

# STATES OF JERSEY

## OFFICIAL REPORT

TUESDAY, 14th MARCH 2006

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

## **APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS**

### **1. Public Accounts Committee - appointment of unelected members**

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

The matter before the Assembly is the appointment of the unelected Members of the Public Accounts Committee.

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

I am extremely happy to propose these gentlemen. As the House will see from their potted biographies on the following page, they are all extremely well qualified and have a broad expanse of broad experience in all corners of industry, and I feel we are extremely fortunate that they are prepared to use this for the benefit of the Island in a strictly honorary capacity. I commend this list to the House.

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

Is the nomination seconded? [**Seconded**] Very well. There being no other nominations, because 2 days' notice is required, under Standing Orders they are elected, and I so declare.

## **QUESTIONS**

### **2. Written Questions**

#### **2.1 The Minister for Education, Sport and Culture tabled an answer to a question asked by Deputy Shona Pitman of St. Helier regarding the Youth Service and the proposed floating youth café.**

##### **Question 1**

Over the last three years, the Youth Service has received extra funding of approximately £¼ million. Would the Minister indicate –

- (a) how much of this funding has been allocated specifically to employ frontline workers and whether any of it has been spent on new management posts? If so, how much has been spent on these and how many posts are involved?
- (b) whether any concerns have been raised with the Minister and his Department in any recent reports about serious health (including stress related illnesses) and safety concerns over professional youth workers having to open understaffed youth facilities on a regular basis?

##### **Answer**

- (a) Youth Service funding has increased by £80,000 per year for the last 2 years and in 2006 there has been another increase, thus totalling £240,000. This has enabled the Youth Service to develop both the quality and quantity of youth work provision for young people aged 11 – 25 years in Jersey. There has been a significant increase in the number of both professionally qualified youth workers and of part time sessional youth workers since the additional funding was made available. This has been supported by the development of partnerships with Parishes and other key organisations.

Appendix A provides detail of the increased spend on staffing since 2003 with a forecast of the proposed spend on staffing for 2006.

Appendix B provides detail of the increased number of staff at all levels. Members will note that the number of full-time Youth Workers will have risen from 10 in 2003 to a planned 15 in 2006. In 2005 the Youth Service also established a baseline of part-time paid youth worker support for its full-time project workers of 12 hours per week and it is envisaged that this resource will increase to 18 hours per project per week during this year.

Appendix C provides an overview of the current structure and staffing of the Youth Service and the proposed developments in 2006.

The Youth Service is rapidly developing into a high quality service which is able to meet the complex needs of young people in Jersey. This has included the strategic development of a range of policies, procedures, structures and systems to ensure the efficient and effective use of resources. The increase in staffing has led to an increase in the support and supervision of staff at all levels. There is now a comprehensive training programme being developed to ensure youth workers have the skills needed to deliver varied programmes to provide a full range of opportunities for young people. The Youth Service is also developing a rigorous approach to monitoring and evaluating youth work provision, including the Youth Base Management Information System and Quality Assurance Framework.

To do this the Youth Service needs effective leadership and management. It now has this in the form of the Senior Management Team comprising the Principal Youth Officer, the Resources Officer and the 3 Area Youth Workers, who have a responsibility for the East, West and Town areas of Jersey. With the exception of the Principal Youth Officer, all professional staff are 'front line' workers, working directly with young people as well as recruiting, encouraging, managing and training volunteers who are an integral part of the service. It is estimated that the value of volunteers to the States of Jersey, calculated at Youth Service part-time rates is in excess of £1,000,000 per year.

It is difficult to accurately apportion staff time between management, support and supervision of paid and unpaid staff, training, and face-to face youth work activities. In a written response to a similar question posed by Deputy R.G. Le Hérissier of St. Saviour in July 2005, however, it was suggested that even if the entire time of the Principal Youth Officer and 50% of the Area Workers and Resources Officer's time was devoted to management and supervision, the proportion of Youth Service resource allocated to 'management' amounts to no more than 9.23%.

- (b) The Minister is aware that the recruitment of staff, be it full-time professional staff, part-time sessional staff or volunteers has been a persistent issue for the Youth Service and it is addressing this by developing new methods to attract people into youth work.

Currently the Youth Service is holding a recruitment drive particularly targeting students on the Social Science Degree course at Highlands, newly qualified teachers and other States employees.

The service has also recently developed a Volunteer Workers Policy and a Sessional Workers Policy to ensure that all members of staff receive the support they need and are clear about expectations.

We have high expectations of our professional youth workers, for example they need to use their professional judgement as to when to open or to close provision. There is always a need for at least 2 members of staff to be present, but other than this there is no clear ratio of staff to young people. It can often depend on the building, the group of young people and the experience of the staff who are available. If the full-time worker decides there are insufficient staff present then a project does not open.

The Minister is aware that Youth Work can be a stressful occupation and that there have been a number of developments designed to support staff. In 2004 a report was commissioned to examine the factors leading to stress and the Youth Service has responded to the recommendations in that report. As mentioned earlier, it has increased the level of part-time staffing within its projects to 12 hours per week and intends to make further increases in this aspect of its provision this year. The development of the management structure and the appointment of area youth workers has also contributed to the increase in support for full-time project workers. Additionally, the Youth Service is participating in the States' pilot scheme to provide counselling and support to staff who are experiencing difficulties.

## **Question 2**

Would the Minister inform members whether a health and safety risk assessment is to be undertaken on the planned floating youth café and, if so, who will be undertaking this assessment and when will it be completed?

## **Answer**

The youth café project is currently in the very early planning stages. The Principal Youth Officer has formed a Steering Group to develop the idea of a youth café based on an historic vessel. That group comprises people with specific expertise including health and safety. The health and safety of young people is the prime concern of the Youth Service and, as with any development such as this, a full risk assessment will be carried out as part of the planning process.



<b>Youth Service Budget Comparison</b>					
					<b>Budget</b>
	<b>Expenditure</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
<b>Staff</b>	<b>Civil Service</b>	92,815	67,970	38,394	63,103
<b>Staff</b>	<b>Youth Workers</b>	489,704	518,666	653,611	897,208
<b>Staff</b>	<b>Youth Workers Part Time</b>			79,933	211,503
<b>Staff</b>	<b>Support Staff</b>	65,842	65,291	120,057	138,918
<b>Staff</b>	<b>Manual Workers</b>	45,981	44,464	49,599	50,413
<b>Staff Total</b>		<b>694,342</b>	<b>696,391</b>	<b>941,594</b>	<b>1,361,146</b>
<b>Premises Total</b>		<b>32,871</b>	<b>37,162</b>	<b>209,130</b>	<b>60,500</b>
<b>Supplies Total</b>		<b>20,146</b>	<b>39,265</b>	<b>31,736</b>	<b>27,000</b>
<b>Transport Total</b>		<b>4,415</b>	<b>9,475</b>	<b>4,734</b>	<b>4,700</b>
<b>Admin Total</b>		<b>38,116</b>	<b>48,313</b>	<b>31,789</b>	<b>24,500</b>
<b>Grants Total</b>		<b>98,768</b>	<b>206,329</b>	<b>48,606</b>	<b>40,000</b>
<b>Income Total</b>		<b>2,158</b>	<b>(-9,209)</b>	<b>(-132,235)</b>	<b>(-282,611)</b>
<b>Grand Total</b>		<b>890,816</b>	<b>1,027,726</b>	<b>1,135,354</b>	<b>1,235,235</b>

**Comparison of staffing levels of the Youth Service in 2003 and 2006**

Type of Posts	2003			2005			Forecast for 2006		
	No of staff	of F.t.e.		No of staff	of F.t.e.		No of staff	of F.t.e.	
Central Officers	3	3.0		2	2.0		2	2.0	
Area Worker	-	-		3	3.0		3	3.0	
F/t Youth Worker	10	9.5		13	12.0		15	15.0	
Sess. Youth Worker	14	1.5		33	6.0		35	9.0	
Admin Staff	2	2.0		6	3.75		6	3.75	
Other (cleaners etc)	5	2.5		5	2.5		6	3.0	
<b>Totals:</b>	<b>34</b>	<b>18.5</b>		<b>62</b>	<b>29.25</b>		<b>67</b>	<b>35.75</b>	
<b>Approx. no of Vol.YW</b>	<b>166</b>	<b>16.6</b>		<b>134</b>	<b>13.4</b>		<b>150</b>	<b>15.0</b>	

**Area Youth Work Leaders:** The Youth Service has 3 Area workers for the East, West and Town areas. They are part of the Senior Management Team for the Youth Service, supporting the Principal Youth Officer in the strategic development and operational management of the service, and providing support, supervision and advice to the full time youth workers. Area Leaders undertake some face to face work with young people, work with communities, management groups and partnership agencies including parishes. They are also involved in staff development and delivering training, recruitment of staff and volunteers.

**Admin Staff:** The Youth Service has increased the number of admin staff to provide admin support to youth projects and full time staff, thus leaving them more time for face to face work. Each project has 6 hours of admin support, part of which will be to use the Youth Base management Information System to collect statistics which will be collated centrally.

**Youth Service Staff**  
**Senior Management Team**

<b>Principal Youth Officer</b>	<b>Resources and Award Officer</b>	
<b>Area Worker West</b>	<b>Area Worker Town</b>	<b>Area Worker East</b>

**Project Managers**

<b>St Peter Youth Project Leader</b>	<b>Youth Café Project Leader</b>	<b>Grands Vaux Youth Project Leader</b>
<b>St Brelade Youth Project Leader</b>	<b>Sounds Workshop Project Leader</b>	<b>Le Squez Youth Project Leader</b>
	<b>Street Based Youth Project Leader</b>	

**New Projects / Posts developed during the last 2 years**

<b>St Ouen Youth Project Leader</b>	<b>Inclusion Youth Project Leader</b>	<b>Maufant Youth Project Leader</b>	
<b>St Lawrence Youth Project Leader</b>	<b>Participation Youth Project Leader</b>	<b>Trinity Youth Project Leader</b>	

**New Projects / Posts to be developed later in 2006**

<b>Gorey Youth Project Leader</b>	<b>St John Youth Project Leader</b>	<b>Prince's Trust Project Leader</b>	
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**2.2 The Minister for Housing tabled an answer to a question asked by Deputy Geoffrey Peter Southern of St. Helier regarding the sale of the flats on the Le Coie site to the Jersey Homes Trust.**

**Question**

Following the adoption by the States of P.161/2003 lodged by the former Housing Committee the 95 flats that have been built on the Le Coie site at a cost of £ 20.3 million have been sold to the Jersey Homes Trust for £12 million. Would the Minister give members details of the total estimated sum of the following additional costs that will accrue to the States over the coming 21 years –

- (a) interest rate support, and
- (b) rent rebate payments starting in 2007, when these are compounded over the period at 3.5% annual increases.

Will the Minister indicate to members whether the total sum spent by the States in facilitating the transfer of ownership to the Jersey Homes Trust represents value for money, and if so, can he explain why? What steps, if any, does the Minister propose for reducing expenditure and dependence on such housing trust schemes, and if none, would he explain why?

**Answer**

- (a) The Jersey Homes Trust (JHT) will fund the purchase by commercial loan. The States, through the Housing Development Fund, will meet the Trust's interest charges above 4%. As the loan is based on a margin above base rates, the cost to the States will vary as base rates move.

At the current base rate of 4.5%, the annual States interest subsidy will be some £152,000 in the first year, reducing as the outstanding loan balance diminishes, giving a total sum in the order of £2 million over the 21 year period. Allowing for a reduction in the time value of money over the 21 year period at a rate of 3% per annum, the net present value of the estimated interest subsidy is some £1.63 million.

- (b) Any rent rebate payable will depend on the individual circumstances of the tenants and cannot be forecast. The cost will be the same whether realised as rent rebate payments or foregone rent abatement if the property were retained by the States.

Having approved the site for social housing and developed the building, the States has a choice of either retaining the property as States social housing stock or disposing to a Housing Trust.

The difference between the cost of bringing the property into being and its sale price will be reflected as a loss on sale in the States accounts equivalent to the capital subsidy. This subsidy represents the cost of providing high quality social housing on a difficult urban site for which the rental stream is limited by the fair rents determined. If retained, the carrying value in the States accounts would be determined through the rental income stream rather than the cost of development and the value written down accordingly.

After disposal, the States will forego rental income from the property, but will not meet any associated management, maintenance or future refurbishment costs. The States will provide interest subsidy support as stated in (a) above, but this cost will be more than offset by the investment interest received on the £12 million capital receipt.

These income and expenditure sums are dependent on a number of variables, principally interest rates and investment returns, and will vary throughout the loan repayment period. It is, therefore, not possible to determine an accurate forecast of 'cost' to the States associated with the transfer over the loan repayment period.

Once the loan has been repaid, the States will cease to pay any interest subsidy. Any surplus income generated to the Trust above that which has not been set aside, reserved or committed under the Trust's agreed reserves strategy, will be payable to the States.

The new arrangements for rezoned sites have seen Housing Trusts develop social rented properties with no capital subsidy and loan interest capped at 6% rather than 4%, effectively providing new social rented properties at no cost to the taxpayer.

In the urban area, developments have tended to be via the transfer of exhausted States social rented stock for refurbishment or redevelopment by Trusts. Whilst these transfers have been at an initial nominal value, the amortisation model provides for a contribution to the States once the development is completed. Close involvement by the Housing Department in the management of these projects, both in the design phase and through an 'open book' arrangements with the Trusts, ensures that the 'value for money' ethos applied to States capital projects is brought to bear.

**2.3 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy Geoffrey Peter Southern of St. Helier regarding the sale of the flats on the Le Coie site to the Jersey Homes Trust.**

**Question**

- (a) In ministerial decision MD-TR-2006-0001 the Minister authorised a subsidy from the Housing Development Fund in relation to the sale of the Le Coie site to the Jersey Homes Trust (JHT). Will the Minister inform members of the total cost of this project, taking account of the additional expenditure on loan subsidy and rent rebate?
- (b) Will the Minister outline for members how the expenditure needed to transfer this property to the JHT represents value for money and would he inform members what consideration, if any, he has given to alternative means of funding social housing?

**Answer**

- (a) As the development is in progress a total project cost cannot be ascertained at present. The most recent financial report indicates an estimated total project development cost of £15.96 million. The site was purchased for £4.37 million (including costs and fees), making a total project cost of £20.33 million.

It has been agreed to sell the completed development to the Jersey Homes Trust (JHT) for £12 million. On this basis, the States will provide an equivalent capital subsidy of £8.33 million.

The JHT will fund the purchase by commercial loan, which does not form part of the project cost. The States, through the Housing Development Fund, will meet the Trust's interest charges above 4%. As the loan is based on a margin above base rates, the cost to the States will vary as base rates move. At the current base rate of 4.5%, the annual States interest subsidy will be some £152,000 in the first year, reducing as the loan balance diminishes.

Any rent rebate payable will depend on the individual circumstances of the tenants and does not form part of the project costs.

- (b) The States, at their meeting of 6th October 1998, agreed to purchase the site for £4.2 million, with the vendor continuing to operate a hotel on the site until November 1999. At purchase no defined scheme was in place.

An initial scheme design was produced in September 1999 that proposed a mixed development of 119 units with basement car parking. However, a geotechnical report undertaken in December 1999 and received in February 2000, highlighted significant risks associated with basement car parking.

A revised scheme was developed utilising semi-basement car parking, with a reduced number of units. The former Finance and Economics Committee, at its meeting of 7th November 2001, was advised that a scheme, comprising 105 units, nursery and community facilities, had an estimated total cost of £27.1 million at a January 2001 price base (including land costs).

The former Committee rejected this proposal and directed the officers to develop a scheme with above ground parking. The Committee was advised that a scheme comprising 96 housing units, nursery and community facilities, had an estimated total cost of £21.9 million at a January 2001 price base (including land costs).

The Minister considers that delivering the preferred scheme at a predicted outrun cost some £1.5 million lower than that estimated at a January 2001 price base, which translates directly into a reduction in capital subsidy, represents a significant improvement in value for money.

The Treasury continues to work in concert with the Housing Department and other stakeholders to consider alternative methods of funding affordable housing, including social housing. Alternative proposals to fund social housing will be included in the 2007-2011 States Business Plan.

**2.4 The Minister for Economic Development tabled an answer to a question asked by Deputy Geoffrey Peter Southern of St. Helier regarding the revised policy on the fulfilment industry.**

**Question**

1. Would the Minister confirm that the changes to the policy on fulfilment were released to the media by 11.30 a.m. on 28th February 2006 and, if so, would he explain why he was unable to inform the States in full of the details of the revised policy in response to a question in the Assembly on the same day?
2. Has the Minister sought legal advice on the change in policy, and if so will he reveal that advice to members, and if not, why not?
3. Has the Minister received confirmation that the distinction drawn between those companies beneficially owned by Jersey principals and those which are foreign owned in paragraphs 11 (i) and (ii) of the Policy for the Fulfilment Industry issued on 28th February 2006 is not open to challenge under international competition rules?
4. Would the Minister state whether the policy set out in the above paragraphs means that any existing local fulfilment company which is subsequently bought by foreign principals would not then be supported? What consideration, if any, has been given by the Minister to the consequences of any extension of this principle to other non-finance companies under the zero/ten tax proposals to be adopted in 2009, and if no such consideration has been given would he explain why not?
5. What confirmation, if any, has the Minister received that the distinction drawn in paragraphs 11 (iii) and (iv) between those companies trading in DVDs/CDs and others, is not contrary to competition rules under JCRA guidelines? Does this policy give an advantage to the DVD/CD market leader already established in the Island?
6. Would the Minister confirm that all fulfilment companies, whether locally owned or not, and whether whole chain (WCC) or third-party service (3PS), provide a similar service, namely importing goods in bulk for individual despatch, thereby adding value, and, if so, would he indicate why they are not all treated in an equal way by the policy?

7. In related statements the Minister has stated that some 100 jobs might be lost in this sector as a result of the revised policy. Will the Minister inform members how this estimate was calculated and also indicate –
- (a) the total number of companies operating in the fulfilment sector, together with the number of employees and the GVA contribution to the economy?
  - (b) the numbers of companies, employees and GVA in each of the sectors defined by the Minister as –
    - (i) WCC
    - (ii) 3PS
    - (iii) Hybrid companies
  - (c) how many companies have been operating without a licence under the Regulation of Undertakings and Development legislation that will now be required to apply for such a licence, and how many of these licences will be for a 12-month period?
  - (d) how many companies have already applied for a licence and have been waiting for a decision based on the new policy since autumn last year, and how many of these companies will receive a 12-month licence only?
8. Will the Minister inform members what provisions of the Regulations of Undertakings and Development legislation require the structure adopted by UK companies which take advantage of 3PS companies (that is described in the policy as “little better than a sham”) to apply for a licence? Would he inform members how some companies have been able to trade without such a licence, and for how long this practice has continued?
9. Will the Minister inform members how many fulfilment companies are operating in the Island using Offshore Services (OSL), the 3PS arm of Jersey Post? Will he further state –
- (a) what proportion of total postal revenues, in real and percentage terms, is contributed by postal charges from fulfilment business?
  - (b) what profit is generated by OSL as a company?
  - (c) what impact, if any, the new policy will have on the number of companies serviced and on the number of staff employed by OSL, and
  - (d) what consideration, if any, he has given to the impact of the revised policy on the viability of the proposed incorporation of Jersey Post?

## **Answer**

1. In relation to part 1 of the question, a revised policy was issued to the media by 11.30am after I had finished answering questions in the Assembly. In relation to part 2 of the question, I stated in my first answer that “I will be publishing later this morning a new revised policy in respect of fulfilment”. I was not asked to explain in full the details of the revised policy. However, I personally sent members by e-mail a full copy of the revised policy on the same day.

2. I sought and received extensive legal advice whilst preparing the policy that was issued on 28 February 2006. This advice will be made available as part of the ongoing Scrutiny Panel inquiry subject to the principles regarding the release of confidential legal advice which has yet to be agreed.
3. No such confirmation has been received.
4. A change of beneficial ownership is notified to Regulations & Undertakings for approval. Each such case will be evaluated on its individual circumstances.
5. We have no absolute confirmation that the policy could not be challenged. The policy sought to preserve the integrity of the Island in commercial and financial matters as is required under the RUD law.
6. Whole-chain companies (WCC) and third party service providers (3PS) do not provide a similar service from the Island. Therefore it is legitimate to differentiate their treatment within the content of the Fulfillment Policy.
7. It is not possible to accurately estimate the number of job losses. The Economic Development Department will be working with all Fulfillment companies to develop new markets with the intent of maintaining current employment levels. Much of the information that has been requested in 7a to 7d is considered to be commercial in confidence. Detailed analysis will be provided to the Economic Affairs Scrutiny Panel as part of their ongoing enquiry.
8. Article 2 of the RUD Law states that anyone commencing an undertaking in the Island requires a license so to do. The definition of an undertaking is any trade business or profession whether or not carried out for profit.
9. There are 11 companies currently using the services of Offshore Solutions.
  - (a) The 2006 budgeted group turnover is £56m, of which postage related to the whole of the fulfilment sector in Jersey is £27.6m (49%), of which potentially 10% could be lost as a result of this policy although this is not likely to occur until 2007.
  - (b) Due to its initial investment in warehousing infrastructure and facilities, OSL did not make a profit in 2005. OSL is budgeted to contribute £1.2m to Group Overheads and Profitability in 2006, although at this stage in the year (March) it is still too early to say what the actual outturn will be. In generating this contribution OSL pays the same Postage Prices as its competitors in the local market place. The main customer (approximately 50% of OSL business) is UGD who are unaffected by the Policy. Jersey Post has contingency plans for any loss of business as a result of this policy.
  - (c) The policy will reduce the number of companies serviced by OSL significantly and is likely to have an effect on the number of jobs in OSL. However, it is too early to quantify this at present.
  - (d) Full consideration was given to this policy when modelling the future financing of Jersey Post International Limited, before the Second Commencement Act and Transfer Regulations were lodged. The future Chairman, Managing Director and Finance Director of JPIL have confirmed they believe JPIL will continue to be a going concern if the fulfilment policy is implemented as planned.



**2.5 The Deputy Chief Minister tabled an answer to a question asked by Deputy Deidre Wendy Mezbourian of St. Lawrence regarding the suspension of public sector staff.**

**Question**

The Chief Minister stated in a written answer on 14th February 2006 that the numbers of public sector staff in some departments who had been suspended as a result of disciplinary infractions in each of the last three years gave cause for concern and, accordingly, he had asked the Chief Executive to carry out an urgent investigation into the matter and to report back with recommendations as to how the current situation could be improved.

Would the Chief Minister advise whether this investigation has been completed and, if so, advise what improvements, if any, have been recommended and what new policies and procedures, if any, have been introduced as a result of this investigation?

**Answer**

I can confirm that this investigation is currently in progress and departments have been asked to provide further information. The Chief Executive will be reporting back to the Chief Minister as soon as findings are available, and will be making recommendations at that time as to how the current situation can be improved. It is envisaged that this process will be completed by mid April 2006.

The States will, of course, be informed of the outcome of that review. It is my intention that the number of suspensions should be kept to a minimum, and that all cases should be dealt with as expeditiously as possible.

**2.6 The Minister for Treasury and Resources tabled an answer to a question asked by the Connétable of St. Helier regarding a working group to consider the payment of rates on publicly owned properties.**

**Question**

In his answer to an oral question on 31st January 2006, the Minister stated that he 'would be happy to form a working group which would include the Connétables' and other interested parties in order that firm recommendations could be brought forward next year in respect of the payment of rates on States-owned properties. Would the Minister indicate the progress he has made in arranging this working group?

**Answer**

In my answer of 31st January 2006, I did agree to form a working group to consider the issue of States properties being liable to Rates.

Once the Island Wide Rate has been implemented and its preliminary effects can be assessed I shall progress the formation of such a consultative body, but as I stated in my response of 31st January, doing so ahead of the introduction of the Island Wide Rate would be premature.

**3. Oral Questions**

### **3.1 Deputy F.J. Hill of St. Martin of the Minister for Education, Sport and Culture regarding an Employment Tribunal involving Highlands College:**

With reference to the recent case at the Employment Tribunal involving Highlands College, would the Minister inform Members how the situation that led to the findings the Tribunal arose and what, if anything, has been done to prevent any reoccurrence?

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

Deputy Fox, I understand you are replying in the Minister's absence.

#### **Deputy J.B. Fox of St. Helier (Assistant Minister for Education, Sport and Culture rapporteur):**

In the recent case brought by a former lecturer of Highlands College, the Employment Tribunal found in her favour and made an award equivalent to 26 weeks salary. The situations which led to the findings arose from the changes to curriculum provision and management responsibilities within the college which affected the lecturer concerned who had expressed her opposition to these changes and chose to resign her post. She subsequently took out a grievance with which, in accordance with the States of Jersey grievance procedure, was heard by the college principal. She did not appeal this decision and so it was assumed that her grievance had been satisfactorily resolved. The further report of the Tribunal is available from the offices of the Jersey Employment Tribunal. Whilst accepting the outcome, the Department of Education, Sport and Culture was disappointed by the Tribunal's decision as the individual had not exhausted the provision for appealing the principal decision in accordance with procedure. Subsequently to the Tribunal, the Department of Education, Sport and Culture has brought the attention of all head teachers and other service managers to the existing guidelines and further detailed guidelines on the implications of the findings of the Tribunal in respect of the need for appropriate and adequate consultation with any member of staff affected by planned changes to this arrangement.

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

Could the Assistant Minister inform us please, how is one member of staff able to change a job description of another member without the involvement of senior management?

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

As far as I am aware that is not the case. One member of staff was doing his newly-appointed job in consultation with the principals at Highlands College and the result is what I have already indicated.

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

The rapporteur talks of not exhausting the appeals mechanism. Could the rapporteur inform the House what appeal mechanism is set up internally or externally prior to an appeal to the Employment Tribunal?

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

I think I would need notice of that question but I will happily find out the answer. I do not have all the information available to answer that.

#### **3.1.3 Deputy R.G. Le Hérissier of St. Saviour:**

For the avoidance of doubt, I am not employed by Highlands College. I wonder, Sir, if I could ask the Assistant Minister, were the Board of Governors at any stage involved in this and what lessons have the Board of Governors drawn from this particular episode?

