

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 16th JANUARY 2007

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

QUESTIONS

1. Written Questions

1.1 DEPUTY K.C. LEWIS OF ST. SAVIOUR TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING INTERNET GAMBLING:

Question

Would the Minister inform members of his current policy on the authorisation of online internet gambling and state whether there have been any changes in his approach to this issue in recent months?

Answer

The Gambling (Jersey) Law 1964 currently prohibits any form of online gambling from Jersey. My officials are working with the Law Draftsman to produce a new regulation: the *Gambling (Disaster Recovery) (Jersey) Regulation 200-*. The new regulation will allow an online gambling operator to have a contingency Disaster Recovery facility in Jersey and be able to invoke these facilities for a limited period, if a disaster were to occur in the home jurisdiction. I intend to bring this to the States for debate before the summer recess.

Initial steps have been taken to modernise the Gambling Law with the launch of the Shadow Gambling Commission on the 15th December 2006. The role of the Shadow Commission is to prepare for the transition to a statutory Gambling Commission and to advise the Minister and Assistant Minister on changes to the Island's gambling laws.

Law drafting time has been allocated this year for the preparation of a new Gambling Law and for the proposed new Gambling Commission Law. If this legislation is passed by the States then Regulations will be brought forward after public consultation and advice from the Commission in 2008.

The Shadow Commissioners will work with senior managers within the Economic Development Department to ensure that -

- Jersey retains its excellent international reputation as a well regulated jurisdiction;
- Business growth and investment is encouraged; and
- Potential harm is minimised and programmes introduced to protect the young and the vulnerable.

On the 31st October 2006 Deputy Alan Maclean represented Jersey at the first International Remote Gambling Summit in Ascot placing Jersey at the forefront of new developments in international principles. The Summit agreed that:

- remote gambling should be conducted responsibly and with safeguards necessary to protect children and vulnerable people;
- remote gambling should be regulated in accordance with generally accepted international standards to prevent fraud, money laundering and other crime, and should not be permitted to be a source of crime; and
- where offered, remote gambling should be verifiably fair to the consumer.

Members may be aware that on the 10th October 2006, the US President signed the unlawful internet gambling enforcement act, making it illegal for banks, credit cards companies and on-line payment systems to process payments to on-line gaming companies. This act does not, however, intrinsically change the nature of the present market. The prohibition approach is not a positive one, and only serves to drive legitimate businesses away and remove public protection. This goes against everything we are trying to achieve in Jersey and the new Shadow Commission will be assessing the impact of this development, if any, in the coming months.

There remains a strong, healthy and legitimate market for eGambling and, by definition, a demand for suitable disaster recovery locations. Operators will focus upon jurisdictions that offer an exemplary regulatory and technological infrastructure. I am convinced that Jersey can offer this infrastructure and that there will be a continued demand for well regulated eBetting and eGaming in the future.

1.2 DEPUTY K.C. LEWIS OF ST. SAVIOUR TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE SITING OF TELEPHONE MASTS AND BASE UNITS:

Question

Further to public concerns, would the Minister undertake to ensure that no mobile telephone masts and base units are sited less than 300 metres from any school or medical facility?

Answer

As I have explained in the past it is not the role of the planning system to determine health safeguards for the public. However when I came into office at the beginning of this year, I recognised that there was public concern over the potential health impacts of the telecommunication base stations and requested an informed opinion from Health and Social Services as to the potential health impacts of mobile phone base stations.

The report from Health Protection in April 2006 was clear that no sound or reliable scientific evidence has been produced which indicates that exposure to the emissions from base stations is harmful in any way to health. The levels involved in Jersey are many times lower than the level of emissions recommended as safe by Lord Stewart's Independent Expert Group on Mobile Phones in 2000. Adoption of these safe levels was an integral part of the precautionary approach recommended in Lord Stewart's report.

Not only has the Planning Department complied with the Health Department's recommendations for these telecommunication applications but I have gone beyond the recommendations of the Health Department and beyond the best practice in the UK. I require that all applications provide the estimated levels of emissions and, following the commissioning of the installation, the actual levels are measured by an engineer and verified by the Health Protection Department. It should be noted however, that estimated levels of emissions are a theoretical maximum based on ideal circumstances and are worst-case levels. The actual emissions from a base station are absorbed and reflected by buildings or vegetation and can be expected to be 100 to 10,000 times less than the estimates.

In this context I have ensured that I am not approving masts that pose health risks and that once the masts are installed they will be closely monitored and operated well within international guidelines. This situation applies to schools, medical facilities or the general population.

Turning now to the specific question raised by Deputy Lewis, I am satisfied at the current time there is no need for particular limitations to be put on installations in relation to nearby uses. This is for three particular reasons. Firstly and most importantly there is the information I have outlined above. Internationally recognised and independent research with budgets of many millions of pounds has not identified a link between mobile phone base stations and harm to any sector of the population. In such a context I cannot reasonably impose any spatial limitations on the installations.

Secondly it appears to me that the 300 metres suggested is an arbitrary number that has no scientific basis and is not supported by any credited health organisation worldwide. There have been reports that other countries have adopted exclusion zones or set minimum distances from mobile phone base stations to residences or schools. The main countries that have been stated as having exclusion zones are France, Australia and New Zealand. The fact is that none of these countries have adopted any statutory or federal exclusion zones or any other arbitrary additional safety factors beyond the exposure limits set by the international guideline. I have had direct written confirmation from the French Agency for Environmental and Occupational Health Safety and the French Ministry for Health that France "has not adopted any specific regulations relating to exclusion zones between mobile phone base stations and schools or residences".

Thirdly, despite other countries not having exclusion zones, the practicality of Jersey adopting exclusion zones would be impossible. It would be impossible to find enough land parcels in Jersey to support a mobile network that was 300-500 metres from any home or school. Even if you could find appropriate land parcels, the reality is that the owner of the land might not consent to the installation. There have been several installations to date that have not been located in the optimum place in a certain area because the land owner has refused consent, and have had to be installed at the next best location.

Concerns of a base station within 300 metres of school have recently been raised in relation to a recently approved planning application (S/2006/2353). The site on La Grande Route de St Lawrence, St Lawrence, when measured on the ground the site is 293 metres from the north-eastern boundary of the playing field of St Lawrence Primary School. The school building is in excess of 340m from the base station.

Notwithstanding the above I have been placed in a very difficult position with regard to determining the outstanding mast applications. I wish to balance my legal obligation to determine these outstanding applications within a reasonable time and my respect for the imminent Health, Social Security and Housing Scrutiny Sub-Panel review of the issues surrounding the mobile phone base stations. Whilst I am satisfied on the basis of all the information currently available that there is no credible evidence available that links the presence of base stations with any health issues, it may be that the Sub-Panel reach a different conclusion and I am mindful of this possibility. With this in mind, since 8th January 2007 I have conditioned all the permits for telecommunication equipment to the effect that should the Minister for Health and Social Services change his policy on the safety of telecommunication installations, I can require that the installations are removed. Should the Minister for Health and Social Services not change his policy, the permissions will have permanent effect. The permit for the base station in St Lawrence referred to above has such a condition attached.

In conclusion based on the currently available information I am satisfied that it would be unreasonable for me to impose exclusion zones for the mobile phone base stations in any circumstances if those base stations conform to the internationally recognised emissions limits.

1.3 DEPUTY K.C. LEWIS OF ST. SAVIOUR TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING DANGEROUS BREEDS OF DOGS:

Question

Following the recent tragedy in the United Kingdom involving a pit bull terrier, is the Minister confident that the current law in Jersey regarding dangerous breeds of dogs is adequate and, if not, what plans, if any, does he have to tighten controls?

Answer

It is an offence to import either a dog which is one of the four breeds stipulated in the U.K. Dangerous Dogs Act, or any dog of a fighting type, without an import licence, issued by the Minister for Home Affairs. No licences enabling such an import have been issued and when the legislation first came into force in 1992, there was no evidence that any fighting type of dogs were already on Jersey. Imports are monitored by staff from both Customs and Environment Departments.

The Dogs (Jersey) Law 1961 requires all dogs, with exceptions such as guide dogs, to be licensed. It requires the Connétable of the Parish to keep a register of all licences issued. Various measures concerning dog control are imposed on owners. Article 11 empowers the Magistrate's Court to require a dog which has been shown to be dangerous to be kept under proper control or to be destroyed.

Additionally, under the Protection of Animals (Jersey) Law 1980 it is an offence to cause an animal unnecessary suffering. The use of dogs for fighting undoubtedly causes unnecessary suffering. The Animal Welfare (Jersey) Law 2004 which is the subject of an Appointed Day Act includes an offence to keep or use an animal for the purpose of fighting.

In conclusion, there is no evidence of dog fighting in Jersey. Existing controls are effective and will be strengthened by the coming into force of the Animal Welfare Law.

1.4 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR HOUSING REGARDING THE "PLANNING FOR HOMES 2006" REPORT (R.94/2006):

Question

- (a) On page 43 of the report "Planning for Homes 2006" (R.94/2006) it states that one of the contributing factors to the rise in activity (and prices) in the housing market identified by estate agents is "new 'j category' (essential employee) buyers". How does the Minister reconcile this with his written answer on 5th December 2006 in which he stated that "it is simply not plausible (...) to ascribe the increase in house prices to a small number of essential employees"?
- (b) In light of the statement in the Planning for Homes 2006 report that the average prices for certain 3 bedroom houses are now "more than ten times current average annual earnings" what action, if any, does the Minister intend to take to tackle this situation in a meaningful way?
- (c) Would the Minister inform members whether the purchase of property by non-residents on a "buy to let" basis further restricts the supply of properties for purchase by locals and whether such purchases put additional upward pressure on prices?

Answer

- (a) The Planning For Homes document makes it clear that "new j category (essential employee) buyers" is only one of five factors that is ascribed by the agents as being a contributory factor to the

increased activity in the housing market. The preceding comments in that report refer to “a new found confidence follows an upturn in the economy” and “this in turn has given rise to a more optimistic outlook in relation to the future of the Island’s economy and future employment prospects..”

I maintain the view that any increase in new j category employees is not having a disproportional impact on house prices, and is entirely consistent with current States strategic and economic policies.

- (b) ‘Planning for Homes 2006’ makes it clear that property prices are subject to the normal laws of supply and demand. The Minister for Planning and Environment will be undertaking a review of the Island Plan this year. I shall be working closely with Senator Cohen to ensure this document identifies building land to meet the housing needs of Island residents.

The demand side of the equation – as pointed out in ‘Planning for Homes’ – is influenced by many factors, including, at present, a more optimistic outlook in relation to the future of the Island’s economy; and the continued availability of cheap mortgages based on high multiples of earnings.

However, I am very conscious of the need for affordable housing to meet the needs of first-time buyers, and to satisfy the commitment made by the States in last year’s Strategic Plan, to expand home ownership. My Department’s Ten-Year Property Plan, lodged today, seeks to address these issues, and others, in a sustainable way. I therefore refer the Deputy to the Property Plan, and to the statement I will be making today on that subject.

- (c) It must be remembered that only developments that are in multiple units and are sold by way of share transfer rather than by flying freehold are capable of being purchased by non-locally qualified persons. Save for a few historical exceptions individual houses are not allowed to be sold in this manner. It follows that within the context of the overall controlled housing market the number available to non qualified persons is relatively small, and I have no evidence that locals are being restricted in their choice of new homes, or that such purchases are putting any additional upward pressure on prices in that section of the market. I would remind members that all such units can only be occupied by persons with residential qualifications.

1.5 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE CHIEF MINISTER REGARDING CO-ORDINATION BETWEEN DEPARTMENTS ON THE POPULATION REGISTER:

Question

Would the Chief Minister inform members what progress, if any, has been made towards co-ordination between the Population Office, the Health and Social Services Department, the Social Security Department and the Data Protection Commissioner over the Population Register?

Answer

The work on developing a Population Register is progressing steadily, both in terms of the practical arrangements and the law which will be brought to the States who will ultimately decide the form and nature of the Register.

The Data Protection Commissioner is closely involved in the project in terms of ensuring that any proposals are likely to be data protection compliant. The final proposal will be formally presented for her consideration before being presented to the States.

The Migration Policy approved by the States envisaged very close connections between the Social Security system and the Population Register. This original expectation is being confirmed as the project progresses and thus close links are being maintained with the Social Security Department.

Work is also underway with Health and Social Services. The Medical Officer of Health and her professional colleagues have identified that improving health screening rates will save lives. In her annual report the Medical Officer of Health identified the need for a Health Screening database as one means of achieving this. It is therefore intended to create such a database using the same technology as would be used to create the Population Register. The index is to be compiled from health records to be used for health purposes and will be fully data protection compliant. However, health screening data will not be re-used in any future Population Register – it is the technology that will be re-usable.

1.6 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR SOCIAL SECURITY REGARDING THE 2007 MINIMUM WAGE:

Question 1

- (a) Would the Minister agree to seek an explanation from the Employment Forum for its decision to base the 2007 minimum wage recommendation on the figure of 40% of the average wage and inform members of it and, in particular, would the Minister seek an explanation of why the recommendation is not referenced to the internationally accepted relative low income threshold of 60% of median income?
- (b) Would the Minister inform members of Jersey's current relative low income threshold for a 40-hour week, and state how the minimum wage recommendation relates to this weekly figure?
- (c) In the light of this information, what steps, if any, will the Minister take to lift the family types given in Table 13 of the 2002 Income Distribution Survey (appropriately updated) on the minimum wage out of relative poverty? In particular, will he consider raising the minimum wage above the recommendation?
- (d) Does the Minister support the Employment Forum's recommendation to introduce a "Youth Rate" at £4.05 for employees aged 16 to 18 in full-time education? Is the Minister aware of any such employees (in Saturday/holiday jobs) who are currently paid at a lower rate?

Answer

- (a) There is no need to ask the Employment Forum for an explanation because it is contained in the Forum's report, in particular, pages 11 to 15. I am aware that the Forum has not referenced its minimum wage recommendation to the median income poverty level because it is not generally accepted as a base for setting the minimum wage in other jurisdictions.
- (b) The recommendation cannot relate to the relative low income figure as the latter cannot be calculated accurately from current statistics. It can only be calculated from an up to date income distribution. The Statistics Unit have estimated a figure of £8.25 an hour based on a 40 hour week and calculated from updating data in the 2004/5 Household Expenditure Survey. This estimate is not based on the generally accepted "equivalised" income measure which would be the case with data from an Income Distribution Survey.
- (c) Minimum wages do not help those in relative poverty who do not work, for example pensioners, people with disabilities and some lone parents. The States are introducing an Income Support benefit for people in work and those that genuinely cannot work. I am currently considering the recommendations of the Forum.

- (d) I am considering the question of a Youth rate and I recognise that the States rejected a Youth rate in 2004. The point at issue is whether the minimum wage is a barrier to enter the work force and gain work experience opportunities for young workers. I am not aware of any employees aged 16 to 18 being paid at a lower rate, which of course would be a breach of the Law.

Question 2

Has the Minister received the final draft of the report he commissioned into the working of Long-Term Incapacity Allowance (LTIA) yet and, if so, will he –

- (a) inform members what the report has to say concerning the long-term impact of LTIA for non-contributory funding?
- (b) agree to release the full report to members?

If he has not yet received this report when does he expect to do so?

Answer

I have not received the final draft of Professor Stafford's report but I expect to do so within a month. As a commissioned independent report, it will be released to both the public and States' Members and will be posted on the website.

Question 3

In a written answer tabled on 5th December 2006 the Minister suggested that increases in supplementation in 2006 appeared "to be as a result of growth and change in employment rates at the lower to middle-income earning levels." Would the Minister inform members what progress, if any, has been made in investigating this increased demand on tax revenues?

