim any tax on it. Talk about cut your throat. So, what do we do? Then we cannot use it. So, Mr. Syvret very kindly went to the Lions and they put up the money and Condor Transport, and we managed to get 2 volunteers, I will not say young because I will call them Young Richardson and Young Worrall, and they drove it down through Algiers and over the mountains into the Sahara Desert. But Mr. Syvret had gone to the Lions to ask for the funds because that could not come out of Overseas Aid. That is what I am trying to say. Whoever has been on Overseas Aid seems to stay on Overseas Aid even if they are not there and they still try and help. So, I think it is a fantastic thing that this happens. It was brought to my attention that Mr. Crill's wife was the Chair of Amnesty International, Jersey Branch, and they were a bit worried. So, I did contact the Attorney General and the Jersey Appointments Commission on this issue and I did speak to Mr. Crill and I was assured that there would be no conflict of interest. So, if anybody thought there would be, they have all assured me they are quite happy with that. I do hope these names will be acceptable to you. Both of the gentlemen concerned have had hands-on experience building in India and Africa. Deputy Gorst joined the Sub-Committee last year which was for building projects and then went off to Kenya to help build and Mr. Crill has also built in India. That is what really gave them the sort of slight edge above anybody else. I am sure they will fit in extremely well with the commissioners because it has to be very much a team effort. It cannot work if it is not a team effort, and if I could just throw one more thing in, Sir, if you would not mind. The Jersey Finance Services Commission got in touch with us about charities saying that Jersey Overseas Aid was now a charity and I said: "Excuse me?" and he said... I rang him up and this was before the £50 had been dropped, and I said: "Well, if you think I am giving you £50 of taxpayers' money you have got another think coming." You know, I could not really believe that he had thought St. John Ambulance, the Refuge, the Hospice, Jersey Overseas Aid were going to be that stupid that they were going to fund terrorist organisations and he said: "This is the rule, this is the rule", and I said: "Well, you know, my love, rules are for the guidance of wise men and the blind obedience of fools." I really do believe that and I think, you know, they have gone just a bit O.T.T. (over the top) on this, I mean, so I have told him that we are not going to pay any money, well they took the money away after that so it did not come to it. Because I had worked out that they could not lock us all up and put us all in jail at the same time...

The Deputy Bailiff:

And you are coming back now to them anyway?

Deputy J.J. Huet:

I am, Sir. I just wanted to get that in about the charities because, you know, J.O.A. (Jersey Overseas Aid); okay so they are saying it is a charity, but I do believe it is funded by the taxpayer and it really belongs to this Assembly, it does not belong to any one person, it belongs to the whole of the Island and thank you very much, Sir, and I hope the names will be acceptable to this Chamber. Thank you, Sir.

The Deputy Bailiff:

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

Deputy J.J. Huet:

Sorry, Sir. Could I just say one more; obviously to thank the 2 and to also thank Senator Le Main because he very kindly stood down so as to give somebody else an experience even if it is only for a short time until, you know, November, to get the experience of overseas aid on the Commission. Thank you very much.

The Deputy Bailiff:

Very well. Does any Member wish to speak on the proposition? Deputy Scott Warren?

16.1.1 Deputy C.J. Scott Warren:

I have never been on the Overseas Aid Committee but I did have the privilege of travelling with another then States Member and Oxfam U.K. members to Armenia a few years ago and I saw the excellent work that Jersey has funded there. Sir, I therefore appreciate the very difficult decisions that this Commission now has to make from the many, many requests it receives each year. Sir, I just very much support these 2 nominations. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak? Very well, all those in favour of adoption... well, I am so sorry, do you wish to reply, Deputy Huet, to that?

Deputy J.J. Huet:

No, Sir. I think I remembered everything that I was supposed to say.

The Deputy Bailiff:

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

Deputy J.J. Huet:

Thank you very much, Sir.

The Deputy Bailiff:

Just before we come to the final matter I should inform Members that Jersey Homebuy, a new form of Shared Equity Housing White Paper has been presented today and no doubt has been distributed to Members.

17. Draft Act annulling the Employment Relations (Codes of Practice) (Jersey) Order 2007 (P.9/2008)

Very well, so we come finally on Public Business to the Draft Act Annulling the Employment Relations (Codes of Practice) (Jersey) Order - Projet 9/2008 - lodged by Deputy Southern 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 to adopt an Act annulling the Employment Relations (Codes of Practice) (Jersey) Order 2007.