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

I do not have information as to precisely what the Board of Governors... clearly if the lady in question had continued with her grievance procedure the next stage after visiting the Principal would have been the procedure allowed for reference of a grievance to the Chairman of Governors of Highlands College or the Director of Education, Sport and Culture. As far as I am aware this procedure was not taken up and presumably when the notice was given of the impending Tribunal that would have been the point where the Board of Governors would have been informed. But I do not have any direct information on that, I am sorry.

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

Would the rapporteur confirm that really the reason why the complainant did not bring the matter of her treatment whatsoever to the management was the fact that possibly the complainant felt that it would not have been given the due attention it deserved?

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

That is a hypothetical question and I am not quite sure how to answer. Clearly, the former lecturer in question was not happy with the result, hence the grievance procedure, and then subsequently the Tribunal. I cannot answer that one, Sir. I do not know.

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

The Assistant Minister said that the management were disappointed. I have great faith in the management but would he tell me why they were disappointed and would he tell me whether they have gone along the path of contrition and seen the errors of their ways?

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

The answer to that question, Sir, is that they thought that the grievance procedure had been satisfactorily resolved and it was not until a full report of the Tribunal, and the application to be heard at the Jersey Employment Tribunal, that it was recognised that in fact it had not been resolved, and indeed on hearing the result of the Tribunal immediate steps were taken. Further guidelines of the implications, as contained in the Tribunal's findings, were then sent out for the attention of all head teachers and other service managers, as indicated in my previous answer.

#### **3.2 Deputy J.A. Martin of St. Helier of the Chief Minister regarding the appeals process under the new migration policy:**

Following the introduction of a new housing control appeals process where requests for appeal are firstly dealt with by the Assistant Minister and then if any further evidence is found by an appeal to the Minister, would the Chief Minister inform Members if a similar process will continue when the Population Office is established and a new migration policy introduced?

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

The Population Office has already been established and it has been in place since September 2005, and its responsibilities currently include the Housing Law and Regulations. The policy in respect of the migration policy and the Population Office has not yet been fully established although I would imagine it will build on the strengths and weaknesses of any of the existing housing appeals. That policy will come to the States towards the end of this year or early 2007, and at that time States Members will have a full opportunity to examine the appeals process, which we are determined should be a robust appeals process, and express their view at that time about whether any changes to the existing system are required.

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

Does the Minister agree with my understanding of a decision already made by this House that, in fact, as far as the Population Office was concerned, appeal will be through the Chief Minister himself?

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

The responsibility for the Population Office rests with the Chief Minister, however the procedures within the department will be discussed as a policy matter by this House and the appeals procedure will form part of that discussion.

**3.2.2 Deputy J.A. Martin:**

This gives me quite a bit of concern because under the new Population Office and the immigration policy will the Minister not agree that a licensed person will lose their job and then lose their accommodation. The specifics of the new policy - or the current policy - says it can be taken to Royal Court when there is a specific property involved. I think if this is not addressed very shortly all the people on licenses will be living in an (a) to (h) specific property that can be addressed under human rights or even under the laws in Jersey. So I really think that the Minister should be looking at this policy. I am surprised it has not already been introduced or looked at with the law coming back to the States at the end of the year.

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

I am not sure of the exact question there, Sir. But certainly the intention is that the whole policy in regards to licence and registered persons should be considered at the same time as the appeals process to ensure that those people who might - I do not think there is any clear evidence that they always will be - if they were prejudiced in respect of their accommodation, that prejudice ought to be dealt with under appeal at the same time as a policy is introduced. That is the intention of the population policy and that would be debated by this House.

**Deputy J.A. Martin:**

No, under the population policy that was discussed in this House, the person who lost their licence only had one course and that was to appeal for unfair dismissal. Now it does not matter whether they prove that they were unfairly dismissed. There is no right to reinstatement in Jersey under the employment law. They will therefore lose their accommodation. Is this being addressed under the new appeals procedure?

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

There is an existing procedure in place already, Sir, in respect of housing accommodation. The appeals procedure was clearly set out by the Housing Minister in a letter to all States Members last week, and that procedure is in place until it is superseded by a different appeals procedure.

**3.2.3 Deputy G.P. Southern:**

Does the Minister accept that there is a vital need for a robust and independent means of appeal and one which is seen to be robust and independent by employees - or whoever - residents on the Island, in order that they should have faith in the system that we are involved in introducing?

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

An appeals systems has to be robust and it has to be seen to be well managed, and I have no doubt that we shall ensure that that appeals procedure put in place will indeed be robust and well managed.

**3.3 Connétable A.S. Crowcroft of St. Helier of the Minister for Economic Development regarding the promotion and development of Jersey's links with France:**

What steps, if any, has the Minister taken to promote and develop Jersey's links with France? What resources are allocated to the promotion of economic links and, in particular, would he state

what steps he is taking to promote locally the ferry service between Granville and Jersey which is partly funded by the French authorities in Normandy?

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

I would like to confirm that my department is taking the following steps to promote economic links with France. OXERA (Oxford Economic Research Associates) has been commissioned at our request to examine the economics of increasing trade links with France. The report is expected by the end of April. The Department is fully involved in the initiative led by the Chief Minister to develop trade, education and cultural links with France. This includes participation in the French Officer Working Group which was established by the previous Policy and Resources Committee as part of its French link strategy, and involvement in the recently established Brittany and Jersey working groups which are in contact with the Conseil General Ille et Vilaine, the development agency of Ille et Vilaine, the St. Malo Chamber of Commerce and the Jersey Chamber of Commerce. France is a vitally important market for Jersey tourism, and the Island of course, and a considerable effort is made to attract French visitors to the Island. Marketing and PR is carried out by French-based professionals working closely with tourism officers. The Department also works closely with transport carriers and funds joint advertising activities. In April, Jersey Tourism will participate in a joint activity with St. Malo and Ille et Vilaine in Paris to promote the extension of the TGV network to St. Malo. The Department also enjoys excellent relations with the Maison de Normandy and often works with it on projects of mutual interest. Trade development activity has taken place with Normandy related to the OXERA study on economic links involving the Chambers of Commerce in Caen and Cherbourg and assisted by the Maison de Jersey. It should be borne in mind that the Constable's question is very focussed; however economic links with France can be expected to benefit from economic development activity in general which is aimed at improving the commercial environment. In relation to the promotion of the ferry service...

**The Deputy Bailiff:**

How much longer are you going on for?

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

Not terribly much longer, Sir. I am getting to the more interesting parts. [Laughter]

**The Deputy Bailiff:**

Can I remind Ministers and Assistant Ministers that Standing Orders do talk of responses being concise?

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

I will try and be as brief as I can, Sir, in the remaining part. In relation to the promotion of the ferry service between Granville and Jersey the Department does not promote the Normandy link locally but does work with all transport providers to attract visitors from France to Jersey for the considerable benefit of our Island economy. It should be noted the passenger numbers between Granville and Jersey have increased by more than 40 per cent comparing January and February 2004 with January and February 2005. In addition, Jersey Harbours supports new routes by offering incentives, such as reduced harbour dues. The Manche Iles express service has benefited from this incentive when it started operating from Granville to Jersey. I can also say that further incentives are currently being worked on to encourage additional traffic between Jersey and France. Finally, to summarise the resources that are specifically allocated to the promotion of economic links with France, Jersey Tourism's budget allocated to activities in the French and Jersey markets to attract inbound tourism amounts to £363,000. Of this, £50,000 is allocated to public relations, £198,000 is allocated to trade relations, and includes the use of staff in France, and £115,000 is allocated to consumer marketing. In addition, Jersey Tourism provides professional support in relation to its activities in France as part of its normal activity.

**The Deputy Bailiff:**

Deputy, I exercised tolerance there because you are new to the Assembly but that answer was far too long for this sort of question time. It went way beyond the matter asked and your department must do better in future.

**3.3.1 Deputy R.G. Le Hérissier:**

Could the Assistant Minister tell us, Sir, how he will measure the success or otherwise of this vast promotion?

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

I trust that the success will be evident by increased numbers of passengers arriving on our shores and increased level of activity within the trade sector which is resultant from the money that hopefully will be spent by the tourists we expect to attract.

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

When the Assistant Minister eventually got to it he said that the passenger numbers have increased by 40 per cent for the Manche Iles express: could he tell us in which direction that has happened? And would he confirm that, when he says that no resources are being spent by his department to promote locally the ferry service, we are looking at an unsustainable ferry service if we are relying on the French to come here, doing nothing about sending Jersey people there?

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

We are obviously very concerned about tourists coming into the Island to improve the local economy and that was a point that I was making about the increased level of traffic, which is very encouraging to see. Although we are not having any direct involvement it would be unsustainable to have government intervention in individual businesses, but on a general economic basis there is a considerable amount of activity to help promote outward movement.

**3.3.3 Deputy R.G. Le Hérissier:**

Could the Assistant Minister tell us, in relation to the proposals for improved freight services in respect of Cherbourg and in respect of increasing frequency on the St. Malo route, where these are at, at the moment?

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

We are currently working closely with the existing operators to improve the freight capacity and the ability, in particular, of the operators to be able to carry and deal. It has been well publicised the situation with Jersey Oysters and the pod system that is currently used which is not effective for them. We are working with that company and others to try and overcome these problems and increase freight links. It should be noted in recent statistics released by Jersey Harbours that the level of freight activity between the Island and France has increased over the past 12 months, which is encouraging.

**Deputy R.G. Le Hérissier:**

And the Cherbourg route, Sir.

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

Yes, we are looking at that and that forms part of OXERA's study which is under way at the present time, so when that comes back at the end of April we will be able to give a more detailed answer.

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

Can I ask the Minister, does he not think it inequitable that we allocate resources to the southerners and the northerners and we do not allocate resources to the Granville route?

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

We are more than happy to look at all opportunities relating to increasing trade both on the southern, northern and other routes that open up, if they are, in fact, economically viable. We will be giving good and fair consideration to that in the future.

**3.3.5 Connétable M.J. Jackson of St. Brelade:**

The Assistant Minister will be aware that there are numerous small charter companies based on the Normandy and Brittany coast and it is their usual habit to come up to the Island. Could he confirm that the Department will be sympathetic to the concept of these companies changing-over crews here and perhaps supporting our local economy through a relaxation of the undertakings law?

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

Yes, we will be more than happy to look at it very sympathetically

**3.3.6 Deputy G.P. Southern:**

Will the Assistant Minister assure the House that he, unlike his predecessors, will pay attention and act on the recommendations of the OXERA report - unlike his predecessors who allowed competition on the southern route to result in a crash of one of the carriers?

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

Yes, we will look very closely at the OXERA report. I think it might be a little bit hasty to suggest that competition on that route necessarily was the only factor that contributed to that particular operator ceasing its operations.

**3.4 Deputy R.G. Le Hérisier of the Minister for Education, Sport and Culture regarding contingency plans to meet Higher Education top-up fees:**

Would the Minister advise Members what contingency plans, if any, will be put in place to enable less well-off families to deal with top-up fees and would he inform the Assembly of the outcome of negotiations with the Student Loans Company?

**Deputy J.B. Fox (Assistant Minister for Education, Sport and Culture - rapporteur):**

Top-up fees charged by UK universities to Island students entering higher education in September 2006 has been set at £1,350 per student. This is an issue which will be discussed by the Council of Ministers at its meeting on 8th April. The proposal by the Minister of Education, Sport and Culture is that all students, or their families, should be asked to meet the additional cost. Families on limited gross income of less than £26,750 per year receive a full award for university attendance. This award covers the cost of tuition, travel to and from the United Kingdom at the beginning and end of every term, and approximately £4,663 for subsistence. Out of this they will be expected to meet the additional cost of top-up fees. This may mean that some students, as in the UK, may have to seek part-time employment before or during their time at university in order to supplement their grant. My department intends to consult local banks in order to ensure that it can advise students of any loan facilities which may be available to them. Students who feel that they face particular difficulties with regard to paying top-up fees should contact officers in the Student Services Section of the Department of Education, Sport and Culture where advice and support will be available. The direct telephone line is 509450. With regard to negotiations with the Student Loans Company, the Department of Education, Sport and Culture in Jersey, along with the Education Departments of Guernsey and the Isle of Man, have been in communication with the UK students loan company since early 2004 to explore its potential involvement in establishing a student loans option for Island students. However, at a meeting held in December 2005 the Student Loans Company

suggested the Island should obtain permission from the company owner, the United Kingdom Department of Education and Skills before any agreement was concluded. Officers from the inter-island authorities met with the Department for Education and Skills representatives in London on 3rd February 2006 and returned doubtful that permission would be forthcoming. A subsequent letter from the Department of Education and Skills indicated that the Student Loans Company may not have the capacity to take on additional work required to provide the service to Island students. The Minister for Education, Sports and Culture has commissioned a full review of student finances during 2006 which will include options for student loans.

**The Deputy Bailiff:**

If I may, that is another department that must learn to speak more concisely.

**3.4.1 Deputy J.A. Martin:**

Would the Minister confirm whether this will be retrospective? For example, students already at university who will be starting their second or third year this September, will these top-up fees apply to them or is there some contingency plan, because these students, or their parents, did not know about this extra money when they entered into their university studies?

**Deputy J.B. Fox:**

No, this applies to students that are about to commence higher education in September 2006, not ones that are already there.

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

I would like to inject a bit of pace into this question and answer session, if I may. Could the Assistant Minister - and I realise he is not exactly responsible because he was not there - but could he confirm that there was an emergency meeting of the Council of Ministers to discuss this quite recently, and does he not agree that the timing of this announcement is absolutely appalling given that many parents have been in England looking at universities at the very time when the Minister announced that their top-up fees would be imposed?

**Deputy J.B. Fox:**

Yes, I am aware, as is my fellow Assistant Minister, of a meeting, which you could describe as an emergency as it was outside the ordinary scheduled meetings of the Council of Ministers. Yes, if I had time to answer that question in full I would have been pressing for a long time that we need to tell parents of the possibilities of what was coming. It was hoped, however, that there would be a much better resolution through the Student Loans Company than what was available. I think that is in the time available.

**3.4.3 Deputy R.G. Le Hérissier:**

Would the Assistant Minister not confirm that by that rush as cited by the Constable of St. Helier, and by the fact that the less well-off who usually get full grant support will now have to pay a fairly substantial sum, would he not agree by not putting viable arrangements in place to deal with this he has let down the whole raft of students?

**Deputy J.B. Fox:**

That is assuming that the proposals laid at the moment will become the final decision. At the moment that is not the final decision, that is a recommendation made by the Minister to the Council of Ministers and we will have to wait until 8th April to find out if that position stands.

**3.4.4 Deputy G.P. Southern:**

Can the Assistant Minister outline for Members what consideration and, in particular, what talks have taken place between his department and the Ministry of Treasury and Resources over the



additional impact of “20 means 20” - or its replacement - on middle earners who are going to be affected by this measure with reference, in particular, to their children going off to higher education?

**Deputy J.B. Fox:**

I am aware that there are current discussions taking place both on this subject and a great many more subjects relating to the cost of further education which have been placed upon us by outside UK establishments, universities, et cetera, that we have no control of, and that is part of the review that is going on at the moment. Basically, the Minister has commissioned a full review of all student finances for 2006 which this will be a part of.

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

Does the Assistant Minister agree that the people of the Island of Jersey pay taxes for their contribution to the education budget and with university costs approximately £10,000 to £12,000 per annum the burden on many will be significantly increased, and really this is not cricket to pass this on to parents? Can the Assistant Minister also give the cost for his department to underwrite the top-up fees?

**Deputy J.B. Fox:**

That is a long one, is it not? The cost is £1,600,000 in a 12-month period, £250,000 - I think - for the remainder of this year. Yes, I accept that if this is the final decision it will be a burden on parents, and indeed for the students. And, yes, we do pay taxes towards our education and higher education. Regrettably at this time things are getting harder and we are going through rigorous discussion at the moment to find the most painless way forward to educate our students to the requirements under our economic policies and various other strategic plans. But I do not think you are going to allow me time to answer any more. **[Laughter]**

**3.4.6 Deputy G.P. Southern:**

**[Aside]** Would the Assistant Minister answer my initial question, what discussions have taken place with the Ministry of Treasury and Resources? But secondly, will he accept that the changes taking place will make it extremely difficult for his Ministry to meet its target set out in the Strategic Plan under 2.6 to maintain the proportion and profile of people entering higher education? Does he not accept that this will become very difficult indeed?

**Deputy J.B. Fox:**

Yes, Sir. We are assuming that everything that has been indicated becomes a matter of fact. Yes, it will make things more difficult because any rising costs and any additional cost factors that are emanating from the universities and other establishments do affect us. As far as the Treasury goes, I am aware that there are many discussions going on, on this subject, at the moment. The trouble is I do not know the details of them because I am not a party to them. I am not a Minister.

**Ministers:** Oh!

**Deputy J.B. Fox:**

As I say I do not know the details of them. I know that this is part of the commissioning of a full review of student finances is occurring at the moment, and I will hopefully know by the time it gets to the Council of Ministers on 8th April what progress has been made or what direction we will be taking so far.

**3.4.7 Deputy R.G. Le Hérissier:**

As we speak, the Minister for Education is selflessly touring Australasia **[Laughter]** for the next month to seek cheaper university prices. Would the Assistant Minister confirm that it is the policy

of the department to outsource places to the farthest extreme in the world to reduce costs?  
**[Laughter]**

**Deputy J.B. Fox:**

The Minister, as part of his Education, Sport and Culture role, is supporting the Island's athletics at the Commonwealth Games, but while he is there he is visiting various university and government departments with a view to looking...

**Ministers:** Oh!

**Deputy J.B. Fox:**

**[Laughter]** If I am allowed to answer the question, Sir. There are cases and there are certain circumstances where the higher education down in the southern hemisphere can be provided, which either cannot be provided in this hemisphere but has the same international recognised qualifications, or can be provided cheaper. I would suggest to you that part of our strategy is to look for not only best value for money but also for best value in educational terms, which is what my Minister is doing at this time.

**3.4.8 Senator L. Norman:**

Does the Assistant Minister consider it reasonable to encourage Jersey students to be lumbered with debt by the student loan scheme at the end of the university studies? And does he not recognise that the States and the people of Jersey might prefer his department to reprioritise their expenditure or to come to the States to seek additional funds?

**Deputy J.B. Fox:**

Yes.

**3.4.9 Senator S Syvret:**

Is the Assistant Minister aware that the Welsh and Scottish Assemblies have agreed to fund top-up fees for their students educated in their countries?

**Deputy J. B. Fox:**

Yes, Sir.

**3.5 Deputy J.A. Martin of the Minister for Transport and Technical Services regarding the location of Solid Waste Disposal facilities:**

Would the Minister inform Members whether all decisions on the location of the Composting Facility, the Re-use and Recycling Centre and the Energy from Waste Plant will be put on hold while the scrutiny review by the Environment Panel is taking place? And would the Minister give details of the type of enclosed composting facility that is being considered irrespective of where it may be sited?

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

The location of the Composting Facility, the Re-use and Recycling Centre, and the New Energy from Waste plant are not subject to the current terms of reference issued by the Environment Scrutiny Panel. Consequently, those processes will not be put on hold. Indeed, the site location for the New Energy from Waste Plant is a matter for the Assembly to consider, and I can confirm that a report and proposition will be lodged shortly outlining the preferred site for the Energy from Waste facility. The final decision, however, whether that proposition is scrutinised or not, will be a matter for the Minister for Planning and Environment to consider. In respect of the enclosed facility, the type of facility for composting is still to be determined. The Department has received expressions

of interest following an advertisement placed in the official journal of the European Community, and an evaluation of the submissions is currently being undertaken.

**3.5.1 Deputy J.A. Martin:**

I am surprised it is not going to be put on hold while it is scrutinised. But my question then is, given what the Minister for Health - Senator Syvret - said the decision on siting the Composting Facility was taken to the Council of Ministers and it is minuted that it was on a casting vote that the decision was put it at La Collette. In view of the minutes of 9th March as well, Sir, could I ask the Minister for Transport, given that now the Council... can I quote their minute: "The Council accept that in the interest of openness and transparency it would disclose the way in which Ministers voted on particular issues." Would the Minister inform the House how he voted on the location of those facilities at La Collette? And I know I should not really give notice, but just to be helpful, when it is Chief Minister's question time I will be asking for all the names who were there and which way they all voted.

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

In respect of my voting on that particular issue, I supported my Department's recommendation which was for location of composting facilities at Warwick Farm, and clearly I have since received a counter-recommendation from the Council of Ministers.

**3.5.2 Deputy G.P. Southern:**

Can the Minister explain how his recent statement ties-in with the statement just made by Senator Syvret, the Minister for Health?

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

Yes, very easily. The Council of Ministers does not make decisions. Ministers do.

**3.5.3 Deputy R.C. Duhamel of St. Saviour:**

Can the Minister advise the House as to when the recording of this particular decision will be recorded on the website?

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

It will be recorded on the website when final clearance of a ministerial decision is put through the Refuse Department. I cannot give a specific date.

**3.5.4 Deputy R.G. Le Hérisier:**

Given the increasing enthusiasm for recycling - even from distant places like St. John - would the Minister identify whether his thinking has changed and whether all the plans for a large incinerator and so on are now being revised within his department? Is he prepared to follow the public enthusiasm for recycling?

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

Yes, I am very delighted to see the public enthusiasm for recycling, and very pleased to see how already St. John's Parish has responded to public demands and are changing their collections. However, the thinking has not essentially changed. The waste strategy, as approved by the Assembly last year, is now in place and will be continued with, and while there are enormous recycling aspirations I again remind Members that aspirations are different from the practical reality of what can be achieved. My aspirations are as high as anybody else's but I believe it is only right and proper to set reasonably achievable targets.

**3.5.5 Senator L. Norman:**

I believe the Minister said that the States would be given the opportunity of deciding on the location of the Energy from Waste Plant, for which we are grateful. Would he also give an assurance that he will allow the States to make the decision on the siting of the new Composting Facility also, Sir?

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

I am afraid that is not a matter for the States. The Composting Facility was approved under the waste strategy, so the States has already supported that. And the location clearly, is finally a matter for the Minister for Planning and Environment. In respect of the other elements, yes, the location of the Energy from Waste Plant will be a matter for the Assembly and, incidentally, so will the final tendering approval of the plant itself.

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

Would the Minister now clearly stand up and acknowledge that his officers and he preferred the option as recommended by the Department for Warwick Farm for the composting site; and that he was persuaded by the Council of Ministers to take the decision himself, against his own thoughts and against those of his officers, to locate the composting site at La Collette? Also, is it not his decision, and his decision alone, not to allow this matter to go before Scrutiny to allow his decision, which has been influenced by the Council of Ministers, to be influenced by evidence?

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

The Deputy is quite right. It is my decision.

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

Would the Minister confirm that relying on the planning process to provide consultation in respect of the La Collette composting site is inadequate and that it would have been at least courteous of the Minister and his department to have consulted the elected members of the Parish concerned? Would he further confirm that the planning process will not allow for the evaluation of alternative sites?

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

It is true that the planning process will not allow for evaluation of alternative sites but those evaluations have already been carried out. The reality of the matter is that the decision between Warwick Farm and La Collette was an extremely finely balanced one when assessed on entirely objective matters. The reason for the Council of Ministers preferred recommendation, albeit on a split vote, was that the siting of the composting facilities at La Collette offers the swiftest possible solution to solving the problem. That is a political decision and a political decision that I respect because the residents of Havre des Pas want the issue with the smell emanating from the composting plant resolved as swiftly as possible, and I intend to deal with the matter as swiftly as possible.

**3.5.8 Deputy G.P. Southern:**

Will the Minister state whether the bids in response to the tender process were for the open shed-type design of composting or for the much more advanced and cleaner closed vessel composting?

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

The submissions that have been received - approximately 15 - relate to a number of enclosed composting facility designs. These range from fairly simple structures which have an aerated floor, concrete walls and a light plastic roof, to more robust structures culminating in very large and highly sophisticated sheds with controls of temperature, biofilters, et cetera. We will be looking at all the range of options and I can assure the Assembly we are likely to choose a Jersey-type solution.

**3.5.9 Senator J.L. Perchard:**

I sympathise with the Minister for Transport and Technical Services as this must have been an extremely difficult decision to make. Could the Minister tell us how the Council of Ministers made the decision for location of the composting site between a very unsatisfactory site and an unsatisfactory site?

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

I think the key element in the Council of Ministers thinking boiled down to how quickly can we resolve the problem?

**3.5.10 Senator L. Norman:**

Would the Minister confirm that I correctly understand what he has said? That although he believes that the most appropriate site for the new Composting Facility is Warwick Farm he will, in fact, be submitting a planning application to have it sited at La Collette?

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

Decisions quite often are finely balanced and this is an example of such a decision-making process. The 2 sites had merits and demerits. The facts of the situation are that we should realise that a recent decision by the Planning Applications Sub-Committee with respect to an oyster farm located on a countryside green zone site has given a fairly clear indication of the current policy being adopted by the Environment and Planning Department. Consequently, Warwick Farm, it has to be said, is a similar site therefore it would be expected that there would be potentially considerable opposition, and given the recently indicated policy decisions of the Planning Sub-Committee that site may well have not been approved. That, of course, would have contributed substantial delay to any resolution of the Composting Facility problem at La Collette. Therefore there is some sense with taking a political decision and when the 2 sites were as finely balanced as they were there seems to be no real problem in realising that La Collette suddenly offered a better solution.

**3.5.11 Deputy R.C. Duhamel:**

Does the Minister intend to bring back to this House, for a final decision to be taken by this House, the question of what type of facility and technology are to be undertaking the composting role either at La Collette or anywhere else; or will it be a ministerial decision of his own or endorsed by the Council of Ministers?

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

That will clearly ultimately be a ministerial decision, but I am happy to take on board advice from Scrutiny should they wish to offer their views. And I will certainly consider placing the matter before the Council of Ministers.

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

Could the Minister tell the Chamber what the time differentials are for the preparedness of both these sites?