Answer

The increase in supplementation is due to an increase in contributors whose earnings are below the earnings ceiling and an increase on the average supplementation per contributor attracting supplementation.

Comparing the first nine months of 2005 with the first nine months of 2006 shows that on average, the monthly number of overall contributors increased by 822 (55,119 to 55,941) whilst the number attracting supplementation increased on average by 1,143 (31,787 to 32,930). On average the individual level of supplementation increased from £135.25 a month in the 2005 period to £142.55 in the 2006 period. This 5.3% increase reflects the increase in earnings ceiling in January 2006 based on the increase in the earnings index published in June 2005.

Question 4

- (a) Would the Minister detail for members whether consultation was undertaken with the Data Protection Commissioner over the questions asked in the application forms IS.01R and IS.01T relating to Income Support?
- (b) How many households have been asked to complete these application forms and how were they chosen?

- (c) Can the minister explain why a 27-page questionnaire of such complexity for benefit claimants is necessary and, in particular, justify, on data protection grounds or otherwise, why the following information is being requested –
- (i) details of any assets over the value of £1,000 held by the claimant or anyone in the household (section H, p.17).
 - (ii) The current value of any land or property and income received by any other household member (section H, p18).
 - (iii) Details of –
 - (1) benefits in kind;
 - (2) social security contributions;
 - (3) ITIS percentage;
 - (4) Contributory pension payments? (section G page 14)
 - (iv) Three-month bank statements from the claimant and other members of the household.
 - (v) Details of income from benefits from therapeutic working and other benefits that hitherto have been disregarded for rent rebate or other purposes?
- (d) In section K it is revealed that information may be shared by up to eight departments or other parties. What safeguards, if any, are, or will be, put in place to ensure that data are not inappropriately shared? Will the Population Office be added to the list of those departments that can share the data and, if not, is the population register to be kept entirely separate?

Answer

- (a) Form IS.01T which was used for Housing subsidy claimants was sent to the Data Protection Commissioner for comments. Comments received were incorporated into the form. IS.01R which is used for claimants of other benefits is essentially the same as IS.01T apart from obvious small amendments to the accommodation section resulting in fewer questions.
- (b) Form IS.01T sent out by the Housing Department replaced the rent abatement/rebate review form which is normally sent out annually to households receiving rental subsidies. Those households expecting a review between November 2006 and April 2007 will receive form IS.01T (some 2,750 households).

The remaining households receiving housing subsidies (2,750) will receive IS.01R as will the 3,000 households who do not receive rental subsidy but receive a non-contributory benefit from the Social Security Department.

- (c) The forms are necessary to obtain information from existing beneficiaries to avoid them being left with no money when Income Support goes live. Not every household has to complete every section and it effectively replaces 14 other application forms. The information asked for is necessary as the States have agreed that Income Support should be based on assessments of both income and capital.

In order to assess income accurately and fairly, benefits in kind must be included but in order to ensure that people are not penalised by regular work expenses, deductions for statutory

payments such as social security contributions, income tax payments and potentially pension contributions need to be known.

Three month bank statements are requested as evidence of income and is a normal practice which already occurs in respect of rental subsidy, HIE and some welfare assessments.

The existing different disregard of benefit and earnings continues to be confusing and create disincentives in the current disjointed system. To avoid this under Income Support, it is proposed that all income be taken into account and certain deductions are to be allowed against earnings.

- (d) The declaration does not allow unrestricted sharing of information between Departments. The declaration allows the Department to verify information supplied by the applicant on the form with other Departments. There are no plans to add the Population Office to the list especially as the form will not be in use when Income Support goes live. When the population register is in place verification with the Population Office may be necessary but only with the consent of the applicant.

1.7 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE POTENTIAL SELL-OFF OF JERSEY TELECOM:

Question

Would the Minister inform members what target deadlines, if any, were set for the production of the following reports on the potential sell-off of Jersey Telecom and state whether any targets set have been met? If not, has this had any impact on the proposed schedule for action on this matter?

- (a) Citigroup;
- (b) Jersey Competition Regulatory Authority;
- (c) Economic Advisor.

Answer

- (a) Citigroup is working to my timetable for lodging proposals to the States in February 2007. I can confirm that the formulation of proposals is progressing in accordance with this timetable.
- (b) The Jersey Competition Regulatory Authority (JCRA) was set a target deadline of the year end 2006 for the production of its report. The report was published on 15th January 2007. The timing of the publication of the report has not impacted my proposals. The Treasury department and my advisers have been in regular contact with the JCRA and have exchanged views regularly over the period since I issued my discussion paper on the proposal.
- (c) The Economic Advisor has a target deadline to complete his report by the end of January 2007. As with the JCRA the Treasury department and my advisers have been in regular contact with the Economic Advisor and exchanged views regularly over the period since I issued my discussion paper on the proposal.

2. Oral Questions

2.1 Senator J.L. Perchard of the Minister for Transport and Technical Services regarding school bus services seats:

Would the Minister inform Members how many school bus services seats are being provided on a daily basis by the new service provider, Connex, and whether there is sufficient seating capacity to deliver the service properly and, most of all, safely?

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

There are a total of 2,443 seats being offered on a daily basis on the school bus service and this is in excess of the number of students travelling each day. Last week the average number of students carried in the morning was 800 and 1,050 seats were provided. In the afternoon 1,393 seats were provided and an average of 1,200 students were carried each day. I should point out; averages have been used in this analysis because the daily totals differ significantly, as has always been the case. Moreover, some services may be overcrowded on some days while others are under-utilised. However, as the service has by its nature uncontrolled access, any eligible student wishing to travel who has a valid ticket must try to be accommodated. After-school activities - which differ each day and during the terms, as well as whether the student travels to and from the same place every day - have a significant influence on demand. At times students may need to stand to allow greater capacity, as indeed they may be required to do on the scheduled services but this is only ever meant to be on an *ad hoc* basis and will always be in a safe manner to protect passengers, drivers and other road users. Incidentally, the previous operator encountered exactly the same issues on a regular basis. My department is working very closely with Connex, as indeed it did with the previous operator, to ensure that the occasional overloads are minimised and that the service provided is both effective and safe.

2.1.1 Senator J.L. Perchard:

I am surprised to hear the Minister suggest to this Assembly that students standing on buses is acceptable. In my book, Sir, it is completely unacceptable and may I remind the Minister it is against the law for children under the age of 14 to travel in private vehicles without seatbelts. My question is; will the Minister insist as from tomorrow that Connex deliver the service they tendered for and what action will he take against them if they do not?

Deputy G.W.J. de Faye:

I have insisted from the moment that the tender was awarded to Connex that Connex deliver the service they tendered for and Connex are doing just that. I can assure the Senator I am well aware of the law that applies to seatbelt Regulations. The fact is that I should remind the Senator that standing on an omnibus is not against the law and that in due course, although regrettably seatbelts were not fitted to some of the school buses on arrival, seatbelts are being fitted to the school buses and parents need have no concerns about overall safety.

2.1.2 Senator J.L. Perchard:

Will the Minister confirm that Connex's successful tender did include the provision to supply seats for all the children travelling in their care and that children standing was not part of the tender process?

Deputy G.W.J. de Faye:

I can confirm that Connex fulfilled the same brief as the other tenderer, which was to read the tendered document and provide a tender to cater for the capacity that was required but the question of whether students were standing or not was not a feature of the tender process.

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

Does the Minister confirm that it is simply not good enough to dismiss these concerns as mere teething problems, as he is reported to have done; that he needs to provide a service which meets all reasonable needs - and this is a reasonable one - if he is to achieve his target reduction of reducing car use by 15 per cent in the near future?

Deputy G.W.J. de Faye:

I am quite satisfied that the problems that are being exhibited in the first 10 days or so of the school service this term are no different from the problems that are exhibited at the beginning of any term because the behaviour and travel patterns of students change on a regular basis and what we are witnessing is absolutely no different to what has gone before. I am also quite satisfied with the tender process and I am very happy with the new buses that have been provided by the new operator. The service, in my opinion, is of much higher quality than previously.

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

Can the Minister confirm that his department has received complaints from parents of children who have to travel long distances while standing and confirm what he has done about resolving the situation?

Deputy G.W.J. de Faye:

I can confirm the department has received a very small number of complaints. Unfortunately it seems that most complaints are being directed toward Senator Perchard, at a request he made through the media, so there may be more complaints out there than I am aware of. At the moment Senator Perchard is conveying those complaints to me via the columns of the local newspaper, so the procedure of dealing with complaints is somewhat chaotic.

2.1.5 Senator J.L. Perchard:

Once again we have seen the arrogance of this Minister at first hand. This is a very serious subject, Sir. Children as young as 11 are standing on buses. I want to know if the Minister thinks this is acceptable and what immediate action does the Minister intend to take regarding this unacceptable situation?

Deputy G.W.J. de Faye:

I am not sure if I can compete with the Senator in terms of arrogance, Sir, but I will do my best. I am quite satisfied with the way the department is handling the services operated by the new operator. I have said previously in public that there have been one or 2 minor glitches. In general, though, the service is working extremely well and I expect it to bed down in due course but the reality, which I think that most Members do understand, is that our young students are intelligent and they often use the service in the way that they see fit; not necessarily the way the service was planned. In fact, much of the overloading is caused by students switching from their normal routes because they have decided to take another one. They are entitled to do that and we try and cater for this on a rolling basis and I am happy that between the department and Connex a proper and safe and effective service is being provided.

The Deputy Bailiff:

I am going to allow one more question on this because we have a number of questions to get through. Deputy Le Claire.

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

Would the Minister agree with me that perhaps setting a more responsible approach and a more responsible attitude to this issue by discussing the matters with the Senator, and perhaps Senator Vibert, would be a clear way forward and also demonstrates to those in the gallery that we are taking the matter seriously and would he, while giving that undertaking, also inform Members - if

he is able - as to how much this service is costing the States of Jersey in subsidy and how much it is costing per child that travels while standing?

Deputy G.W.J. de Faye:

I can inform Members that the school bus service is in fact a very expensive service to operate. In broad terms it costs, in terms of subsidy paid for by the taxpayer, £2 per student per ride. I would be happy to continue discussions on an alternative basis with Senator Perchard and I look forward to doing so, a bit.

2.1.7 Senator J.L. Perchard:

Point of order, Sir. I did ask the Minister a question on a very important subject that he failed to answer; about the immediate action he intends to take to solve this unacceptable situation?

Deputy G.W.J. de Faye:

I am sorry, Sir, the Senator seems to be appearing to suffer from a little deafness. I indicated quite clearly there is no need for me to take any immediate action because I am quite satisfied that Connex is delivering what it promised in the contract that it won under the tender process. There is absolutely no need to do anything drastic at this stage because there is no requirement for any drastic remedial action. The service is operating in a perfectly satisfactory way.

2.2 Deputy S.C. Ferguson of St. Brelade of the Minister for Home Affairs regarding the costs of internal investigations by the States of Jersey Police:

Would the Minister update the Assembly on the total costs of internal investigations by the States of Jersey Police since her last answer on this matter on the 20th June 2006, including the vehicle recovery matters and the case of accessing the registered keeper database, and will she also give the figures for the total number of police officers and civilian staff currently on suspension?

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

Internal investigations are handled by the Professional Standards Department and the officers who work in this department are part of the establishment of the force and their salaries are paid, irrespective of which department they work within. There is therefore no relevant additional cost to the internal investigations. The officers' salaries are fixed costs to the force as they work on a number of cases at any one time and are assigned to other duties as operational needs arise. I cannot comment on the specific case to which the Deputy draws attention as some matters are still *sub judice* but I can say that there is currently one police officer suspended. There are no civilians suspended.

2.2.1 Deputy S.C. Ferguson:

I asked for the costs of the investigations, whether it is met out of the Professional Standards Department budget or not. Perhaps the Minister could give us the costs?

Senator W. Kinnard:

The only costs that perhaps could be relevant are the staff costs. The Professional Standards Department is comprised of one detective inspector and 2 detective sergeants and a half of a civilian manager's role. The salaries for those police ranks are publicly available but I can supply those for information: £61,128 per annum for the inspector and £49,455 for each of the sergeants. The civilian post is currently the Civil Service grade 7 with a salary range of £25,237 to £28,414.

2.2.2 Deputy S.C. Ferguson:

The length of time it has taken to investigate the vehicle recovery matters and the registered keeper database excess?

Senator W. Kinnard:

I did say that I would not comment on the specific cases but I will say, Sir, that the review into the towing arrangements carried out by officers from the Sussex Police Force was not in fact a Professional Standards Department matter. It covered a number of matters involving States of Jersey Police's strategic review of their recovery of vehicles. The 2 matters in that particular instance are not related. Thank you, Sir.

2.2.3 Deputy S.C. Ferguson:

Sir, supplementary. How much time was spent on the vehicle recovery matter?

Senator W. Kinnard:

I do not have the exact amount of time. That is a matter perhaps I could find out but I do not see what relevance it can possibly be. Thank you, Sir.

2.3 Deputy S. Pitman of St. Helier of the Minister for Education, Sport and Culture regarding "pre-camp" provision for the 2012 London Olympics:

Would the Minister inform Members whether his department aims to identify "pre-camp" provision for the 2012 London Olympics and, if so, what research has been undertaken by his department in costing this provision, when does he expect it to be completed and where will the funding come from for this facility?

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

My department is actively marketing the Island as a possible pre-games training camp venue for teams participating in the 2012 Olympic Games in London. Existing sports facilities that meet the criteria for pre-games training camps have been identified by my department and various sports associations in the Island. No new facilities will be developed for these camps and therefore there is no funding required.

2.4 Deputy R.G. Le Hérissier of St. Saviour of the Minister for Health and Social Services regarding numbers of dysfunctional parents in the Island:

Following his recent statement that there are huge numbers of dysfunctional parents in the Island, would the Minister indicate whether his department has information on the actual numbers and state when he will be bringing forward plans to address this issue and in particular whether he will be pursuing his professed wish to provide for the imprisonment of some such parents?

Senator S. Syvret (The Minister for Health and Social Services):

There is no effective means of determining the actual numbers of such dysfunctional families. It will come as no surprise to the Deputy that these parents are rarely so self-aware as to readily identify themselves as dysfunctional. My observations are drawn from 2 principal sources; firstly, from my own now extensive experience as both President and Minister with ultimate responsibility for intervening and placing children at risk with our looked-after service. Secondly, from my discussions with a wide range of health and social care practitioners, personal experience, members of the public, police officers and indeed some of these dysfunctional parents themselves. It must also be noted that the stereotypical image of dysfunctional parents fails to convey the full scale of the problem. There are numerous instances of neglect, violence, emotional cruelty and gross dysfunction to be found in many middle class households. Though it will come as a surprise to some, such as the author of the *JEP* leader and the Deputy himself, the Children's Jersey Law 2002 already contains provision for the jailing of parents. The Law states that if a person who has responsibility for a child under the age of 16 intentionally or recklessly causes harm to that child,

exposes him to risk of harm or neglects him in a manner likely to cause harm, that person will be guilty of an offence and liable to a fine or to a term of imprisonment. It can therefore be seen that we have already passed laws which render parents liable to imprisonment for failing to properly care for their children. Therefore, the question is not one of principle; rather it is whether the extant law goes far enough in furnishing the courts with sufficient powers. Wishing to see the courts jail a parent who has been found guilty of gross failure and neglect of a child may seem harsh but I am afraid that our society often treats children in ways which would be regarded as utterly appalling and completely unacceptable if applied to an adult. I am not naturally a person who believes that tougher laws and sentences are the panacea to all social ills. Dysfunctional and inadequate parents are usually victims themselves, failed in turn by their parents and society at large. What most people in this category need is help.

The Deputy Bailiff:

Minister, I have given you some leeway, but how much longer are you going on for?