17.1 Deputy G.P. Southern:

What I have to bring here is brought with some reluctance because I have discussed this on several occasions as the Employment Relations Law has come through the House. In fact I first asked about the Codes of Practice and the phrase "unreasonable action" or "unreasonable behaviour" and what constituted unreasonable way back at the end of October 2004. I quizzed the Attorney General about this phrase "unreasonable behaviour" because what we have got here is the culmination of a long series of consultations and progress through the Employment Relations (Jersey) Law and the Employment Relations Regulations through to the Codes of Practice. All the

way through that process I have been reminding Members that the devil is in the detail; that we could pass, with our fingers crossed, the Law and the principles of the Law, fine, but we did not know what we were going to get. We could pass the Regulations where we start to see an outline of what we think we are going to get. We still do not know, cross your fingers because everything relies and comes down to these Codes of Practice. Now, it seems to me that what we have, and the point about Codes of Practice and bringing them by Order and not Regulations, is that they are made up by the Minister. At the end of consultation he decides what he wants. The only debate and the only influence the States gets in those Codes of Practice is if somebody is forced to bring a rescindment - an annulment - as I have done, to bring the issues to the House. Otherwise they just slide by. You cannot amend something brought in an Order. It is an issue - a principle - that we do need to address in the longer term. But in this particular case, I think, what we have is something that is indeed very, very dangerous. So the Employment Relations Law basically gives Trade Unions and their representatives and their members immunity from tort under the Law so that they can take industrial action, within reason, and not be sued. That is effectively what you do in order to allow a Trade Union and employees' representative body to function. However, that immunity is limited by 2 things; immunity is lost if an approved Code of Practice provides that a ballot should be held before performing the act in question and the Union has not held a ballot in accordance with the code. Now that is perfectly straightforward and no one in their right minds would object to it and that is the case. However, the second is, immunity is lost if the Union has engaged in conduct defined in an approved Code of Practice as not being reasonable conduct. What I think we have here is a definition of such activity as being automatically unreasonable which renders it very difficult for a Trade Union or employees' representatives to function. The first unreasonable conduct as defined is over the issue of secondary action. Secondary action is action in pursuit of an employment dispute taken by employees whose employer is not a party to the dispute to which the action relates. All well and good. "All well and good", you might say: "that sounds perfectly reasonable", until you look at the next article and here we get into dangerous ground. Now listen, if Members would pay attention to this because this is key. Article 5(3) of the Employment Relations Law provides that: "A dispute between a Minister and employees should typically be treated as a dispute between an employer and employees, notwithstanding that the Minister in question is not the contractual employer." It will amount to secondary action for a Union to call on employees to take part in an action that relates to any such dispute if the employees in question are not party to that dispute. What this means is that despite the fact that we have changed the States' Employment Law such that every States' employee is now employed by the States Employment Board - that is the mechanism through which you negotiate your terms centrally and employed by the States Employment Board - when it comes to a dispute over terms and conditions that is ignored and put to one side and the dispute is between the Minister and the workers - the employees. That means that, for example, a cleaner in a school or cleaners in education are employed by the Minister for Education. Cleaners on identical terms and conditions employed in the hospital are employed by their Minister. Their terms and conditions are negotiated centrally and may well contain many identical articles. Their terms and conditions are the same. If a dispute breaks out in one place then the other cleaners cannot support their members - their colleagues - over this dispute. That is rendered automatically illegal. This will mean that unless the Union steps in and acts so to stop that dispute, they will open themselves to, in the first case, an initial fine of £10,000. What we have built into the system, particularly in the States sector, but elsewhere as well, is a formula for dispute and confrontation that will end up with employee representatives and Unions in the Island being fined in the first instance. One can imagine down the line, were this to be repeated, one could imagine, and it is something I suggest in my text and I am accused of exaggeration, that what we will end up doing is imprisoning employee representatives. That is... I believe, we certainly have a recipe for confrontation which is unnecessary which the Union representatives have objected to time and time again over the last 4 and a half years as we have gone through this process and the Minister has decided that he will ignore all those objections, has not been prepared to compromise and that is what he has done. That is case one. There is a secondary action. Automatically deemed

unreasonable, lose the immunity, subject to fine and sequential build-up of penalties. The second one is over essential services where the use of the word “unreasonable” again; unreasonable conduct, unreasonable behaviour, comes into play. Now the problem here is that what is the definition of essential services? Fifty three Members in the States Chamber, we could probably agree on the first 2 or 3 or 4 of them. Essential services, we can all agree, absolutely; here, there, that is essential, we cannot have strikes there unless in complete extremis, we must have some sort of no-strike agreement there, could not possibly happen. But how far does it go? What constitutes an essential service? We turn to the Code of Practice and what do we see? We see a very loose definition, in fact no definition. Yet this is where, again, someone will say: “This is an essential service therefore you are automatically unreasonable if you go on strike, if you take action, this action or that action in this area.” But it is not defined. A whole nebulous area, this is in fact, it is not defined. I see the Minister shaking his head, now I look forward to hearing his definition. Articles 31 and 32 of Code of Practice, I will not read them all, but the second one, Article 32: “A small Island community such as Jersey may have services that in certain circumstances are considered more essential to the population than they would be in a larger jurisdiction. For example, a stoppage in transport links could be detrimental to the health and safety of the population if services were interrupted for a prolonged period of time.” How vague would you like? Transport services. What aspect of transport services? Not defined. Essential services? For how long a length of time? What sort of agreement do you want to enforce? What are you doing here? What you are doing here is putting in a vague definition which could and, I believe, would and will lead to confrontation. This is more confrontation that we are building into the system. In those 2 areas we have built-in a very dangerous precedent. We have ignored completely the objections that have been legitimately put consistently time and time again over the past 4 years and ploughed ahead with an Order from the Minister to say this is what we shall have. This is what goes in the Code of Practice and in doing so we have... I think the Minister has effectively led this House through what apparently were very safe and very comfortable decisions about the Law, about the Regulations because this House could not see what that means when you get the final tweak on the Code of Practice. That tweak is a recipe for confrontation. I believe we have a short period of time in which to ask the Minister to go back to the drawing board and see if he can come up with a reasonable compromise in fairly short order with employee representatives on the Island over the first issue of secondary action; certainly to ask him to come back with some clearer definition to avoid any confusion over what constitutes essential services. I think that this House ought to do that because I believe it is a very dangerous step we are about to bring. Thank you.