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

The time differentials are substantial. We very much hope that a completion date for the enclosed composting plant may be achieved in late 2007, assuming there are no intervening delays or interruptions to the planning and tendering process. The Energy and Waste Plant, of course, is a year or 2 further down the line.

**Deputy I.J. Gorst:**

Sorry, when I asked for the differentials between the 2 sites, I meant between La Collette and the Warwick Farm site.

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

The timing differential boils down to would Warwick Farm ultimately get approval from the Environment and Planning Minister? And if it was turned down then the differential would be the length of the planning application process and its consideration. That is essentially the difference in timing.

**3.6 Deputy R.G. Le Hérissier of the Minister for Home Affairs regarding the implementation of the 2001 inspection report on H.M. Prison La Moye:**

Would the Minister identify the mechanisms that were put in place to ensure implementation of the recommendations of the 2001 inspection report covering Her Majesty's Prison?

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

A former President of the Home Affairs Committee invited Her Majesty's Chief Inspector of Prisons to carry out the first ever inspection of La Moye in 2001. That was in anticipation of a new governor, and the new governor, Mr. Mike Kirby, submitted a first report to the Home Affairs committee in February 2002 after he had been in post a matter of a few months. That response identified the actions that he and his senior team intended to take forward to address the 147 recommendations that were made. It was clear that many of those required additional resource of both capital and revenue. There were regular reports to the Committee on progress from Mr. Kirby and, indeed, in answers to questions in the States. These occurred in February 2002, as I mentioned, May 2002, and there were 2 reports during 2004 and another in March 2005. In hindsight, I would say that with so many recommendations I think it probably was really a mistake that there was not a better prioritisation of those recommendations, and indeed that is something we would seek to rectify in taking forward the recommendations of the most recent report. I became President of the Committee in 2003, and immediately after Mr. Kirby's departure from the post in July 2004 there was a period - a hiatus of time - while we were awaiting the new governor. And, indeed, with the appointment of the new governor, Mr. Guy Gibbons, he indeed reviewed the position. The latest report was in answer to a question to Deputy Bridge in March 2005 and that report stated that 70 of the original recommendations had been completed with work ongoing on a further 11. The remaining recommendations would either be completed following the building programme or, indeed, required more resources to complete. So it was becoming very clear at that time to everyone that it was going to become increasingly difficult to meet the recommendations without further resources. It was increasingly becoming clear that our resourcing issues were grossly inadequate and I was, at that point, drawing the attention of my colleagues on the Finance and Economics Committee on numerous occasions to my concerns about this. There was, indeed, at that time as well, increasing pressures on the prison in terms of prisoner numbers, and this meant that many of the plans that had been identified originally by Mr. Kirby as necessary were very, very difficult either to establish in the first place, and then those that were introduced, the staff found it incredibly difficult to sustain them under the budgetary pressures and, indeed, under the pressures in terms of really inadequate staffing. So, Sir, in the context of that I would say that we have learned the lesson that in future, in order to ensure that recommendations are taken forward and are sustained, that one of the most important matters is to introduce a performance improvement plan. And that performance improvement plan, indeed, will have the assistance of our colleagues from the Prison Service in England and Wales in developing that plan, in monitoring it and, indeed, auditing it. Indeed, I would say, Sir, that we will be then able to set targets, but they must be realistic targets. Those targets have to be achievable within the resources that we can realistically obtain. The governor is absolutely clear that he is responsible in achieving those agreed targets and, indeed, work has started to address the shortcomings that have been identified in the most recent report. But I think we must all recognise that there is no quick fix to this problem. We are

dealing with a situation that has been, if you like, simmering and has only now come to a head, but has been the result of extreme under funding and extreme neglect over a period of decades, not just of the last few years of difficulty.

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

Whilst appreciating the Minister's difficulties and the resource problems, would the Minister confirm that there was no clear high-level political-come-executive group whose job it was to drive through the implementable part of that report? Would she first confirm that, Sir? Secondly, would she say whether an analysis was done of the areas which did not require much money? For example, reform to prisoner transport, introduction of an independent monitoring board, legal text books in the library, drug and alcohol service needs analysis, Samaritan hotline, et cetera?

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

Obviously the oversight was envisaged as being provided by the Home Affairs Committee at the time with regular updates and reports, and indeed the States as a whole, as I have mentioned, did receive answers to questions. There were a number of initiatives that were, in fact, taken forward at different times, and I think it is a credit to the staff who faced difficulties in terms of extreme levels of overtime, terrible conditions that they were working in, and levels of over-crowding that we saw increasing year on year. We have had a level of increase in prison population higher than it has ever been, and yet they were still attempting to meet those recommendations. Now, many of those recommendations fell by the wayside because they physically could not deliver them. They were exhausted from working overtime. There really was no give in the system. There were, on occasions, barely enough officers to work the landing let alone deliver the rehabilitative programmes that we know that they would wish to deliver given that opportunity. There were also a number of things that have been implemented very, very successfully. Some of those were drawn attention to in Her Majesty's Inspectorate's report which, in terms of the health care, indicated how that is delivered well within the prison. The fact is that the prison officers have an excellent relationship with those under their charge. Indeed, also another of the positive aspects was recognised in terms of...

### **The Deputy Bailiff:**

I think a precise answer to the question is called for.

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

I suppose what I am wanting to say, Sir, is that there were a number of issues that were being addressed. Some have been addressed, and if the Deputy wishes to perhaps give me a written question I am quite happy to give all the detail to that. Many of them were addressed, so those that were not addressed were mostly because there was a lack of funding, all because of the over crowding situation. But I would say, Sir, that I am aware that there are some other areas and I will give an example here. For instance, the treatment of young offenders in terms of searching where changes have to be made and are being made. It is not that there has not been any progress. There has been significant progress even since this most recent report in August of last year. So, Sir, what I would say to the Deputy is that it is an extremely challenging situation, but it is one that I am prepared to take forward and work with the officers and the prison governor to achieve. I think there is no one committed Member of this House more committed to prison reform than myself.

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

There was an article in the *Jersey Evening Post* that questioned the Minister's ability to deliver. Would the Minister like to comment on this article?

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

Yes, I think the article referred to - I imagine - is the editorial that appeared recently in the *Jersey Evening Post*? Is that the one? The recent one from a colleague of mine who I know lives across in another Island, who is Mr. Clement. I do feel that that was a very unfair article from the point of view that on many occasions we, as Ministers, are told that we must cut costs, we must work within the budgets that we are given, that we must do the best we can. Indeed, I have been on numerous occasions - and I am sure the Treasury Minister will, and former Members of the Finance and Economics Committee, will actually back me up on this - to the Finance and Economics Committee asking it to help us in terms of resources for the prison. On some occasions I was successful, but not nearly successful enough to deliver the recommendations. If you take those recommendations, we are already, on the work that we are doing, about £1 million under-funded in the budget of the prison, and in order to meet those recommendations we would really need to find an additional further £1 million in revenue costs. That is without the extra money that we would need in terms of the capital programme. So I am aware that, under the situation we are in, I have to look to my own resources under my own control first of all. And one of the things that I am looking to do, which I will be taking to my colleagues at the Council of Ministers, is to reorganise - reprioritise - the capital budget, in particular, that I have in order to try and bring forward the capital programme. But I am fully aware that there are not extra resources out there for me to just go and pluck. I am fully aware that I will have a hard time with my colleagues in an FSR (Fundamental Spending Review) process trying to take resources away from them. So I know that I have to use the resources that I have. I am having to be flexible. I am having to be quite inventive. But, Sir, this is a matter I am determined to take forward and I will take it forward, but I do need my colleagues to recognise that you cannot turn this round over night. We are dealing with decades of problem at the prison. To give an example, a senior member of our team has had no training for 23 years. That is not down to my presidency since 2003.

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

I am almost afraid how long will it take to get an answer. I have got 3 questions and I will ask the first one first. The inspection was carried out the last week of June and a report was then submitted - 27th June to 1st July - and it was submitted to Home Affairs, according to the report, in September 2005. Why did it take so long for the report to be made known to the public, and who is responsible for withholding that report?

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

No one was responsible for withholding the report. It is a matter of the process that happens with all inspections. Remember, of course, that we invited the Inspectorate in because we wanted to know what the difficulties are, what the progress had been, what had not been done and what we needed to do.

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

I only asked for who was responsible.

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

A draft report came out in September 2005 and it was sent for checking, as indeed is the usual way. It went to the Prison Governor for checking and, in fact, I did not actually see it at that point. It was some time later that it came before me. We are also aware that there were the elections coming up and all sorts of things going on then. We did not know who the Minister was going to be.

### **The Deputy Bailiff:**

A concise answer please, Minister.

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



And, you know, in a sense, Sir, there was still lots of work that needed to be done in terms of the checking: what recommendations had been met and what had not. So it was important, Sir, that whoever brought this forward obviously needed to have the background and have the knowledge to move this on.

**The Deputy Bailiff:**

The question was, if there was a delay who decided?

**Senator W. Kinnard:**

There was not any delay. It was a matter of the process in terms of...

**The Deputy Bailiff:**

That is the answer.

**3.6.4 Deputy P.N. Troy**

Can I ask the Minister - now that I can get a word in **[Laughter]** - the previous Home Affairs Committee brought in a tracking system to track prisoners: has that alleviated the problems with the number of entrants into the prison? The prison is still at full capacity, so why have we not seen any reductions because of the introduction of the tracking system? If the case is that we are still having too many people coming into the prison does she now feel that we need a full and proper review of sentencing policy?

**Senator W. Kinnard:**

I think the Deputy is referring to the electronic monitoring scheme. That was brought in. The main reason for that is to do with rehabilitation rather than reducing the numbers of prisoners. Having said that, we made a facility for up to 30 prisoners to be monitored at any one time. We have never got up to that number because they have to be carefully risk-assessed. They also have to want to do it because they have to find appropriate accommodation and jobs, and so on. So the numbers, I think - most recently I checked in the last few weeks - around 14. So it is not a huge number. It is not a panacea to deal with the issues of over-crowding, but that was never its main reason. Yes, we do certainly need to have a review. I have asked the Royal Court to review its sentencing policy: the long sentences that are given in drug trafficking cases. But that is a matter for them. It is a matter for this community to decide what sentencing policies it wants. But what I would say to this community is, if you are going to keep the same sentencing policies you have got to give us the resources to actually deal with the output from that. We have not had those resources and I am being given an impossible task nearly...

**The Deputy Bailiff:**

I am sorry, Minister. You have made that point before already.

**Senator W. Kinnard:**

Certainly, if this House had debated the criminal justice policy at the time I brought it forward and it was ready to go, we would have more opportunities to deal with the over-crowding situation at La Moye.

**3.6.5 Deputy E.H. Egré of St. Peter:**

Would the Minister agree that one of the strategic problems within the Jersey Prison Service is that we are a one-stop shop in that in the United Kingdom there would be at least 3 prisons which would be dealing with our females, our young offenders, our serious offenders and our people who have been involved in drugs? Would she further agree that many efforts have been made, some resulting in emotional appeals both to this House and to the former Finance and Economics Committee, for funding to meet some of those very important requests that were made in the earlier reports, and

that eventually a grudging - and I mean that word - a grudging acceptance was made that some of the finances would be made available, not only just for the prison but for...

**The Deputy Bailiff:**

They must be concise questions as well as concise answers.

**The Deputy of St. Peter:**

I was just asking for her to confirm one of 2 things, Sir. The last thing I wish to confirm is that it was not just the financing for the prison, it was for the financing of the supporting roles, including probation and education.

**Senator W. Kinnard:**

I would certainly agree with most of that, but I would not like to give the impression that we have not been helped out by the previous Finance and Economics Committee. Over the period from the year 2000 to 2006, the budget for the prison did grow from £4.5 million to £6.9 million. But that was mainly because I was going to the Finance and Economics Committee virtually begging them to bail us out because we were so under-funded. There was no way that we could operate that prison as a decent place with the funding that was available to it. So I would say I was grateful for the help that I could get but it certainly was not nearly enough. That is absolutely clear now and one of the reasons why I welcome this report. I have been criticised for saying that one of the reasons why I do welcome it is because at last somebody else, who is totally independent, is making and underlining the very points that I have been trying to make for at least 18 months. A lot of these issues and discussions go on behind the scenes through the FSR process, as we are all aware. We do not always see them on the floor of this Chamber. I am not one to actually weigh trout - I am not one to put political spin on matters. This is too important. We are dealing with people's lives here. I am sorry if I have not been making a big case in the JEP (*Jersey Evening Post*) enough for some journalists behind the scenes, Sir...

**The Deputy Bailiff:**

Minister, I am sorry. It is a simple question whether you will confirm.

**Senator W. Kinnard:**

And I will continue to do so.

**The Deputy Bailiff:**

Now I appreciate that this is a matter of great interest to Members but we are only halfway through the questions and well over halfway through the time, so I think I have to call it to a halt. I am sorry. I appreciate there are other people who want to ask questions but we must move in the interests of fairness.

**3.7 Deputy G.P. Southern of the Minister for Economic Development regarding workers employed in the fulfilment industry:**

Will the Minister inform Members of the total number of workers employed in the fulfilment industry in the period October 2005 to January 2006 and indicate how many of these employees were (1) temporary contract staff and (2) non-locally qualified?

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

I am afraid that this information is not yet available as the labour market report for the period 31st December 2005 is not due for publication by the States of Jersey Statistics Unit until 5th April.

**3.7.1 Deputy G.P. Southern:**

Will the Minister note my extreme dissatisfaction with such a dismissive answer when very simply he could, like I have, turned to minutes of meetings of the RUDL (Regulations and Undertakings and Development Law) which indicate that at least 40 non-locally qualified employees were given permission to be employed in this period? And, further, will he report back to his Minister my extreme dissatisfaction with the answer given to a written question earlier which says: "It is therefore only proper that information requested, which has already been requested by the Department by the Panel, is considered as part of the Scrutiny process rather than through parliamentary questions." He, along with his Minister, appears to be saying that once a topic is given to scrutiny they will not answer further questions in public?

**The Deputy Bailiff:**

A precise question please, Deputy.

**Deputy G.P. Southern:**

Does he not think this is an abuse of this House?

**Connétable G.W. Fisher of St. Lawrence:**

Sir, excuse me, but earlier I did mention that a full response to that written question would be given later, and therefore there is no intention of abusing the situation or reducing the amount of information that is available.

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

Yes, Sir, I would just like to add to that and say that there was no intention at all to be dismissive with regard to the comment that I made. Simply that we like to deal with facts and we would prefer to wait until the official figures are available rather than speculating.

**3.7.2 Deputy P.J.D. Ryan of St. Helier:**

Can the Assistant Minister confirm that there are, in fact, no non-locally qualified members of staff employed in the fulfilment sector of Jersey Post itself? At least that would give us some information and maybe give an indication as to whether... or perhaps it will come out at a later date in a report how many are employed outside of Jersey Post?

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

No, I am afraid I am not able to give that information but the details will come out in due course.

**The Connétable of St. Lawrence:**

Sir, if I may butt-in there because I am responsible for Jersey Post whereas the other Assistant Minister of Economic Development is not, and the 2 things are quite separate. Fulfilment is one subject, Jersey Post is another. This seems to be a question related to Jersey Post but it is my understanding, although I do not have the figures in front of me, that Deputy Ryan is right in putting the point that if there are any employees who are non-qualified in Jersey Post in the fulfilment industry it is very small indeed.

**3.8 Senator B.E. Shenton of the Minister for Transport and Technical Services regarding assurance of the closure of the Composting Facility at La Collette:**

Would the Minister give the residents of Havre des Pas his personal assurance that the Composting Facility at La Collette will be closed if members of the public suffer unreasonable discomfort from smells and other irritants over the coming months?

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

The terms of this question poses a number of issues not least of which is in fact what constitutes unreasonable discomfort and who decides what unreasonable discomfort is likely to be? Similarly,

it is my understanding that not all smells emanate from the Composting Facility. It seems fairly clear that there are also smells arising from decomposing seaweed as well as dying-off marine algae, therefore I regret that I cannot give a personal assurance that the composting facility at La Collette will be closed in the event of an odour emanating from the plant in the coming months. However, I can assure the Senator that the Technical Services staff will be giving their usual efforts to ensure that any problems are reduced to the minimum. But I would like just to take this moment to say how delighted I am that those staff last week won an award from Jersey Genuine Produce for the best new product for the soil improver that is produced by our highly green organic Composting Facility. Can I give an assurance to the Senator - and I know he visited the facility yesterday morning - that the staff down there work very hard indeed, and in a conscientious way I might add, to ensure that all the problems with odour emanating from the Composting Facility are kept to the absolute minimum.

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

Would the Minister confirm that this marvellous award attributed to the Department and wholly supported by people that are into the environment, like myself, was for the 20 per cent of the composting that occurs to that stage, the other 80 per cent is not graded as such.

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

I am delighted to see the Deputy was paying close attention on his tour of the composting facility yesterday. Yes, it is absolutely correct: 80 per cent of the composting goes straight back - in a slightly more raw form - on to agricultural fields in the Island and 20 per cent - which is a slightly finer graded product - constitutes the award-winning soil improver product.

**3.9 Deputy G.P. Southern of the Minister for Social Security regarding the Social Security low income threshold:**

Would the Minister advise Members whether a working mother employed 5 hours a day, between the hours of 9.00 a.m. and 3.00 p.m. 5 days a week, on the minimum wage currently falls below the social security low income threshold rendering her ineligible to claim sickness and other benefits?

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

There are many factors which affect entitlement to benefits but in broad terms anyone whose monthly earnings fall below £663 is not currently entitled to short-term social insurance benefits. Any contributions that they do make, help to build up a pension entitlement. It does not preclude entitlement to non-contributory benefits - such as family allowance - which have their own criteria and are not dependent on contributions. The intent behind the lower thresholds was to leave out of the system those who have insubstantial - usually part-time - earnings. The benefit levels are also set to reflect the general situation where a person works and earns above those levels. So, a person on a minimum wage would therefore need to work about 30 hours a week or 132 hours over a month to qualify.

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

What consideration will the Minister give to revising the levels at which the low income threshold is set because it seems to me unreasonable to expect a woman, who is taking care perhaps of her children, to work 9.00 until 3.00 and to be losing her pension right at the end. Are we not building up pensioner poverty for the future?

**Senator P.F. Routier:**

Members may recall that there was a document "Continuity and Change" and what follows on was R.C.49/2005 which I would recommend to Members that they read because within that there is the recognition that the issues regarding contributions for part-timers and also for self-employed will be

addressed when that is looked at. Obviously, the high priority at the present time is the income support system which we are working on and once that is debated and finalised, the next piece of work will be to ensure that we do look at the whole insurance system. It is possible that people on a low income could be better supported by the income support system as opposed to the social security system. So, it is something that we will have to look at when we make that judgment but I think the Deputy also mentions the issue about there not being a build-up of contributions for pensions. That is not the case. People, when they are paying contributions even below the level rate, are building-up contributions to their pension entitlement.

### **3.10 The Connétable of St. Helier of the Minister for Transport and Technical Services regarding permanent location for Composting Facility at La Collette:**

Would the Minister explain why it has been decided to make the temporary composting facility at La Collette the permanent site for this operation and would he further explain how composting green waste in an urban location makes sense in terms of land values and traffic impacts?

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

Consequent upon the approval of the waste strategy, the Transport and Technical Services Department, in conjunction with officers from Planning and Environment and Health Protection, have reviewed a number of alternative sites for the Energy from Waste Plant, the Recycling Plant and Composting Operation. The recommendation from the review, which I agreed to, was that the Compost Plant should be located at Warwick Farm on St. Johns Main Road with the Re-use and Recycling and Energy from Waste Plant being located at La Collette. The Council of Ministers was asked for its view on this as there was a clear request for the compost plant to be constructed as soon as possible. The Council of Ministers considered La Collette and Warwick Farm and, on a split vote decided by the Chief Minister's casting vote, that the Council of Ministers' preferred site would be La Collette. The reason for that decision was that there was a need for the compost plant to be constructed as soon as possible and any delays to the project, resulting from local neighbourhood complaints, could impose further delays in resolving the current problem. Composting green waste in any part of the Island will require green waste to be transported on the main road network, the vast majority of east-west traffic using the Fort Regent Tunnel underpass route. The location of a compost plant on the outskirts of the urban environment and on a main road network provides a good location for this facility. In terms of land value, the loss of potential site for industrial warehousing was considered as part of the site selection process. That loss was compared to the potential cost to the States of having to purchase property in the vicinity of Warwick Farm under the existing States bad neighbour policy. To expedite the construction of the enclosed compost plant following consultation with the Council of Ministers, I am now proposing that this facility should be constructed at La Collette without any further delay subject to approval from the Minister for Planning and Environment.

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

I propose, if I may in this case, to allow the Connétable one supplementary. This is a matter which Members can take up when the Minister makes his statement so, there is a further opportunity. There are 2 other questions so, I think in the interests of fairness, we will just have the Connétable.

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

Given that the Minister is prepared to come back to the States with both the preferred site and preferred technology for the Energy from Waste Plant, would it not be logical and also good practice, to come back to the States with the proposed site and technology for composting?

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

It might be logical but it is not politically acceptable.

**3.11 Deputy S. Pitman of St. Helier of the Minister for Education, Sport and Culture regarding land-based options for St. Helier Harbour area youth facility:**

Would the Minister confirm what other land-based options, if any, have been considered alongside the planned floating youth café?

**Deputy J.B. Fox (Assistant Minister of Education, Sport and Culture):**

The need for youth provision in the southern area of St. Helier has been known for some time. It is an area of town where young people naturally congregate. A youth café - the "Move On Café", - in the old Harbour Offices, have been very popular with young people and they have enabled the Youth Service to confirm the type of venue and the style of approach preferred by young people. The Department of Education, Sport and Culture has always known that the use of these premises would only provide a temporary solution. Our young people deserve better than this. In discussion with the Waterfront Enterprise Board, over the last 2 years, it has become clear that plans for redeveloping the Waterfront make the provision of affordable youth facilities very problematic. Purchasing suitable premises would be beyond the resources of the department and rental values in the area are expected to rise.

**The Deputy Bailiff:**

I am sorry but it is a very simple question: "What other land based options are being considered?" You have not started to tell us that yet.

**Deputy J.B. Fox:**

Very sorry, Sir, I am guided by my department.

**The Deputy Bailiff:**

Well, your department is too long [Laughter] and should focus on the questions.

**Deputy J.B. Fox:**

The answer is that a number of land-based contenders have been looked at, over a considerable period of time, and basically the historic vessel is the one that has come out on top, Sir.

**3.11.1 Deputy S. Pitman:**

Could the Deputy explain where these land-based options were and also could he explain what has happened to the area of land designated for youth provision in the original WEB (Waterfront Enterprise Board) design brief?

**Deputy J.B. Fox:**

Yes. The one in the original WEB design brief I recently brought up at the Waterfront Forum 2 weeks ago. That no longer exists as it has been taken out of the equation, hence all the alternatives that we have been looking at. We have been looking at sites around the Weighbridge area, we have gone as far afield as the area adjacent to the new town park which is not an appropriate area for this particular use.

**3.11.2 Deputy G.P. Southern:**

Does the Assistant Minister not consider that what amounts to a commitment - a promise - has been reneged on by WEB?

**Deputy J.B. Fox:**

Yes, Sir, but not necessarily by WEB, because we took this up to the previous P and R (Policy and Resources Committee) and the Chief Minister, who has now made a pledge that within one year the Council of Ministers - or he himself - pledges that they will be producing a firm plan for the provision of much needed youth facilities in St. Helier. We just have not got there yet, Sir.

**Deputy G.P. Southern:**

Thank you. A year too late.

**3.11.3 Deputy S. Pitman:**

When does ESC (Education, Sport and Culture) plan to bring the historic vessel to Jersey and could he confirm whether or not it has been paid for?

**Deputy J.B. Fox:**

No, we are only on the feasibility studies at the moment. This is very early stages. We are looking at the options that are available to us, the costings, the health and safety and all the other issues and we have not reached that stage at this time.

**3.11.4 Deputy R.G. Le Hérissier:**

Would the Assistant Minister confirm that the idea he has floated of a skateboard park in a warehouse at the harbour could be linked with the development of youth facilities in that area?

**Deputy J.B. Fox:**

At this time anything could be linked until some firm plans have been brought forward. I am awaiting some positive results of the Chief Minister's pledge through the support of WEB (Waterfront Enterprise Board), the Harbour Office and a whole host of agencies. There will be some youth facilities. The main proposal that we understood that this warehouse would be vacated - if the proposals for the modernisation of St. Helier Port was that the existing tenants would be moving out - was that it seemed that this should also be looked at as an appropriate venue for youth activity. It is in the right area and, by the looks of it, it is the right size and, yes, it could incorporate other youth facilities but that, again, is subject to further reviews and discussions at this time.

**3.12 Deputy G.C.L. Baudains of St. Clement of the Minister for Economic Development regarding budget allocation to Jersey Finance Limited:**

[Aside] Would the Minister or Assistant Minister give Members a breakdown of the proposed allocation of the £850,000 vote for Jersey Finance Limited in last year's budget and indicate what the remaining balance is at the present time?

**Connétable G.W. Fisher of St. Lawrence (Assistant Minister for Economic Development):**

A total of £850,000 was allocated in the economic development budget for the promotion, diversification and further development of the financial services industry in the Island. Of this amount, £750,000 is allocated to Jersey Finance Limited with the balance of £100,000 essentially held by economic development for contingency purposes including possible additional law drafting resources if required. Members will recall that the financial services industry can contribute some £220 million, which is roughly half, of the total States' revenue each year. The promotion, diversification and development plans, of which Jersey Finance is a part, are aimed at maintaining and enhancing these public revenues. Jersey Finance Limited produced a fully costed annual marketing plan and a 3-year business plan which were presented to States Members at their briefing - the Jersey Finance Limited briefing - at the RJA&HS (Royal Jersey Agricultural and Horticultural Society) last month. The Deputy was not at the briefing but nevertheless is very welcome to see the plans. For 2006, in summary, these promotional activities include the annual conference in London, 4 to 5 sector-specific events in the UK and Europe focusing on key areas such as funds and trusts, a high profile visit to the Middle East which is currently taking place, a planned visit to the Far East later in the year and joint venture presentations with the Society of Trust and the State Practitioners, known as "Step", in Dubai and Hong Kong. The annual grant of £750,000 for 2006 was paid to Jersey Finance Limited in late February. Expenditures for this

amount are fully confirmed and committed for 2006. The majority of the States' grant is spent on specific promotional activities. An element is nonetheless used to fund the infrastructure of Jersey Finance Limited as clearly without an infrastructure no activities can be undertaken. The balance of infrastructural costs is met by industry contributors. Thank you, Sir.