Senator S. Syvret:

I am nearly finished, Sir, but it is an important question. However, if a couple with young children, having received extensive support from Social Services, the Alcohol and Drug Service, and very often the forbearance of the courts, are still discovered in a drug-induced stupor while children crawl on the floor among broken bottles, rotting pizza boxes, cigarette ends and used heroin needles, then imprisonment may be the necessary measure and I make no apologies for that.

2.4.1 Deputy R.G. Le Hérisier:

Would the Minister not acknowledge that to use a phrase like “huge numbers” gives a totally misleading impression of what is conventional wisdom in the field, namely that there are a group of intractable and very difficult parents, but to jump from the kind of anecdotal conversations he has had with professionals to “huge numbers” seems in the circumstances entirely irresponsible?

Senator S. Syvret:

No, Sir, that is utter nonsense. The fact is there are a variety of types of family dysfunction to be found across the entire social spectrum and to imagine that we are only talking about the kind of very extreme case which I refer to at the end of my original answer is, I am afraid, to miss the true nature of the problem and to miss the point. Neglect, emotional cruelty and various other forms of dysfunction are in fact, unfortunately and tragically, to be found in many, many families across the Island.

2.4.2 Deputy G.P. Southern:

Does the Minister sincerely believe that imprisonment of parents can be used to help either the parents or their children?

Senator S. Syvret:

In some very extreme cases where the neglect is both physical and emotional to the child, where they are at risk of harm, malnutrition, perhaps injuring themselves because of a lack of care, then, yes, taking the children into care may well be the best option for the child and also if we are looking upon prison as I do - as a process of rehabilitation, whereby people who are imprisoned might learn to become better and more useful members of society - then some of these parents who are at the very extreme end of the spectrum may in fact benefit from and be helped by imprisonment, providing the services provided in the prison are aimed at being rehabilitative as opposed to being merely punitive.

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

Is the Minister assured, if these parents do exist and the amount, that if these children are taken into care - looked-after children - that his department, Sir, his Ministry is achieving what the Cathy Bull

Report many years ago suggested. We still have, I think, 2 full children's homes and will the Minister also inform us how many more professional foster-carers we have. If the Minister is saying he needs to take these children out of an unsuitable environment, is he sure he has got a suitable environment and enough carers - professional - to take care of them, because I would dispute this, Sir?

Senator S. Syvret:

I agree entirely with the Deputy's point. No, we do not have sufficient facilities, sufficient professional foster carers at present. If the Deputy or other Members of the Assembly wish to provide us with sufficient resources I would be very, very happy to see more investment in this area. This is the second year of our implementation of developing a professional foster-caring service in the Island, so we are in fact devoting a lot of effort into developing this particular area, with ultimately a view of fully incorporating and enacting all of the recommendations of the Cathy Bull report, which did, as the Deputy rightly points out, mean the closing down of the institutions in which children are kept. Frankly, it cannot happen soon enough as far as I am concerned but as I said there are certain constraints, money being one of them, but also the time it takes to recruit and properly train professional foster carers.

2.4.4 Deputy J.A. Martin:

I did ask for a specific number - and I was one of those who voted for the extra resources for the professional foster-carers - how many extra have we, this year, recruited since the last 2 years?

Senator S. Syvret:

I do not know the precise figures at the moment, Sir. I can find out that information and provide it to the Deputy later.

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

The Minister is right about the numbers that he has been expressing this morning. Is he actively having discussion with the Minister for Home Affairs in relation to the preventive measures for those people who unfortunately end up in prison or other establishments of necessity, and if he is not will he do so?

Senator S. Syvret:

I have not so far discussed this precise issue with the Minister for Home Affairs although we have discussed the generality of these issues in conjunction with the Minister for Education as part of the Children's Executive corporate parent function. I certainly do intend, upon developing these issues further and getting professional reports prepared on the subject, to bring it to the Children's Executive for discussion.

2.4.6 Senator M.E. Vibert:

I wonder if the Minister would agree with me that in any cases where families are having problems the emphasis should be on supporting and helping those families who are experiencing difficulties and that that is what the emphasis should be on and that the talk of punishment and even imprisonment should be completely as a last resort and hopefully never have to be introduced?

Senator S. Syvret:

As I said in my original answer, what these people do need is help and I would certainly agree with the Senator that in the main what we are talking about are people who are victims themselves and who do need the help and support of the State. Certainly I have no hesitation in agreeing that prosecution, and perhaps imprisonment, should be ultimately a very, very last resort. It is not something I advocate or wish to see a great deal of but it is in fact in some cases, I regret, a necessity and as I already explained in my initial answer, such provision - although the Minister is not perhaps aware of it - does in fact already exist in the existing Children's Law.

2.4.7 Deputy R.G. Le Hérissier:

While understanding the Minister's frustration, would the Minister not accept that by talking of "huge numbers" he is suggesting - as Deputy Martin has suggested - that Social Services are going to be utterly overwhelmed and it is a totally misleading assumption of "huge numbers". Secondly, Sir, would he tell the House who is going to define what is dysfunctional if he is saying dysfunctionality is almost everywhere in our society? Who will be the Parental Correction Tribunal in this society?

Senator S. Syvret:

I did not say in fact that dysfunction is everywhere in our society, I just said it is more common than perhaps people would like to imagine. I cannot remember them all extensively off the top of my head but there are in fact already guidelines and procedures written-up that are used in these kind of cases for assessing whether the circumstance of a child might put them at risk in some way of suffering neglect or harm. Jersey has a Child Protection Committee with a number of eminent people on it who routinely revise and update the Child Protection Handbook. So, these procedures do exist already, Sir.

2.4.8 Deputy J.A. Martin:

I may be stretching it, but some looked-after children - quite a few in Jersey - go on to be adopted. In the old committee form, it used to have to come to committee and everybody discussed and agreed. Could the Minister tell me now who makes the final decision on adoption? Is it just his alone? Thank you, Sir.

Senator S. Syvret:

No, Sir, it is not mine alone or was it the committee's alone. It is a matter for the courts. We make the decision that we conclude that it is in the best interest of a child or children to free them for adoption. The matter then has to go to the court and rightly so. This is the ultimate check and balance. The court decides whether our recommendations - our findings - are fair, balanced and justified as a case may or may not be.

2.5 Deputy K.C. Lewis of St. Saviour of the Minister for Home Affairs regarding grants for Sea Cadets and Air Cadets:

Would the Minister inform Members whether or not it is her intention to reduce or remove altogether the grants made for the Sea and Air Cadets, possibly jeopardising the running of these organisations and, if so, will she undertake to reverse this decision so that no such cuts will be made?

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

It is not my intention to reduce or remove the grants.

2.5.1 Deputy J.A.N. Le Fondre of St. Lawrence:

I thank the Minister for her reply to my question submitted on 2nd January. Just a few weeks ago, I, myself, Sir, was attending TS Jersey up at Fort Regent and I was honoured to be invited by the Commanding Officer to present the awards to some of these hard working and dedicated cadets. Sir, I would like to ask the Minister if she has the intention of continuing to support the cadets beyond next year, as these Air and Sea Cadets are a credit to Jersey?

Senator W. Kinnard:

I would agree with the sentiment that not just the Sea Cadets but also the Air Cadets and indeed the Victoria College CCF (Combined Cadet Force) are all supported by Home Affairs and we consider they are of a great value to our community. However, Sir, in these difficult funding situations that

the States finds themselves in, I cannot guarantee future funding into future years. It has to be a matter that is prioritised on a year-by-year basis. We give £10,000 currently to each of those organisations and I would hope that we would be able to continue to do so, but it would be financially irresponsible of me to make commitments into the future that I would then perhaps not be able to fulfil. The 3 organisations have always been aware of the situation. They have certainly been aware of the situation since last June and I think that we have a way of working together that suits us quite well. Thank you, Sir.

2.5.2 Deputy J.B. Fox:

I wonder if the Minister could give assurance to the House that if there is ever occasion in the future that she would be required to consider withdrawing such grants of this important nature that she would consider or indeed take it to the Council of Ministers to see whether in fact there was another way around the issue before making a decision and then having to or being able to withdraw the decision? Thank you.

Senator W. Kinnard:

Yes, it would have been a matter that I would have taken to the Council of Ministers had I found myself in a position where I would have had to withdraw the grants, because it was not something that I wanted to do. It is unfortunate that all the funding has fallen on to Home Affairs because in fact it was the Education Committee that withdrew their share of funding to these organisations some years ago. So, it is unfortunate that these organisations have to rely on Home Affairs alone.

2.5.3 Deputy S.C. Ferguson:

Does the Minister not realise that by funding these particular organisations, she cuts down the amount of work that the police may well have to do in the future because of the standards, ethics and discipline that these organisations impose?

Senator W. Kinnard:

Yes, Sir, I do not need any convincing of that but the priority for the Department of Home Affairs must be to ensure the ongoing provision of frontline services, and while I fully support the opportunities that are provided by all of these organisations to young people, the Home Affairs responsibility is first to the needs of the Island as a whole and that must take priority. I share the sentiments that are expressed around the Chamber about these organisations and clearly I am pleased to be able to continue to support them into 2007.

2.5.4 Deputy R.G. Le Hérisier:

Would the Minister not acknowledge that put against the vast staffing costs of the States and of the department she runs, that the expenditure of £10,000 represents enormous value for money and the public will see this as yet another attack upon the principle of honorary service? Thank you, Sir.

Senator W. Kinnard:

It is £30,000 because it is 3 organisations and they were treated in exactly the same manner. What the Members must realise, Sir, is that the Home Affairs budget has been under severe strain particularly in 2006. In fact, with the Criminal Injuries Compensation Scheme - a commitment which was entered into by the States - overrunning severely by some £320,000, Members must realise that when severe budgetary pressures are on we have to make very difficult and hard decisions and this was not a decision I would have liked to have taken. It was certainly not one I would have taken lightly but, Sir, again I have to state that when we are dealing with frontline services that are to do with the protection of the whole of the Island that must take priority. But, again, I think £30,000 is money well spent on 3 organisations and I have done everything I can to protect their position.

2.5.5 Deputy K.C. Lewis:

I congratulate the Minister on finding the money but it seems I will need to reappear next year and pursue the Minister again, but at twice the price I think this would be an absolute bargain. Does the Minister not agree?

Senator W. Kinnard:

I think it is good value for money at the price that it is. Thank you, Sir.

2.6 Deputy A. Breckon of St. Saviour of the Minister for Treasury and Resources regarding the proposed sale of the former Sunshine Hotel site:

In R.1/2007 Members are notified of the Minister's intention to sell the former Sunshine Hotel site and cottage for £2.1 million. Would the Minister inform the Assembly whether a purchase price of £1.975 million in 1999 plus ongoing associated costs represents best use of public funds against a proposed sale price of £2.1 million in 2007 and how such a transaction fits within the States social housing policy?

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

My Assistant Minister, Deputy Le Fondré, deals with property matters and I would ask that he would help to report over this question and a subsequent one on property.

Deputy J.A.N. Le Fondre (Assistant Minister for Treasury and Resources):

To take the last part of the question first, the transaction does still comply with States social housing policy because it requires first-time buyer accommodation to be built on the site and for the site to be used for first-time buyer accommodation in perpetuity. With regard to the cost, I think I would agree with the inference that this does come at a price. I can confirm my understanding that the development cost of the site was likely to be hugely expensive for social rented housing to the extent that it was finally not felt to be a viable proposition. Accordingly I understand that the Housing Committee of the day felt that this was the most effective option remaining to them while keeping the purpose of the site consistent with the original aims when acquired and the property was transferred to Property Holdings for disposal, with the funds being paid back into the Housing Development Fund.

2.6.1 Deputy A. Breckon:

In the original question I did ask for associated costs. If I may prompt the Assistant Minister and perhaps give him a few clues to what I was looking for? I would be looking for something like the demolition and site stabilisation and security cost, professional fees associated with planning and design. I wonder if he could apply his mind to that, Sir?

Deputy J.A.N. Le Fondre:

The Deputy did not ask for a quantification of those costs but I will not say I am pleased to inform him because it is a substantial sum of money. The total additional cost for demolition, design and planning fees in the period since acquisition have totalled in the order of £650,000.

2.6.2 Deputy A. Breckon:

In view of the figures that the Assistant Minister has just revealed, I did ask if it was the best use of public funds and therefore, again, Sir, I will probably give him a prompt. Is it the best use of public funds that we in fact lose about £1 million on this deal?

Deputy J.A.N. Le Fondre:

We are not losing about £1 million on the deal. Broadly speaking, as you can see, £2.1 million against £1.975 million is an immediate difference of plus, roughly, £100,000 or something. The second point is that during the period between 1999, when the property was acquired, and

approximately a year and a half afterwards, the States received an additional, I think it was £125,000 in terms of a licence fee, because I believe the hotel continued to operate. That said, it is still a substantial sum of money. The point being, Sir, that my understanding is that the view was taken, in light of the experiences on certain other rather expensive sites, that in terms of trying to achieve the housing policy aim - which was to provide additional category A housing - the best way was for the States to effectively cut its losses and put it out to open tender, which was achieved. We took the highest price available on the site and to put a condition on the development of that site which does meet the criteria required. That is my understanding, Sir, and I await any further questions.

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

Could the Assistant Minister explain why was this property is not included in the 2007 Property Plan?

Deputy J.A.N. Le Fondre:

Yes, Sir, because I asked the same question. Again my understanding is because it was acquired from funding from the Housing Development Fund and the funds are going back into the Housing Development Fund and therefore it is was not originally a part of the property holding portfolio.

2.6.4 Deputy of St. Ouen:

Could the Assistant Minister explain to this House first of all what the Housing Development Fund is for and how much is currently in its balance?

Deputy J.A.N. Le Fondre:

I cannot tell you off hand the exact balance at present. I will be delighted to find out the information and return it back to the Deputy. My understanding again of the Housing Development Fund was that it was originally acquired - okay, my understanding, but again I would like to confirm it with the Deputy - it was used to essentially create land banks and provide subsidies and generation of housing sites but I think I would refer that question probably more appropriately, to give a better answer, to perhaps the Housing Minister.

2.6.5 Deputy S.C. Ferguson:

Would the Assistant Minister tell us what the market value of such a site is and therefore how much the hidden subsidy that is going into this social housing?

Deputy J.A.N. Le Fondre:

I think, Sir, I would have to say that the market value of the site as it currently stands is £2.1 million, because that is what people are prepared to pay for it.

2.6.6 Deputy G.P. Southern:

Would the Assistant Minister undertake to return to the House with figures that account for the 7 years of interest foregone and inflation built into the figures to reveal the true value of this transaction?

Deputy J.A.N. Le Fondre:

I am sure, Sir, we can provide the calculations that the Deputy seeks with not too much difficulty and I will ask my officers to do so.

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

Well, I am sure it is quite a simple question, really, Sir, but I am wondering why we ever bought the property in the first place?

Deputy J.A.N. Le Fondre:

I think it was before my time, Sir, is the short answer and I think you would have to refer to - I am guessing - the Minister for Housing at the time. I see it was in accordance with then States policy.

2.6.8 Deputy R.G. Le Hérisier:

Would the Assistant Minister confirm, that having studied the papers, that the property was grossly over-valued and could he furthermore assure us that he now has put procedures in place so this kind of gross over-evaluation will never occur again?

Deputy J.A.N. Le Fondre:

The difficulty in terms of gross over-evaluation I would have to look back at papers because you are looking at market conditions at the time and obviously at the time, and even now, you do not buy these type of things for an investment return at the end of the day. The site was bought as it was and is now being sold as a cleared site for a limited, certain type of development. So, you could maybe add that part of the price that we have paid is the price for limiting what can go on that site in terms of category A housing in the future. Other than that, yes, I too would have reservations if we did something similar to that again and if procedures are not in place, they will be shortly.