The Deputy Bailiff:

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

17.1.1 Senator P.F. Routier:

Firstly I would like to emphasise that the whole basis of the Employment Relations Law, which we have already approved, and the Codes which the Deputy on behalf of the Unite Union and T. and G. (Transport and General Workers) wants to annul have been thoroughly considered and consulted upon. I think the Deputy himself even commented about the 4½ year process that we have gone through to get to where we are today. To give some sort of implication that this has just come as a final twist that we have just made is not right because the Codes themselves have been shared with the consultees along the way. What we do need to consider is whether the Codes will meet the needs of all of the community - the people who need services, the people who need goods - without any undue disruption. We equally need to consider and balance the views of the Union obviously and also the views of the employers. So for this Law and Codes we need to, as an Assembly, put ourselves in the position that we need to get a balance of all those 3 different aspects of Island community. I believe we have that balance right in the Law. The Law has been approved by the States, it is in force, so I believe we have already made that decision, we have made that step. And

we have the Codes. The Union and the Deputy portray the Law and the Codes as being anti-Union to a certain extent, against human rights and not meeting our international obligations. The Law and the Codes are not anti-Union. They are as much there to protect the Union and their members and point them and employers the way in which to organise and, if they need to go that way, to ballot and to strike. There is nothing in the Law which stops the Union from wanting to go down that route, it is just that what there is, is a formal process to follow. I understand the Union does not like that, they do not like the idea of these procedures. It does stop them to a certain extent of just taking wildcat strikes and coming out on a day and deciding that is what they want to do. But what we are bringing forward is something which is common practice across a lot of jurisdictions. Members need to consider whether they think that the ability of the Union to hold the Island to ransom and the ability for them to have wildcat strikes without warning is still appropriate in this day and age. With regard to human rights, I can assure Members that the provisions of the Human Rights Law have been considered and there are no issues that cause any concern. With regard to international obligations, these obligations are dealt with by the U.K. Department of Work and Pensions on our behalf. I can assure Members that the D.W.P. (Department of Work and Pensions), if they had any concerns when they responded to the I.L.O. (International Labour Organisation) on our behalf, they would have certainly made comment to us. They have not expressed any concern about progressing the Law or the Codes when they considered their response to the I.L.O. The Deputy's proposition accepts that there has been some changes that have gone along the way of their 4½ year route, and he considers that there has been some improvement. As outlined today he has mentioned 2 of those issues which seemed to be a sticking point for him and the Unions. The first one is obviously secondary action and I think the Deputy's comments, I am afraid, are a little misleading as there is nothing in the Law or the Codes to suggest that the Union members would be imprisoned, as he has suggested, for taking secondary action. It is simply defined as "unreasonable action". This definition is similar to the U.K. and it has been modified since the previous draft. The Code now specifically states that action will not be classed as secondary where a Union official is acting in support of his fellow Union members despite not having the same employer. Secondly, being employed in different premises does not prevent employees from taking action in support of colleagues who have the same employer. As I mentioned, the Law itself, which is already in force, provides that States' employees would be acting unreasonably if they strike in support of the employees of...

Deputy G.P. Southern:

If the Minister will allow, could I ask for a point of clarification? Could the Minister point to the articles that he is referring to? Where in the Codes of Practice is that clearly outlined?

Senator P.F. Routier:

The Codes of Practice just outline what is already in the Law. The Codes of Practice do not need to mention what is in the Law as it is just an add-on to the Law, but it repeats what is in the Law, which the States have already approved regarding the issue of how States departments are being treated, so that the Codes only replicate the point just for the purpose of clarity. I believe that the limitations on secondary actions reflect our local conditions and the interests of the majority of Islanders. It is not only the Unions and employers who are affected by industrial action, it is the whole community. The ability for Trade Unions to widen industrial action to involve others who are not party to the primary dispute would be extremely disruptive to the Island. I do not propose to amend this aspect of the Codes and consider that the restriction is consistent with Jersey's international obligations. With regard to essential services, strikes in essential services will not be illegal and Deputy Southern's comments mislead, particularly by omission. He quotes in his report only the 2 paragraphs which set out the circumstances in which a service becomes essential. That is where the interruption of key aspects of that service would endanger the life, personal safety or health of the whole or part of the population, or where the extent and duration of a strike in aspects of that service could result in an acute national crisis. What he does do, he omits to refer to the rest