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

Supplementary, if I may, Sir. Yes, it is true I was not at that meeting, Sir, but I do find it difficult to attend 5 to 10-year strategy plans that occur every year. The question I have here is, the Assistant Minister referred to trips to the Middle and Far East. I would like to know how much of the funding in question that we are talking about, if any, is being spent on Jersey Finance's Middle Eastern excursions such as the current trip to Bahrain and Dubai, either to finance travel arrangements or even perhaps to lubricate business deals as is the norm in that part of the world. If the latter is the case, do we have a quantification of the likely return on our investment?

**The Connétable of St. Lawrence:**

Well, Sir, first of all there was no criticism of the Deputy intended, in saying that he did not attend, it was simply that because he was not there he did not get the information that was issued at that briefing. Secondly, so far as the costs involved are concerned, I understand that the visit to Dubai - the current visit - is costing some £23,000 but I am assured, in conversations I have had with the Minister over the telephone in the last couple of days, that business generated already in Abu Dhabi, is far in excess of that cost and will cover it many, many times over. I spoke to the Minister again this very morning on another matter but we discussed that and already in Dubai, I am told, they have generated well in excess of the costs in Dubai. So, the costs seem to have been well covered. I do not have any breakdown of the detail of those because obviously it is happening more or less as we speak but it sounds, from what I am told, that the visit has been extremely successful.

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

I thank the Assistant Minister for his reply.

**The Deputy Bailiff:**

Time has expired and therefore, I am afraid, there is no more time for any questions. Can I just, from the Chair, make a point which I have made once or twice, though in passing, and perhaps the Deputy Chief Minister could take this back to the Chief Executive. The departments have drafted very long answers. Very often there is a long preamble which has got nothing to do with the question but is all about saying how well the department is doing. The answers must be focused. Standing Orders speak of a concise answer. It is up to the civil servants and the Ministers to ensure that answers are concise. The rule of thumb which was adopted previously was one and a half minutes a maximum. I appreciate occasionally it is necessary to go beyond that on a matter of particular complexity but that is the target which Ministers should have in mind. On future occasions the Chair may be stricter in enforcing. **[Interruption]**

**The Deputy Bailiff:**

Now, we come to questions without notice and these are questions of the Minister for Social Security.

**4. Questions to Ministers without notice - The Minister for Social Security**

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

Will the Minister please advise the House whether he intends to bring maternity legislation to the House? If he does, when will that be and what priority does he give to it?



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

The answer to the question is, plainly, yes. We will be bringing maternity legislation to the House. The programme of work currently which the Employment Forum is consulting on has redundancy and something else which escapes my mind. They are consulting on both redundancy and TUPE (Transfer of Undertakings Protection of Employment) which is the Undertakings legislation. So, that is happening currently. Once that consultation has taken place, which will probably take about 6 months, they are then going to look at maternity as the second strand. So, in reality, once the consultation process is over I would expect that legislation would be coming-in during next year. I do have it as one of the priorities obviously.

**4.2 Deputy S. Pitman:**

Given that the Minister has stated in the past that the Employment Relations Law is constructed to ensure the protection of both employer and employee alike, would the Minister clarify for the House why an employee successfully winning an unfair dismissal case will not be entitled to reinstatement and what plans does he have to mitigate the situation?

**Senator P.F. Routier:**

The general principle of people being reinstated from work when they have lost their job, it was felt when it was consulted upon by the Employment Forum a number of years ago, was that it would be very unlikely that it would work that somebody would be reinstated. If they have come to a situation where the relationship with their employer has broken down quite irrevocably, and if the tribunal found in the employee's favour, it would not be, probably, a situation which would work where the employee would return to that work place. What was recognised was that people could just be using that as a mechanism to up-rate any compensation that was being awarded. So, that was the view of the Employment Forum and I have to say I do share that because it is very unlikely that there would be an amicable reinstatement of a person in the workplace. So, I have no intention of redressing that as the Deputy has asked because I believe that it would be unworkable.

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

I hope the Minister has been studying his Draft Strategic Plan because I have a number of questions on that. Under Commitment 3.6 of the Draft Strategic Plan, the Minister's success indicator is the reduction in the number of children and pensioners living in relative low income households. Will the Minister inform Members which of the actions outlined under the heading "What we shall do" addresses this target and furthermore what specific targets will the Minister set, and be judged on, for reducing both child and pensioner poverty from their current abysmal levels of 33 per cent according to the income distribution survey of 2002?

**Senator P.F. Routier:**

The Deputy has obviously brought with him a copy of the Strategic Plan. I have not but certainly my view on ensuring that child poverty and pensioner poverty is addressed is high on our priority with regard to ensuring that the income support system does recognise the needs of that group of people. Certainly child poverty is an issue which... it was only last week when I was at the British Irish Council that the work stream - which is going to be taking place for next year within the British Irish Council, in which we are taking part - will be the main stream for not only child poverty but lone parents as well. We will be developing that and filtering that information from the other jurisdictions into our work for introducing income support.

**Deputy G.P. Southern:**

Sir, may I have a supplementary, please?

**The Deputy Bailiff:**

No, I am sorry there are a number of other Members who have already indicated that they want to ask questions. If they run out then, of course, you can. Deputy of St. John.

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

When the Minister alluded to maternity rights, will this also include paternity rights and, if so, what help, if any, will be given to small businesses in order to cope with the possible impact of such legislation?

**Senator P.F. Routier:**

Certainly with regard to paternity rights it would be our intention to address that issue. The second part of the question with regard to the impact on businesses: in all of the employment legislation which we are bringing forward, we do take seriously the impact on the business community because they are the ones who are employing the people and have to be able to afford to employ people. So, although my policy is to have a good social protection policy for people, to ensure that people are supported in an appropriate way, it has to be tinged with reality - that is because the business community have to be able to afford whatever legislation is put in place. So, yes, as to paternity, we will look at that and, yes, we will recognise the needs of the business community as well.

**4.5 Deputy S.C. Ferguson:**

When the Minister brings in, or is considering, the maternity policy, will he give consideration to some form of protection for employers where prospective employees apply for positions knowing that they are already pregnant? This is, in fact, quite a real problem in the UK where you employ somebody, Sir, one week and then about 3 weeks later they announce that they need their maternity leave and so forth. What consideration will the Minister be giving to this sort of problem, particularly with the number of small businesses we have?

**Senator P.F. Routier:**

Sir, as I said earlier, the Employment Forum will be consulting on this issue. I would suggest that the Deputy does make that point to the Employment Forum in the consultation process. Obviously they will ensure that all those considerations are taken account of. I know our own benefit system does preclude that possibility so; we do need to ensure that perhaps the legislation for maternity benefits in legislation does reflect that same situation. We might be able to learn from the UK experience.

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

I wonder if the Minister could give us some outline as to what safety net will be put in place with the low income support system in relation to discretion. By way of an example, over the last 3 weeks I have been trying to address an issue where a constituent's daughter has been submitted to hospital care and that recipient, who is currently in receipt of welfare, has had the welfare reduced because of the fact that she is now within the hospital's accommodation. The fact that expenses do continue once somebody is in care is a factor that I think needs to be borne in mind and whereas the department, who I have been to see on 2 occasions as well on this matter, are unable, due to the law as it is written, to exercise discretion and the Parish is not able to exercise discretion in this instance because of policy. What element of discretion will be written into the low income support system whereby, in the future, if a system like this is shown to be failing a resident of St. Helier, that the officer at Social Security will be able to take into account an element of discretion?

**Senator P.F. Routier:**

Yes, the development of the income support system has highlighted many areas where we feel there would be a need to have a top-up from a different system which is outside of the general components which people will be awarded. Members who have attended presentations will be

aware that the income support system is made up of various components people can apply for, whether it be for caring or for children or for housing benefits and disability as well. There are about 4 components for disability. Outside of that we recognise that there are occasions where people are going to need additional support. What we will do and what we have recognised is that we are establishing a citizen's fund, which will enable people to apply to that for additional support when it falls outside of the amounts which will be set for various components. I was a little bit concerned that the Deputy mentioned a particular case at this present time where he has approached my department.

**The Deputy Bailiff:**

A concise answer, if you would.

**Senator P.F. Routier:**

Really, what I am trying to say is this. Discretion does still exist within the Constables' system and if there is a particular case that requires support I would encourage the Deputy to try again if it is in real need.

**4.7 Deputy R.G. Le Hérisier:**

As we all struggle with the generalities of the Strategic Plan I wonder, Sir, if the Minister could tell us with reference, for example, to 3.6: an integrated system of benefits to help people achieve financial independence. He promises to reduce the proportion of working-age residents needing income support, he promises to increase the proportion of working-age residents with long-term health into paid employment. Can he give us the percentage in both cases and can he give us the mechanisms by which they will be achieved?

**Senator P.F. Routier:**

I cannot give the percentages for those targets. If you look through the whole of the Strategic Plan in all the departments you will find that there are desires to achieve various things. It is very difficult in a Strategic Plan to highlight that but certainly below that the business plans within the departments will have those targets set and that is what we need to work on next. The Strategic Plan is the overall document which the Ministers have put together and put forward ideals and ideas which we want to achieve. I believe it is now for the departments themselves to work on their business plans and to bring forward how those are going to be benchmarked by previous and existing performance. That is what we will have to do and I think once you have that document - the business plans - from the various departments you will then really be able to judge the success of policies or not.

**4.8 Deputy J.A. Martin:**

Would the Minister describe how the introduction of the low income support system will protect families against the introduction of GST?

**Senator P.F. Routier:**

Certainly, the Members will be aware that from the fiscal debate we had, there was a 2-part decision - a combined decision which was made by the States which ensured that sufficient funds would be given to the income support system, which will be sufficient to cover the cost of the impact of GST on those who have low income and that will be put in place at the time when GST comes into place.

**4.9 Deputy S. Pitman:**

The Minister has stated that the reinstatement of a job after a proven unfair dismissal is unworkable. In the instance of the specialist worker - of which there are significant numbers in the

Island - what kind of equality would the Minister suggest this offers to a wronged employee suddenly being unable to pay a mortgage and facing no other option than to sell-up?

**Senator P.F. Routier:**

Parting company between employer and employee for reasons of which I am unaware, that may obviously have been a very difficult situation for them. So, I probably do not have a satisfactory answer to say how that can be resolved. In my earlier answer, I hoped I got over the point that it was recognised that it was a very difficult issue to reinstate. The view of the Employment Forum when it initially consulted on that issue was that it was a mechanism to get additional compensation for being made redundant and I think that is probably the best answer I can give I am afraid. It may not be satisfactory but that is the situation.

**The Deputy Bailiff:**

I am advised by the Greffier the time has expired. **[Laughter]** We come next to the second period which will be questions of the Chief Minister. Deputy Le Herissier.

**5. Questions to Ministers without notice - The Chief Minister**

**5.1 Deputy R.G. Le Hérissier:**

Given the struggle we are all having with the generalities of the Strategic Plan which we are now told is deliberate, would the Acting Chief Minister confirm that policies will only be taken forward that emanate from this Plan once they have been subject to debate and the approval of this House?

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

In general the answer is yes, Sir, but there are some policies which exist now. The Strategic Plan does not start from a clean sheet of paper. We have existing policies in respect of health, of education, of a variety of issues. This Strategic Plan develops and enhances those policies and so, it would perhaps be dangerous to say that no policies will be put in place until the plan is agreed. What I can say is the converse that policies which are not within the strategic plan would not normally then be allowed to be taken forward.

**5.2 Deputy A. Lewis of St. John:**

Can the Minister advise the House if it is still intended to transfer the responsibility of the population office from the Economic Development Department to the Chief Minister's Office and, if so, when will this occur and will the Chief Minister's Office be more sympathetic to the needs of local businesses as against the Economic Development Department's seemingly greater interest in attracting new non-local businesses?

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

The arrangements for the population office have already been discussed by this House but I have got no indication that the present arrangements with the Housing Department and the Economic Development Department is not working satisfactorily in the best interests of the Island. If the Deputy has particular situations which cause him concern, I suggest he takes them up with the Minister for Economic Development.

**5.3 Deputy G.P. Southern:**

Is the Acting Chief Minister aware of the Guernsey Government's decision to abandon the look-through provision in its proposed taxation reforms and replace it with taxation of dividends only, with some measures to ensure compulsory distribution? Does he consider that such a move shows some misgivings, at least, over the compliance of look-through with the EU code of conduct on business taxation?

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

I am aware of the current Guernsey proposals which refine the provisional look-through proposals and certainly that is something which I am looking at myself in terms of Jersey's look-through proposals. We need to make sure that whatever we do is compliant, is easy to administer and understandable. I have no doubts that the Guernsey proposals and the Jersey proposals are fully compliant with the EU code and I do not believe that any proposals put forward by Guernsey change that situation whatsoever.

**5.4 Deputy J.A. Martin:**

In the summary of the Council's Minutes from 9th March it has now been decided by the Ministers that Members and members of the public can have a recording of the Ministerial votes. As I did give notice, I would like to know how many Ministers were at the vote on the siting of the composting at La Collette, which way each Minister voted and which way the Chief Minister used his casting vote. I hope the Minister can inform us of that as I did give him notice about 20 minutes ago.

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

I am grateful for the notice although it has not given me time to do any further research. Basically there were 8 Ministers present when that decision was made and it was 4 who believed that the composting site would be better placed at La Collette and 4 that went for Warwick Farm. The casting vote exercised by the Chief Minister was in favour of La Collette and he also voted in favour of La Collette. Those voting for Warwick Farm, from recollection, if I am wrong I am sure the Ministers will tell me, were Deputy de Faye, Senator Routier, Senator Le Main and myself. Those voting against, I believe, were Senator Walker, Senator Syvret, Senator Ozouf and Senator Kinnard. I believe that the 2 Members who were not at the Council's meeting were Senator Vibert and Senator Cohen.

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

May I follow on from that question then? In that case, what the Assistant Minister is telling us is that there were 8 Ministers present for the vote and 4 votes were cast for Warwick Farm and 4 votes were cast for La Collette, yes? And that there is no casting vote unless there suddenly has appeared a new Minister or if the Chief Minister is not being included as one of these 8 Ministers in which case I would like to ask if that is correct? Where was the weighted decision that it not be put at Warwick Farm if there were 4 for and 4 against?

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

In a situation, Sir, where the vote is equal the Chief Minister has a casting vote. He exercised his ordinary vote in favour of La Collette and he exercised his casting vote also in favour of La Collette. He effectively had 2 votes.

**5.6 Senator J.L. Perchard:**

I have got a double-barrelled question on the same subject. The Public Employees Contributory Retirement Scheme's latest actuarial valuation as of the 31st December 2004 has now been completed. I understand the report on the Scheme has been released to the Committee of Management. Could the Acting Chief Minister advise the Assembly as to when the report will be available to States Members? Similarly on the same subject, Sir, on page 11 of the Strategic Plan it reads in the last paragraph: "The deficiency in the Teachers Pension Scheme will be corrected." What measures does the Assistant Chief Minister propose to use to correct this deficiency?

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

I think the Senator is cheating there by asking 2 questions at once, Sir. The actuarial review of the Public Employees Scheme has indeed been agreed by the Committee of Management and by the

States Employment Board. It is in the course of printing and it should be in Members' hands in the next 2 weeks. As far as the Teachers Pension Scheme is concerned, that is a different sort of scheme to the Public Employees Scheme. Discussions are actively in process with the Minister of Education, Sport and Culture, whose primary responsibility this is, for a corrective arrangement to be made which will eliminate that deficit over a period of time. No proposal has yet been finalised in respect of the Teachers Pension Scheme.

**5.7 Deputy C.J. Scott-Warren of St. Saviour:**

I would like to ask the Deputy Chief Minister if he could tell the Assembly Members where the provision exists for the Chief Minister to have 2 votes when there is a tie on voting on an important point in any decision.

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

I do not believe it is enshrined in legislation, Sir, I believe it is a matter of Committee procedure. Without researching the situation, I can not identify anywhere in particular but it is certainly not uncommon that where there are tied decisions whoever is chairing the meeting does have an additional casting vote. That seems to be the norm and it certainly applies in the questions to the Council Ministers.

**5.8 Deputy R.G. Le Hérissier:**

Following on the status of the strategic plan, would the Acting Chief Minister, in terms of paragraph 2.9.1 for example, where it says: "In 2006, adopt sustainable travel and transport plan and by the end of 2007 have in place funding for implementation", would he categorically state whether that means the States will adopt the Plan or whether this Plan will be adopted by circumventing this Assembly?

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

It is my understanding, Sir, that the sustainable transport strategy will be brought back to this House by the Transport Minister for discussion by the Members of this House and that it is this House that will make a decision.

**5.9 Deputy G.P. Southern:**

What justification does the Acting Chief Minister have for the £32 million raid on the Dwelling Houses Loan fund to fund expenditure elsewhere in the Strategic Plan and on what will this sum be spent?

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

The £32 million from the Dwelling Houses Loan fund is used specifically to fund what I regard as essential maintenance of our infrastructure, primarily on our States social housing stock which over the last few years has deteriorated to an unacceptable standard. Much as I have a policy which reduces spending where possible, I do believe in the case of States infrastructure it is vital that we maintain that in adequate condition and this money from the Housing Fund will indeed go back into social housing predominantly and also the roads and drains of our infrastructure.

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

Given the recent announcements by the Chief Minister and the Treasury Minister in Guernsey that the local companies will not pay any tax on their profits in Guernsey, how will that affect the Jersey businesses from an international or competitive perspective and what will stop them from going across to Guernsey and registering their businesses there and paying no tax here and operating here?

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

I think that is probably a broader question than is immediately dealt with but anti-avoidance legislation will be required as part of the arrangements for dealing with the new corporate tax structures and those are already being discussed and will be implemented to ensure that there is no opportunity for any such arrangement to take place.

**5.11 Deputy J.A. Martin:**

To go back to the La Collette composting site, given that we now know that the Transport Minister and, I think, another Minister, has been asked to bring back the decision to the States and it is not necessary under the politics. Would the Acting Chief Minister confirm that it is always possible for any Member of the States to bring a private proposition as to the siting of the composting? My further question is, being that now the Ministers have made a decision, albeit split, on the vote in the House, would they have to stand by collective responsibility or would all the Ministers have a separate vote so, at least we would have 4 for and 4 against?

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

It is always a prerogative of a Member of this House to bring a proposition so long as it conforms with the States' procedures. So, yes, there would be an opportunity to discuss it in that way. I would also point out that where a proposition requires capital expenditure, that capital expenditure also has to be specifically authorised by this House so, there may be an opportunity in that situation. As far as the voting is concerned, I would remind the Deputy of what Senator Syvret said earlier that that was not a decision of the Council of Ministers, that was a view expressed as to which way the Minister for Transport should address the problem. I do not imagine that the Council of Ministers would necessarily change their minds from one week to the next but certainly on the basis of the overall scoring at that time, that was the view of the Ministers. As the Transport Minister said in his reply: "Different weightings and perhaps a question of timing might have swayed Members in different directions." So, I certainly cannot speak for them but I will just speak for myself.

**5.12 Deputy R.C. Duhamel:**

Apropos of what was just said, why then was a vote taken and indeed a vote recorded in the various media if indeed it was a decision of the Minister? It certainly has not been reported as such and I and, I think a number of other Members, are a little confused.

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

I am sorry if Members are confused. The Minister responsible for composting brought the matter to the Council of Ministers for their information and to seek their guidance. He got that guidance and he is now making a decision which he considers appropriate.

**5.13 Deputy G.P. Southern:**

Under A1 of the minutes of the Council of Ministers of the 28th February, it was agreed that Members should be properly informed about decisions before those decisions were reported in the media and yet, only last night, I read that the problem with legal advice had been solved, in the newspaper. Is the Acting Chief Minister satisfied that the correct procedures are in place for informing Members who are not on the Executive of decisions or are we, as many suspect, to be treated as an irrelevance?

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

I believe that the procedures which we have now adopted in respect of informing Members are a significant improvement on what we have had in the past. Last week, following a meeting of the Council of Ministers, I did arrange for summary minutes of that meeting to be circulated to all States Members the following day. Those minutes were circulated to Members at the same time as the media were briefed. The media briefing, on that particular topic, was quite clear. What the

media have interpreted, as a result of that discussion, was not in fact what was decided and I believe that the Attorney General and I will wish to correct the media for what we believe was wrong reporting of certainly a position which was not taken. The decision which was taken at the Council of Ministers was that the question of legal advice would come back to a further meeting of the Council of Ministers at which the Ministers would receive the full written advice of the Law Offices before making their decision.

**The Deputy Bailiff:**

The Greffier informs me that the time has arrived. Very well, so, that concludes questions without notice.

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

Can I just ask, from a procedural perspective, a question of the Chair or the Attorney General? Given the recent change to Ministerial government, Members are now becoming aware of certain procedures that, perhaps, may have occurred on Committees in the past but I certainly was not aware of the fact that a casting vote could be exercised as custom on a Committee or on a Ministry, in effect, giving 2 votes to one Member. Given that the decision, specifically, was meant to have occurred in relation to the concerns of the residents and given the fact that the 3 representatives of the district and the Constable and the residents themselves have not been consulted, may I ask the Attorney General, in this instance, whereby the Minister has decided to make a decision heavily weighted by his Council's views on a casting vote by the Chief Minister, whether or not the Minister now going forward with the decision... You made a rather sweeping comment that it was not a matter for the States. I would like to ask through the Chair to the Attorney General or to yourself, Sir - I am certain either of you will be able to give a satisfactory answer - the paramount supremacy of the Assembly, surely, in Ministries with the fundamental exception of the Planning and Environment Committee, must be retained by the Assembly and therefore any decision of the Assembly is paramount, certainly in my view. Is that the case, Sir, or would it be a case in this extenuating circumstance, for any Member or Members with this situation facing them, be forced, in this instance, to exercise the nuclear option of a vote of no confidence in the Minister or perhaps in the Chief Minister? What is the situation? Do the States retain their supremacy and/or does the Ministry now take over that issue in a particular operational decision? I am a bit confused.

**The Deputy Bailiff:**

That is a matter which, if you wish to pursue, you must pursue with a more formal question with notice so everyone can think about it. Very well.

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

It hinges on the debate, Sir, whether or not asking a question in a proposition is going to achieve anything.

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

**6. Senator T.J. Le Main (The Minister for Housing) - Statement regarding the withdrawal of the proposition regarding the establishment of a housing trading organisation**

**The Deputy Bailiff:**

Now, there is nothing under J so, we come to K, Statements on a matter of official responsibility and the Minister for Housing will make a statement regarding the withdrawal of the proposition regarding the establishment of a housing trading organisation lodged au Greffe on the 27th September 2005. Minister.



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

I wish to notify the Assembly of the reasons for my decision to withdraw the proposition on the establishment of a housing trading organisation (P.211 of 2005). The report and proposition was lodged au Greffe on the 26th September 2005 by the former Housing Committee and was due to be debated on the 28th March 2006. P.211 of 2005 dealt with 2 key issues, namely the funding of an extensive refurbishment programme for States rental accommodation and the long-term future of the Housing Department and the States housing by establishing a trading organisation. Since becoming Housing Minister I have concluded that it is not possible to deal with these issues in one proposition hence my decision to withdraw the same and approach the matters separately. It is vitally important to commence work on the much needed refurbishment programme for States rental accommodation. A simpler report and proposition will therefore be lodged as soon as possible. This will outline the need to carry out such works together with a detailed schedule and identified funding. In addition, it will specify a reduced list of property sales. These sales will help finance some of the refurbishment as well as increase the level of home ownership among States tenants. With regard to the long-term future of States housing and its management, it would be difficult for Members to consider any proposals until such time as a clear strategy is developed for the provision and management of social housing in the Island. I have therefore instructed the Housing Department to produce an in-depth and wide-ranging report on this matter. The report will form the basis of a proposition to be lodged towards the end of this year. This Assembly will then have the opportunity to debate a new strategy for social housing in the Island and, as such, the role that both States housing and housing trusts will play in this overall plan. The report will involve extensive consultation with all stakeholders and will of course be involving the Social Affairs Scrutiny Panel in this vital piece of work. Thank you.

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

I draw the House's attention to the second paragraph, last sentence: "Since becoming Housing Minister I have concluded that it is not possible to deal with the issues in one proposition hence my decision to withdraw the same and approach matters separately." Could I ask why it was not possible when the Minister was the President of the Housing Committee? What changes have there been since becoming a Minister when, in fact, he was indeed the President when this particular proposition was lodged?

**Deputy T.J. Le Main:**

Well, the main difference is now, Sir, that we have managed to secure the support of the Council of Ministers in securing funding and that has a main implication on the whole programme. We have now got an agreed funding for a 5-year period from 2007.

**6.2 Deputy R.G. Le Hérissier:**

I wonder, Sir, if the Minister could inform us what will be the source of that funding for the refurbishment programme?

**Deputy T.J. Le Main:**

The Council of Ministers has agreed wholeheartedly in the Strategic Plan that funding of £7 million a year will take place for the next 5 years and quite a considerable sum of this money will come from the Housing Loans Development Fund. So, there is a huge opportunity now to move forward on the refurbishment et cetera of States housing.

**6.3 Deputy G.P. Southern:**

Will the Minister's wide-ranging review of policy include the foolhardy position of using Homes Trusts to fund future building?

**Deputy T.J. Le Main:**

I would urge that all Members write in - now that I have made this announcement and Members are aware what we are trying to achieve - to the department with any views on the subject. We would like to look at the whole issue of what role the Housing Trust plays, what role the Housing Department and the public play in the provision of home ownership of social rented homes et cetera. So, I would urge all Members to please talk to us, give us some ideas and advice and I promise to work with all the stakeholders including all the tenants and everybody who has got a stake in it.