2.6.9 Deputy J.A. Martin:

It is my reservation, Sir, that we will be doing something similar to this again, because we are told by the Housing President, Sir, that we need 400 sheltered housing and here we have a perfect site. There is a bus at Havre des Pas and Green Street, every trip 20 minutes. We own it. We have sat on it for 7 years losing... my question is, will the Assistant Minister please take this back to the Minister who considers this for sheltered housing as we already own it and we really need this type of housing. We do need first-time buyer homes but I would suggest the site is more suitable and urgently more needed for sheltered housing. Would the Minister not agree? Thank you, Sir.

Deputy J.A.N. Le Fondre:

I think at that stage, Sir, I think we are starting to veer into housing policy areas, which I am afraid I will have to defer to the Minister for Housing. My understanding was that it was felt that category A first-time buyer housing was also appropriate for the site.

Deputy T.J. Le Main:

Sir, the Housing Minister would not support that at all.

2.6.10 Deputy J.B. Fox:

Yes, Sir, I was on Planning when this one went through and it was a brown field site and there was an urgent need for first-time buyer housing, *et cetera*. In the ensuing period the world has changed and certainly the Island has changed and the question now I would like to ask is, is there more value in the site if its initial first-time buyer status is redefined to category B or whatever and if so would it not be an idea for the Assistant Minister and the Minister to re-examine bringing back to the States a new proposition so that can be considered by the House. Thank you, Sir.

Deputy J.A.N. Le Fondre:

I think, again, Sir, we are on the verge of changing housing policy. My understanding is that the aim of the site was for category A housing and in this instance it was deemed to be for first-time buyers. Yes, of course, if it was an open development it would be worth more money but that would have been against the housing policy at the time and the point being is that we have gone out to tender on it, Sir.

2.6.11 Deputy A. Breckon:

In earlier answers the Assistant Minister said: "A view was taken." He said it was the best way to proceed and he said: "We decided to cut our losses." Can he tell the House, Sir, whose decision that is?

Deputy J.A.N. Le Fondre:

Obviously I have relied upon the advice of my officers and they obviously discussed it with Housing and, as we said, it has been in liaison with the Minister for Housing because obviously it is linked into the Housing Development Fund.

Deputy A. Breckon:

The answer, Sir, was...?

Deputy J.A.N. Le Fondre:

Relying on the advice of my officers and in conjunction with the Minister for Housing.

Deputy A. Breckon:

The answer, Sir, is...?

The Deputy Bailiff:

Who took the decision? Did you take the decision, Minister, or did ...?

Deputy J.A.N. Le Fondre:

I have signed-off on the decision to sell on the advice of my officers and in conjunction with their discussions with the Minister for Housing.

Deputy A. Breckon:

Can I thank the Assistant Minister for his answer, Sir, at the third time of asking?

Deputy J.A.N. Le Fondre:

Sorry, Sir, I was possibly misunderstanding the question. Thank you, Sir.

2.7 Deputy K.C. Lewis of the Minister for Economic Development regarding the allocation of digital television frequencies to Jersey:

Following the announcement that the analogue terrestrial television transmitters in Jersey will be the last to be switched off in 2013, would the Minister inform Members what progress, if any, has been made with the U.K. and French authorities to allocate digital frequencies to Jersey?

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

I can reassure the Deputy and consumers that the importance of switchover and its complexities has not been overlooked. For the past 2 years, my officials have been meeting triennially with counterparts in the responsible U.K. departments on the specific issue of digital television switchover. At the International Telecommunications Union's Radio Communications Conference in Geneva last year, which included the French authorities, frequency assignments were agreed. More detailed bilateral agreements between the U.K. and France have been completed while further discussions are ongoing. It has already been agreed that following switchover all public service broadcasts will be available in digital, terrestrially by aerial. This will ensure that Jersey consumers will benefit from far greater programme choice than is currently available. I have also agreed a targeted help scheme will be established in Jersey to ensure the disadvantaged or vulnerable do not lose out. This will be funded directly by the B.B.C. through the licence fee.

2.7.1 Deputy K.C. Lewis:

Would the Assistant Minister assure Members that everything will be done to preserve the analogue television system until such time as a new television system can take over?

Deputy A.J.H. Maclean:

Sir, I believe the switchover will happen simultaneously. The important point to remember is we need to protect the work that has been going on over the past 2 years, and which will go on into the future until changeover in 2013, and that the switchover will be simultaneous. Analogue will be lost at that stage. The 2 cannot run side by side but, of course, there will no loss of service.

2.7.2 Deputy G.P. Southern:

Does the Assistant Minister's answer mean that the response given by his Minister earlier in the week to inquiries about television services - that they would in future come down the telephone wire - is not relevant?

Deputy A.J.H. Maclean:

I would not say, Sir, that it is not relevant. I think the Minister was referring to some other potential delivery mechanisms that are being considered at the present moment and in the future these may well offer some additional advantages above and beyond the digital service.

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

The Assistant Minister spoke of far greater programme choice in the future than is currently available. Sir, because Islanders receive a reduced service compared with those who are able to receive digital television, could I ask him what progress has been made to date, if any, to enable Islanders to receive their television licences at a commensurate, reduced cost? I fail to see, Sir, why Islanders should pay the same price as their U.K. cousins for possibly the next 5 years when they are only receiving half of the programmes.

Deputy A.J.H. Maclean:

There is no increase in the licence fee at the present moment from that which is being charged. I think it is fair to say that the charge currently made is, or could be, deemed to be reasonable value when one considers the population size of the Island compared to similar regions in the U.K. The level of service we get for the licence fee we pay is what we believe to be of a good value.

2.7.4 Deputy G.C.L. Baudains:

Would the Assistant Minister agree that for the same price we pay, we receive a far lesser service?

Deputy A.J.H. Maclean:

No, Sir, I would not.

2.7.5 Deputy G.C.L. Baudains:

Does the Minister then, Sir, have the facility to enable people with televisions to receive digital in the Island at the present time?

Deputy A.J.H. Maclean:

As I said earlier, Sir, digital is not going to be switched on until 2013, so it is not available at the present time. However, we have negotiated a situation where there are going to be 6 multiplexers - muxes, as they are known. Of those 6 muxes, 3 are already agreed for the Island. Currently the Island has 4 channels that it can receive by 2013 at the digital switchover. That will mean that the increase goes from 4 to 30 with the 3 muxes and negotiations are ongoing to obtain the remaining 3.

2.7.6 Deputy G.P. Southern:

For clarification, can the Minister confirm that all households in Jersey will, in future, be able to receive digital television via an aerial?

Deputy A.J.H. Maclean:

The digital delivery is via aerial, yes. I can confirm that.

2.7.7 Deputy G.P. Southern:

Can he answer my question; will all households be able to receive digital television via aerial?

Deputy A.J.H. Maclean:

All households that have a suitable aerial and suitable equipment at the present time will be able to receive digital transmission from 2013.

2.7.8 Deputy G.C.L. Baudains:

I wonder if the Assistant Minister could clarify a previous answer he has given to me which I am unable to understand. It does seem to me he is suggesting - and could he clarify whether or not he is suggesting - that we, in the Island, receive a service commensurate with those in the U.K? He has told us we currently receive 4 stations. People in the U.K., then, can presumably receive 4 stations?

Deputy A.J.H. Maclean:

We have additional services that are not available in the U.K., for example, Radio Jersey which is a bespoke service for the Island which, quite frankly, for a population of 86,000 you would not find being established in a similar region in the U.K.

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

Could the Assistant Minister confirm whether the new system will be able to utilise existing masts and aerials?

Deputy A.J.H. Maclean:

There will need to be, as we understand it, improved equipment to be able to facilitate the downloading of the digital signal. Most importantly are set-top boxes to convert the signal when it comes into the television and, of course, certain televisions will need to be able to receive digital as well.

The Deputy Bailiff:

Final question, Deputy Baudains.

2.7.10 Deputy G.C.L. Baudains:

Could the Assistant Minister, therefore, assure us that the set-top boxes do currently work in Jersey as they do in the U.K?

Deputy A.J.H. Maclean:

They do not currently work in Jersey because we do not have a digital signal in Jersey at the moment, Sir. [Laughter]

2.8 Senator J.L. Perchard of the Chairman of the Environment Scrutiny Panel regarding the forthcoming Scrutiny Panel visit to Vienna:

Would the Chairman inform Members who will be travelling on his Panel's proposed trip to Vienna, the purpose of the visit and the estimated cost?

Deputy R.C. Duhamel of St. Saviour (Chairman of the Environment Scrutiny Panel):

Two members of the sub-group of the Environment and Scrutiny Panel for Design of Homes will be travelling on the trip. They will be myself and Deputy Sean Power. We will be accompanied by a Scrutiny Officer and also accompanied by a local architect who is organising the visit. The Planning and Environment Minister will also join us in Vienna on the trip. The purpose of the visit is to take advantage of the strong record of social housing, organisation and planning that has been exhibited by the Viennese Municipality over a number of years, noticeably since 1920s, and to feed-in any results which may be of interest to the Island in terms of 3 particular areas of interest; notably, the Design of Homes Review itself - which is looking at the design of homes; the St. Helier Urban Regeneration Plan; and, indeed, just notified to the House, the Housing Property Plan. The cost of the trip is of the order of £2,500. The air fares are roughly £230 per person and that includes the off-Island cost of getting to the U.K. - to London - before the continental flight takes place. Hotel costs have been kept down to similar proportions and are of the order of £240. There will be additional costs for transport to take people around in Vienna at the time and all costs of that nature additional will be of less than £1,000. So, all in, the intended estimated price is of the order of £2,500 to possibly £3,000.

2.8.1 Deputy G.P. Southern:

Can the Chairman confirm that this particular site has been visited before by a previous Housing Committee and that data on its effectiveness and efficiency is in the public realm and that the justification for such a visit is thin?

Deputy R.C. Duhamel:

No, Sir, I cannot do that. In fact, a number of the buildings - if not all of them - are recently built buildings which have not been seen by myself or anybody else who went on a previous trip to Vienna. There are 2 ecological housing estates which the Committee might have time to visit, but in the main the buildings are of new construction and that, indeed, Sir, is one of the reasons why we are going.

2.8.2 Deputy G.P. Southern:

Can the Chairman confirm that data on the effectiveness and efficiency of these particular pilots is publicly available?

Deputy R.C. Duhamel:

It is certainly the intention of the Design of Homes Review group to hold a public exhibition and to formally record the event by way of the advice and the assistance that we are receiving from the Scrutiny Officer. It is our firm intention, Sir, to go further than that and to hold a public exhibition of all the interesting points that come out of this trip for, indeed, the public to gauge the usefulness of this particular exercise.

2.8.3 Deputy G.P. Southern:

The Chairman has not answered the question, Sir. Is data on this particular site, or these particular sites, available to the public already on the internet?

Deputy R.C. Duhamel:

I think the questioner must be clear in his question. There are items of information on the internet site, including some selected pictures which any member of the public or, indeed, any Scrutiny member or any Member of the House is freely available to download. That is somewhat different to walking through these buildings and receiving different points of view and different impressions and, indeed, the opportunities to speak to the architects who will be meeting with us in Vienna are not available on the internet and that, indeed, Sir, is another one of the reasons for taking the time and trouble and effort to go to this particular site.

2.8.4 Senator F.E. Cohen:

For the purposes of clarification, can the Chairman of the Scrutiny Panel confirm that he has understood I will be paying my own expenses on the trip to Vienna and will not be using public funds?

Deputy R.C. Duhamel:

That is the case, Sir, and the Scrutiny and Environment Panel are delighted the Environment and Planning Minister has agreed that there is merit in this particular trip.

2.8.5 Senator T.J. Le Main:

Will the Chairman confirm that in 1998 or 1999 when, as a Member of the then Housing Committee, he went to Vienna with several other Members and officers, that nothing came out of that trip? It was nothing but a jolly and a waste of time. Will he confirm that he also invited me to join and I have refused to join on that basis?

Deputy R.C. Duhamel:

Whether or not the Housing Minister chose to join or not on the basis of a jolly is something that only he knows, Sir. But, certainly, the results of the previous housing trip were broadcast to other States' Members and, indeed, would have gone further had it not been for change in the presidency of the particular Housing Committee at the time.

2.8.6 Deputy G.P. Southern:

Again, as supplementary to the previous answers, will the Chairman inform Members what additional, essential information he expects to gain as a result of this trip?

Deputy R.C. Duhamel:

Certainly, Sir. Our Members may not be aware, so I need to remind them, that the university education in Austria is somewhat different to mainstream U.K. There exist universities of technology, parts of which have professional chairs for housing and housing economy. Our Members are at liberty to download some interesting papers from the Viennese Housing Research and, indeed Sir, they are currently looking at things of interest to the Island of a similar nature.

The Deputy Bailiff:

Deputy, you have to be rather more concise in your answer, please.

Deputy R.C. Duhamel:

I will, Sir. There are 5 specific items they are looking at. Affordable housing; new housing in old districts - that is exactly what we are doing under the St. Helier Regeneration Scheme. They are looking at the ecology and new technologies. Indeed, Sir, the new building codes are moving the Islands in the direction of building techniques which are useful in terms of our pilot's changed responsibilities. They are looking at housing and the economy - and we had a statement in the *Jersey Evening Post* the other day by the Economic Development Minister suggesting that the way forward for solving some of our housing problems was to take a closer look at the town and, indeed Sir, this is what they are doing - and they are looking at demographic change and lifestyle changes caused by working from home. Indeed Sir, those are things that all apply equally to Jersey, perhaps on a smaller scale, but the pointers as to potential directions from which the Island's policy can be derived can be gained from the Viennese authorities.

The Deputy Bailiff:

I think I am going to have to cut you, Deputy. Final supplementary question.

2.8.7 Deputy G.P. Southern:

Could I ask, of the 5 areas which he has just listed which of those are not available publicly on the net and require a visit in order to ascertain what the facts are?

Deputy R.C. Duhamel:

I would maintain all of them and I think it is of vital importance to speak to the people involved as well as downloading particular documents which can only be read.

The Deputy Bailiff:

As the original questioner, one more.

2.8.8 Senator J.L. Perchard:

Will the Chairman of the Environment Scrutiny Panel confirm that the Panel has engaged an advisor - an expert advisor - who has already travelled on the Panel's behalf to Vienna to visit the very sites that will be visited by the good Deputy and his colleagues? What, then, is the reason for duplicating the visit? Is it that his advisor has not informed them accurately of what he has seen?

Deputy R.C. Duhamel:

No, Sir. The advisor has organised a visit and is using his extensive personal contacts in order to guarantee personal representation by various Austrian architects and people working in the housing forum to meet with us on this particular trip. Were we to participate in a trip going to Vienna or any other particular country and try to make the contacts ourselves we would have substantial difficulty because we are not architectural or housing professionals in our own right. That is why the particular...

Senator J.L. Perchard:

A point of order. The Chairman failed to answer my question.

The Deputy Bailiff:

Yes. I think the question was, had the advisor already been there?

Deputy R.C. Duhamel:

In putting together a programme which delivers, in terms... [**Members: Oh.**] Yes; and one would expect him to do that or otherwise one would be travelling blind and the programme would not be defined.

2.9 Deputy G.P. Southern of the Minister for Social Security regarding measures in place to deal with enquiries arising from Income Support application forms:

Following the issue of the 27-page forms IS.01R and IS.01T, what measures, if any, has the Minister put in place to deal with the volume of inquiries with any anxiety caused with concerns about any lack of privacy or with possible inconvenience and distress to disabled applicants who have received these forms?

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

The department has a new dedicated section for income support inquiries and the Housing Department section, based at my department, is also dealing with any inquiries as they come in. There are private rooms available for people who want that facility. With regard to people with disabilities who may need assistance with filling in the form, the department can help in several ways and will do all they can to assist to meet people's specific needs.