of the section on essential services which provides the important detail of what is required if the service meets the definitions instead of a total ban on strike. The Code does not ban industrial action in essential services. It does provide that Unions and employers should define a minimum service; for instance, to ensure that service users' basic needs are met or that facilities operate safely or without interruption and provide for a formal rapid and impartial dispute resolution mechanism in the event of a dispute arising which cannot be resolved through negotiation. By suggesting that the definition of essential services would make a bus or taxi drivers' strike illegal, the Deputy is showing, I am afraid, his lack of understanding of the Codes. Although I am sure that such a strike would be inconvenient for many, the lack of those services would not cause an acute crisis endangering the life or health of the population, no matter how long the strike lasted for. On the recommendation of the Union, we took heed of the strict I.L.O. definition of essential services and in fact have not been as restrictive as the I.L.O. would find acceptable, which would be a complete ban on action in essential services. The I.L.O. itself has recommended that where a strike occurs for a prolonged period of time, services that are not essential in the strictest sense of the term may become essential and may be subject to some limitations. I hope that Members and the Union will see that the essential services provisions are less limiting than earlier drafts and that the requirements are not contrary to the principles of our international obligations, in fact we follow principles of the I.L.O. The Deputy asked why could we just not have lists which constitutes essential services; the definition we have is appropriate for Jersey and is in line with international conventions. Other jurisdictions have varied in their methods of dealing with this issue; some issuing a general description not unlike ours regarding the delivery of the essentials of life to the whole or part of the community, while others have issued an extensive list of services that are defined as essential including, for example, dairy production, meat inspection services, the operation of passenger and goods services by air and sea, sewage disposal and water supply. I have looked at so many different definitions of essential services, as they are quite wide and varied across all the jurisdictions, and we have plumped for what the I.L.O. are suggesting is the focusing on the effect of a service. So there are many services where certain aspects of it would not be essential in the strictest sense, or even if the strike was prolonged, and to ban the strike in the entire service if it was considered an extreme limitation. I did not wish to ban action in all elements of those services where they may not be essential to the population, for instance, there might be some back office functions in the emergency services which might quite possibly go along that route and have a ballot and have a strike. This will allow a much more flexible approach that is tailored to each particular service. So, in conclusion, Sir, on such a matter as this, there are bound to be polarised views, but I feel strongly that the Codes are proportionate for a small jurisdiction. Members may recall that during last year the harbours were closed with little or no notice causing serious problems for the exporter Jersey Royals at a critical time in the season. The strike also caused some distress to those people who were awaiting vital drugs to be delivered. The Law and the Codes combined will permit Unions to organise and take action in an orderly manner. If they want to strike they will need to ballot their members and give notice to the employer when and how the strike will happen. This is common in other jurisdictions. Members will have recently seen the Unite Union in the U.K. ballot to strike at the airports and announced 3 days of strikes in advance. This brought things to a head and, importantly, it gave the public time to rearrange and plan. Fortunately both sides were able to find a way forward and the strike was avoided. This combination of Law and Codes will require the Unions to act in a reasonable manner and not inconvenience the public by having wildcat strikes. I think that the Codes are appropriate to meet our policy intent and to also balance the range of interests of those who will be affected and the needs of the community as a whole. I urge Members to reject the proposition.

17.1.2 Deputy A. Breckon:

I would like to give Members some examples of how this may have worked or, in fact, did work. In the 1970s I was a member of the District Committee of the Jersey Transport and General Workers' Union. At the time we dealt with literally hundreds of cases of young people employed

in tourism and these were sometimes really vulnerable youngsters working away for the first time, 20-ish or younger. What used to happen is from their weekly wages a sum of money was set aside each week of about £5 and the season in general terms was about 25 to 30 weeks, depending when Easter was, it used to run from April to October in general terms. The sums of money at the end of the season would be £125-£150. But suddenly on week 24, whoever it was, these youngsters could not make a bed anymore, or they had been rude to somebody and they were dismissed without the bonus. There was hundreds, literally hundreds, and I saw the lists of them, cases where this was happening and it was the Hospitality Association that were using it to rob these kids out of their money and it was wide-scale. What happened, the Union decided to use secondary action to get justice for these kids. Parishes in St. Helier would not pick the bins up from these guest houses. The oil companies would not deliver. Anything off the docks, any parcels, they would not get them. But the kids got their bonuses. That is how it was used effectively. I can understand the Minister said it was disruptive. Some of these kids were distraught, absolutely distraught. Vulnerable, sometimes on their own, working away from home, how can this happen? It got sorted and that is how it got sorted. It was about people supporting each other who were vulnerable and this can still happen despite the very fine words of the Minister, this can still happen in this day and age and there could be many reasons where people might want to support each other, not for £1,000 a week, but for emotive reasons. This blacks that action, and I think it is dangerous with anything to write it down. I would like to think that a lot of these issues can be talked-out rather than written-out as seems to be happening here. If we look at articles that are in Deputy Southern's thing about... 36: "It would be unreasonable conduct for a Union to call upon employees to take part in secondary action." Well, what I was saying, it was very reasonable and it was rough justice, if you like, but it was meeting head on what had happened and that was reality. Secondary action, this at Article 37: "Secondary action is action in pursuit of an employment dispute taken by employees whose employer is not a party to the dispute to which the action relates." Well, that was true, but members looked on this and thought it was morally repugnant to treat these kids like that and that is why they did it. It was not any fine ideas they had, it was what they used, which was using the tactics that had been used to them. Something I feel quite strange in here as well is that we have a States Employment Board and then we have individual Ministers, and for me that sits uncomfortably with what we had agreed, which was the centralisation. Surely we should be talking to people and not looking for conflict and we need ways, I would say, of resolving it. But I mean, surely we can still talk these things through. The other area, Sir, where I have some direct experience, I have done 20-odd years at...