**6.4 Deputy G.P. Southern:**

Again, what consideration has been given by the Housing Minister to the sale of current stock via shared equity to private banks and others?

**Deputy T.J. Le Main:**

Considerations will be given at the place and time.

**7. Deputy G.W.J. de Faye (The Minister for Transport and Technical Services) - Statement regarding the implementation of the waste strategy**

**The Deputy Bailiff:**

We move next to a statement which the Minister for Transport and Technical Services will make regarding the implementation of the waste strategy. Minister.

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

It has become apparent, following consideration of an appropriate location for an enclosed composting plant by the Council of Ministers, that there is a level of confusion among States Members relating to the procedures for the implementation of the waste strategy. Accordingly, I would like to lay out the existing position and indicate the future direction of the process. The solid waste strategy was debated and approved by the States in July 2005. Within that strategy the preferred site for the new Energy from Waste (EFW) Plant was Bellozanne with composting and reuse and recycling facilities located at La Collette. When the report and proposition for the strategy was lodged, Deputy Ben Fox of St. Helier, lodged an amendment seeking to move the EFW plant from Bellozanne to La Collette. Following debate of the amendment, Deputy Fox agreed to withdraw it, following agreement with the former Environment and Public Services Committee that a full assessment of both Bellozanne and La Collette would be undertaken for the EFW plant. The agreement read: "The Environment and Public Services Committee gives an undertaking that it will carry out a full evaluation of the Bellozanne and La Collette sites. The evaluation will consider health, cost and technical issues and will, of course, include an environmental impact assessment which will include full consultation with potentially affected residents. The Committee undertakes to bring a report on the evaluation to the States in order that Members should be aware of the situation before tenders are invited for the new Energy from Waste Plant and before the Committee submits an application to the Planning Minister. The ultimate decisions on the location of the Energy from Waste Plant will be a matter for the Planning Minister to consider and in the event of La Collette being the preferred site the States will have to consider rezoning the land." It is important to note that this undertaking to bring a report back to the States was given for the EFW Plant only. As the detailed evaluation of both sites commenced it soon emerged that the EFW Plant could go at La Collette adjacent to the Jersey Electricity Company site occupying the site originally earmarked for the Compost and Re-use Recycling Centre. This location allowed for the EFW Plant to be connected to the JEC (Jersey Electricity Company) chimney and other associated services within the existing power station building. In the light of the very significant advantages and cost savings that accrue from the use of this site, the former Environment and Public Services Committee instructed the department to stop the evaluation of the Bellozanne site and concentrate on La Collette for the EFW Plant. Therefore, for

the avoidance of doubt, I think it is my responsibility to make Members aware of that development. That decision then prompted reconsideration of the location of the enclosed composting operation. This resulted in a recommendation being made to the Council of Ministers based on a weighting determination, carried out by a cross-departmental officer group, to use a States-owned site at Warwick Farm with La Collette - specifically La Collette 2 - being assessed as a close second choice. On a casting vote, as has been heard this morning, the Council of Ministers determined that an extra political factor should be added to the weighting assessment. The La Collette site had the advantage of allowing construction to be completed in the shortest anticipated timeframe with the consequent termination of the odours emanating from the current operations and the associated relief of nuisance for the Havre des Pas residents. That new recommendation from the Council of Ministers to the Minister of Transport and Technical Services has been accepted and the location of the enclosed composting plant at La Collette will now be subject to the usual planning approval procedure. The Re-use and Recycling Centre will continue to be located at Bellozanne but will be substantially enhanced and improved. Once the EFW Plant is constructed and the development site has been cleared, the Re-use and Recycling Centre will be transferred to the vacant plot at La Collette, again, subject to planning approval procedure. To summarise, the only decisions - albeit important ones - relating to the waste strategy that are still before the States are, firstly, the decision on whether to relocate the Bellozanne EFW Plant to La Collette and, secondly, the approval of a final tender for the EFW Plant. Thank you, Sir.

#### **7.1 Deputy P.J.D. Ryan:**

In his statement and also during question time, not so very long ago, I think there were several to do with green waste composting but I think it was the question from Senator Shenton... The Minister confirmed that before recommending Warwick Farm initially, as a site for green waste composting, his department carried out much, if not all, of the preliminary work that the Planning Department would require in order to assess Warwick Farm for suitability for green waste composting. In the light of this, is he prepared to submit a request for outline planning permission for both La Collette and Warwick Farm at the same time, at least at the same time, possibly even Warwick Farm immediately to be followed, as soon as possible, by La Collette, thereby minimising any possible delay - which is in his statement here - and providing his department with a speedy indication of the likelihood of planning permission being granted and where the most suitable location might be. At the moment only temporary planning permission exists at La Collette. That is my question but the last tiny bit, Sir, is that at the moment perhaps he can confirm that only temporary planning permission at the moment, exists at La Collette and that, in fact, he will need to carry out some work down there which, hitherto, his department has not done. So, in fact it could be the other way around. In fact it could end up with more delays by asking for La Collette to be approved. Thank you, Sir.

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

As I think can be elicited from the length of the Deputy's question, this is not a simple matter. I think it probably would be inappropriate for me, or the department, to submit joint planning applications but that is certainly an issue I will discuss with my Chief Officer and see what precedent, if any, exists for that. In respect of - I am not quite sure what the Deputy meant by: "temporary planning permission" - I am not sure that such a concept exists but I think I have to say that it is important for Members to realise that there are 2 separate levels of decision-making going on here. The first one was an entirely objective appraisal by a cross-departmental officer group who added certain weightings to all the various elements of the decision-making in terms of location assessment: in other words, traffic impact, environmental impact, impact on neighbouring properties, et cetera. I think it was incumbent upon me to present the Council of Ministers with a single specific recommendation even though slight adjustments of those objective weightings used by the officers would have easily tipped the balance towards La Collette being the clear recommended location. However, I made the recommendation I did at the time. I think it is

important to understand that the Council of Ministers, again - albeit in a very balanced voting outcome - decided that the political element within the decision-making was more important than the objective assessment. In other words, it was more important to get on with the job and it was also clearly important to recognise the policies we are now understanding from the new Environmental Planning Sub-Committee, where we are clearly seeing a stronger view being taken to developments in the countryside zone and, by equal measure, Warwick Farm also had significant problems with the impact on the number of neighbouring residents. Therefore, I think the outcome of that decision-making process is a clear one and that is that La Collette is the better of the options.

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

I thank the Minister for his statement. I was not at all unclear... I did know that it was just the Energy from Waste Plant that came back to the House. I would ask him that the political factor I presume he is meaning, is the annoyance to the residents of Havre des Pas of the composting site being left as it is. But I do not think the House or the residents realise that to have this solved quickly they were going to end up with all the waste in Jersey at La Collette. The other political factor is that, if this does come back as a private member's bill, it should be considered that if all the waste goes there - and would the Minister confirm - there will be much more property needed to be purchased probably. It was told yesterday that it will be the whole of Commercial Buildings so that the traffic can get backwards and forwards for all of the waste and everything else that is going to go down there. Finally, given that we have been told today that the decision for where anything is sited rests entirely with the Transport and Technical Minister, is he absolutely sure - he has gone against his department's advice, he has gone against the environmental impact assessment and everything else - that he has made the right Ministerial decision? I am sure - and I hope that the Minister is - is he big enough to change his mind, Sir? **[Laughter]**

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

I have forgotten the first element of those questions. I should point out the development of Commercial Buildings is nothing to do with me, that will be probably a matter for WEB (Waterfront Enterprise Board) and possibly the St. Helier Urban Taskforce, if it extends its remit in that particular direction. I am aware that, in due course, the current Weighbridge bus site is due to be developed and I am of the understanding that there will be some significant changes to traffic flows around the Fort Regent Tunnel area in due course. But we are looking several years ahead. "Am I big enough to change my mind?" Well, I would have thought that would be obvious because I have changed my mind already. I did support the officer's recommendation for Warwick Farm but, as I continue to reiterate, it was an extremely close run thing and even a modest adjustment of the objective weighting balances would have favoured La Collette as opposed to Warwick Farm. I can only say I was happy to recommend it. I am pleased with the outcome not least of which because a siting at Warwick Farm would have practically been on my constituency in St. Helier No. 3. So, that is something of a relief in fact.

### **7.3 Deputy P.J.D. Ryan:**

Does the Minister not accept that by moving the Energy from Waste Plant from Bellozanne to La Collette it would make a fundamental change to the background of the States' decision to site the green waste and recycling at La Collette and does he not think, therefore, that it would be advisable, if not technically necessary, to bring this decision back to the States for a final decision?

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

The location of the EFW Plant will come back to the States for a final decision but I think States Members should be aware that the composting and recycling facility was always going to be at La Collette as you will have understood from my statement.

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

Could we ask the Minister to answer the question that I put to him?

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

Would you care to re-put the question, please, Deputy, I clearly misunderstood it?

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

Does he not think that the possible change - and I accept that the change has not been made finally by the States yet - to move the Energy from Waste Plant from Bellozanne, as a recommended site, to La Collette fundamentally changes the background to the previous States' decision. In other words, all waste processing at La Collette was not on the cards when the States made their decision to site the green waste composting and the recycling activities at La Collette. Does he not accept that that is fundamentally changed if we decide to place energy from waste at La Collette as well? This was not in front of the States 6 months ago when we debated it. Does he, therefore, accept that it would be advisable - politically, socially and in the interests of fairness to the whole Island and its residents - that, in fact, he brought it back to the States for a final decision rather than following the technically possible route. I think that we all accept that he does not have to bring back green waste composting.

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

Sir, I think some Members are struggling with how Executive Government works **[Laughter]** and are making a bit of a fist of it. The Deputy is clearly at fault in his memory of the original waste strategy debate and, I think, doing considerable disservice to Deputy Ben Fox who brought an amendment suggesting precisely that La Collette should be a consideration. So, the idea that this was not in States Members minds at the time, I am afraid, is absolutely incorrect. I think, by now, Members will begin to understand that there are some considerable merits in co-locating all these various operations on a large industrial site that is a significant distance away from neighbouring properties. The fact is, if one was to attempt to draw a radius line from the location of La Collette to the nearest neighbouring property, the length of that line would, almost certainly, be longer than virtually any other location that you could find in the entire Island. I would also remind Members that one of the key developments, in terms of how the assessments changed, was a realisation after closer study, that the strata below the intended site for the EFW Plant was different to that which had been anticipated. It is, in fact, rock strata which allowed a whole re-evaluation of the construction process to take place as opposed to being built on the soggy reclaimed soil of other areas at La Collette 2. Therefore, an element in the decision-making process was significantly altered and reflects an ability to make an enormous cost saving.

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

I take it that is a 'No' then.

**The Deputy Bailiff:**

I am afraid to say that time has expired on that matter. Very well, we move on to public business.

## **PUBLIC BUSINESS**

### **8. Composting facilities (P.258/2006)**

**The Deputy Bailiff:**

The first item on the agenda is Projet 258 – Composting Facilities **[Laughter]** proposed by Deputy Le Claire but the Chairman of the Environment Scrutiny Panel, Deputy Duhamel, has given notice that he will propose that it be deferred. So, that is probably a convenient moment, Deputy, for you to make your proposition.

### **8.1 Deputy R.C. Duhamel (Chairman of the Environment Scrutiny Panel):**

Deputy Le Claire, in a previous cloak or form, as Senator, lodged au Greffe his report and proposition P.258 2005 in November last year. It is notable, Sir, that the comments that have been given by the Minister for Health and Social Services and indeed the Minister for Transport and Technical Services, date embargoed 9th March 2006, have only just recently arrived on our desks. Following on from that, Sir, I made it my business, bearing in mind that the Environment Scrutiny Panel is fully intending to do a second review into recycling in general, which indeed encompasses composting facilities as well as other materials. We have advised the States and the public of our intentions to carry out a further review. It strikes me, Sir, that some of the comments that have been made by the 2 aforementioned departments are challengeable from a Scrutiny point of view and indeed, Sir, in proposing that this item be deferred until a later stage, I am hoping, along with the Deputies from the district and indeed reluctantly perhaps by Deputy Le Claire himself, that an opportunity might be afforded the Scrutiny Panel to look into the statements that have been made by way of comment from those departments. Indeed, Sir, we have one of them in particular from the Health and Social Services Committee - and this is on page 5 of its report under (d) - which suggests, in dismissing Deputy Le Claire's suggestion, Sir, as an interim solution, for example that all composting material from the Parish of St. Helier and from any other Parish where a temporary site cannot be identified should be sent for incineration at Bellozanne. Indeed, Sir, the department tell us that this would not be possible because the existing incineration plant is already incapable of maintaining the combustion rate of the existing waste stream. Now, that, Sir, is a serious allegation. It is news to me and if indeed it is true, Sir, as I would hope, in relation to comments that are sent out by the department to other States Members, then indeed the evidence behind those statements can and should be checked. There are other statements, Sir, within the body of the report which should be checked as well. We do have statements from the Medical Officer of Health, for example, and also - although statements are made that she is satisfied that there are no health problems or negligible health risks indeed as emissions fall away to background levels - there is a substantial body of law, Sir, as you well know, environmental law, which dictates the distances that residential accommodation can be placed in relation to the siting of particular plant. There also appear to be certain assumptions within these documents that the technology has already been chosen which I find surprising, Sir, as indeed the department is trying to ascertain, at this point in time, which of the competing expressions of interest are the ones that they would be interested in. With those ideas in mind, Sir, I did talk to the Greffier of the States to suggest which would be the better way forward and whether I should be invoking, as I am intending to do now, under the particular Standing Order 87(2)(b) to defer the item hoping, Sir, that there will be a further reference for scrutiny to take place on this particular issue. If indeed, Sir, the States decide when we come to a vote on the issue, that this is not in fact the position that the House would wish to take in that the item is deferred, then I would seek - if indeed the debate is going to go on further - to invoke my right under Standing Order 72 that the issue be referred to a Scrutiny Panel nonetheless. It would be quicker for all parties to agree that that is the best course of action but we will see how the Standing Orders go.

### **The Deputy Bailiff:**

Just to make clear, Deputy, I do not think you have any rights under Standing Order 72 because that only deals with draft Laws or Regulations but you may well be able to do it under Standing Order 79.

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

I beg your pardon, yes, it is. You are right. I have written down 79 but I have got 72 on mine for some reason. That is absolutely right. Standing Order 72 allows any Member of the States to suggest, at any point in the States proceedings, that a particular item be referred to a Scrutiny Panel or indeed a number of Scrutiny Panels.

**The Deputy Bailiff:**

So, you are giving notice that if you do not succeed this time you will have another go during...  
[Laughter]

**Deputy R.C. Duhamel:**

Yes, absolutely right, Sir, but it is not meant as arm-twisting. So, with that in mind, Sir, I would sincerely ask the House that they agree that this item be deferred until the questions that the Environment Panel do have in relation to these issues - not only in respect to what Deputy Le Claire has put forward but also in relation to our forthcoming recycling review and waste management review - that the 2 proposals be taken together.

**The Deputy Bailiff:**

Is that proposition seconded?

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

Sir, I really would rigorously oppose that. Whilst I admire Deputy Duhamel's new role as the accident and emergency service for propositions in need of emergency resuscitation I really think this is a matter that we should dispose of today and without too much delay. It is very unfair on my department to know not quite when a proposition is going to re-materialise suggesting that we have to entirely shut down all the composting facility operations at La Collette and then lay 12 concrete slabs in 12 different Parishes and employ all the various additional personnel to do that. I also struggle with the relevance of the Deputy's proposition for the House and the Scrutiny process. What the Deputy wants is some fairly clear things so, basically, it is 'yes' or 'no' and I do not see that this falls within Scrutiny's current remit on composting. I am concerned that we are just looking at States time and States Members time being wasted over a period of time.

**8.3 Deputy G.P. Southern:**

Sir, can I ask firstly for a point of clarification from the Chair? Under Article 79 of the Standing Orders: is that the one that gives a period of 8 weeks in which to report back to the States the findings of the Scrutiny Committee and, if so, will the Chair of that Scrutiny Panel give assurance that some decent work can be done in such a period or what period under this proposition currently before us he envisages taking up before he can bring anything back to the States?

**The Deputy Bailiff:**

Yes, Deputy, you are right in the sense that it enables a Member to propose that the debate be suspended and the States request the relevant Scrutiny Panel to consider having the proposition referred to it. That has to be decided upon by the States. If the States agree then 2 weeks later the head of the relevant Scrutiny Panel reports whether he wants it. If he says he wants it then it has to be done not later than the fourth meeting after that. Now, did you also have a question you wanted to ask of Deputy Duhamel... but you can probably deal with that in your reply. Very well, now, sorry, I saw Senator Norman first although I appreciate Deputy Le Claire has a particular interest in this matter.

**Senator L. Norman:**

I will defer to Deputy Le Claire in that case as it is his proposition but I would like to speak.

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

Sir, at the risk of being insulted further, I find the remarks ludicrous from the Minister saying that this matter is in need of accident and emergency treatment when the decision for the Minister to change his mind was made based upon the fact that they want to deal with the complaints of the residents who they have not consulted. The last time they consulted the residents the residents were left with the unambiguous position that they would receive either/or a waste plant or a composting

facility. The facts of the matter are that, having met with the residents of St. Helier No. 1 District every Monday night since November with other Deputies and Senators and the Constable, we have listened to the views of the residents of St. Helier No. 1 District - the Havre des Pas area - and they are concerned about the decision that has been made predominantly because of the impact in relation to the traffic. There are a number of issues in relation to deferring this not least of which may be an inference that I am not again ready to debate something. The fact of the matter is that, having visited the plant yesterday and having spoken to several Members over the last 48 hours, there are many Members, including the Constable - who want to hold a Parish Assembly to listen to the views of the St. Helier residents and gauge their concerns and explain the situation - that want to, or may want to, bring an amendment to this proposition. The opportunity to have it referred to Scrutiny is an opportunity for us to decide whether or not the La Collette site, which is proposed to be completed at the end of 2007 - in itself no short-term solution in my view for the residents of St. Helier No. 1 District - this short delay, which I hope it will be a short delay, will give us all an opportunity to look at the issues involved and the alternatives. It has been suggested as late as this morning, from Senator Perchard, that another alternative solution may be afforded us and I would hope that the Assembly would grant the Scrutiny process the opportunity that it seeks. I can support it. I find it quite ludicrous that the Minister for Transport and Technical Services can be claiming to support the residents that he has not even consulted and telling me and telling States Members that this proposition is in need of accident and emergency care.

**The Deputy Bailiff:**

Just so that we are clear, you do have the right to unilaterally withdraw it at this stage, if you wish to.

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

I appreciate that, Sir, but I do not want to be put in the position where I am withdrawing something which the Scrutiny Panel wishes to have it referred to.

**8.5 Senator L. Norman:**

Sir, I am in agreement with the Minister on this issue. I really think it is time, not only that we debated one of Deputy Le Claire's propositions but also that the States - this new States - started making some decisions. This proposition was lodged some 4 and a half months ago. The people of Havre des Pas and the environs have suffered from this facility. Before that they have suffered during that time and they continue to suffer because of this facility being sited in totally the wrong place. The States must take, I believe, this opportunity of removing this blight on people's lives. We must start making a decision about it and the fact is we only need debate to make the decision on part (a) of Deputy Le Claire's proposition because if that is successful it will then be up to Technical Services to decide how best to meet the situation and if that proposition is defeated they can carry on blighting people's lives, but I really think it is time that we made a decision in fairness to those people.

**8.6 The Connétable of St. Helier:**

Could I just contribute the point that I believe the Minister has made it clear that he is not prepared to bring this matter to the States nor is he prepared to await the outcomes of Scrutiny. So, I am slightly confused as to the point of referring it to Scrutiny when the Minister has indicated that he is going to crack-on with his plans regardless.

**The Deputy Bailiff:**

Does any other Member wish to speak on whether the matter should be adjourned?

**8.7 Senator P.F. Routier:**



Yes, Sir, very briefly. Can I just make a plea for the people of La Collette, Mount Bingham, Havre des Pas, Greve d'Azette, La Mar, Green Island, Pontac, Le Hocq and onwards. This has been going on for ever and a day and it is time we resolved it. Can we please make a decision now so that they do not have to suffer this for much longer?

**The Deputy Bailiff:**

Very well, I call upon Deputy Duhamel to reply.

**8.8 Deputy R.C. Duhamel (Chairman of the Environment Scrutiny Panel):**

I share the frustration of the residents of Havre des Pas. Indeed, Sir, I have been one of the politicians who has been speaking to them for a number of months now. That said, Sir, we do have a duty as States Members and Members of our government and this Assembly to put forward, whenever we are discussing anything or debating anything, the very best argument based on the fullest evidence available. As I have referred to, Sir, Deputy Le Claire's proposition was lodged in November last year. Since then we have had the move towards Ministerial government, we have had Senator Le Claire coming back as a Deputy - which some people might say is of no consequence but there you go - and we have also had the comments from the 2 departments, Health and Social Services and Transport and Technical Services, which arrived on our desks on 9th March. Right, now do the arithmetic, just add it up. 1st of November 2005, 9th March 2006. Now, what I have said, in order to justify the deferral, is that from my point of view, as Chair of the Environmental Panel and a States Member who is very interested in Scrutiny - in coming forward to this House and debating things or being in a position to debate things with the very best evidence available - there are certain statements that have been made, within the comments that have arrived late on our desks, which are challengeable, from my point of view. Not least of which one, the assertion that there is no space in the individual Parishes and that if we did have a Parochial scheme one, 2, 3 or even 12, then that would automatically imply that similar facilities - i.e. concrete pad, leachate tanks, garden shed, this, that and the other, all these things - would have to be available in order to achieve the suggestion that Deputy Le Claire is making under (a) which is that no more material goes to La Collette as an interim measure until we have sorted things out fully. Likewise, Sir, we have the suggestion that we can not stop taking material to La Collette because in order to comply with Deputy Le Claire's suggestion (d) - which is that any material that could not be accommodated elsewhere - and I think there perhaps are other suggestions... I was approached, as other Members were this morning, by Senator Perchard suggesting with his agricultural experience that there might be other ways forward. Bearing in mind that 80 per cent of the material is for agricultural purposes there is a significant point here, Sir, as to whether or not it is fundamentally right for 80 per cent of the material to come from the countryside down to La Collette, as the Constable of St. Helier suggested, into a residential area - an urban area - and then to go all the way back out into the countryside. So, these issues have really got to be looked at. Likewise, Sir, there is the assertion that we can not be doing this because the material would have to be sent to Bellozanne to be burnt and we are told by the Health and Social Services that we can not do this because the existing facility is struggling to burn the material that is being sent to it. Now, these are not things to be taken lightly, Sir, they are challengeable assertions - challengeable assumptions. There is a whole body of other things within these reports which, as I say, have only arrived on our desks at a very late stage of play within this particular report and I think, from my perspective, as Chair of the Environment Scrutiny Panel, there is no way that I could quite happily stand here and argue logically for it to be (a) or (b) or (c) or (d) or anything else because I do not have the facts and figures at my fingertips. Now, we have to, Sir, get our act together in this States Chamber. Either we support the idea of Scrutiny and evidence-based debate and we want to do the best possible in anything that we discuss in this Chamber or we do not. If we are going to hear comments from the like of the Transport and Technical Services Minister that whenever a call for Scrutiny is made that it is being done for flippant purposes or we should not be looking at these things because we should be rushing headlong into making a decision, then I think we are taking a

wrong route. Decision-making is not - and I have said this in this House before, Sir, but I think it is worth mentioning again - decision-making is not just about making the decision, it is about justifying your position and then for each one of us to be absolutely happy that we have come to the right conclusion based on the evidence that is put before us. Indeed, Sir, if there are instances and occasions where that evidence is not available before us then I think we should all do the decent thing and agree that Scrutiny should be given an opportunity to play its full part in the proceedings. With that in mind, Sir, I put forward that this item should be deferred until a stage is reached where we do have the answers to these questions. I ask it to be upheld.

**8.9 Deputy G.P. Southern:**

May I pose my question of the Deputy to suggest what time scale he considers appropriate?

**Deputy R.C. Duhamel:**

I think that Deputy Southern is suggesting what might happen if indeed, Sir, this call for a deferral is not accepted by the House in which case, pending the interpretation of Standing Orders, we will move to Standing Order 79 which is not on the table at the moment.

**Deputy G.P. Southern:**

May I clarify? If this goes through now, if the House votes to refer it to the Member, what time scale does he think he can bring the proposition back?

**Deputy R.C. Duhamel:**

I think, Sir, if I am forced to answer that, and I am quite happy to do so, then I will act within what is laid out within Standing Orders. So, that means it will come back to the Environment Scrutiny Panel to discuss what needs to be looked at and we will report at the next meeting to give an outline of how we will take this forward. But in any event, Sir, we are quite happy to proceed on the basis that it will be in full accordance with Standing Orders which means that the whole thing will be done and dusted inside the fourth meeting that is referred to within Standing Orders.

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

I did ask whether the Minister will be pressing on regardless of this matter being referred to Scrutiny. It is quite important, in terms of how I vote, that I have clarification on whether the Minister will indeed stop his onward march towards a permanent site at La Collette if this is referred to Scrutiny.

**The Deputy Bailiff:**

That is a matter for the Minister, he does not have to answer but it is a matter for him.

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

I think my position is quite clear, Sir. The process continues.

**The Deputy Bailiff:**

Very well. So, the Appel has been called for on the proposition of Deputy Duhamel that debate of Deputy Le Claire's proposition be deferred. The Greffier will now open the voting.

<b>POUR: 39</b>		<b>CONTRE: 7</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Senator L. Norman		
Senator W. Kinnard		Senator T.A. Le Sueur		
Senator P.F. Routier		Senator F.E. Cohen		
Senator T.J. Le Main		Connétable of St. Helier		
Senator B.E. Shenton		Deputy J.B. Fox (H)		
Senator J.L. Perchard		Deputy G.W.J. de Faye (H)		

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

**The Deputy Bailiff:**

Very well, that means that debate of that matter is deferred.