2.9.1 Deputy G.P. Southern:

What preliminary measures were put in place in advance in order to cope with some of these issues, in particular the privacy issue? I understand there was a whole queue of people queuing within 3 yards of people being interviewed about their financial affairs. Secondly, what measures to

possibly arrange for home visits rather than ask disabled to come in, sometimes not once or twice but 3 times?

Senator P.F. Routier:

It is recognised that the department is busy at various times. There is the facility, as I have said, - and there always has been the facility - of a private room to have a discussion with any claimant. They have been there since the building has been in operation. So, there does not need to be any prior arrangement. That has always been available and anybody who wants a private discussion can have that at any time. With regard to home visits, there are home visits that have been offered to a number of people and they have always been in our plans and that has been something which I think we discussed at the Scrutiny Sub-Panel during the early discussions last year. It has always been our intention, and we have a number of people who we will be visiting in the very near future.

2.9.2 Deputy J.A. Martin:

I am glad the Minister added: "In the very near future." I think he would admit that they are planning to have a full complement of staff but there have been some difficulties. My question is, at the moment there are 2 types of forms and when we talk about going live - and it is all low income with different components. Will the 2,750 who are now having to fill in, between November and April, an updated housing rent or rebate abatement form have to fill in a different form: an IS.O1R. If so, will they have to only after the Regulations are passed through this House, and will there only be one form - which I think we were promised - for low income support?

Senator P.F. Routier:

The reason for the 2 forms is that one is being sent out by the Housing Department to their own people who are claiming benefits, and quite rightly they have sent those out themselves. They do include questions about income support. There is the second form which, as the Deputy has identified and is in the written answer I gave earlier this morning, those people will fill in the new form. But when the system goes live a lot of the interaction with claimants will be face-to-face and will be directly on to the computer, discussing with people and filling in the forms through an interview. So, the forms themselves will not exist. There will be a face-to-face interview with people and we will be able to work through, in an orderly fashion, with people as they come into the system.

2.9.3 Deputy G.P. Southern:

With hindsight, will the Minister admit that he was under-prepared for the volume of traffic generated by this new form and, in particular, does he feel that they advertised with sufficient warning that home visits would be available to those who felt it would be appropriate?

Senator P.F. Routier:

I think the way we have approached the volume of work that is going to be required to be carried out by the people who are claiming the benefit, and by the department, has been very appropriate. What we have done is sent out forms in batches, in 100 and 200 a week, on a gradual basis. It has not gone out, as the Deputy might be implying, in a big batch. That just does not happen. We have tried to ensure that sending out the forms in a gradual process will enable people to hopefully return them in that sort of form as well so the department can cope with the number of forms that need to be reviewed and assessed. I would encourage as many people as possible who have received the forms to return them to us as soon as they possibly can if they do not want to be in a position of not receiving benefit when the system does go live. I would urge anybody who feels that they are having difficulty in completing the form to get in touch with the department. There are a number of mechanisms we have to assist people through the form. It needs to be recognised that not everybody has to fill in every section of the form. There seems to be comments being made that people are having to fill in every page of the form. This is not the case. What people need to do is just fill in the sections of the form that apply to them. If they do need assistance, we are very happy

to give them assistance, by discussion within the department, over the phone. If they need further assistance, we are quite happy to sit down with them and go through with it, and to the extent of having home visits. With regards to home visits, we have always, always had that as an option and I would implore people that if they have specific difficulties - if they have a disability - that we are there to help them and we will help them fill in the forms.

2.9.4 Deputy J.A. Martin:

I am slightly confused by the Minister's last answer. He seemed to imply... I know when I asked which form will be used when the system goes live he said there will be no forms. It will be a one-to-one contact. It will be the computer, I presume in the Social Security Department, with an operator saying: "The computer says no, or the computer says yes." We have 7,000 households, Sir, on benefits. Is this what the Minister is telling the House? The last part of the question, Sir; is: is everybody in the system now, before it goes live? Will the Minister not confirm they will be assessed and in that system? Because one week on a low income without any money is not tolerable.

Senator P.F. Routier:

The way the system will operate when it goes live is that people will come into the department and sit down with an advisor. That is the whole purpose and the theme behind the income support system: to have contact with the people who are claiming income support. They will have a record within the system which will be reviewed on whatever basis is appropriate for their needs. Obviously, some will be more regular than others. So, there will not be a paper form in the future. It will be a record on the department's computer. The urgency is for people to return these transition forms so we can go live so that everybody is paid, and I am as concerned as the Deputy about people not missing out on any payments. We need the information sooner rather than later. I would ask that people do not leave it until the very last moment to return the forms because it could cause a backlog. I am not saying that we are not going to be able to do it. If people do not return the forms to us we will not be able to provide the benefit. So, we need to encourage as many people and with our assistance we will help them to fill in the forms. We want to have the information so that we can provide the benefit on time. If people do not respond, we will not be able to provide the benefit and we certainly do not want that situation to occur. I would encourage as many people as possible... **[Interruption]**

The Deputy Bailiff:

Thank you. There are 3 further questions to go, Deputy, and when you ask your question you perhaps prevent somebody else asking theirs later.

2.9.5 Deputy G.P. Southern:

If I can beg your indulgence, Sir, I will ask my final supplementary. In the written answer received earlier today, the Minister says he has passed the form to the Data Protection Registrar. Can he confirm that was merely to confirm the wording of the agreement to share information, and other details were not asked for, especially for example an opinion from the Data Protection Registrar - or Commissioner - on the requirement to declare any asset over the value of £1,000 held by any other member, not the claimant, of the household?

The Deputy Bailiff:

A precise answer please, Minister.

Senator P.F. Routier:

The form was sent to the Data Protection Officer and the comments that were made by the Data Protection Officer were included within the form.

2.10. Deputy G.P. Southern of the Chief Minister regarding public sector pay targets:

Would the Chief Minister inform Members whether the pay restraint policies currently in place for the public sector, 2.5 per cent for 2006 and 2007, will only serve to defer and not eliminate larger pay rises in the future and would he state whether he is confident that he can maintain the public sector pay target for 2008 and 2009 as currently proposed in the Annual Business Plan 2007?

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

The States have decided that public sector spending should be constrained as far as possible without reducing the high level of service and benefits which are delivered. This reflects the views of the public and businesses of Jersey. Staff costs account for over half the revenue expenditure of the States and I would point out to Members that a one per cent increase on the current pay bill amounts to £2.7 million per annum. It is too early to make judgments on 2008 and 2009. We have not yet agreed the 2006 pay settlements and we have not even started negotiations on 2007. The Business Plan provides a target for the overall wage bill and, as in the current year, it will be a question of balancing the legitimate expectations of our workforce against the need to constrain growth in States expenditure, the need to maintain services and to protect jobs. It will not be easy but this House will have the final say on the level of resources to be made available in 2008 and 2009. The States Employment Board will then do all it can to finalise pay settlements in line with the resources allocated.

2.10.1 Deputy G.P. Southern:

Will the Minister confirm that the total sum available for pay claims in 2006 and 2007 is fixed at 2.5 per cent and that it is not possible to move those figures at this stage by anybody - the Chief Minister, the Treasury Minister or anyone in this House - and thereby the supposed negotiation taking place over any wage rises is a complete farce because those sums are fixed? Furthermore, is he confident that, given he already faces 2 action ballots by 2 sectors of the public sector in 2006, he will not face confrontation and conflict in 2007?

Senator F.H. Walker:

I very much hope that we will not face confrontation in 2007 but I cannot, in current circumstances, make any statement of confidence that that will be the case. That will, of course, be in the hands of the workforce. But, Sir, could I make it clear to Members that the overall pay bill which the States are working to - which the Employment Board is working to - was agreed by this House in the Business Plan 2007.

2.10.2 Deputy G.P. Southern:

Is the Chief Minister prepared to reconsider his pencilled-in figures of 2.5 per cent for 2008 and 2009, especially in the context of in 2008 G.S.T. will come into play which will take £45 million out of the pockets of workers which, on average, is something like over £500 per worker? Is he prepared to reconsider his targets which are confrontational?

Senator F.H. Walker:

I am not prepared to even begin to negotiate in public which is, in effect, what the Deputy is asking me to do. So, I regret I cannot give him an answer to that question.

Deputy G.P. Southern:

If I may, the Business Plan for 2008 is not yet formed.

The Deputy Bailiff:

I think, Deputy, you have had enough for the moment. The Connétable of St. Helier.

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

Could the Chief Minister confirm that only upward revision of the current offer would impact severely on the ratepayers of St. Helier, who currently fund the second largest manual worker group?

Senator F.H. Walker:

Yes, Sir, I can confirm that would be the case.

2.10.4 Deputy G.P. Southern:

Is the Chief Minister fully prepared for not just one winter of discontent, but something like 4 winters of discontent in terms of his relationships with the workforce on this Island?

Senator F.H. Walker:

I believe our workforce is more responsible than that and I am not sure if the Deputy is not, by the tone of his question, almost seeking to encourage that sort of position. I sincerely hope not.

Deputy G.P. Southern:

I object to that innuendo, Sir.

Senator F.H. Walker:

I did say: "I am not sure by the tone of his question" **[Laughter]** and I went on to say that I very much hope he is not. Sir, the States workforce is, without question - and this has been proven by salaries in a number of years - one of the best rewarded, not just in terms of pay but in terms of conditions of service of any working group in Jersey, particularly at the lower end of the pay scales. I very much hope that we can reach negotiated, sensible agreements with all members of the States workforce. I very much hope they will recognise the position of the States in this matter and work with us to achieve a sensible and agreed conclusion but, of course, I have no way of knowing currently whether that will, indeed, be the case.

2.11 Deputy S.C. Ferguson of the Minister for Health and Social Services regarding the closure of wards at Overdale Hospital:

Would the Minister confirm that he made the in-principle decision to close the 2 Overdale wards in March 2006 and that the detailed financial business case was only prepared in September, just before the contract was signed? If so, would the Minister explain why he did not consider the financial case - that is, the detailed financial business case - before considerable negotiations were undertaken and is he satisfied this approach provided value for money?

Senator S. Syvret (The Minister for Health and Social Services):

As was explained to the Scrutiny Panel repeatedly, the department and I considered a number of different ways of addressing the needs of the patients on the 2 wards at Overdale. This consideration led to the conclusion that out of all the options, re-homing the clients in private sector facilities appeared to be the most viable, beneficial and realistic under the circumstances. Having reached this conclusion, I asked the department to carry out a detailed financial proposal prior to making a binding, final decision. This type of procedure is adopted by those of us who do not wish to waste time and taxpayers' money. What would be the point of the department devoting hundreds of man-hours to developing detailed proposals with which the Minister fundamentally disagreed? If I were ideologically opposed to using the private sector or had some other objection, all of the work carried out by the officers would have been utterly wasted. The chair of the Public Accounts Committee asked me why I did not consider the financial case before negotiations were undertaken. I hope other Members will forgive me for having to state the startlingly obvious, but there could, of course, be no detailed financial case to consider until the market had been tested and negotiations had taken place. Only then, once the costs and comparisons were robustly established, could one

bring together a detailed financial case upon which one might make a binding decision. The robustness of the financial case depends precisely upon considerable negotiations. I have no doubt whatsoever that the selected option offers both high standards of care and demonstrable value for money. By way of contrast, the approach advocated by the Deputy and the Scrutiny Panel would risk wasting valuable time and taxpayers' money.

2.11.1 Deputy S.C. Ferguson:

I find the Minister's approach somewhat ingenuous. Would it have not been very much more responsible to have done more of a financial analysis before the negotiations were undertaken whereby a sensitivity analysis would look at the economic value and look at the sort of price that the department should be prepared to pay for a range of values - £800 a week, £900 a week, £1,000, £1,100, £1,200, £1,300. With computers, this is quite simple nowadays. The department could then have known what their bargaining range would have been before they even went into negotiations. Would not such a financial analysis not have strengthened the Minister's arm when indulging or undertaking the negotiations, as is normal in private business?

Senator S. Syvret:

Some initial financial appraisal of this option, and indeed the others before us, was undertaken and such evidence was provided to the Scrutiny Panel. At risk of boring the Assembly, I repeat that until officers had gone out into the market place, negotiated and tested what might be available, there was no way of determining precisely what the costs we might expect to encounter might be. The fact is that had the conclusion of those discussions and negotiations been that the option was going to be too expensive or it had some other problem I would not have, in fact, signed the contracts and proceeded along that path. This really is perfectly clear and if this is the best that Scrutiny can do, then heaven help us all. Sir, I am quite sure the Scrutiny Panel has, in reality, got it all correct. I am reliably informed there are some excellent continuing-care policies and facilities in Austria, so I shall take a fact-finding mission to Vienna.

2.11.2 Deputy S.C. Ferguson:

Perhaps the Minister will be kind enough to let us have the original financial analysis that he did?

Senator S. Syvret:

If the Deputy had bothered to read the paperwork she is provided with in the course of her duties, she will find that information, in fact, has already been supplied to the Scrutiny Sub-Panel.

2.12 Deputy R.G. Le Hérissier of the Assistant Minister for Treasury and Resources regarding repairs to the St. James Centre and Vicarage:

Would the Minister identify the cause of the current repairs of the St. James Centre and Vicarage and state the cost and source of funding?

The Deputy Bailiff:

This is the Assistant Minister.

Deputy J.A.N. Le Fondre (Assistant Minister for Treasury and Resources):

As a curiosity, Sir, can I ask how long we have left in terms of...

The Deputy Bailiff:

You just need to make a concise answer.

Deputy J.A.N. Le Fondre:

It was just how concise I needed to be. Essentially, the majority of the repairs being undertaken at St. James arrived from damage caused by moisture ingress and the need, obviously, to prevent more moisture coming into the building. The cost is in the order of £125,000 and it is funded from the Minor Capital Budget Allocations for Art and Heritage Trust Properties. I am told the original balance was £350,000 and that by the time this money has been spent there will be roughly £70,000 left outstanding.

2.12.1 Deputy R.G. Le Hérisssier:

Would the Assistant Minister identify whether there is a rolling maintenance plan now in place for St. James or whether he expects further surprises?

Deputy J.A.N. Le Fondre:

I will give as detailed an answer as I can. Would I expect further surprises? I have already had a few nasty ones, I will say. There is a rolling maintenance programme, and the reason I am pausing is I have read somewhere in the last 24 hours that it is somewhere in the order of £30,000-odd a year, I believe. I can confirm that privately to the Deputy afterwards if that is acceptable. It is an old building, and the reason I pause is that with old buildings you never quite know where you are in terms of ongoing maintenance. There is an issue at the moment with the scaffolding which we are currently trying to resolve.

2.12.2 Deputy F.J. Hill, B.E.M. of St. Martin:

Will the Assistant Minister advise and inform the Members whether in fact the repairs being carried out now are repairing repairs that had been carried out only about a year or 2 ago?

Deputy J.A.N. Le Fondre:

I have to say I am not aware of them being repairs to repairs. If the Deputy has additional information perhaps he could communicate it to me later and I will undertake to look into it. I think that is all I can say on that matter, Sir.

2.12.3 Deputy C.F. Labey of Grouville:

In the past, the States made a decision to purchase St. James but did not vote sufficient funds to make it fit for purpose. Does the Assistant Minister not agree that at some point a decision has to be made about the venue and when sufficient funds have been spent on the place maintenance will be far lower than it is now?

Deputy J.A.N. Le Fondre:

I certainly agree, Sir, that the longer-term decision does need to be made on the building and, yes, I believe when the original purchase was undertaken, insufficient funds were put into it to make it fit for the purpose it is currently used for. Certainly it is the case, as I understand it, that if the building is, for example, inadequately heated, then as a venue for entertainment it loses some of its attraction. That is, I think, a discussion for another day.