The Deputy of Grouville:

Would the Deputy mind if I just asked a point of clarification? When, this matter that he is talking about, when it occurred? I think it would help, thank you, Sir.

Deputy A. Breckon:

It was in the 1970s and there were still... there was another case more recently, I think it was in the *Jersey Evening Post* with cleaners where it was resolved, but people were prepared to back other people. It was with some dispute, but Senator Walker might remember, I think it was resolved without recourse to anything. Regarding essential service and utilities, again I had some experience of that, and with gas we used to give life all-in cover. We had disputes - we had 4 or 5 disputes over the 16 years I was the Branch Chairman - but we dealt with incidents with safety; there was gas in the mains, it was pressurised, there was no loss of supply and where there was compassion, such as an old peoples' home where the water went off, we would put it back on. The people who did the jobs did not get any money for it; it went into a branch fund which benefited the members. Same if somebody had a young family. If there was a safety issue then it would be dealt with and we did it with commonsense, we did not need to write everything down and it really does worry me when the commonsense goes out the window and you have things here that you start hitting people over the head with. That really does worry me and it looks a bit heavy-handed. The comments of

the Minister for Social Security say: “This definition of secondary action is not unworkable and is similar to the U.K. but reflects local conditions and the interests of Islanders. The ability for Trade Unions to widen industrial action to involve others who are not party to the primary dispute would be extremely disruptive to the Island and the provisions of necessary services to citizens.” Well, I would say it does not need to be. People should be talking before you get to this stage and for me this looks... you know, if you have to write all this down, then situations have failed. It should be put to one side and people should be, where a dispute is, as close to the dispute, is discussing the issues, not walking away from them or starting digging holes. They should be coming out and discussing that and perhaps more recently we have seen some failure of that. But having said that, we are moving on and we need to have things in place but, in my view, Sir, this is not quite it. We can annul this today, the Minister could come back with an amended version that takes in a different line perhaps on this but it recognises it and I think it is about balance. It is not about wildcat strikes, that is an extreme example: it is still about jaw-jaw, not war-war. I think, for me personally, I was... well I think, until the Law goes through, from 1995 until about now, as Industrial Disputes Officer, you can deal with these matters by talking to people. There was a Law that goes back, I cannot remember the year, but it was hardly ever used, but the sanction is there as a last resort and I think it is a shame really that by Regulation to me this seems fairly heavy and I think there are other ways round it. I hope Members will seriously consider annulling this today, getting the parties together. Again I know consultation has taken place, but I think this is a fairly extreme measure when people may feel an issue which is not about £1,000 a week, it is an emotive issue that they wish to support for very good reasons and that, for me, is what it is about. It is not about arguing over 15 per cent or 3 days off or something like that. It is about the emotion and how other people may have been treated, and if they feel unhappy with that then it gives others an opinion or an opportunity to express their opinion in support. Sometimes that in itself will be enough, it will bring people back and resolve the issues. So those, Sir, are examples of the reality of the situation, not the bits of paper of how things may or may not work and I hope Members will take that on board and give that serious consideration before they vote on this.

17.1.3 Deputy J.B. Fox:

I hoped that we had gone past the days of the 1970s and the 1960s and the 1950s when our parents had to have duplicate of everything because someone was always on strike... you joke but that was true, we had duplication gas cookers and Rayburns and all sorts of other things to keep going. I also remember the days when secondary picketing, as it is known now - whether it was then I do not remember. But certainly if you took out the airport fire service and the dockers you closed-up the whole Island. Those days did exist because I had the perishable goods coming in at the airport before I joined the police service and I was not blacked, because I had it delivered on daily, and I was bringing in plane loads of bacon and things and kept the tourist industry going and the beach and cafes, *et cetera*. Perfectly legally, the Unions were perfectly happy with my operation and bringing home the bacon has been said. But having said that, I hope that we never have to go back to those days when, yes, there were a lot of wildcat strikes; it was just bring everybody out and that is the way it goes. We cannot go back to those days. The world has changed. We do need to have some commonsense and we need to have the jaw-jaw as opposed to all the other confrontational... progression has been made quite considerably over the years. Yes, I remember the various people that did not get their bonuses but there are other ways of resolving that. I cannot support this proposition. We recognise and we have to recognise there are times when there are legitimate cases for Unions and its members to take various actions, but I do not want to see those actions return to what I call the bad old days. I would much prefer to see them have a sit around the table and just like, as I have said before, a jury system; you do not let people out until they have come to an amicable solution that brings in commonsense and natural justice as well as legal justice.