**NOTIFICATION OF LODGED PROPOSITIONS**

**9. Composting Facilities at La Collette II: approval by States Assembly (P.31/2006)**

**The Deputy Bailiff:**

Perhaps I can take this opportunity of notifying the Assembly that the Connétable of St. Helier has lodged a proposition entitled “Composting Facilities at La Collette 2” approval by States Assembly.” That will no doubt be circulated.

## **PUBLIC BUSINESS (continued...)**

### **10. Draft Postal Services (Transfer) (Jersey) Regulations 200- (P.9/2006)**

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

The Minister for Treasury and Resources has informed the Greffier of the States that, in accordance with Standing Order 32, the following matter listed for debate is to be listed for debate at a later date and that is Draft Postal Services (Transfer) Regulations (Projet 9).

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

Could I firstly apologise to the House for the fact that I have brought this request at such a late stage. It was only late on Friday afternoon that it was brought to my notice that there was a potential gap in the understanding about the States control of this utility in that although the Postal Law had agreed that any decision to sell the company - Jersey Post International Limited - would have to come before this House for approval, what the Law did not do was extend to the subsidiary companies of Jersey Post International Limited. In order to put that matter right I have lodged an amendment this morning which clarifies the situation and ensures that the same will apply to any subsidiary company as to the holding company. I do this because although I am sure the House respects that I am a man of integrity and all Ministers of Finance are the same, it is really for the States to take that decision and I would not wish to mislead the House in any way. I therefore, regretfully, have to withdraw the proposal for 2 weeks in order that that amendment can be lodged and the whole proposition debated in one piece.

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

May I, from the Committee of Management's perspective, thank the Minister for lodging this amendment today? It did surface at last Friday's meeting that perhaps the comfort that was required was not as concrete as we would have liked although we do respect, obviously, the Minister's ability to maintain his high degree of regard from other Members in this matter. This safeguards the States in the future and it is welcomed by the Committee of Management, Sir.

### **11. Draft Postal Services (Jersey) Law 2004 (Appointed Day) (No. 2) Act 200- (P.8/2006)**

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

Thank you very much, Deputy. Then a similar request is made by the Minister for Economic Development, or similar notification, in respect of the draft Postal Services (Jersey) Law 200- (Appointed Day No 2) Act (Projet 8).

### **12. Health and Safety Tribunal: appointment of member (P.14/2006)**

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

Very well, we come then to "Health and Safety Tribunal: appointment of member" (Projet 14) lodged by the Minister for Social Security 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 the opinion to appoint Mr. Timothy Paul Darwin as a Member of the Health and Safety Appeal Tribunal, pursuant to Article 17 of the Health and Safety at Work (Jersey) Law 1989 and the Health and Safety at Work Appeal Tribunal (Jersey) Regulations 1989, for a period of 3 years commencing on the 1st April 2006.

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

The Health and Safety (Jersey) Law 1989 provides for the establishment of an appeal tribunal to hear appeals against the serving of administrative sanctions, prohibition and improvement notices served by the Health and Safety Inspectors, and also decisions by the Social Security Minister in relation to licensing provisions. Currently there is just asbestos which is covered by those licensing provisions. The Health and Safety at Work Appeal Tribunal (Jersey) Regulations set out the arrangements for the tribunal including the appointment of members for a 3-year period. Regulation 2 provides for the tribunal to consist of 4 members: a chairman, a deputy chairman - who both must be advocates or solicitors of the Royal Court of at least 7 years standing - and 2 other members. Members obviously serve on the tribunal on a voluntary basis. The term of office of one of the current members of the tribunal, Mr. Timothy Paul Darwin, expires on the 31st March of this year. As a result, applications for a new member were carried out in accordance with the recommendations of the Jersey Appointments Commission with the position being advertised in the *Jersey Gazette*. I am grateful to the applicants. We had 4 people who applied, in addition to Mr. Darwin, who expressed an interest in serving on the tribunal. Mr. Darwin is employed in a senior management position by Normans, he is a member of the Institute of Directors, an associate member of the Chartered Institute of Personnel and Developments and, importantly, he is a board member of the Jersey Construction Council and a chairman of the Awards Committee for the Jersey Construction Council. He has been employed by Normans Limited since 1985 in various capacities and is currently Operations Director for the company. I therefore propose Mr. Darwin is appointed for a further 3 years commencing from the 1st April.

**The Deputy Bailiff:**

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

**13. Establishment of a Citizen's Panel: approval by States Assembly (P.14/2006)**

**The Deputy Bailiff:**

We then come to "Establishment of a Citizen's Panel: approval by States Assembly" (Projet 16) in the name of Deputy Baudains of St. Clement 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 the opinion to agree that no steps should be taken by the Chief Minister or the Council of Ministers to establish a Citizen's Panel to gauge public opinion on policy matters as recently proposed by the Chief Minister until the terms of reference and operating methods of the proposed Panel have been debated and approved by the Assembly.

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

One of my fears about ministerial government was that it may, at some stage, end up treating the States Assembly as irrelevant. Sadly, Sir, I believe this started out sooner than one may have expected, endorsed this morning - in my view - by the Minister for Transport and Technical Services. If we might look at some examples, Sir. Members used to receive documents before the public or media for obvious reasons. Now, we learn of decisions by reading the paper. Gone is the courtesy of informing Members first. I am thinking of Senator Ozouf's revived policy on fulfilment, Sir. Another instance is the university bills where the Minister is quoted as saying: "The Council of Ministers who will make all final funding decisions." In my view an absolute declaration. The waste management issue, as if we have not heard enough of that this morning already, and again, Sir, I quote from the Council of Ministers: "La Collette will become Jersey's dump with over £80 million to be invested over the next 5 years and a decision was made yesterday by the Council of Ministers that the composting of green waste should stay at La Collette." Again,

Sir, no ambiguity, the decision has been made. Just a few examples. I mention those, Sir, because the Citizen's Panel is, in my view, another example where the Council has probably exceeded its remit because each Minister, obviously including the Chief Minister, has his or her specific portfolio. The Chief Minister also has the task of ensuring that the other Ministers do not duplicate each other's work or indeed leave gaps. In my view there is certainly no mandate to bypass the States Assembly and make decisions which would normally have come to this House as a proposition with a report for debate in due course. Sir, I am concerned about the Council and the way it is heading and other Members have inferred to me that unless some respect is shown to this Assembly in short order, the wheels are going to come off Ministerial government. Sir, I was informed, again by several Members, that there was a likelihood over some recent issues, of mass resignations from Scrutiny and a possible vote of no confidence. It is, Sir, becoming unfortunate. So, with regard to the Citizen's Panel, what did the *JEP (Jersey Evening Post)* article with those rather large headlines tell us that the Council had decided? And it must be right, Sir, because - to my knowledge - there has been no correction or retraction, and also we must not forget that the taxpayer spends a small fortune each year paying for the Council's spin doctor to ensure clarity in messages going to the public. So, surely those messages cannot have been wrong. So, Sir, if we look with just a couple of quotes from that February 11th article to get a flavour of it. Firstly: "A public panel to monitor States. Hundreds of Islanders to be selected for new consultation group." Again, Sir, there is no difficulty in understanding what has been decided. "Up to 600 Islanders will be selected randomly to review major new policies and issues and a Citizen's Panel will be put together in the coming weeks." No reference to the States, no proposition; just a statement that it will be put together, Sir, and I would like to draw Members' attention to the "will be." There can be no ambiguity about it at all. Senator Walker, Sir, was quoted as saying on the issue of the Citizen's Panel that: "It will be moderated by the States Statistics Unit; it will be consulted on all major policies and key issues." There is absolutely no doubt that there is every intention that this will happen. The real issue, Sir, is possibly one of the tone adopted by the Council. We are increasingly being told that the Council has decided and the States Assembly can get stuffed. This tone, Sir, is not an inaccurate slant put on by some journalist because it is endorsed elsewhere which I will come to in a moment. It is also important to note, Sir, that I am not arguing against a Citizen's Panel. Who could argue against better involvement of the public? I have been asking for years that the States take greater respect of public opinion. That, Sir, is not the issue. My proposition simply seeks that the terms of reference and operating procedures are agreed by this Assembly before a Citizen's Panel is set up. What can be wrong with that? But let us look at the Council's comments to my proposition. First, Sir, the usual waffle designed to cloud the issue, they suggest there could be 3 possibilities; a Citizen's Panel, a Citizen's Jury and a Citizen's Forum. Sir, leaving that aside, the real crux of the sentence under "comments", the last sentence: "The Council administers therefore recommends that the proposition be rejected." So, what they are in effect saying, Sir, and confirmed in the paragraph above that sentence in their comments, is that the terms of reference will be agreed by the Council not this Assembly. Sir, the Members will have on their desks a paper I reproduced from the minutes of the Council meeting of February 28th, it is the 'Part A' Agenda. For Members' convenience, and I highlighted in yellow the areas I consider significant so I am not going to take Members through all of those but, I would point them to the final highlighted part where it states: "The Council agreed that it should be at liberty to establish any kind of consultative panel it deemed necessary without the approval of the States." Sir, I find that quite intolerable and quite apart from the arrogance that I believe this displays, here is the statement that I mentioned earlier that proves what I said in my opening sentence that the Council is treating the Assembly as irrelevant but is that the only issue? Not by any standard. Better communication with the public is urgently needed and listening to the public long overdue. So, surely this exercise is a good idea and we should let the Council get on with it. I am just seeing if everybody has read the paperwork. Well, no: for a variety of reasons - and I only intend mentioning a few - there are so many potential problems I hardly know where to start. I have listed some of them in my report. Well, first of all, I suppose this Panel of 600 people could be classed as

a mini referendum. It certainly seems that way to me and if that is the case then Members will remember that we have a Referendum (Jersey) Law 2002 which would have to be complied with in that case which means, for a start, among other things, that the date of the referendum and the form of the ballot paper has to come to the States. Then there is the matter of the Panel's constitution. Who decides that? Will there be a public perception that it is controlled in some way? I presume that the Panel will be the exclusive privilege of the Council so any questions they want a response to will go to the public. Again, in my view, unacceptable. Who would decide the question? Would it lead towards a particular answer? Would we, the *Untermenschen* of this Assembly, be permitted to have an input to question formulation? Would we even know what the question was; presumably we would read about it in the paper. Would the Council be bound by the decision or would it treat it as Scrutiny has been treated - a critical friend, a friend when it broadly agrees with what the Executive is doing but critical of Scrutiny when the reports prove that the Executive have got it wrong as with waste management. And talking of Scrutiny, this raises a serious question, what is the point of Scrutiny if it is going to be duplicated? After all, Scrutiny's job is to evaluate existing and emerging policy such as the Strategic Plan, yet the Council has suggested one of the first jobs of the Citizen's Panel would be to comment on the Strategic Plan. Is this the Council's way of bypassing Scrutiny and what would happen if the Citizen's Panel and Scrutiny came to opposing conclusions? Would this Assembly be expected to take the Citizen's Panel's conclusions as a definitive answer? How would the Assembly know whether the views of the Citizen's Panel were arrived at after careful analysis of all the facts or was the decision merely made on opinion and emotion? A Scrutiny Panel, as we all know, has to sit through quantities of information - sometimes thousands of pages - to arrive at an evidence-based conclusion. Will the Citizen's Panel be equally well informed or will it rely on the moderator referred to in the Council minutes to get the right answer? I have had my fill of seminars where people sit at little tables with an assistant to help them come to the right conclusion. The Heritage Trust is very good at those as the Minister for Planning will probably attest. Would the Citizen's Panel actually influence the Council or its or its Chief Minister? Well, not if his recent stance on sodomy or the Waterfront is anything to go by. Would the Council pick and choose, hailing the virtues and benefits of this Panel whenever they agreed with them but professing the shortcomings and the inability of a Panel to fully understand the issue when it disagreed with the Council? The Council has suggested the Strategic Plan would be an ideal policy for a Citizen's Panel to evaluate. With due respect, how on earth are they going to do that? Would there be a list of 100 questions with 'yes', 'no', 'maybe', 'don't know' or would they be expected to send in individual reports and, if so, who would have the task of combining 600 different ideas into a coherent statement? Which budget would pay for this? The samples of the problems that may arise that I have given are by no means exhaustive. Is it not reasonable for this Assembly to agree the terms of reference and the operating methods before a Citizen's Panel or similar body, or whatever name you want to call it, is set up? I think so especially in view of the possible duplication of Scrutiny's work. And is it right that only the Council will have access to this public forum including selecting the subjects to warrant referral and preparing the questions? There are too many unresolved matters to allow the Council to proceed unilaterally, I make the proposition.

**The Deputy Bailiff:**

Is the proposition seconded?

**13.2 Senator S. Syvret:**

I hope Members will excuse me for speaking before lunch but I have a medical appointment which I have to attend this afternoon. Under certain circumstances I might have been inclined to agree with the basic thrust of the proposal of Deputy Baudains which is that perhaps the modus operandi, terms of reference, and make-up and so on in terms of reference, could be approved by this Assembly and I would have no difficulty personally with the Council of Ministers doing that and bringing it to the Assembly once formulated for approval and agreement. However, the fatal flaw

in the actual wording of the proposition put forward by the Deputy, is that to agree that no steps and just focus on that word 'no' for a moment, that no steps should be taken by the Chief Minister or the Council of Ministers, et cetera, et cetera, et cetera. Now, as has been fully accepted by the Council of Ministers - and indeed the Deputy in his opening speech alluded to a variety of the issues, complexities and points of discussion. There clearly is a lot of work that still needs to be done, that needs to be undertaken by the Council of Ministers with input from other States Members in terms of alighting upon the right mechanism for consulting the public. If we are instructed by this Assembly that we can take no steps then that work will not be able to be undertaken and therefore, the Deputy's claim that he does want to see public consultation but he just wants the Assembly to have the final say in the nature and make-up of it, I am afraid, falls away completely because the work to develop it will not be able to be taken forward. Public consultation is necessary - it is very necessary - especially in the kind of political environment we find ourselves in in Jersey because we do not have a party political system here, therefore the public do not have the kind of direct input in terms of the political philosophy and manifesto policies by which they are going to be governed. So, in the Jersey context we have to have even greater regard for public opinion than would be the case in the United Kingdom. But again the Deputy suggests that there might be a problem in terms of the public consultation mechanism of the Citizen's Panel being a duplicate of the work carried out by Scrutiny. The Deputy mentioned this on several occasions. Well, I am afraid that is simply wrong and it is a profound misunderstanding of the different nature of the 2 exercises. The Scrutiny function, ultimately, will be a political view; it will be a view, settled upon having listened to evidence; settled upon by a Panel consisting of politicians. So, while a different view to the Executive, the views of the Scrutiny Panels will still be a view by a group of politicians. That, therefore, cannot be regarded as being the same as the view taken from a public forum where the public are consulted according to appropriate methodology. Now, as I said, we do not know precisely at this stage what the format will be, what the terms of reference will be, how it is going to work but we did discuss this at some length and we decided that there would be a number of safeguards that would have to be put in place. No Panel, or even Steering Group, could be self-selecting they would have to be chosen on a representative basis, probably on a statistical basis, so that they represented the make-up of the community. They would have to operate according to appropriate guidelines and a code of practice to make sure that the work of the Citizen's Panel, in fact, was conducted in a fair, balanced, respectful and calm manner. So, the methodology has to be discussed. The Council of Ministers has to take this work forward and if we are told that we can take no steps to progress the matter then we will not be able to carry out the work. It may well be, as the Deputy suggests in his policy, that an independent group such as Mori might be selected to oversee the process. That is a perfectly reasonable suggestion but if we are told we cannot carry out any work in order to make the process happen then the whole thing simply grinds to a halt. I think Members have to understand that there is a great deal of importance in getting the public involved in, and being able to make a contribution to, public policy formulation. That is not simply my view, this is the view of political commentators from wide parts of the political spectrum in the United Kingdom and elsewhere. Virtually everywhere you look you will see that the public has growing disenchantment with government, with politicians and with legislatures. The public increasingly feel distanced from government, uninvolved and having no real import whatsoever. We, therefore, have got to try and reconnect what we do as politicians with the public and we are only going to succeed in doing that if we can find good robust methodologically-sound ways of consulting with the public. That is the task the Council of Ministers is having to take forward. But if you are not persuaded simply of the degree of importance I attach to public consultation, consider the work of the Power Commission which reported just recently - a couple of weeks ago - in the United Kingdom. The Commission chaired by Helena Kennedy QC, which examined the whole way that power and public consultation, authority, decision-making was currently operating in the United Kingdom, and the very, very powerless state of it. They recommended that there should be a clear duty upon all public authorities to engage in public consultation with respect to their decisions and their



policies. This is the latest thinking; this is an endorsement of views that have been current for some years now, that the present political structures - the old political structures - simply do not engage the public properly. Therefore, we have to go down the path of finding new mechanisms by which we can engage the public. I believe that we have to develop as well. As I said, I would see no difficulty with the Council of Ministers bringing ultimately their recommendations to the Assembly or some kind of consultative forum but I am afraid if we are told that we can take no steps down this path then we just cannot do it. I do think we have to reject utterly the kind of fear and nervousness exhibited by some Members that somehow this is going to usurp the Scrutiny function. It cannot, and it will not, because the Scrutiny function is entirely different to consulting the public. I see some Members shaking their head but the fact is the report of a Scrutiny Panel at the end of the day is the view of a committee of politicians. What comes from a Citizen's Forum of some description will be a view of members of the public, a fundamental difference between the 2. That is what we have to achieve. We have to find ways of engaging the States - re-engaging the States - with the true views of the community. The Council of Ministers is trying to take forward this work now and if we are told simply that we cannot carry out any other work on it then the process will grind to a halt. We have to be willing to embrace proper public consultation. I am afraid, because of the fatal flaw in the wording of the proposition, I have to recommend to the Assembly that it is rejected.

## **LUNCHTIME ADJOURNMENT**

### **The Deputy Bailiff:**

Shall we move for the adjournment?

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

I propose the adjournment.

### **The Deputy Bailiff:**

The adjournment is proposed so we shall reconvene at 2.15 pm.

## **RECOMMENCEMENT**

### **The Deputy Bailiff:**

Yes, I think even my counting suggests we may be in difficulty for a quorum. I did actually change it to 2.15 pm but that may not have been heard by everyone. In view of the numbers I will adjourn for a short while. I must take responsibility in that I did mention 2.30 pm but I was reminded the Standing Orders say 2.15 pm and I did then correct it and say 2.15 pm but some Members may have misunderstood it. I will adjourn for a few minutes.

## **ADJOURNMENT**

### **The Deputy Bailiff:**

I must apologise to Members there appears to be some confusion as to whether it was 2.15 pm or 2.30 pm. It is quite right I said 2.30 pm, I did then correct it but I suspect not all Members heard that. I accept responsibility for the confusion.

## **NOTIFICATION OF LODGED PROPOSITIONS**

**14. Draft Trusts (Amendment No 4) (Jersey) Law 200- (P.29/2006)**

**15. Waterfront Enterprise Board Limited: appointment of directors (P.30/2006)**

## **16. Draft Postal Services (Transfer) (Jersey) Regulations 200- (P.9/2006): Second Amendment**

### **The Deputy Bailiff:**

Now, I can tell Members that 3 other propositions have been lodged during the course of today. Draft Trusts (Amendment No 4) (Jersey) Law 200- (Projet 29) lodged by the Minister of Economic Development; Waterfront Enterprise Board Limited: appointment of directors (Projet 30) lodged by the Chief Minister; I have already mentioned the composting facilities lodged by the Connétable of St. Helier; and there is the draft Postal Services (Transfer) (Jersey) Regulations 200- (P.9/2006): Second Amendment, lodged by the Minister for Treasury and Resources to which the Minister made reference earlier.

## **PUBLIC BUSINESS (continued...)**

## **17. Establishment of a Citizen's Panel: approval by States Assembly (P.14/2006) (continued...)**

### **The Deputy Bailiff:**

Now, the debate continues upon the proposition of Deputy Baudains. Senator Routier.

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

There seems to be a little bit of unease about the use of a Citizen's Panel. To my mind I feel that it would be a resource which is available to all of the States. It seems to me that there is some sort of feeling that it is going to be resource which is just available to the Executive and it will be just of use to them to help them formulate and share policies with the general public. I believe, whether it is called a Panel or whatever title it is given, we really do need to have some facility of talking to and getting responses from the public in general. I would like to think that it was resource which was available, as I say, to all Members, it is a resource that is available to the Council of Ministers, and it is also a resource that is available to Scrutiny to use in the way that would be appropriate. I am concerned that this particular proposition does have the unfortunate words "no steps should be taken" because it will unfortunately bring the whole process of being able to consult properly with the public to a halt. So, I will not be able to support this proposition but I was really just wanting to make that point because there seems to be some view among some Members that it was just a resource which was going to be available solely to the Executive. It will be available to everybody.

### **17.2 Deputy R.C. Duhamel**

It is somewhat ironical that we have just been passed around a new proposition lodged au Greffe by the Connétable of St. Helier which actually uses the same format of words that "no steps should be taken by the Minister for Transport and Technical Services to establish permanent composting facilities at La Collette 2 St. Helier until" - that is the same - "the proposed site and technology have been debated and approved" - that is the same - "by the Assembly." Contrary to the Minister for Health and Social Services this morning, I think it was unfortunate that he should have chosen this opportunity to speak and to address the House to try and pull the wool over our eyes. Hopefully, we can all read. Hopefully, when we do read things we start at the beginning of the sentence and we go right to the end before we determine what it is we are actually reading and what is the import of what is being said. In that context, Sir, we have to read the whole of the sentence and to pluck out the action and the doing words from the sentiments that are being expressed. It is strange that we have the Minister for Employment and Social Security making the same mistake, in my view, and stopping at "no steps." It does not actually say that. There are 4 key words to agree that no steps should be taken ... to establish a Citizen's Panel ... until the terms of reference and operating methods ... have been debated and approved by the Assembly. It seems abundantly clear, Sir, that what this proposition of Deputy Baudains of St. Clement, and indeed the Constable

of St. Helier, is asking is that the decision be taken in this House first to decide whether or not a certain course of action should be undertaken, rather than to use the States Assembly to rubberstamp or maybe not even to consider an action that is taken unilaterally by the Council of Ministers. There are subtleties in the argument, Sir, and I think it is unfortunate, as I say, for some States Members to abuse their privilege of speaking in the House to try and pull over the eyes of most of us who can read and understand the sentences as they are written. This debate is not about the merits or the demerits of setting up the Citizen's Panel, it is clearly stated it is to decide whether or not this House retains the right to choose, through debate, whether or not we have such a Panel on a future occasion and nothing else. I do not think it could be clearer, Sir. I have got no problems in knowing which way I am going to vote on this one and I think other States Members should be equally inclined.

### **17.3 Deputy C.H. Egre of St. Peter:**

Sir, I raise to make the same points. I will not dwell too long on it. The proposer appeared to state in his speech that he was supportive of this particular Panel and it sounds that certain people believe that he is not. In the reading of the proposition I would emphasise yet again what was said by the last speaker, to agree that no steps should be taken if taken in isolation is totally wrong. The last element of that sentence: "Until the terms of reference and operating methods of the proposed Panel have been debated and approved by the Assembly", I assume from those words it would be the Minister's group that would bring that proposition to the States having done their homework and not stopped doing anything. They are not being forced to stop doing anything. I just reiterate that point, Sir.

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

I supported and voted for Ministerial Government. By doing so I knew and accepted that day-to-day decisions would be taken by Ministers on policies already agreed by the States Assembly. Whilst I, too, support the setting up of a Citizen's Panel, this is a new venture - dare I say a new departure - for the States Assembly. Therefore, I believe the whole States Assembly should agree the terms of reference. These terms could be brought to this House by the Council of Ministers within a very short space of time. In my opinion there is an over-arching principle here. It is important to widely consult with the public but it is also important that all States Members are signed-up to the process and have been consulted. I will be voting to consult States Members on how we can consult the public and, therefore, I am pleased to support this proposition. Thank you, Sir.

### **17.5 Deputy F.J. Hill of St. Martin:**

It looks as though the only people who are speaking in favour of this are people who really understand the process of reading what you are going to vote for before you vote for it, because I have got to come back to say to Senator Routier, and to Senator Syvret who is no longer here, actually they have not read what they have got in front of them. Senator Syvret said this would cause delay. I am amazed. Surely before anyone starts out they know where they are going - they should have got some terms of reference in front of them. They should have some methodology in front of them. It does not just mean to say that you are just going to go out and select, at random, 500 people. If I was one of those I would say: "What are you going to ask me to do?" "We do not know yet because we are going to see how many people we have got first then we are going to go down the course." That is basically what the Council of Ministers is saying. For them to say they have got nothing now... in fact if we supported what Deputy Baudains calls "unnecessary delay" it is quite wrong. It is quite clear that it is wrong. So, I see no problem in this at all. What I would ask those people who are from the Ministry of Government - or the Council of Ministers - possibly they could tell us how they read this. Because if they read it different from us I think we are in trouble. Thank you, Sir.

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

I am uneasy about this proposition. However, I am extremely concerned with the plan of the Council of Ministers to form a Citizen's Panel. I believe that Members were elected to the States honestly and fairly by the good people of Jersey to make informed decisions on their behalf. I also believe we have a proven system of government in Jersey that allows people to elect their politician representatives and thereby influence government direction. I am proud of our system of government and our democracy. It is inclusive of everyone - yes, everyone - who chooses to exercise their right to vote and not just a selected few on a Citizen's Panel. I fear the Council of Ministers' plan to form a Citizen's Panel has all over it the fingerprints of just one Minister and has been brought forward by the Council of Ministers as a concession - a trade-off, an IOU - that will need to be repaid by him some time in the future. Yes, it is our duty to engage the public in consultation and as individual Members to canvass public opinion but not, Sir, at the expense of democracy. The voice of the majority must continue to be held through its rightful place - the ballot box. I urge Members not to allow our honest democratic process to be hijacked and to support, at the very least, Deputy Baudains' proposition.