2.12.4 Deputy J.B. Fox:

I wonder if the Assistant Minister could advise the House when the likely time will be - another day/time factor - because any building not maintained will deteriorate and we have a policy to maintain buildings. I am just curious to know when we are going to be able to answer the question.

Deputy J.A.N. Le Fondre:

There are 2 issues at the moment. There is the current maintenance which, as I said, I was informed was in the order of £120,000 and that is ongoing. The additional issue that I have commented on and is currently being investigated is that during the course of that work additional problems were found particularly with the pinnacles at the top of the building of which there are 8. There are various solutions. They all require, given that there is an S.S.I. (Site of Special Interest)

attached to the building, a very considered negotiation and discussions with the Minister for Planning and his officers as well as, in particular, the Assistant Minister for Education, Sport and Culture responsible for culture because of the impact. So the reason I am pausing in terms of the longer term is because the short answer is I do not know because it is a matter of identifying what the solution is going to be, what it is going to cost and where we are going to get the money from.

2.12.5 Deputy R.G. Le Hérisier:

Am I, therefore, Sir, to infer from the Assistant Minister's words that, notwithstanding the excellent work carried out by the Assistant Minister for Culture and her very fine cultural officer, the Assistant Minister is very worried about the costs, that in terms of value for money he has some serious doubts? Secondly, Sir, is he of the belief that the Vicarage, as currently used, is really a burden upon the public purse and should form part of the property to be sold portfolio?

Deputy J.A.N. Le Fondre:

I will take the last point first. The idea of splitting off the Vicarage, for example, for sale has... I would not even like to give it the credence of having been discussed or considered, but obviously it is always an option. I think the difficulty with it is the whole place was bought effectively as a package when, I think, the St. James school was acquired and, therefore, the other consideration is if you did, for example, sell off the Vicarage what would be the impact on the use of St. James as a continuing cultural centre. In terms of value for money, that is always a difficult one when you are dealing with the arts. What value do you place on the benefit derived from that centre weighed off against pounds and pence? As I said, the discussions are ongoing which is why I have yet to arrive at a decision personally and, obviously, as you can tell, there are a number of other parties involved in it.

The Deputy Bailiff:

That brings questions on notice to an end. We come now to questions to Ministers without notice.

3. Questions to Ministers without notice - The Minister for Planning and Environment

Deputy G.P. Southern:

If I may, could I question the procedures by which the Minister for Planning and Environment has replaced the Minister for Economic Development who I understood was due to be up today?

The Deputy Bailiff:

I am advised by the Greffier there has been a recirculated list and this is the correct Minister who should be answering, apparently.

Deputy G.P. Southern:

Could I ask whether, then, at any stage we will ever get to blood an Assistant Minister in the fiendish art of answering questions, on your feet, without the officer's minutes there?

The Deputy Bailiff:

I am not sure I understand the question, Deputy.

Deputy G.P. Southern:

If the E.D. Minister is not available, and he is apparently not available today, I would have thought we have already seen the Assistant Minister deal very capably with an oral question, but we are not going to have the opportunity to question him about issues relating to his department on his feet, without notice. Is that ever likely to happen?

The Deputy Bailiff:

It is not my understanding that this was rearranged because the Minister is not here. Is that right, Greffier? This is apparently the list.

Deputy G.P. Southern:

News to me.

The Deputy Bailiff:

I am advised that the list is the list and it has nothing to do with the fact that the Minister for Economic Affairs is not here.

Deputy G.P. Southern:

Then I apologise for wasting your time, Sir.

The Deputy Bailiff:

So, we can revert to questions to the Minister for Planning and Environment.

3.1 Deputy K.C. Lewis:

Further to my written question today regarding mobile phone transmission masts - and I thank the Minister for his comprehensive written reply - the Minister has just approved many new phone mast applications. We now have 2 mobile phone operators up and running in Jersey with possibly 2 more operators waiting to move into Jersey with dozens more sets of transmission masts. This would give Jersey more transmission masts per acre than almost anywhere else in the world. This would be a totally unacceptable situation. Does the Minister not agree?

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

There were a number of questions there. I hope I will be able to address them all. Firstly, I did not give permanent consents recently. In view of the current arrangements that Scrutiny have entered into in relation to consulting the public on health risks I decided to take a cautious approach and I have issued temporary consents. If the Minister for Health changes his advice over the next 12 months in relation to health risks surrounding masts then I will take that into account before even considering making these permanent. Secondly, there are 3 operators, not 2; being Jersey Telecom, Air-Tel and Cable and Wireless. We know nothing of the fourth at the moment. There are no applications at all. As far as the number of masts is concerned, there was a choice. As I have mentioned on a number of occasions before, we could have reduced the number of sites by allowing more lattice masts of the sort of size we see at Five Oaks or on the north coast. I deem those unsatisfactory and unacceptable and therefore I have chosen the route of more wooden telegraph pole masts that are less intrusive.

3.1.1 Deputy K.C. Lewis:

A supplementary, Sir? I recently attended the re-opening ceremony of the Signal Station at Fort Regent, Sir. Wonderful to see the flags flying high over the fort and I would like to congratulate the Assistant Minister for Economic Development on a splendid initiative. However, there are now so many mobile phone transmitters up there that it would be too dangerous for anyone to be permanently stationed there. Would the Minister for Planning and Environment confirm that if recently approved mobile phone masts are proven to be dangerous they would be removed?

Senator F.E. Cohen:

As far as the signal station is concerned, as I understand it, there are not significantly more masts. There are now more antennae there now than there were previously. It is just that some of the older ones have been replaced. I would also like to clarify that there were a couple of issues in relation to the fitting of those antennae and the historic status of the site and the applicant has been given one month to sort those issues out. But as far as the position on making consents permanent at the end of the 12 months, that will, of course, depend on whether or not the Health Minister varies his advice.

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

I would like to ask the Minister whether, in the light of the publishing of the documents such as the Planning for Homes document and the Housing Property Plan, will there still be a revised Island Plan published and if so, when? And what consultation is underway to determine its final design?

Senator F.E. Cohen:

We are already well on the way planning how we will review the Island Plan. There has already been an officer group formed. There will be a political group formed and we are shortly to be able to tell Members which specific areas of the Island Plan we will be looking at and how we will be looking at it. It is in the very short term.

3.2.1 Deputy of St. John:

Does the Minister have a date in mind, yet?

Senator F.E. Cohen:

No, I cannot give a precise date but certainly we are talking a few months rather than many months.

3.3 Deputy G.P. Southern:

Will the Minister inform Members when he will take action to bring about greater use of cavity wall installation, the most effective and cheap - I understand at £250 or £300 per household - way to achieve energy efficiency and to reduce C.O.2 (carbon dioxide) emissions? Does he know what proportion, how many homes on the Island are built with such construction and are suitable for such treatment?

Senator F.E. Cohen:

No, I am afraid I do not know what proportion of houses are built with that form of construction. I would imagine that it would be very difficult to come up with a convincing figure but I will certainly ask my department to do so. One of the key elements of the Environment Department's objective is very clearly in the longer term to encourage greater responsibility in relation to issues such as the use of fossil fuels and part of that will be to encourage people to better insulate their homes. If you are going to encourage people to better insulate their homes, the best way of doing that is clearly to provide them with some financial assistance. It will be one of the main focuses of environmental taxes, if and when we are able to implement the taxes, and very clearly one key area they will be used for - if they are hypothecated taxes - will be to encourage the better insulation of homes throughout the Island.

3.3.1 Deputy G.P. Southern:

If I may just a quick supplementary? Will he make cavity wall insulation one of his prime targets?

Senator F.E. Cohen:

I am afraid, Sir, I am not an expert on which is the most effective methods of insulation. What I can assure the House is that if cavity insulation is the most effective form of insulation then it will be the one that we will promote the most.

3.3.2 Deputy G.P. Southern:

If I may, Sir, just a quickie? Will he return to the House with such data as to what is the most efficient and cost effective means of insulation and improving?

Senator F.E. Cohen:

I will come back to the House with not just that data but with significantly more data in due course. This is a major subject and taking our environmental responsibilities seriously is a key focus for the Council of Ministers and something that I, personally, will be concentrating on with the launch of the Eco-Active Programme in a couple of weeks time.

3.4 The Connétable of St. Helier:

Would the Minister confirm that the relatively recent supplementary planning guidance for the Waterfront suggested that there should not be a great deal of retail on the Waterfront and specifically that it was not an appropriate site for a supermarket; and would he undertake to communicate that advice and that recent policy to the Minister for Economic Development?

Senator F.E. Cohen:

I want to be very careful in this area. The Waterfront is already the subject of one planning application. There will be others shortly and I do not think it would be appropriate to answer specifically other than to say I will assure the Connétable that the Minister for Economic Development is aware of the issues.

3.5 Deputy S. Power of St. Brelade:

The Minister will be aware of my continuing interest in the final development brief that is to be written by his department for Fields 190 and 192, La Moye. The Minister will be aware that it was the subject of a case study in the planning process recently published. Can I ask the Minister to confirm where he is with the publication of the final development brief for this, in my view, sensitive site? I would like to thank him, also, as a minor member of the planning process for his excellent co-operation in producing that report.

Senator F.E. Cohen:

I cannot answer the question specifically. It may be appropriate to advise the House that I also was in a bit of a muddle over who was going to be answering questions without notice and it was not until yesterday afternoon that I found out it was me. Unfortunately, none of my briefing notes cover Field 190A but I will get the answer and ensure the Deputy has it later today.

3.6 Deputy R.G. Le Hérisier:

I wonder if the Minister, bearing in mind the sentiments expressed by Deputy Power, can please tell us what his reaction is to the Planning Process Report and in the light of experience we have had recently, could he tell us how, as a Minister, he intends to approach this report?

The Deputy Bailiff:

Concisely to that matter.

Senator F.E. Cohen:

It is too early for me to give an adequate response to that. I have read through the report. I am very pleased with many of the comments in the report. I think it is a constructive report. I think much will come out of the report which will result in perhaps significant change but it is too premature for me to respond to specifically at this stage.

3.7 Connétable D.J. Murphy of Grouville:

About 6 months ago I questioned the Minister with regards to alternative energy sources and in particular to tidal power. He said there was a report due out very soon which would hopefully show the way forward and the attitude of the States towards tidal power. Can you tell me when this report is due, please?

Senator F.E. Cohen:

Yes. This will form part of the first elements of the energy review and that will be available in the first quarter of this year.

3.8 Deputy J.B. Fox:

I wonder if the Minister can enlighten the House where we are at in relation to the Plémont planning and whether we are furthering looking at alternative sites and if the proposed developer is willing to consider any such proposed alternative site. Thank you, Sir.

Senator F.E. Cohen:

Again, I am sorry, I hope I am not appearing to be difficult on this but this is the subject of a current planning application and, again, I would want to be very careful. All I can say is that all the avenues that the Deputy would wish to be examined are currently being examined and I sincerely hope we will be able to come forward with some options in the not too distant future.

3.9 Deputy of St. John:

Bearing in mind the Minister's answer to Deputy Southern, would he also consider the possibility of having a similar approach to solar energy for domestic consumption? Of course, provided that the Minister responsible for the weather can guarantee a bit more sunshine.

Senator F.E. Cohen:

I think, at this stage, it is inappropriate to cherry-pick one or 2 things that environmental taxes would be directed towards. This will be part of a comprehensive study. I personally am very enthusiastic to see some form of assistance provided to encourage solar energy and wind energy generation, and all forms of micro-energy generation but I think I will be just one part of the decision-making process of how the hypothecated taxes are most effectively used to deliver more environmentally conscious decision-making which will be, of course, at the core of those proposals.

The Deputy Bailiff:

Is there another question? Very well, I call that to a halt and we will come then to the second question period which is the Chief Minister.

4. Questions to Ministers without Notice - The Chief Minister

4.1 Senator J.L. Perchard:

Over the past few years various senior Jersey politicians have stated that the Island would only move to Zero/10 corporate taxation system if there was a level playing field with other O.E.C.D. (Organisation for Economic Co-operation and Development) member countries. In the event that there may not be a level playing field in place, will the Island still proceed with a Zero/10 taxation system?

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

A level playing field and protecting Jersey's competitive position is, of course, right at the top of our agenda. It is abundantly clear, I think, that a level playing field will not be achieved with jurisdictions such as, for example, Singapore and other jurisdictions which are beyond the scope of Europe. However, it is generally felt, not just by Jersey, or certainly by myself and my department and advisors, but also Guernsey, the Isle of Man and other jurisdictions that the advantages of moving to a Zero/10 structure, as approved by this Assembly, far outweigh any alternative that is envisaged at this time. Of course, we continue to press to ensure the level playing field is delivered in all our major direct competitor jurisdictions - which it is - and continue to press for other economic advantages elsewhere where they may not necessarily be the case.

4.2 Deputy K.C. Lewis:

I am sure the Chief Minister is aware of a new cannabis substitute being sold quite openly in Jersey. This product is known by the name of Spice and, according to research, can give the same effect as cannabis but if used in large amounts can cause respiratory failure. Will the Chief Minister

undertake to consult with his Council of Ministers at Health, Home Affairs and Economic Development with a view to possibly banning the importation and sale of this produce?

Senator F.H. Walker:

I will definitely commit to consulting on this issue. As the Deputy is aware, it has only recently come to my attention, and I think to everyone's attention other than those presumably who have been using it for some time. Yes, I will be consulting with the Health Minister and Home Affairs Minister, in particular, to see what if anything can be done about it or what should be done about it because I am not aware of the technical or the health issues at this point.

4.3 Deputy P.J.D. Ryan of St. Helier:

My question to the Chief Minister is very much a long-term question, I believe, at this stage in the Island's economic general structure. At the moment, we have an inflation target of 2.5 per cent that has been in place for something like 8 to 9 years, I believe. Whereas we are in monetary union with the United Kingdom and the United Kingdom's inflationary target, as set politically by the Chancellor of the Exchequer to the Bank of England Monetary Policy Committee, is one of 2 per cent. Would the Chief Minister agree that having a difference in the 2 inflation targets, in a situation where we are in monetary union with the United Kingdom, continues in the long-term to make the Island's economy less and less competitive and does he foresee a position in the not too distant future when we should adjust our inflation target to be in union with the United Kingdom? In other words, to have a target of 2 per cent rather than 2.5 per cent.

Senator F.H. Walker:

I do not believe that the difference between the 2.5 per cent target set, as the Deputy rightly says, some time ago for Jersey and the current 2 per cent target for the U.K. is that significant. It was not that long ago, of course, that the U.K.'s own target was 2.5 per cent. What is significant to Jersey is the range of recent increases that we have seen in the interest rate in the U.K. because that does have an effect, and a quite significant effect, on the overall rate of inflation in Jersey. But I would remind the House that the target for Jersey is 2.5 per cent R.P.I.X. (Retail Prices Index excluding mortgage interest payments) which effectively excludes the effect of these interest rates but, nevertheless, they will have - as we have had 3 with the possibility of more to come - an impact on the headline rate, of that there is no doubt. I see little purpose in Jersey adjusting its target from 2.5 per cent down to 2 per cent at this juncture. What we need to do is concentrate all our efforts on meeting that target of 2.5 per cent, in my view.

4.4 Deputy R.G. Le Hérisier:

In view of the excellent initiative shown by Senator Shenton, is it the Chief Minister's intention to appoint him as attendance monitor for the States? **[Laughter]**

Senator F.H. Walker:

If it was within my powers, I most certainly would but, of course, it has nothing to do either with me or the Council of Ministers whatsoever.