17.1.4 Senator M.E. Vibert:

Yes, on a similar theme about not going back into the past, but I will declare an interest, Sir, in the 1970s that Deputy Breckon was referring to. I was, I suppose, a Union activist, I was president of the local branch of the National Union of Teachers and following that, when I was in journalism I was a member of the National Union of Journalists. Having said that, I applaud what has happened since then where we have struck a balance between making sure employers follow a reasonable way forward and employees, through their Unions, follow a reasonable way forward. It was very interesting to hear Deputy Breckon harking back to the 1970s when this happened with people being denied their bonuses, but of course we have changed the Employment Laws since then and employers, by Law, cannot do that now. In fact they have to give terms and conditions and abide by them. I think it is time we brought the Unions up to date as well. It has been a long time coming and I think what is interesting is that reasonable Unions have not objected to this at all. I do not see any other Union getting up in arms about this. They seem to accept that this is a reasonable way to behave. Not to operate wildcat strikes, not to threaten to close the Island for practically any dispute and that we would have to rely on the goodwill of a local Union official to keep supplies coming through. That is not the way for the Island to operate. It is not the way for the Union to operate. What is important with these new Codes, it will ensure that the Unions have to operate jaw-jaw before threatening war-war which they have done in the past. I think these are fair, reasonable Codes that balance other changes we have made to the Employment Laws that affect employers and we should not annul them, we should welcome them.

17.1.5 Deputy P.N. Troy:

I wanted to refer to Deputy Breckon's speech where he was talking about people who lost out their bonuses in the 1970s because they were dismissed and were not paid their bonuses and their last week's wages. Certainly now we, of course, have a totally different system and we do have Employment Tribunals which can receive cases of that type and where individuals can go to a Tribunal and put evidence before the Tribunal stating that they have been dismissed unfairly and that they have been treated unfairly, and of course the Tribunal then can make financial awards to those employees. We have seen many successful cases already with the Tribunals. These Codes of Practice lay down procedures in the event of a dispute for both the employer and the Union. There are 2 sides to this coin and Members need to remember that and the Codes are, as it has been said, balanced and equitable and they do provide a general framework for industrial dispute resolution. So please do not annul the Codes of Practice today. The Code in its entirety will be annulled and it would be a disaster in relation to the implementation of Employment Laws.

The Deputy Bailiff:

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

17.1.6 Deputy G.P. Southern:

My thanks to all who did contribute to the debate. It is interesting to note what happens when you discuss trade union issues in this House. Immediately we get this knee-jerk reaction about wildcat strikes and the Minister himself first mentioned that and threw in: "Holding the Island to ransom and wildcat strikes." But the fact is that that is not the issue. The Unions - the employee representatives - the last thing they want in the entire world is wildcat strikes. That means you have lost control of your members. We are not talking about wildcat strikes because there is no objection from any Union to due notice, balloting, *et cetera*, and doing things in an ordered way. The Union - any Union - wants to do things in an ordered way as the Minister does himself. There is absolutely no objection to that. This is not about wildcat strikes and holding the Island to ransom. That is emotive claptrap. Several other Members have mentioned that this is about balance. I would argue, and I am arguing today, that it is not about balance; it is not the correct balance. What this piece of legislation does and I have seen no evidence, either in the comments or the speech made by the Minister, that identifies that the balance is correct. What this does is tips the balance yet further in favour of employers and against the representatives of employees. The

Minister himself suggested that this was not anti-Union. I suggest to him that it is. It is clearly an unnecessary and unfair restriction on Union activities. It is, in a word - 2 words, hyphenated - anti-Union. In responding to my speech the Minister has not brought in one piece of evidence to suggest that what I suggest is wrong. There is no new evidence in there, there is no reference to articles, there is no clear freedoms within either the Law and the Regulations and this Code of Practice which do not have the effect I have depicted; that any secondary action as defined by this Law between equivalent workers in different States' departments will be defined as secondary action and automatically unreasonable, and will therefore open the Union to prosecution. That is the reality. The Minister has denied it but has not made reference to where that protection is built-in. It is not there. This is an anti-Union move and we will see as time develops that what I suggest is going to happen is that this confrontational approach will come to a head in the coming year or so and we will see unnecessary conflicts in Trade Union relations - in industrial relations - in the Island because of this bad Code of Practice. I urge Members to reject this Code of Practice and I call for the appel.