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

The position is the *ancien* regime had lost the trust of the people. So, the new regime - the Ministerial Regime - says: "How can we best restore the trust of the people in us who by and large happen to be a large chunk of the *ancien* regime?" Well, how did we lose that trust? We held a series of so-called consultation exercises where we said we were listening to the people. Lo and behold, for example, 'Imagine Jersey 2': the people came up with the answer we first thought of. In consultation over GST (Goods and Services Tax), lo and behold, the people came with the answer we first thought of. We destroyed the trust that way. How can we restore the trust? I know, we will set up a new consultation process and we will restore the trust that way. There is only one flaw with that, and I believe it is a fatal flaw: the trust has gone. The people who have made that trust disappear cannot be the people to restore it. It is not possible because the starting point is: "We have been here before, we do not trust you." Now, we are told by 2 Ministers today - one this morning who said it is simply not the job of scrutiny to be connected with the people - it is our job. He has obviously - although he usually does read his standing orders very rigorously - failed to notice Standing Order 136A, which says it is the job of Scrutiny to hold reviews into such issues and matters of public importance as they see fit. How does Scrutiny decide what is a matter of public importance if not by going to the people and listening to them? So, it is our remit. The second Minister this afternoon has said: "But you are reading this all wrong. This is not just about Ministers, this is about all of us." He was there when Scrutiny met with the Council of Ministers, not a few days ago, and suggested that this was not a way forward, that it was not for the Ministers to set up this in this way and he was there when I said: "Well, if you want to consult people why not use Scrutiny for it? Give it to Scrutiny and we will do it for you and maybe we will establish some trust." As far as making no progress, as was suggested this morning, it is perfectly easy to make progress. In fact, the Council of Ministers are not the only people to have started to make progress because I, too, with the Chairman's Committee, have been talking about exactly the same process. Here are discussions I was holding with one of my officers 2 weeks ago saying: "Scrutiny: people's forum. Purpose: to communicate opening with the public about what Scrutiny is actually doing and why and how it is progressing, and to hear about matters of concern to the public. Aim: to be aware of topics of public interest so that we can best judge our program of investigation. Timing: the earliest we can do it is May, I think it says here. How coincidental. So, we are already working on it because it is part of the task that we have to do in Scrutiny. We are told now that it can be inclusive. Let us turn to the minutes, kindly provided by the proposer, of the Council of Ministers on 28 February of this year. Apart from the yellow patches outlined on there I ask Members to turn to the first paragraph: "Two workshops have already been held in January 2006 to discuss the ways in which the public and the States could be reconnected. The first workshop had been attended by 35 public servants, a combination of cross-departmental, senior and front line

officers involved in community engagement initiatives.” The invitation to Scrutiny officers must have been lost in the post, so where is the sharing there. No, this was under the control of Ministers and 35 senior and front line civil servants but not a single representative of Scrutiny because: “We did not think of that.” A second workshop had been attended by 22 community group representatives, and who had chosen those 22 community group representatives? But they say: “Go ahead, fire away.” We can already see how the system is working, it is exclusive and it is held and controlled by the Council of Ministers. We then come down to the second paragraph: “It is anticipated that in the first instance an oversight Panel would be appointed.” By whom? By the Council of Ministers. “Comprising representatives judged to have a broad spread of knowledge and a network of relationships within the Island.” Judged by whom? Why, the Council of Ministers, it is the Council of Ministers’ minutes. The Panel, this Panel, having been selected does it sound awfully like the good and the great to you because it does to me. The normal suspects: “The Panel would be responsible for overseeing the selection process of forum members and the identification of expert witnesses.” Well, strike me down. If you want to produce the results what do you do? You select forum members but especially you pick your expert. What answer do you want? Pick expert B. If you want the other answer, pick expert A. It is easy. It is so easy to do. We have seen it done for the last 3 years on this Island. We appear to be viewing a wider version of a repetition. Then, finally, it was proposed that workshops would operate under the guidance of an independent and experienced moderator. I have sat on a table and been moderated and facilitated - I have been facilitated by Senator Ozouf, no less. **[Laughter]** A very experienced man at facilitating. I have to be very careful what I say here, have I not? His idea of facilitation is that he speaks more than the rest of the people on the table. The conclusion we came to was his, not ours. Nonetheless, we are asked to trust the Council of Ministers. Then, finally: “The Council agreed that it should be at liberty to establish any kind of consultative panel it deemed necessary without the approval of the States.” Let us do that one slowly again. “The Council agreed that it should be at liberty to establish any kind of consultative panel it deemed necessary without the approval of the States.” Well, how wide do you want it? Because that is pretty wide. Now, when he heard of Deputy Baudains’ proposal that this should be brought to the States and must be brought to the States, why the Chief Minister got on his high horse and he warned off the non-Executive side of this Chamber and said: “Ministers must not be undermined.” He spoke of his mandate to do the job. It is all very well that he did but this part of this particular mandate is the brainchild of Senator Syvret. It is all very well for Senator Syvret this morning to say: “Be careful, you cannot stop this, I am on the Council of Ministers, therefore, all will be well”, because to him I say: “Look around at your colleagues. Are you leading this initiative; are you in charge of this initiative or is the Chief Minister?” The answer the Chief Minister is in charge of this initiative. It is entirely reasonable that the Citizen’s Panel - whatever form it takes - is properly debated by the States, absolutely a reasonable request. All sorts of questions need asking: Where does the independent body select the representative cross-section, avoiding bias? Who will devise the value-free, non-leading questions by which opinion will be sampled? Who, indeed, will feed the Panel with balanced information on which it properly will form an opinion? Even if there were those sufficient safeguards in place to ensure some degree of independence one has to ask what the function of such a body would be. Would it be there to pose an opinion; that people think this on any particular issue, whether well or ill-informed; and would that opinion hold sway or be held in the balance when we come to this Chamber to debate issues of policy with the evidence produced by a Scrutiny Panel? It is perfectly possible that that is indeed the way in which it would be used. The evidence says, however, the opinion of the people says that. Who feeds them the evidence? Who indeed. Finally, it was suggested that the first thing the Citizen’s Panel should take a look at and pass an opinion on is this thing, the States of Jersey Draft Strategic Plan or the States of Jersey Finalised Strategic Plan when it comes into being in May. What can we do? Well, I could sell this to anybody. As we have seen this morning to try and actually get into anything concrete, solid, accountable, judgeable in this document is like knitting with fog. These are deliberately kept vague assurances. For example, let us just take one page - and it is random, like any selection of members

for the Citizen's Panel - page 20; it only happens to open at this page, honestly. On that page we see what we will do, 1.61: "We will monitor the effects of the competition law in force, leading where necessary to more effective control over monopolies or organisations in a dominant position. "Here, here" I hear you say. I hear the public say: "Yes, we can back that." But look down, 1.64: "Aim to reduce the levels of red tape and regulatory legislation in 2006." What do you want? What does the public want? They want 1.64: "Decrease regulation" they want 1.61: "Increase regulation." What is the balance? 1.61: "Indications, keep the RPIX (Retail Price Index excluding mortgage interest) at or below the target level." Great aim, get 100 per cent backing on that - no problem. I might though ask the question: "How are you going to keep RPIX?" You have got no control of our RPIX unless you mean we are going to put the squeeze on wages because we are just going to whack you with GST and we are going to make sure you do not get that GST back by going for wage rises. Presented that way maybe I cannot get 100 per cent support for this one. It all depends on how I say it, on how it is presented. We know the pitfalls of manipulation that are there. We know that this is a set of apple pie wish lists. This should not be the first thing to go before a Citizen's Panel, nor, I believe, should anything until we have got something thrashed out and before this House as Deputy Baudains is asking.

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

I am really quite taken aback by the level of distrust that there seems to be around the Chamber about this initiative. The reason I say that is because we have, in fact, had a joint meeting with the Chair of the Scrutiny Panel just this week to discuss some of the issues that were raised by Scrutiny about the establishment of such a Panel or introducing new consultative methods. One of the things that we said there, at that meeting, was that it would be very sensible in a small jurisdiction such as ours, with few resources, to have such a Panel available for use not just by the Executive but also for use by Scrutiny when it suited their purposes to use it as a shared resource. It seems to me that that actually would be a very useful way of moving forward. Now, that would not be a case of reinventing the same work, it would be a case of using the Panel for the specific purposes of Scrutiny or the specific purposes of the Executive. So, it would not be a case of duplicating the work. I think that that was generally the accepted view and I think that was an accepted view certainly by the Ministerial side of the meeting and I thought that was an accepted view by the Scrutiny side of the meeting. I refer to some of the comments that have been made by some other Members in the House this afternoon. First of all, the idea that somehow this is viewed with suspicion because the role of the States Members - and particularly of Ministers - is to make decisions. But you can only make good decisions if they are based on knowledge about how it is going to affect the people on the ground. I think that has certainly been an important role that Scrutiny has brought to pay in terms of its role. But it is also very important in terms of what the Executive has to do in terms of emerging policy, emerging issues and, indeed, in terms of the implementation of our strategies and policies on the ground that Scrutiny are not looking into. I will give some examples of this. I think a very good and useful model was some time ago a research project was undertaken by CRSP (Centre for Research in Social Policy) and that was undertaken on behalf of the Social Security Committee. They set up a number of groups, sort of focus groups, drawn from a very large, if you like, panel of people, but they were drawn together to talk about specific areas. So, if they had experience in terms of children with disabilities or if they were pensioners or whatever, they were drawn together to talk about the extent to which they felt that they could be included in society and where they felt they were not, with the idea of evaluating the level at which benefits should be set. That was a very good piece of ground-breaking work which went on to inform future policy in terms of the low income support proposals. I think that began as a random sample and then was broken up into these smaller sections with specific interest areas. Now, that was not a policy that was available at that time for a Scrutiny Committee to look at. It was something that was emerging in the department. There was an earlier example in "Continuity and Change", again from the Social Security Department, a very good piece of research which was about what is our security system for and how should it be developed in future.

So there was not any clear policy direction at that point at all. It was very much a grass roots piece of consultation. Out of that we saw quite significant modernisation of some elements of the way in which we dealt with Social Security. So, I think we have got an example there of where the Executive side of the government did a good piece of consultation and I have to say very often they have not done. Those were a couple of prime examples. In terms of implementation, why would the Executive want to use such an idea? I can say the idea - long before Senator Syvret raised it in his manifesto for Chief Minister - came, yes, from me in the BASS (Building a Safer Society) strategy. Building a Safer Society is a strategy that we have had up and running for a great many years now and it has been very successful. On the back of that one of the things I invited every single States Member to was an open seminar about how to engage better with the community. How many people turned up? Well, I do not see any hands going up. I think one other States Member turned for a short space of time. It was left mostly to officers. Yes, thank you. What then happened on the back of that was a strategy - a recognition - that we had to do better in terms of consulting the public, particularly in how we delivered and implemented our policies, because in this time of scarce resources we cannot afford to get it wrong. If we are targeting a resource somewhere we have to make sure that we are hitting the point with it. On the back of that seminar Steven Austin-Vautier, my chief officer, was asked by the Chief Executive and the Council of Ministers to begin to take forward emerging work about how we would develop our ideas about consulting the public. It was, in fact, Steven Austin-Vautier who did these couple of first sessions with the community. Basically, the people that were brought together were the people that we had been working with initially under the BASS strategy, to just get their ideas about "What do you expect from consultation." One of the things we got from that was we want to be consulted properly. We do not just want to be given false hopes. We want to have proper input and if we cannot have proper input then tell us the information and we will make a decision on the basis of that. I would agree with some Members around the House who have said that the current Strategic Policy is not the right document to be consulted upon in this way. I would agree with you with that and I think the Council of Ministers has come round to that view. The reason is because most of those areas are now set down. The time to do it is to start doing it now for the next document because basically it is not real proper input that we would be offering people in the extent to which they would wish to have it. It does not mean we cannot consult, what it means is we cannot consult in the way that we are envisaging in talking about the use of a Citizen's Panel. Unfortunately, I cannot support the proposition of Deputy Baudains. I do not have any strong feelings and I am quite happy to share any information but it is just impractical. The reason why it is impractical is there is not one set of terms of reference that are going to suit for all of the uses that could possibly be made of such a panel. I have in front of me, as Members may see, *Consulting the Public*. That is a book on how to do it properly and that really is a set of terms of reference of how to do it properly in different contexts. The reason why it is so thick is because if we are going to make best use of such a resource we can do it in a number of ways. We can have one body and use it in many ways or we can have several different types of bodies which can be drawn from an overall wide database. We have talked in terms of not just a Citizen's Panel idea, which is quite a large democratically represented group of citizens, we could have other things like a Citizen's Jury or a Citizen's Forum. But hear those words: "A large democratically representative group of citizens." If consultation - proper consultation - in the future is going to be worth anything you have got to make sure that it is legitimate; that we are very transparent about our methodology, because that does affect the reliability of the results that we get out. On some occasions you will want to build in bias because you are looking at a policy that is affecting a specific group: it might be a set of housing tenants who are affected by a new policy on housings trust, for instance. I do not know. But in other areas where you are trying to have wide consultation, what you are looking for then is obviously a representative group. You may do that in a number of ways. You may draw a representative sample that is stratified according to age, for instance, or gender or, dare I say it, social class. But the important thing is we have got to move forwards to have a transparency about our methods. I do not think that Members need to be worried that we are trying to somehow

manipulate the results. That does no one any favours because if we get the policies wrong by doing that we are wasting resources, which we can ill afford to do. So what the Council of Ministers is trying to do is to come forward with better ways of doing the work of consultation in the future. We are quite happy to share that resource, as we said, with Scrutiny. But I think what we had before is an impractical proposition, as I say, to come forward with a set of terms of reference. They will not be worth the paper they are written on because each consultation will need a particular set of steps that it has to go through to make sure that the type of consultation that you are using; the method that you are using; the selection of the random sample; how it is going to be managed; how it is going to be processed - all of that has to be done for each specific consultation that you are going to undertake. There is not a 'one size fits all.' There is not even one method that will be right on its own. In many circumstances - and there were working examples in this book and I am more than happy to lend it if anyone is interested - there are a combination of methods to be used. The key, again - and certainly the Council of Ministers is very happy about this - is being transparent about your methodology. I come from a background of social science research so I am very clear about the need to be sure that your methodology is reliable. So I am very disappointed that there has been this feeling of, if you like, mistrust. Other Members have talked about inclusive, exclusive. Again, what we are looking at there is trying to be much more inclusive of the people that we need to consult. I have seen, like others in this Chamber, very bad examples of consultation in the past where you have had - let us face it - the usual suspects, to use Deputy Le Hérisier's phrase. That has got to stop because that gets us nowhere and we are very, very clear that when we are looking for independent research - when we are looking for public opinion in general - that we have got to ensure that the samples are clean samples. But there are other instances where, as I say, you are looking for a specific group with a specific set of criteria and interest. I think there is nothing wrong with that so long as you are clear about that is what you have done and why you have done it and it is open to scrutiny. I see this is an opportunity to both develop better policy on the side of Ministerial government and as an opportunity and a resource for use by Scrutiny to add to the other methods that it uses including consulting particular members of the public. This is huge resource that could be available, a shared resource, for better government and better policy. I really do feel that the mistrust here is getting in the way of a practical, sensible and cost effective approach. It is for that reason that I just really cannot support the proposition of Deputy Baudains. Thank you, Sir.

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

The Deputy is to be commended for raising the issue of testing the process of appointing a Citizen's Forum. For this to work it is vital that the public have absolute confidence in the process surrounding the establishment of a Forum. It needs to be open to all and those who give up their time may need to be compensated for their time in some way. I fully support the idea of engaging the services of independent organisations such as Mori to monitor the establishment and appointment process, to ensure the public have confidence that the Forum is truly representative and independent. The concept of a Forum would be a significant way forward to ensure that the States is in touch with the electorate. The Forum would not determine policy, it would simply act to raise issues and act as a sounding board. Having said this, I cannot support the proposition. I believe that a Forum will significantly improve the democratic process and should be set up as soon as possible with the necessary independent checks. I believe the Forum should be equally available to all Members of the House. The concept of a Citizen's Forum should be seen as an honest attempt to improve the democratic process for the benefit of the Council of Ministers, the Scrutiny and to all Members.

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

I sympathise with the previous 2 speakers but I think perhaps they have missed the point, Sir. No one here has denied the usefulness of public consultation. What we are querying - or at least what I am querying certainly - is the manner in which it is being set up and the parameters of operation. I



am all in favour of informed consultation. For instance, consider, Sir, the structure to the Public Accounts Committee which is the only Committee in the House which uses independent members to broaden the experience and consultation. However, I think Members should also bear in mind that Scrutiny is based on evidence and the consultation as envisaged by the published documents so far is based on opinion. I feel that it is, therefore, entirely proper that the set-up of this public consultation body should be agreed by the House so that everybody is in agreement before the actual implementation. There needs to be some work to bring forward terms of reference and so on and it should then be agreed by this House and then we can implement it. Thank you, Sir.

#### **17.11 Deputy S. Power:**

Consultation is where the Citizen's Panel wants to go. The Citizen's Panel has been set up to consult with the public on issues to do with the public and to attempt to re-establish links with this Assembly and the public because, as Deputy Southern said, there are a great many disaffected people out there who are disillusioned with what happens in this Assembly. Now, in order for a Citizen's Panel to be constructed properly I do feel that the Council of Ministers should consult with this Assembly. I think that is the link that is missing. I do not subscribe, also, to the theory that it is a conspiracy or that there are issues or that the Council of Ministers wants to control everything. I believe it is an issue where we, the Assembly, should be consulted about the structure and the terms of reference of this Panel. I think Deputy Baudains' proposal is, in some ways, a positive proposal because what he is saying is: "Yes, I have a problem with this but if we set out the terms of reference then I think I can work with it." It is not a completely negative proposition. For that reason, I will be supporting Deputy Baudains' proposition. One of the reasons that we are all in this Assembly is that we all consult with the public, whether we are a Deputy, a Constable, whether we are a Senator, whether we are a Minister, whether we are on Scrutiny or whether we are representing an interest group, and we learn from this consultation process. I have been to 2 forums that have been established in the last year and a half in Jersey; one was the "Imagine Jersey" one and the other one was the one last Saturday, "The Waterfront Forum." On both of those occasions there were questions that we were asked to answer that were difficult to answer because the structure of the question was that it was either a good question, a bad question or it was a leading question. When you have a leading question it is very difficult to answer a question like that and I think where Deputy Baudains is coming from is he is saying that the terms of reference of consultation for a Citizen's Panel should be structured in such a way that those 500 or 600 people who are eventually consulted with have a fair and level playing field and that there are not the type of leading questions that were difficult to answer in Imagine Jersey and the Waterfront Forum last Saturday week. I will be supporting the proposition.

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

I will be brief. I was quite encouraged by Senator Kinnard and the fact that she has now bought a book on consultation as not so long ago she was asking how to do it. In fact, we will be looking to Senator Kinnard, among others, to enter into consultation in the weeks and months ahead regarding the Sexual Offences Law. **[Interruption]** Senator Kinnard spoke of specific purposes of Scrutiny and the Executive. I would ask are these different? Are we not all part of the same government? Should we not all be clear about the terms of reference and operating methods of a Citizen's Panel or any other form of consultation? Scrutiny is not, I repeat - is not - a separate entity, it is part of government in exactly the same way as the Executive is. Finally, the public cannot be owned by different parts of government. We are here collectively as the States of Jersey to represent the public. It is only right, with any consultation, that all forms and all parts of government are involved in the process and in the determination of how we operate that sort of system. I certainly will be supporting Deputy Baudains' proposal. Thank you.

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

Yes, Sir, I do not have much to say except that I do support this. I am not surprised to hear that each Minister that has spoken so far is accusing the people who are supporting Deputy Baudains of mistrust and every other thing under the sun. We could turn that around, Sir, to say: "What is their problem? Why can we not agree terms of reference before a Citizen's Panel is brought to this Assembly?" Like Deputy Power, I was at the Waterfront. Now, in here, just for example, what I would say was missing on the Waterfront was the lack of anyone under the age of 30, or a considerable amount of people under the age of 30. Will this all be taken into consideration? I hope so. I am getting nods, Sir, from the Ministerial benches but it is not in the paperwork. I do not think that what Deputy Baudains is asking for is too much. I think what they are proposing is very wide, even in their own comments. We have got 3 Panels. And from Senator Kinnard we have heard of all different ways we can consult and in fact we are doing it now. The Statistics Unit consults all the time instead of doing a census, and maybe that is why we are not trusting the Ministers because, again, in the House they vote for a census but we have got different things going on through the Statistics Unit. So, these things do give other people in the House who are not in the Ministry, and probably the way that things have taken off since Ministerial government really started to pan out, does make people suspicious. The Ministers are always saying they do not want an "us and them" situation. Unfortunately when we, the "others" or the "them", hear everything via the media or after the media, what are we supposed to think? Even on the Council of Ministers minutes - and I know that not for one moment would Deputy Baudains be intimidated - but they discuss that they delegated to Senator Le Sueur because the Chief Minister was out of the Island. But in his absence, could Deputy Baudains be written to and possibly met before the matter... in order to persuade him to review his position. As I say, it is Deputy Baudains; but a lesser and maybe newer member might have been slightly influenced if they had had the Chief Minister banging on their door and saying: "What do you think you are playing at? We do not want to discuss this in the States." I know these are only minutes and it is an interpretation of what the clerk is putting down, but this is how it has come across. I am certainly supporting this and, as I say, my problem is what problems does the Ministers have with accepting these terms of reference to be set out before any Citizen's Panel is up and running?

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

Deputy Baudains can speak for himself but I doubt he was intimidated by the thought of having a meeting with me. **[Laughter]** We had a very amicable meeting and I think in general there is a lot which all of us in this Chamber can agree upon and maybe we are arguing from different directions because there is a sense of unease or distrust; or the 'us and them' view. I am starting from where the Council Ministers are starting from which was the need for us to re-engage with the public. I think maybe even this afternoon, we are so heated-up about arguing among ourselves that we are forgetting about the wider public out there and the need to involve them in discussions, in consultation, in shaping the way we might form our policies in a whole variety of issues. One of the dangers here is in trying to create a 'one size fits all' solution. If we take as our starting point that we need to connect or reconnect with the public, it is not just the Council of Ministers Executive connecting with the public. It is not just Scrutiny connecting with the public. It is all of us together who should be undertaking that and trying to undertake it in a joint way. So often in debates we get polarised so one or the other must be right and I, whenever I can, try to find a constructive middle way ahead which achieves our objective and if we can do that today, whether the proposition succeeds or fails, I would be a lot happier. What we have to do is see what process we can derive which will both achieve the reconnection with the public and also reassure ourselves that the process is objective. I take on board quite clearly the feeling of some Members, rightly or wrongly, that one or other consultation exercise has been a waste of time because it was all rigged, or the questions were rigged or the speakers were rigged. I think one of the important duties of Scrutiny in terms of that sort of process is to assess whether or not it was an independent and fair process; and if it is not an independent process, to say so. I think reference has been made to the minutes of the Council for Ministers to suggest that we have already prescribed the whole way. I

think what is quite clear, and if I take them up myself at the top of page 2: “The Council considered that both the oversight panel and the forum itself should as far as possible not be self-selecting but randomly chosen in order to ensure they were independent, impartial and representative of the Island community.” How that is achieved can be done possibly by trying to create rules and regulations. I think it is really achieved by a commonsense approach and having a fair and independent selection process. Whether that is done by the Statistical Unit or farmed out to Mori or some other group of people, it does not matter. It needs to be independent and needs to be seen to be independent and the methodology needs to be fair. I go back to what Senator Kinnard was saying earlier. I have been involved in different consultation processes over the last 18 years from things like the Island Plan or items of clear policy which were being promoted - such as Goods and Services Tax or fiscal policies - to others at the other end of the scale like “Continuity and Change”, where we discussed the whole concept of a social security system with no clear policies going forward. We spent that time listening to what the public said, respecting what the public’s views were and promoting policies in the light of what that discussion yielded. That is why I believe there is a danger that if we try to create a ‘one size fits all’ policy it will not be capable of dealing with every different sort of consultation that we want to be involved in. There will be a Citizen’s Forum which might involve 400 or 500. There will be other discussion groups of 40 or 50 people. Different ways of dealing with different problems and no one solution. I think if we are going to bring forward rules which try to fit everything, we will end up with something which is totally bland and meaningless that can be interpreted in any way which suits any individual member. That is about as much use as nothing at all. The alternative would be to have something so detailed - rather like Senator Kinnard’s book there - which would take us weeks to debate and in the end we would pick up whatever page suited one or other of our requirements. Neither way I think is the way forward. Finally, when we read the proposition - and yes, it can be interpreted in different ways; I certainly interpreted it in the way Senator Syvret says. It would be hard for the Chief Minister to take steps to bring forward a proposition to the House when it had just been told to take no steps. But that is a matter of interpretation. Really, if we are going to work constructively in this, then I do not believe it should be down to the Chief Minister or the Council of Ministers to bring back those rules to this Assembly. I would like to suggest that should we do that in conjunction with the Chairman’s Panel representing the different elements of Scrutiny; that we jointly bring forward proposals which can be workable and to which the whole States Assembly can adhere. There is one further caveat I would raise, and that is that this sort of process is to some extent treading new ground. I think inevitably there are going to be teething problems and you will find that as we go through this consultation process ways in which we can refine and improve it. What I should hate to do is find that we are so circumscribed by process that in the future when we want to try and improve on a process, we have got to come back to the House with every single change we wanted to make to improve it. So, what I would prefer to see was a more informal arrangement which involved the Chairman’s Panel and the Council of Ministers which set out some certain key principles, so within those key principles you, between you - the Council of Ministers and Scrutiny - will see how we can develop those principles to suit the circumstances to learn from the experience as we go along. I think there are 2 alternatives we can take. One is that we can accept this proposition warts and all - I think there are a few warts on it - with a danger that we can get locked into detail and it really restrains us. The alternative which I would like to suggest to the Deputy, having discussed this now for an hour or so, is that the Council of Ministers and the Chairman’s Panel take on board the views that have been expressed by all Members in this House today; that we jointly go away and agree to come back to the House within the next 4 to 6 weeks with a framework which we could all sign up to jointly agreed by the Council of Ministers and the Chairman’s Panel. My first suggestion would be for the Deputy to accept that, withdraw his proposition on the understanding that if we did not come back he would no doubt throw the book at me. If he does insist on going ahead with the vote, then sadly I will vote against the proposition, but that should not be taken as an indication that I am against the general principle because I think we are all signed up to the fact we do need to reconnect with the public. So, my first request is that

the Deputy considers withdrawing the proposition. If he does not wish to do that then I will vote whichever way I feel inclined.