4.5 Deputy G.P. Southern:

If the Chief Minister did appoint Senator Shenton, he would have to leave all of his 4 Scrutiny Panels that he is involved with at the moment, which would be a shame as with 2 of them I work with him. Has the Chief Minister put in place the recommendation made in the Scrutiny Report 8th November 2005 under the title Provision of Legal Advice to Scrutiny Panels, that the Law Officers' Department ensure that all issues in new draft legislative proposals which potentially impinge on the rights of individuals to privacy and protection of personal data, are automatically referred to the Data Protection Registrar as part of the normal human rights audit of legislation? If he has not, when will he do so?

Senator F.H. Walker:

I cannot give the Deputy an absolutely 100 per cent watertight answer but I believe the answer is, yes. Certainly it is my understanding that every relevant piece of legislation is referred to the Data Protection Registrar and, indeed, that other pieces of proposed, or possible proposed legislation - and, for example, we are talking here about migration policies, population database or whatever it may be - most certainly have been, are currently or will be, and we will not see any such legislation coming forward to the House for approval without the support and her own approval from the Data Protection Registrar.

4.5.1 Deputy G.P. Southern:

Just a supplementary, if I may, Sir. Will he further assure the House that when such material is referred to Data Protection it comes with the appropriate questions and not limited to only parts of the proposed legislation?

Senator F.H. Walker:

That is a very vague and generalistic question. I am confident that the Data Protection Registrar is given every opportunity to comment in an informed way on all proposed legislation.

4.6 The Connétable of St. Helier:

If the Minister for Transport and Technical Services plans for a new incinerator at La Collette are successful, the Chief Minister will have, as part of his legacy as the first Chief Minister of the Island, the commissioning of a vast incinerator at the entrance and gateway from the sea to St. Helier. In view of mounting concerns globally about C.O.2 emissions and the effect on sea level rises, is the Chief Minister satisfied that enough has been done to explore alternative options to such a large incinerator and does he not think that his legacy will be better served, and our environmental credentials on Island better served, if more work was done on the alternatives?

Senator F.H. Walker:

With respect to the Connétable, this seems to me to be resurrecting a question which has been asked, put and debated by this House on I do not know how many occasions over the last 2 or 3 years. We have surely done the question to death and the House has reached the conclusion. It is not a question of my legacy, it is a question of what this House has agreed. Faced with an enormous amount of evidence, faced with Scrutiny reports, faced with a huge range of other reports, it is a question of what this House, having weighed up all the options, has agreed and I adhere to and support the decision taken by this House.

4.7 Deputy S. Pitman:

Having delivered the opening address at last autumn's N.S.P.C.C. (National Society for the Prevention of Cruelty to Children) conference, I am aware that domestic violence is a keen interest of the Chief Minister. In light of the new U.K. initiative, would the Chief Minister advise the House whether funding will be made available within the Island to follow the much hailed programme of creating in-house safe rooms for women at risk within their homes?

Senator F.H. Walker:

That is principally a matter for the Home Affairs Minister and I am sure she will, if she has not already, be reviewing the matter very closely and I would expect to have discussions with her in the near future.

4.8 Deputy J.B. Fox:

Appreciating that the Planning Minister is restricted in what he can say sometimes, can I ask the Chief Minister, going back to the question of Plémont, whether the Council of Ministers has considered, or is considering, that an alternative site is Warwick Farm - which is on my particular

area - part of that consideration as it seems to be an ideal consideration for a site that will shortly be transferred for other purposes?

Senator F.H. Walker:

I do not think I should, any more than the Planning Minister, comment on a matter where planning applications have been made. What I can say to the Deputy is that a report on the Plémont headland will be considered by the Council of Ministers on the 25th of this month, next Thursday.

4.8.1 Deputy J.B. Fox:

I just wanted to know if he would report the details of that result to the Members, please.

Senator F.H. Walker:

Yes, Sir, absolutely.

4.9 Senator J.L. Perchard:

In parliamentary terms, a Green Paper is a consultation document issued by Government that contains policy proposals for debate, dissection and discussion. A Green Paper, Sir, would often contain alternative policy proposals. Does the Chief Minister agree that it would be in the interests of our Island's good government to formalise and adopt a Green Paper system in Jersey?

Senator F.H. Walker:

Yes, Sir, absolutely. We have gone some considerable distance towards it but I absolutely agree with the Senator that we should do more and we should formalise it so that everyone is aware of the exact procedure, and that is exactly what the Council of Ministers intends to do in the very near future.

4.10 Deputy G.P. Southern:

Does the Chief Minister accept that the commitment to examine the impact on resources and infrastructure on the Island produced by the Island's growing population is too little too late in that it is a very short study and the model is being set up and reported on by February, and it should have been done a long time before we set up our current migration policy?

Senator F.H. Walker:

It is not too little or too late. It is an important piece of work and, in many respects, I do agree with the Deputy; it is a piece of work that ideally should have been done some time ago but the fact is - and I do not expect some Members of the House to agree with this - we have had neither the information nor the resources to undertake a report and investigation of this scale. I have repeatedly in the past said to the States that Jersey is a statistical desert and we were. We are no longer a statistical desert; we have meaningful information now which we can research and review in the sort of project that is underway now. So I think it is, in that respect, timely, I think it is valuable and it is certainly not too little.

4.10.1 Deputy G.P. Southern:

Supplementary, if I may, Sir. Does that mean that, in the light of the proper information, we may be rescinding or amending current policies?

Senator F.H. Walker:

We would not be undertaking the review if it was not to inform policy, but there is no need - or no point - at this stage to change the migration policy as approved by the House because I would remind the Deputy and Members that the structure, the principle of the migration policy, is, for the first time ever, to enable us to monitor and to control the make up of those people. There is absolutely no reason whatsoever to depart from that principle.

4.11 Deputy of St. John:

With regard to the question, Sir, of the future of the Plémont site, would the Chief Minister support such an asset swap that Deputy Fox was alluding to when, clearly, Warwick Farm and other such assets have a considerable amount of value which, if liquidated, can be put into the public purse and spent on much more laudable causes?

Senator F.H. Walker:

I am grateful to the Deputy for the question. The whole question of the States' property portfolio and how we use it is one that is receiving, currently, a great deal of attention. As I think the Deputy is aware, and certainly the Public Accounts Committee are aware, land swaps are very much a possibility, very much one of those things that we are investigating. There is tremendous value in the States' property portfolio and, as the Comptroller and Auditor General has said, we need to go even further than the proposed Property Plan, which was approved by the States, in terms of unlocking the value of it and maximising the use of it to the benefit of the public generally.

4.11.1 Deputy of St. John:

Would the Chief Minister not agree that if an asset swap was considered for Plémont, we would effectively be giving away millions of pounds worth of public money?

Senator F.H. Walker:

I am not going to comment on that particular application. I think the Planning Minister quite rightly has said that is not appropriate for him, I do not think it is appropriate for me. Clearly, all such aspects of any proposed land swap, not just for Plémont but anywhere else, would be given a thorough investigation before any recommendations were put forward.

4.12 Deputy G.P. Southern:

Does the Chief Minister have under consideration the introduction, as has recently happened in the U.K., of the personalised inflation rate to account for different groups in society's particular circumstances whereby the young person has a different inflation rate because his spending is completely different to someone, let us say, who is a pensioner? Will the Chief Minister consider, or explore with the Statistics Department, the possibility of introducing a personalised inflation rate especially for pensioners?

Senator F.H. Walker:

It is an interesting concept. I do not know as yet any of the detail. I am aware of the matter to which the Deputy refers; I do not yet know any detail and have no idea, therefore, whether it would be appropriate to Jersey or not. But, yes, I think it is interesting enough to merit an investigation and to have a look to see whether or not it is appropriate for Jersey.

The Deputy Bailiff:

I am afraid that brings matters to an end, Deputy. There are no matters under J, so we come to K, Statements on a matter of official responsibility. The Chief Minister will make a statement regarding staff payment and negotiations.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

5. The Chief Minister regarding staff pay negotiations

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

Members will be aware that negotiations on the annual public service pay review, from 1st June 2006, appear to have stalled and that Members of the Transport and General Workers Union are being balloted on whether to take industrial action on pay. The States Employment Board, in accordance with States' policies, has offered' States employees a choice of 2.4 per cent for

2006/2007, or a 2-year award of 2.5 per cent for the year 2006/2007 and a further 2.5 per cent for the next year. These cost of living pay offers are based on the relevant price index figure as at the end of March 2006 which stood at 2.4 per cent. To date, police and prison officers have settled but other pay groups still maintain higher claims. On Members' desks is a report which sets out the budgetary background to the pay negotiations. It shows the tight budgetary constraints set by this House for 2006 and 2007 when it approved the Annual Business Plan. In taking these decisions, the States were responding to increasing public and business pressure to limit growth in public spending. More than half the States' annual budget goes towards staff salaries, so the annual pay awards are the single most important factor driving increases in public sector spending. Under the new Finance Law there is no longer a central contingency and the full cost of pay awards has to be met from within departments' cash limits. Accordingly, any increase in pay in excess of the 2.5 per cent provided would have to be funded from cuts in jobs and services by departments. The money for pay increases has been budgeted for and the States Employment Board has decided it should now be paid to staff. The annual award is payable from 1st June and, because we have not been able to agree the rate of settlement, our staff have been waiting for an increase for more than 8 months. The States Employment Board has decided that staff should receive the money that the States have set aside for their award. We therefore intend to make a payment of 2.4 per cent of salaries, backdated to 1st June 2006, to all public service employees who have not yet concluded their negotiations. The payment will be made at the first opportunity next month and staff are being advised by letter today. This payment is not an enforced settlement. We intend to continue negotiations but on the understanding that, if a higher deal were to be concluded, it would have to be met from departmental budgets. The payment is a gesture of goodwill in recognition of the long wait employees have endured as a result of pay talks stalling. Our public sector is staffed by loyal, committed people who go the extra mile to provide good service but there is a stark choice to be made. The States have decided that the contingency fund is a thing of the past. Staff are therefore getting all the money allocated for the annual pay increase and they will have it in their pay packet shortly. A higher pay award, as I have already said, can only be funded from existing departmental budgets. In bald terms, that means service and job cuts or the alternative tax increases. I urge all staff to consider the implications of this for the services of which they are rightly proud. In particular, I know the manual workers are committed to the quality of service provided by the public sector and I urge them to consider the implications when they cast a vote for or against industrial action. In the meantime, I am pleased that we are able to give all States' employees this backdated increase.

The Deputy Bailiff:

Any questions on that? Very well, that concludes matters and we move to the adjournment...

Senator S. Syvret:

I had in my naivety hoped we might finish all this business before Members started on public business this afternoon but I...

The Deputy Bailiff:

Well, we will see if we can manage it.

Senator M.E. Vibert:

I think some Members might wish to adjourn. I am in the hands of the House.

The Deputy Bailiff:

Do Members want to take one or 2 more statements?

Senator F.H. Walker:

As there is the possibility of questions with statements, and some of the other statements to be made could generate questions, I think it would be best to adjourn now.

The Deputy Bailiff:

The Assembly agrees to adjourn now so the Assembly is adjourned until 2.15 p.m.

Senator T.J. Le Main:

Can we have a vote on that because I would really like to have done mine now because I have an appointment with Channel Television over the Housing Property Plan at lunchtime and I may be delayed?

The Deputy Bailiff:

Do you want to make your statement and then we can have any questions after the adjournment?

Deputy of St. Martin:

Out of respect, surely it would be better to have the statement and the questions to follow. If indeed we are going to break for lunch, let us do it now. The Minister should give his first attention to the States, not to Channel Television.

Senator M.E. Vibert:

The alternative, Sir, is simply to not adjourn now and conclude all of the statements.

The Deputy Bailiff:

Shall we take the Minister's statement and see how we go?

6. The Minister for Housing regarding the Social Housing Property Plan 2007–2016

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

I have this morning lodged my department's 10-year Property Plan. The plan has been produced in response to a number of issues. These include (1) the need for regeneration of the social rented housing stock, particularly in terms of high-rise blocks in urban areas; (2) the need to secure funding for ongoing maintenance and refurbishment; (3) the changing stock requirements, chiefly as a result of a demographic shift; (4) the need for affordable housing for purchase, particularly for first-time buyers; and finally, the States' commitment, made in last year's Strategic Plan, to expand home ownership in the Island. Sir, I must stress that, as the plan makes clear, the situation is very urgent. Any delay beyond the normal democratic process would be against the interests of States' tenants, aspiring home-owners and the taxpayer. Indeed, it would be contrary to the commitment made in the States Strategic Plan. But I believe the plan is an exciting one with huge potential benefits for large numbers of people in the Island. I look forward to discussing it with the relevant Scrutiny Panel and debating it on the floor of this House where I hope it will receive overwhelming support. Sir, the Housing Department will be arranging a presentation for all States' Members in early February and I urge Members to please attend.

The Deputy Bailiff:

Any questions?

6.1.1 Deputy J.A. Martin:

Bullet point 3: the change in stock requirements, chiefly as a result of demographic shift. I take that to mean... I have only glanced at it, Sir, and it was released today, but being on the Scrutiny Panel I did have prior knowledge; but it does still state 400 sheltered homes required. Could the Minister explain to people in the rest of the House, when I suggested the Sunshine site would be an ideal land for sheltered housing he said he would not support any of that sort of proposition. Could he explain why, Sir?

Senator T.J. Le Main:

The answer is that we are trying to provide sheltered housing that would be picked up by the Parishes in general to make the first tranche of it. Having developed the further trust development, then we would hit huge public subsidies and I felt that the only way that the States could benefit was to recover as much money as possible for the site and sell the site off for first-time buyers. It certainly will, in the long run, be hugely beneficial to what we are paying out in subsidies around.

6.1.2 Deputy of St. Martin:

The Minister knows that he sent out a letter to a number of tenants. Is he aware of the distress that has been suffered by those States' tenants who have received his totally inadequate and insensitive letter and did he take any advice from other Members, maybe, on how possibly to send out a letter which has caused a great amount of distress to a number of tenants who have now realised that their homes are going to be sold under them?

Senator T.J. Le Main:

No, Sir, I dispute that completely. The letter went out to a selected amount of tenants, 26 or 27 of them, indicating that officers would be visiting and working with them and will be visiting today. There will be, of course, one or 2 that will be concerned about the loss of their homes but I have given a categoric assurance that we will be working with all tenants to provide them with help, assistance and to make sure that they have a similar type of accommodation in another area that will meet their needs. After all, Sir, at the end of the day, we are providing social housing and I intend fully on the whole Property Plan - and, in fact, the next plan we bring out for social housing - to work with all our tenants and to work with all our clients to make sure that they are the first priority in all this. Unfortunately, it was very difficult in this area. We had to notify them that the Property Plan was coming out and there was a balance to be struck, but I am pretty sure, Sir, that at the end of the day the majority of the tenants will be very happy. Of course, some will not be happy, where people are living in wonderful properties, paying little rent and living in million pound properties. So, there will be some difficulties but, hopefully, with our professional and caring staff, we will meet the needs of our clients and we will make sure that they are, in fact, probably better off than what they are now in modern, new accommodation.

6.1.3 Deputy of St. Martin:

Is the Minister able to inform Members how quickly he intends to sell these houses because there are a number of people who are very distressed with the thought that the house is going to be sold under them?

Senator T.J. Le Main:

No, that is not correct. It is a 10-year Property Plan and it could be several years before those properties are sold and we intend to work fully - and I think I sent an email to one Member who was concerned in St. Aubin - that I intend to work with all the Parish Deputies, all the Constables and anybody else with their constituents on any of the issues, and to work completely with them to make sure that what we do is thorough and what we do is transparent and is in the best interests of all concerned.