The Deputy Bailiff:

The appel is called for in relation to the proposition of Deputy Southern. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 7		CONTRE: 37		ABSTAIN: 0
Senator S. Syvret		Senator L. Norman		
Connétable of St. Helier		Senator F.H. Walker		
Deputy A. Breckon (S)		Senator T.A. Le Sueur		
Deputy J.A. Martin (H)		Senator P.F. Routier		
Deputy G.P. Southern (H)		Senator M.E. Vibert		
Deputy P.V.F. Le Claire (H)		Senator T.J. Le Main		
Deputy K.C. Lewis (S)		Senator B.E. Shenton		
		Senator J.L. Perchard		
		Connétable of St. Ouen		
		Connétable of St. Mary		
		Connétable of St. Clement		
		Connétable of St. Lawrence		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. John		
		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 P.J.D. Ryan (H)		
		Deputy of Grouville		
		Deputy G.W.J. de Faye (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy D.W. Mezbourian (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		

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

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Deputy Bailiff:

That concludes the Public Business for today so the remaining matter is the Arrangement of Public Business in future and I ask the Chairman of P.P.C. (Privileges and Procedures Committee) to speak to it.

18. Connétable D.F. Gray (Chairman, Privileges and Procedures Committee):

I would like to propose the arrangement of Public Business as outlined under M in the Pink Sheets with the fact that P.153/2007 has been withdrawn and the additions on the 12th February of P.20/2008 which is the "Income Support Medical Appeal Tribunal: appointment of members"; and on 26th February, P.19/2008 which is the "Goods and Services Tax: restriction on amendment of 3 per cent rate." I propose the amended arrangements.

18.1 Deputy G.P. Southern:

May I add to that, can I test the water on the possibility of bringing forward, if I can find it, P.2/2008 - "Draft Public Elections (Amendment No. 3) (Jersey) Law 200-" from the 26th to 12th. The 12th is so empty. I am aware that technically this is a 6-week lodging but the principles, I think, that encompass the full principles there are very straightforward and I think a month might be enough. I test the water as to whether the House wants to debate that on the 12th.

The Deputy Bailiff:

I think, just before we do that one has to remind oneself of Standing Orders; that although if it is a 6-week lodging period it can only be shortened if, I will remind myself of the wording ... it is not merely because Members would like to do so. Can you remind me, Greffier. Thank you. Yes, the minimum lodging period should only be reduced if the proposition relates to a matter of such urgency importance that it would be prejudicial to Jersey to delay its debate.

Deputy G.P. Southern:

I immediately withdraw my request, Sir.

18.2 Deputy S.C. Ferguson:

I wonder if perhaps we could - I am sorry I have not got the number with me - bring forward the draft "Code of Practice for Scrutiny Panels and the Public Accounts Committee", P.198/2007?

The Deputy Bailiff:

Is that on the list at all at the moment? Yes.

Deputy S.C. Ferguson:

Yes, it is. I did ask the Chief Minister if there were any amendments from the Council of Ministers in which case it might delay it again, but if not, then perhaps we could debate it and get it out of the way.

The Deputy Bailiff:

That has been lodged for the necessary period?

18.2.1 Senator F.H. Walker:

I have to say I cannot say for sure at this juncture, but there is a possibility of an amendment, so although I have got no problem in any other respect in bringing it forward, it might just cause a problem. So I would hope that in fact we will agree to keep it on 26th February

18.2.2 Deputy G.P. Southern:

If I may add, it has been lodged for months. What can be brought at the last minute that has not been considered for the last several months? It was lodged 28th December, Sir.

The Deputy Bailiff:

That was only a month ago.

Senator F.H. Walker:

The Deputy has got his facts wrong again, Sir.

The Deputy Bailiff:

Well, Deputy Ferguson, are you maintaining your request that P.198/2007 be moved to the 12th February?

Deputy S.C. Ferguson:

I think we should put it to the House, Sir.

18.2.3 Senator M.E. Vibert:

Can I ask what would be the situation if amendments are brought?

The Deputy Bailiff:

Well, then I expect it would probably have to be put off.

Senator M.E. Vibert:

I think amendments are likely to be brought, Sir.

The Deputy Bailiff:

Well, Deputy Ferguson has asked that it go to the Assembly, so it is a matter for the Assembly. So, the proposition is whether to add P.198/2007 to the list for the 12th February and the appel is called for. Very well, the Greffier will open the voting on that. Pour if you want to add it, contre if you do not.

POUR: 23	CONTRE: 22	ABSTAIN: 0
Senator S. Syvret	Senator F.H. Walker	
Senator L. Norman	Senator W. Kinnard	
Senator J.L. Perchard	Senator T.A. Le Sueur	
Connétable of St. Clement	Senator P.F. Routier	
Connétable of St. Martin	Senator M.E. Vibert	
Connétable of St. Saviour	Senator T.J. Le Main	
Deputy R.C. Duhamel (S)	Senator B.E. Shenton	
Deputy A. Breckon (S)	Connétable of St. Ouen	
Deputy J.J. Huet (H)	Connétable of St. Mary	
Deputy of St. Martin	Connétable of St. Helier	
Deputy G.C.L. Baudains (C)	Connétable of St. Lawrence	
Deputy R.G. Le Hérisssier (S)	Connétable of St. Brelade	
Deputy J.B. Fox (H)	Connétable of St. John	
Deputy J.A. Martin (H)	Deputy P.N. Troy (B)	
Deputy G.P. Southern (H)	Deputy C.J. Scott Warren (S)	
Deputy S.C. Ferguson (B)	Deputy J.A. Hilton (H)	
Deputy of St. Ouen	Deputy G.W.J. de Faye (H)	
Deputy P.J.D. Ryan (H)	Deputy P.V.F. Le Claire (H)	