**17.15 Deputy R.G. Le Herissier:**

Oddly enough I was just going to make a suggestion along the lines of Senator Le Sueur but I just want to make a few points. It is always very difficult when you move to a new system of government and one which has the potential for division within it. We are ostensibly moving from consensus government. A lot of us have felt that this has been a farce for a long time and there has been - hidden underneath the consensus - essentially one view of the world put forward. There is no doubt that the current government is struggling with being in power but not having the hearts and minds of the people behind it. Of that there is no doubt. And given that we have a fairly bankrupt electoral system at the moment which is not delivering the goods or getting the numbers of people to vote and is marred by a high degree of defections from people of various kinds because of the disillusionment that has been referred to, they have to fill this void. They have to fill this void of legitimacy because they are obviously feeling quite lost. I have no problem with that because in a sense it is worth trying for consensus even though I feel a certain cynicism about the way this has been done. We have gone down this road before with some of the individuals concerned in this project and my view is they are not that interested in listening to other people. They have a certain world view. They are very smart at some of the PR side but obviously not ultimately at it because otherwise we would not have twigged to what was happening. But the point remains they do have a major legitimacy problem, Sir, and I am afraid that is painted all over the Council, I am afraid. I do not think anyone can ride 2 horses on this one as some people, it appears, are trying to do. But I am encouraged by the Acting Chief Minister's view that there should be a meeting of minds because Deputy Power, for example, made this point, and Deputy Reed. I want them to acknowledge that Scrutiny is a partner - a true partner - and that there is parity and that the people in Scrutiny are not a bunch of flotsam and jetsam who have no real contribution to make and have to be shoved aside while certain people meet in the Committee room or the coffee room and engage in the usual manipulative tactics and thereby debase the process. But that it is a true partner and I do not think this message has sunk in. I do not think the Executive realise that there are people on Scrutiny, or there is the ability within the process of Scrutiny, to make a real contribution to policy. I have this real fear that given the pace that has been set and the publication of the Strategic Plan and the way certain people want to hit the floor running, that because these people do not really subscribe to democratic government - they subscribe to managerial government - they just want to keep the thing running and put some window dressing on top of it. But if the Acting Chief Minister's word can be taken - and I think it can be - that he is genuinely looking for parity and that he has woken up to the fact along with his confrères, that there is a real crisis of legitimacy within this Assembly as well as without it, because we know there is one without it. If he has woken up to that fact and is prepared to enter into genuine negotiation and debate and discussion with Scrutiny and other Members who are interested, then I think all well and good. But he and his confrères must not see it as an exercise to lead us down a certain route where, after a process of consultation and attrition, we will be ultimately bored or beaten or whatever into the ground. If he is prepared to do that, I would much prefer to follow his route but I think he and his confrères ought to know that there is a true crisis of confidence. We have twigged to that. Despite what General De Gaulle said: "*L'Etat c'est moi: l'Etat n'est pas vous.*" *C'est tout. Merci.*

**17.16 Senator S. Syvret (Point of order):**

Sir, on a point of order, the Deputy accused some Members of the Executive of not being in favour of democratic government. Certainly for my part, Sir, that is an accusation I reject utterly. He also said that we have had no democratic legitimacy. Well, I just went to the Island and was returned top of the poll and absolutely clearly in my manifesto was a commitment to this very kind of public consultation, including Citizen's Juries, so it is wholly wrong of the Deputy to say there is no democratic legitimacy.

**Deputy R.G. Le Herissier:**

I totally dispute that but that is the basis of a very good debate.

**Senator S. Syvret:**

Sir, could the Deputy state what grounds? I have just made a statement of fact. My election manifesto contained clear-cut commitments to this kind of public consultation. That is a statement of fact. I went to the polls and was returned top of the poll and those pledges were in my manifesto. Now, what part of that is the Deputy saying is untrue?

**The Deputy Bailiff:**

Senator, he has not said it is untrue.

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

May I urge Senator Syvret not to take Deputy Le Herissier's rather radical political theorising too seriously because, of course, everyone in this Chamber is entirely legitimately elected. It is just that one or 2 of us like to make a little bit of political mileage by pretending that we are not, but I am afraid we are. There are disinterested voters out there. There are disaffected voters out there. There are also voters out there who say: "When we elected you we elected you as our representatives to make decisions on our behalf so will you kindly get on with it? Why do you keep coming back and asking us our opinions again and again in numerous consultation processes?" It is interesting how it is quite hard to interpret minutes of Council of Ministers meetings because the bit where it says: "The Council, mindful that the public could perceive the forum as an alternative to government" was the bit where the Minister for Transport and Technical Services went on quite a considerable rant to lay down quite clearly his total and fundamental objection to an ongoing Citizen's Panel. For one very good reason: it is expensive to set up; it is expensive to maintain but once we have got it up and running, what is the first thing the public are going to say? They are going to say: "Well, if we have got this Citizen's Panel, what do we need you lot for? I thought we already had a bunch of highly paid decision makers called States Members who were going to make decisions on our behalf." So, I am really quite torn on how to vote on this proposition because I do not want the result one way or the other. There is nothing wrong with consultation processes *per se*. You can have Citizen's Juries and Citizen's Panels for that matter; you can have referenda; you can have things called "public meetings" in Parish Halls. That is quite a reasonably tried and tested formula that does not cost the taxpayer or public purses too much money. But no, no, no, that is old hat. Let us have this new wingding Citizen's Panel invented by spin-doctors. Let us put some money in the pockets of the Mori pollsters. It will not give us any more legitimacy though I am afraid, Deputy Le Herissier, in fact, rather less. It is a rough ride making decisions as I found out this morning. **[Laughter]** But I have got broad shoulders. That is what we are here for: taking decisions, and we need a decision on this. I think I have to advise Members that we should reject this proposition because it is really rather inflexible. If you think about it, why are we having a niggly with the Chief Minister or the Council of Ministers about the sort of consultation process they want to decide upon? Surely we would not be having quite the same discussion if it was Scrutiny and the Council of Ministers would not wish to interfere with any way that the Scrutiny Panel care to make their own decisions. I know I will not. I will let them get on with it and I look forward to their advice. But that is what it will be: advice. So, I say reject this because we are all going to have our own versions of what the appropriate consultation processes should or should not be. The Council of Ministers will have one version. Scrutiny will have another and I dare say a whole bunch of backbenchers will have a third. It may be that the appropriate way is for a private member to bring the favoured consultation option for the States as a whole. In the meantime, I really urge Members that one can consult too much and for many of our voters the time has come for action, not pontification.

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

It might be quite difficult to follow that. I think Deputy de Faye put his point across rather well. Members must realise that there is nothing new about this; this has been done before. It has been done by many countries; many councils in the UK. Market research companies do it every day of the week. My concern about it is that if you are going to do it properly, it is going to cost and that is one of the things I am very concerned about and I think Senator Perchard mentioned it too. If you are not going to do it properly, I would not bother. We have all been democratically elected. We are here to make decisions and we should make those decisions. So, I would urge also perhaps to support Senator Le Sueur's suggestion that he should come back with a full-rounded proposal as to how this should work, what their terms of reference should be and how much it will cost because if you are going to do it properly, it is going to cost and I think if we are going to do it, it should be done properly.

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

Interesting debate. I will not go through every Member's contribution at great length. Firstly, because it was a recurring theme at the very beginning when Senator Syvret focused on the word "no" in my proposition, but of course, as other Members have subsequently pointed out, you have to take the sentence in its entirety. And suggesting that "no steps should be taken" by itself would be unhelpful. But the rest of the sentence asks that terms of reference and operating methods of the proposed Panel have to be obviously prepared in order for them to be debated and approved by the Assembly, so those in themselves are some steps. What is clearly meant by the words I have used there is that no steps should be taken to establish a Citizen's Panel. It does not mean to say you cannot do preparatory work. I think the Senator actually put a construction on my proposition that was borne more out of desperation to find something to argue against than borne out of any real opposition. In fact, I got the impression he was talking in favour of the broad trust of the way it should be run. Senator Routier, unfortunately like some other Members, I do not think addressed the proposition as it was written. He also believed that such a resource should be available to all Members. As I shall refer to other Members' speeches in just a second who made similar comment, that is not what is on the table. Deputy Duhamel accused Ministers of trying to pull the wool over our eyes. Well, most of us are used to it: when we see the wool coming and we duck in time. And again referred to the issue of "no steps should be taken". The debate is not about the merits or elements of a Panel; it is about the terms of reference which unfortunately was missed by several Members. Deputy Southern supports the setting up of a Citizen's Panel if I understand correctly but, of course, the Assembly should be able to debate the terms of reference and operating procedures so that - and it was an important comment that he made - all States' Members are signed up to the process. That is something that is important if we are not going to have the 'them and us' situation which I fear is developing quite strongly. The Deputy of St. Martin accused Senators Syvret and Routier of not reading my proposition and surely the Council of Ministers should sort out the terms of reference and operating procedures as their first move before they did anything else. So, really, they would have to do that work anyway so there would be no hold up as some have suggested may be the case. Senator Perchard is uneasy with the proposition and believes, similarly to Deputy de Faye, that Members were elected to make decisions and to represent everyone and not just a select few, which is possibly one of the drawbacks of the Citizens Panel although I have not focused on that in my proposition. It is our duty to consult but not at the expense of democracy, and urged all Members to support my proposition for which I thank him. Deputy Southern referred to "Imagine Jersey" in consultation over the Goods and Services Tax and the Council's attempt to restore trust from a public that do not trust them. I thought that was fairly good analysis. Standing Order 1.3.6(a) describing the Scrutiny's remit. I referred to that in my opening speech and that Scrutiny is there to look not only at existing policy but emerging policy as well which is exactly what the Council of Ministers want the Citizen's Panel to look at. So, there is an overlap. There will be 2 different bodies doing the same work and, again as I said in my opening speech, what happens if they come to different conclusions? The Scrutiny Panel will have

taken expert advice; it will make sure that the evidence it hears is backed by fact so it is evidence-based. Will the Citizen's Panel have the same information before it? Will the decision it comes to be based on evidence or will it be based on emotion or opinion, in which case we could have 2 contrasting opinions coming before this House, and which one do we listen to? The one based on evidence by Scrutiny or the one in the public? It could be an embarrassing situation. I also spoke of 2 workshops held by the Council so far which is in the minutes which I distributed this morning, and pointed out that of the 2 workshops held so far, the first was attended by 35 public servants and the second by 22 community representatives, but there was no Scrutiny input to that. And also I raised the issue which I touched on this morning as to how a Citizen's Forum could in fact be led to a particular conclusion. I did mention the fact that I am used to these seminars and the way one is assisted to come to the right conclusion, and I think obviously he has suffered that scenario as well. He also referred to the minutes where it says that the Council should be free to establish any kind of consultative panel it deemed necessary without States approval and expressed his concern of that. Clearly he was not impressed by that sentence. Senator Kinnard, Minister for Home Affairs, spoke of everyone being able to use the Panel. Well, as I mentioned, of course this is not what is on the table. Surely if it was, then everyone would need to be involved in its terms of reference and its *modus operandi*. But they are not. By opposing my proposition the Executive clearly wants to have absolute control. The Citizen's Panel will be their machine; not anybody else's. I believe the Senator attempted to find the middle ground in her speech but unfortunately the gulf between the Ministers and the other States' Members is a minefield at the moment and not really an inhabitable zone. Senator Cohen surprised me because clearly he has not read the proposition. He missed the point completely. He addressed the benefits of a Panel which I think we all agree on. I said this morning that I was entirely in favour of a Citizen's Panel but that is not what my proposition is about. I thank Deputy Power for his support, again suggesting that we should all be involved in agreeing how the Panel would operate, which of course, again, is the crux of my proposition. The Deputy of St. Ouen made some important comments that are we not all part of the same government and Scrutiny is not a separate entity; it is just as much a part as the Executive. The public cannot be owned by separate parts of government. Deputy Martin: what is the Council's problem? Why can they not let all Members decide how the Panel will work? And also spoke of my possible intimidation by the Chief Minister. Well, I can assure Members that I have yet to be intimidated by anyone and I am afraid of no one so that is not likely to occur. Moving on to Senator Le Sueur's speech, I did have an amicable meeting with him - neither of us intimidated the other - where we discussed the proposition at a very cordial meeting. In fact, I thought his speech was very helpful seeking to find a way forward. He spoke of the 'one size fits all' scenario where I think what he was thinking was that if you had terms of reference, they may not fit every particular issue that you want to debate with the public. But of course that would only apply if the terms of reference went down to the minutest detail. I am not suggesting that they should. One size could fit all, if the terms were set at a higher level. He did make the suggestion that the Scrutiny Panels and the Council could get together and create the terms of reference and possibly come with a 4 to 6 week delay. I thought some of the Ministers had spoken earlier suggesting that the trouble with my proposition was that it would cause a delay. I am unable at the moment to see what the difference is. Surely, if the 2 bodies worked together to create terms of reference, then it merely means that it comes back to this House basically to be rubber-stamped in 4 to 6 weeks time which fulfils exactly the terms of my proposition. Deputy Le Herissier, standing fully in the minefield, cannot ride 2 horses at one time. I suppose you can in a circus. **[Laughter]** But there again, there were some important elements. The Council needs to acknowledge that Scrutiny is a true partner and I do not believe that is happening at the present time. The gulf is widening and we really must work together for the benefit of the Island. He does not think the message has sunk in and I would entirely agree with that. Ministers subscribing to managerial government and not democratic government - I know that upset Deputy de Faye - but it does tie in with his statement about the crisis of legitimacy. He supports Senator Le Sueur's suggestion but as I have just said, I see no reason why that should not happen within the terms of my proposition that the Council - having

consulted with Scrutiny - can bring in those terms of reference to this Chamber. Surely, having been worked out by both sides of the government, so to speak, the terms would be amenable to practically all Members of this House and it should really be a question of rubber-stamping. The Deputy of St. John made a couple of interesting comments: "It has been done before." The first thought that sprang to mind, it should not be too hard to go and check somebody's terms of reference. I will make the proposition so I will not keep Members any longer and would ask for the Appel.

**The Deputy Bailiff:**

Very well. The Appel is asked for on the proposition of Deputy Baudains. I invite all Members to return to the Chamber. The Greffier will open the voting.

<b>POUR: 28</b>		<b>CONTRE: 15</b>		<b>ABSTAIN: 0</b>
Senator B.E. Shenton		Senator S. Syvret		
Senator J.L. Perchard		Senator W. Kinnard		
Connétable of St. Mary		Senator T.A. Le Sueur		
Connétable of St. Peter		Senator P.F. Routier		
Connétable of St. Clement		Senator T.J. Le Main		
Connétable of Trinity		Senator F.E. Cohen		
Connétable of St. Lawrence		Connétable of St. Ouen		
Connétable of St. John		Connétable of St. Saviour		
Connétable of St. Brelade		Connétable of St. Helier		
Deputy R.C. Duhamel (S)		Deputy J.B. Fox (H)		
Deputy of St. Martin		Deputy J.A. Hilton (H)		
Deputy G.C.L. Baudains (C)		Deputy G.W.J. de Faye (H)		
Deputy P.N. Troy (B)		Deputy J.A.N. Le Fondré (L)		
Deputy C.J. Scott Warren (S)		Deputy of St. John		
Deputy R.G. Le Hérisssier (S)		Deputy I.J. Gorst (C)		
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.H. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. Mary				



## **18. Jersey Appointments Commission: appointment of Chairman and Members (P.18/2006)**

### **The Deputy Bailiff:**

We come next to Jersey Appointments Commission: appointment of Chairman and Members (Projet 18). I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion, in accordance with Article 18.1 of the Employment of States of Jersey Employees (Jersey) Law 2005 which is concerned with the appointment of commissioners to the Jersey Appointments Commission, to appoint the following as Chairman and Members of the Commission for the terms indicated: Mr. Michael Joseph Lister, Chairman, 4 years. Mrs. Catherine Elizabeth Rees, 4 years; Mr. Brian Curtis, 3 years; Rose Edith Colley, 2 years; Mrs. Sheila Henwood, 1 year.

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

First I would like to move that we debate this particular projet in camera. Two reasons: firstly we are talking about individuals here serving the public at no cost to the Island without the right to respond or have any input. I think it would be in our interests to have a full and open discussion and I am sure it is far better done in camera. Secondly, I think we might want to stray into the general terms of the Appointments Commission. That, again, is something which perhaps could be done in camera. So, for those reasons, Sir, I move firstly that the House sit in camera.

### **The Deputy Bailiff:**

Is the proposition that the Assembly sit in camera seconded? [**Seconded**] Yes. Does any Member wish to speak on that proposition?

### **18.2 Connétable T.J. du Feu of St. Peter:**

I honestly believe and see no reason why we should be making appointments which are going to look after and safeguard the interests of the public in the longer-term in camera. We have a list of names; very respectable people in their own particular individual fields and I am sure there is nothing that is going to result from the debate or from the comment which is going to detract or not give due regard and grace to every one of them. I believe that we should be seen to practise what we preach. Everybody is preaching all the time about the openness of government and the procedures. Here is an opportunity to try it, Sir.

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

Can I support the Constable of St. Peter? Already today we have discussed and agreed on membership of the Public Accounts Committee - that was held in open session - as indeed we have also had the Health and Safety Tribunal appointment made. I see no reason why we should go in camera and I certainly support the Constable of St. Peter.

### **18.4 Deputy G.W.F. de Faye:**

I would like to put the opposing view. I think it is extremely important that States Members, for whatever reason - and I am a big supporter of open government - deprive themselves of the potential opportunity to be critical of public appointments. One of the reasons that the States does go into camera from time-to-time is not to obscure or mask the truth involved in those proceedings, but is to potentially protect the reputations of people who are considered to be worthy and eminent citizens. It is perfectly possible for one or more States Members who have got a particular gripe or grief with an appointee to use their power of privilege within this Chamber to say whatever they like. In some circumstances those comments could turn out to be extremely damaging; whether the appointee is appointed or not. So, I think there are circumstances where discretion is the important

feature and it may well be that we will have nothing to say on these appointees at all, but that should not allow it to detract from a proper process that allows any States Member to make any criticism that they wish to freely and fairly and openly, no matter how damaging. With the process being conducted in secret, even if allegations made are utterly groundless, then those people's reputations remain in tact. I think that is one of the key values of an in camera process and I would urge the House to support the Deputy Chief Minister's request.

**18.5 Senator W. Kinnard:**

I would just like to say I seconded the proposition because I, for some time now, have taken the view - and the person who led me to this view was Deputy Alan Breckon - that when we are discussing individuals who are coming forward to fulfil appointments which are quite often difficult to fill, that they ought to be granted the courtesy of having their reputations left intact in this process. I do have concerns where we have at the moment great inconsistency where some appointments are debated in camera and some are not. I think one of the dangers of that is that in a certain circumstance like this where we are suggesting that it should be in camera, rightly or wrongly there may begin to be the suspicion that there is a problem with it. That is wholly wrong. However, I do support the idea that we should go into camera. I think we should go into camera for all such appointments and I would ask, Sir, whether the Deputy Chief Minister who is also involved with the Human Resources Sub-Committee might actually think about this issue - I think that might be the appropriate body - as to whether we could have a consistent approach and whether it would be worth considering going into camera for all such appointments. This may not be a popular view with some of my other colleagues but I am very concerned that people are increasingly reluctant to come forward to fill appointments for the States because of the difficulty of having open debate in this House over their abilities, qualities, what have you, Sir. I think it would be fairer to all concerned if we did have a consistent approach and I would thoroughly recommend that we do consider going into camera for all such appointments.

**The Deputy Bailiff:**

Very well. The arguments have been put on both sides. Do you have something new to say, Deputy Fox?

**18.6 Deputy J.B. Fox:**

Yes, I was only going to support it but I was going to add that sometimes it might not be something detrimental to say but it might be something that this particular candidate - whoever it is - might not be suitable for this which, again, I would suggest would have an adverse effect on possible future... so I would advocate what the Senator has just said, for that reason, if for no other reason.

**The Deputy Bailiff:**

All those in favour of the proposition put forward by the Deputy Chief Minister. You ask for the Appel? Very well. That is called for. I invite Members to return to the Chamber and the Greffier will open the voting.

<b>POUR: 37</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Senator B.E. Shenton		
Senator W. Kinnard		Connétable of St. Peter		
Senator T.A. Le Sueur		Deputy of St. Martin		
Senator P.F. Routier		Deputy J.A. Martin (H)		
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator J.L. Perchard				
Connétable of St. Ouen				

Connétable of St. Saviour				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Brelade				
Deputy R.C. Duhamel (S)				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.H. Maclean (H)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

We will now move into camera so I would ask that the gallery be cleared and that all strangers withdraw.

**[Debate proceeded in camera]**

**The Deputy Bailiff:**

The media has returned. Very well. All those in favour of adopting the proposition kindly show. Those against? The proposition is adopted.

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Deputy Bailiff:**

Finally we come to the arrangement of public business for future meetings. I think Members have had handed out to them a blue paper setting out the revised arrangements and I invite the President of the Privileges Committee to speak to it.

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

I would like to formally propose the arrangement of public business for future meetings on the revised paper.

**The Deputy Bailiff:**

Are there any comments?

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

I spoke to the Attorney General this morning and he very much wanted to be present when we returned to the debate on the Draft Sexual Offences Law. In fact, I did talk about 25th April. I see it is down on the 'blues' for 4th April and I am aware that the Attorney General is unlikely to be available on 4th April. I wonder, Sir, whether it would be in order to propose that we set it down for 25th April so that the Attorney General may be present for the debate.

**20.2 Deputy C.F. Labey of Grouville:**

On that point, I and other Members will have difficulty if that proposition comes before this Assembly as a stand-alone proposition again. I would like to see in place - or debated at the same time - the Sexual Offenders - which is the Abuse of Trust Law - and the Crime Disorderly Conduct and Harassment Law which deals with harassment to individuals. So, rather than put this Assembly in another embarrassing situation which it has the potential of doing, I would like her assurance that these measures will be taken before we debate this law.

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

I do not feel I put this House in any position of embarrassment; I will say that first of all. But the moving of the debate to 25th April would, in fact, give me the opportunity to lay a draft proposition covering the Abuse of Trust issue that Members raised during the last debate. The other 2 pieces of legislation are obviously quite distinct. The Abuse of Trust Law: the current thinking is that it would be a stand-alone proposition. The Deputy may be aware that the Attorney General is looking at the draft harassment aspects and, indeed, we have agreed to have a further discussion at a future Council of Ministers meeting. I am in the hands of the Council of Ministers to some extent on that piece of legislation but I was aware that the House was particularly concerned about the Abuse of Trust provisions and certainly I am in a position to say that it looks likely - depending on what the Attorney General might say if he decides to correct me - that I would be able to lodge an Abuse of Trust Draft Law in time for the debate if it were to resume on 25th April.

**The Deputy Bailiff:**

Just so I am clear, Minister, you are asking that it be moved from 4th April to 25th April?

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

If I may, Sir, thank you.

**The Deputy of Grouville:**

And I am asking that it not be brought forward until the 2 other laws are in place.

**The Deputy Bailiff:**

I think ultimately that is a matter for the Minister but no doubt she has taken that on board and she says she hopes that at least one of them will be present I think. That is a matter for her at this stage.

**The Deputy Bailiff:**

Can I just test the mood of the House to see whether they agree. Does the Assembly agree that the Sexual Offences Law should be moved to 25th April? Agreed? Very well, it seems to be agreed. Yes, Connétable.

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

Can I ask that P.31/2006 be taken in 2 weeks time on 28th March, please, Sir. This is the one about asking that composting decision will be brought back to the States by the Minister - unless the Minister wants to accept the proposition - but otherwise it seems to me relatively straightforward and does not require reports and would suggest that it could be taken in 2 weeks.

**The Deputy Bailiff:**

Any other suggestions?

**The Deputy Bailiff:**

Minister, do you have any comments on that? Are you happy to take the Connétable's proposition on the 28th?

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

It is very kind of the Constable to make the offer, Sir, but I will not be accepting it.

**The Deputy Bailiff:**

Very well, but I take it that that can, therefore, be added to the list on the 28th.

**20.6 Connétable G.W. Fisher of St. Lawrence:**

It just a fairly minor point, Sir, but I see on 28th March we now have 2 Postal Services items: we have the Transfer Regulations and we have Amendments 1 and 2. Then we have Postal Services (Jersey) Law 2004. Then we go on to Water Pollution and then come back to Postal Services at P.13. I would have thought it would make sense as they are related that P.13 is moved up just one to before Draft Water Pollution.

**The Deputy Bailiff:**

Is that agreed by the Minister? Yes, it seems sensible. Do Members agree with that? Very well, we will move that one up. So, on that basis, do Members agree the proposal as now put? That was, on 28th March, it is all those matters listed plus the proposition of the Connétable of St. Helier on composting. And the other matters are as set out save for the Sexual Offences Law. Very well, that is agreed.

**WELCOME BACK TO H.M. ATTORNEY GENERAL**

**The Deputy Bailiff:**

That concludes the business of the Assembly. We stand adjourned until 28th March. Sorry, Constable, do you wish to say something?

**The Connétable of St. Peter:**

Could I say on behalf of all Members, and indeed the Island at large, how nice it is to see the Attorney General back with us today. [Approbation] I know that everyone in the House and outside in the Island wish him a very speedy return to full health.

**H.M. Attorney General:**

Can I just thank the Connétable of St. Peter and Members for their comments and for the welcome. I must appreciate Members' generosity in that respect. I would also like to add that I have been humbled by the number of good wishes I have received from all over the Island, so to those who

are listening and who have sent in their good wishes and cards to me, I would like to say thank you very much.

## **ADJOURNMENT**

### **The Deputy Bailiff:**

The Assembly stands adjourned until 28th March.