Deputy of Grouville
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)

Deputy J.A.N. Le Fondré (L)
Deputy S.S.P.A. Power (B)
Deputy I.J. Gorst (C)
Deputy of St. Mary

Deputy S.C. Ferguson:

I think it is my understanding, Sir, that the Chief Minister may have the ability to bring amendments under Standing Orders, or is my understanding wrong?

The Deputy Bailiff:

I think you are probably thinking of the Business Plan. Very well, also the...

The Deputy of St. Martin:

Are we finished on P.198/2007, Sir?

The Deputy Bailiff:

Yes.

18.3 The Deputy of St. Martin:

I would like to propose that P.185/2007 which is due on 11th March - that was lodged on 4th December, it was agreed unanimously by the States 3 years ago... That is the one where stamp duty will be introduced to share transfer. It will be non-contentious. I cannot understand why it has been lodged for so long for something which should go through without any difficulty. Sir, also what I would also like to propose that we have P.195/2007 and P.197/2007, Sir. They do not appear to be contentious. If we bring those forward, they are P.195/2007 and P.197/2007 from 26th February.

The Deputy Bailiff:

Well, can we take first of all P.185/2007, that is a matter for the Minister. Do you wish to bring it forward?

18.3.1 Senator T.A. Le Sueur:

Yes, I hear what the Deputy of St. Martin says, but there was public consultation on this Law before it was lodged and I did undertake that I would allow sufficient time after it had been lodged for consultation and I am having meetings arranged with members of the legal profession during the month of February. If we were to debate it on 12th February that might inhibit that process. So, I think, reluctantly, much as I would like to accede to that request, I think I prefer not to.

The Deputy Bailiff:

Very well, and then your other 2 requests, Deputy, related to P.195/2007 and P.197/2007, is that right? Deputy?

The Deputy of St. Martin:

Yes, Sir, P.195/2007 and P.197/2007, Sir.

The Deputy Bailiff:

So, P.195/2007 is a matter for the Chief Minister - the "Draft Burials and Exhumations (Jersey) Law 200-." Chief Minister?

18.3.2 Senator F.H. Walker:

Yes, Sir, I do not think there is a problem bringing that one forward.

The Deputy Bailiff:

Very well, so you agree to do that? Now P.197/2007 - the “Draft Pilotage (Jersey) Law 200-.” The Minister for Economic Development...

18.3.3 Deputy A.J.H. Maclean:

In the absence of the Minister, I do not think there would be any problem in bringing that forward either, Sir.

The Deputy Bailiff:

Very well, so does the Assembly agree to take on the 12th February the matters listed but without obviously the Telecom matter and the additions of P.20/2008, P.195/2007, P.197/2007 and P.185/2007? Does the Assembly agree to that?

Senator T.A. Le Sueur:

There is also, for the sake of clarity, an amendment to P.127/2007 which I lodged today which is also...

The Deputy Bailiff:

The Amendment will obviously go with it, yes. Very well, are there any other matters any other Member wishes to raise on the future business? Deputy Le Claire?

18.4 Deputy P.V.F. Le Claire:

I wondered if I could ask through the chair, Sir, whether or not it is Deputy Fox’s intention to continue to seek to have debated P.7/2008 - “Re-use and Recycling facilities: capital and revenue funding” - on the 26th because I understand from Scrutiny Panel meeting we had yesterday that we have issues about that particular proposition and I wondered if I could ask the Deputy whether or not he is still pressing for that debate?

18.4.1 Deputy J.B. Fox:

It is the first I have heard about the Scrutiny Panel having problems about it. This date was put in and I am happy to take it on that date; if anybody else has got any problems we will wait to hear them.

18.4.2 Deputy P.V.F. Le Claire:

I think, in fairness, Sir, and I was hoping my chairman would stand up and speak, but he is not attempting to, so I will do it for him. We did intend to look to call this in, Sir, and I thought it would be more prudent to tell Members at this stage that this is looking to be called-in, to be examined thoroughly because it represents a significant amount of expenditure in relation to a budget that has been brought by a private Member in relation to an important area of our work and I...

The Deputy Bailiff:

Can I suggest, Deputy, this is a matter really which would be best taken up privately with Deputy Fox because clearly he is not aware of this matter yet and there is time to reach... if it cannot be agreed, the Assembly can reach a decision in 2 weeks’ time? Very well, any other matter on the future business? No, well then the Assembly agree to adopt that future business and that concludes the business of the Assembly and the States will reconvene on 12th February 2008.

ADJOURNMENT