6.1.4 Deputy A. Breckon:

The Minister has said in his statement that it is urgent and he does not want any delay but would he also agree that we have to be accountable for public assets and funding? We have heard an example this morning which is probably not the best example, but does he believe, Sir, that we must exercise, as well as the urgency and not having delays, a very great degree of a duty of care?

Senator T.J. Le Main:

Absolutely, Sir, and this is why we have already invited Deputy Power, who is going to be chairing the Scrutiny Panel on the investigation of this; and in relation to a question on the procedure to the House this morning of Deputy Breckon, Deputy Power has given us an assurance that within a few

weeks this could be easily scrutinised and come back to this Assembly. So I am confident, working with yourselves. We have met with Deputy Breckon and his Panel already, we have invited Deputy Power, who has come to see us, and I am very hopeful that everything will be transparently done and done for the benefit of all concerned.

6.1.5 Senator J.L. Perchard:

Would the Minister undertake to prepare a list of these million pound properties that he has in his social housing portfolio?

Senator T.J. Le Main:

Yes, Sir, they are in the Property Plan.

The Deputy Bailiff:

Any other questions? Very well, that concludes questions for that statement.

LUNCHEON ADJOURNMENT PROPOSED

Senator F.H. Walker:

Sir, sorry, there is an important presentation which I am putting on for all States Members now which of course we will be due to leave quarter of an hour earlier. Could I suggest that we might now postpone our reconvening until 2.30 p.m. rather than 2.15 p.m.?

The Deputy Bailiff:

Very well. Is the Assembly agreed to adjourn now and reconvene at 2.30 p.m. Very well, adjourned until 2.30 p.m.

LUNCHEON ADJOURNMENT

BUSINESS RESUMED

The Deputy Bailiff:

Members will see that we have a further delegation from the schools so no doubt Members will wish to welcome them. We return then to item K and we have now a statement from the President of the Chairmen's Committee.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY (continued...)

7. The President of the Chairmen's Committee regarding the report on Overdale: The Closure of Leoville and McKinstry Wards (S.R.1/2007)

7.1 Deputy R.C. Duhamel (President of the Chairmen's Committee):

The Chairmen's Committee has noted the content of recent emails circulated to all States' Members from the Minister for Health and Social Services in regard to the Scrutiny report on the closure of wards at Overdale Hospital. The Committee wishes to affirm its support for the report and indeed would like to place on record its appreciation of the high standard of research within it and of the balanced and careful way in which the Panel has approached the subject. They would also like to draw attention to the competent and professional support provided by the Scrutiny Officers. Great care was taken to ensure that the Scrutiny inquiry followed the relevant codes and protocols. The Committee believes that the report, as well as undertaking an excellent analysis of how an important decision was made, also makes a useful contribution to the debate surrounding the care of the elderly. The Committee is very concerned that the Minister's comments appear to be an intemperate attack on the very basis of Scrutiny. It is a fundamental principle of Scrutiny that

review topics are carefully considered before they are undertaken and the public interest is an important factor. In this case it seems extraordinary that the Minister should seek publicly to undermine a study by describing it as “a waste of public money.” Both the Committee and the Panel welcome comments upon the report. However, the Committee believes that the process of responding to the report should be carried out in a measured and reasoned way.

The Deputy Bailiff:

Any questions?

7.1.1 Senator S. Syvret:

Yes, Sir, I have a couple of questions to the chairman of the Panel which I think can be answered quite simply. Does he believe that the work of the Scrutiny Panels and the reports they produce should be evidence-based and testable on a factual basis? That is the first question. The second question is, does he, having criticised me for responding in the way that I did, believe that it is acceptable for members of a Scrutiny Panel to make statements of utter falsehoods to the local media about the Minister concerned?

Deputy R.C. Duhamel:

Yes, of course, as chairman of the Chairmen’s Committee and indeed a Scrutiny member, evidence-based scrutiny in the main is the way that we carry out our functions. We should not draw an innuendo or things that cannot necessarily be put to proof. On the second issue, I think the criticism that we are making, perhaps in this statement, is that carrying out exchange of comments by internet means or through email is not the established way or protocol with which we can treat both sides with the respect that is due to both sides.

Senator S. Syvret:

The Deputy did not answer my question. He speaks of the email exchange; what about the prior media exchange in which falsehoods were said about me?

Deputy R.C. Duhamel:

It is a question of judgment, of course, as to who has made those false statements and, indeed, in any review undertaken by the Chairmen’s Panel, the Scrutiny Panel themselves or the body of which the Scrutiny report has been named, one would expect that all of these issues be properly looked at.

7.1.2 Deputy R.G. Le Hérissier:

Would the chairman not agree that in cases - as indeed are faced often by courts of law where there is one set of events but there is the possibility of 2, indeed, sometimes more interpretations - that it is the duty of a Scrutiny Panel to draw attention to where there are differences of interpretation so that the Members of the House may indeed be the final judges, and that it is therefore presumptuous for people who are themselves the subject of such interpretation to precipitously jump in, in order to try and distort the findings of the Panel?

Deputy R.C. Duhamel:

I am happy for those words to be put in my mouth, yes, Sir.

7.1.3 Senator S. Syvret:

No one I am aware of has attempted to inappropriately influence the Panel’s report, but when it has so many fundamental errors in it does the Deputy suggest that he is really surprised that people should respond to it strongly? It is the case, Sir, that, yes, Ministers and others are subject to Scrutiny but Scrutiny itself also needs to be subject to scrutiny *ipso custodes* - and I am grateful to the Attorney General for his advice on the pronunciation; Latin was never a strong point at St. Helier Boys.

Deputy R.C. Duhamel:

The Latin phrase that the Minister refers to is “who watches the watchman” in the English translation. Absolutely right, Sir. The report as written should be evidence-based. However, when it is placed in the public domain we would expect, quite reasonably, the department and the Ministry to whom it refers to come back and to agree or disagree in the same way as the work was conducted in the first instance. In that sense, I mean evidence-based. If there are passages within the report where 2 different alternative interpretations can take place, as my Vice-President told the House, it is an acceptable point for Scrutiny to make sure that a level of interpretation can be placed. Perhaps that is as far as Scrutiny needs to go in those types of instance. However, I would agree with the Health Minister that, if indeed there are unsubstantiated claims made within the Scrutiny report, then I await his interpretation of those events and would sincerely hope that he could put pen to paper, or at least encourage his officers to do so on his behalf, to close the circle to make sure that somebody is indeed watching the watchman.

7.1.4 Senator S. Syvret:

Would the Deputy be pleased to know that I am in fact, in co-operation with my department, preparing a detailed evidence-based response to the Scrutiny Panel’s report which I hope to have lodged with the Assembly some time in the next week or so, and that out of that I will probably be proposing amendments, either to the Standing Orders or the draft Code of Practice for Scrutiny when it comes forward for approval?

Deputy R.C. Duhamel:

I am very glad to hear that.

7.1.5 Deputy R.G. Le Hérisier:

Would the Chairman concede that, based on a measured, reasoned and unemotional analysis, the report is indeed praiseworthy for the most part of a lot of actions of the Health Department, and by placing the emphasis upon a couple of instances and a couple of decisions, this has entirely distorted the intent of the report and its overall thrust?

Deputy R.C. Duhamel:

I would agree with that. We have been told in setting up Scrutiny Panels and a Scrutiny system that Scrutiny should operate as a critical friend and, indeed, in most of the reports that have been produced there are passages, where merited, which do heap praise upon the Ministers for carrying out the policies that we are scrutinising, and long be it so, Sir.

7.1.6 Senator F.H. Walker:

Does the Chairman believe that it is good practice for a member of the Scrutiny Panel to make comments to the media when a report is released which go far beyond the comments of the report itself, and does he share my regret that that was the basis upon which the *Jersey Evening Post* reported the matter and which has led, without any doubt at all, to an escalation of the disagreement between the Health Minister and the Scrutiny Panel?

Deputy R.C. Duhamel:

I would agree with the Chief Minister but would also counter that, as he told us at a recent meeting at lunchtime, it takes 2 to tango. Had the comments, perhaps inappropriately stated by the particular member of the Scrutiny Panel, not been made or pounced upon by the Minister then this whole thing could have been seen for what it is, which is probably a storm in a teacup.

7.1.7 The Connétable of St. Helier:

Would the Chairman not agree with me that this whole episode illustrates the dangers of hitting the Reply to All button on our computers and would he share with me that perhaps these disagreements could be kept between individual Members?

Deputy R.C. Duhamel:

Absolutely, Sir. If people would care to re-read the statement, this is, in essence, the main part of what we are saying. It is not right, in our point of view, to conduct messy discussions over the internet and we would ask for any such discussions or comments on particular reports to be carried out in a measured and reasoned way.

The Deputy Bailiff:

That brings questions to an end. We then come to a Statement which the Chairman of the Privileges and Procedures Committee will make concerning the Machinery of Government Review.

8. The Chairman of the Privileges and Procedures Committee regarding the Machinery of Government Review

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

Members will recall that on 21st November 2006 they adopted a proposition of Senator B.E. Shenton concerning a review of the first 12 months of ministerial government, together with an amendment of the Privileges and Procedures Committee setting detailed terms of reference for the review. I am making this statement to update Members on the manner in which the Privileges and Procedures Committee has decided to approach this task. P.P.C. has appointed a sub-committee under my chairmanship with Senator M.E. Vibert and the Deputy of St. Mary as members, to undertake the review on behalf of the Committee. We will in this way have representation from both the Council of Ministers and the Scrutiny function. The sub-committee met for the first time last Friday and has set an ambitious schedule of meetings to ensure that it can complete its work before the deadline set by the States of the end of June. The sub-committee believes that its principal role is to hear and collate the views of as many interested parties as possible and we are keen to know the views of States' Members on the matters covered by the review's terms of reference. I will therefore be writing to all Members this week reminding them of the terms of reference and inviting them to give their views in writing or in person at one of the public hearings that the sub-committee will be holding in the coming months. We are also hoping to hear the collected views of bodies such as the Chairmen's Committee, the Scrutiny Panels, the Council of Ministers, the Comité des Connétables, as well as those senior officers working across the States. In addition, we plan to invite comments from the public and external organisations. Although I described the review during the debate on 21st November 2006 as the first service of a motor vehicle, P.P.C. nevertheless regard it as an excellent opportunity to review how the new system of government has operated in the first year, and make recommendations to address any concerns that have arisen. I hope all Members will take the trouble to give us their views so that our final report can be as representative as possible of Members' experiences over the last 12 months.

The Deputy Bailiff:

Any questions?

8.1.1 Deputy R.G. Le Hérisier:

Would the Chairman acknowledge that, although a good job has been done in pulling together a review board, it may in fact be premature? Secondly, Sir, would he not acknowledge that, despite the tremendous changes brought in, we still have only half a system reformed, i.e. the composition issue is outstanding, and that the system cannot be seen as a fully functioning system? It is like trying to do an M.O.T. on half a motorcar.

The Connétable of St. Clement:

Although I personally agree with what the Deputy has said, the proposition adopted by the States was solely about the machinery of government and did not cover the composition and election of the States.

PUBLIC BUSINESS

9. Draft States of Jersey (Amendment No. 3) Law 200- (P.126/2006)

The Deputy Bailiff:

The first item on the agenda is Projet 126, States of Jersey (Amendment No. 3) Law, and, in relation to this, I understand that Senator Shenton has a proposal.

9.1 Senator B.E. Shenton:

I wish to propose that under Standing Order 87(2)(b) that this item be deferred from the present meeting, and also would request under Standing Order 27(2)(b) that the Council of Ministers put on record their thoughts with regard to this aspect of States' Members remuneration. You will remember that the Council of Ministers does, under the Strategic Plan, have some responsibility for reviewing the composition of the States, and also I feel that the terms of reference of the Remuneration Review Body is not constrained by Article 44, only the implementation of any recommendations are. So, I would like the Council of Ministers to put on record their thoughts before we debate this proposition.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Very well, does any Member wish to speak?

9.1.1 Senator F.H. Walker:

When the House set up Ministerial government the Members of the day went to enormous lengths to keep the executive function from the parliamentary function, and quite rightly so. It was precisely for that reason that it was Privileges and Procedures who took over, or who continued with, the responsibility for the pay of Members. It is not an issue for the Council of Ministers to become directly involved in; it is a parliamentary issue as opposed to an executive issue and that important distinction should not be blurred, which would be the effect of agreeing to Senator Shenton's proposal today. Sir, I would urge members to bear in mind that important principle, the Council of Ministers should not have any say in how the pay is allocated to States' Members, what Members receive and what they do not. It is a parliamentary matter, it is a matter firstly for P.P.C. and, of course, ultimately it is a matter for this House. But it is not, and nor should it be, a matter for Ministers and nor should it be referred to the Council of Ministers as this Member has suggested.

9.1.2 Senator M.E. Vibert:

In a similar vein, may I say I am a member of Privileges and Procedures and this is a matter very much for Privileges and Procedures which, of course, comprises both representatives of the Ministerial side and the Scrutiny side. It is the sort of issue that they are charged by the States with considering, and it is exactly the sort of issue which the Council of Ministers is not charged to consider. I believe that we have a report in front of us, P.P.C.'s report. Members are quite capable of making up their minds without the need for any further report from the Council of Ministers. I do not see what value at all a further report from the Council of Ministers would give because it is not in their remit at all; it is within P.P.C.'s remit. I believe we should just simply get on with the business in hand and decide whether this restrictive part of the Law which prevents the Independent Review Body looking at matters that I believe should be looked at and P.P.C. believe should be looked at - such as pensions and severance pay - and it will allow the independent review body to do what they were originally set up to do, which is to make recommendations on all aspects of States' Members remuneration and then it is up to the States whether to accept them or not. The question of differential pay is only one aspect and I believe it is not the most important aspect. I believe that is an issue that States' Members have plenty of information on and that there is no

point whatsoever, and it would be quite wrong to ask the Council of Ministers to comment on an issue that does not come under their remit.

9.1.3 Deputy R.G. Le Hérissier:

I did not want to get involved with this but there is a bit of smoke and mirrors about this in the sense that by opening it up we open up the issue of differential pay. I am not sure that highly charged political decision should be put into the hands of a remuneration body who were not tasked to move into political areas. However, I think they have done a magnificent job thus far. I, with much reluctance, agreed to Senator Syvret's view and have since accepted it.

The Deputy Bailiff:

Deputy, the matter before us is simply whether to ask for this to go to the Council of Ministers, not the merits of the work the Board is...

Deputy R.G. Le Hérissier:

No, Sir, I will be opposing the main proposition and it should not go to the Council.

The Deputy Bailiff:

Connétable of St. Clement, do you wish to reply to your proposition? Deputy de Faye? Can we keep this one short? **[Laughter]** This is a very simple matter as to whether this debate should go ahead now or it should be referred to the Council.

9.1.4 Deputy G.W.J. de Faye:

I thank you for your encouragement, Sir. **[Laughter]** I wonder in this respect whether the views collectively or even individually of the Council of Ministers are of any serious relevance. In the extremely unlikely event that in the due course of time the Remuneration Panel would recommend to the States that Ministers should be paid in a different way to other States' Members, and in the even more extremely unlikely event that the States would approve that, I would suggest that very few of the existing Council of Ministers would still be Ministers. Therefore, I really question why either my view or the view of any other Minister is of any relevance at all to this debate at this particular juncture in time.

9.1.5 Senator B.E. Shenton:

I will be very brief. I agree with Deputy de Faye that by the time it comes in it is unlikely he will be a Minister. **[Laughter]** I think the Chief Minister has stated in the media that Ministers should be paid more so he obviously does have a view.

Senator F.H. Walker:

Sir, on a point of correction, I have never said that and have never asked for an increase in pay for Ministers and nor will I ever do so. I make that point absolutely clear.

Senator B.E. Shenton:

I tend to believe what I read in the paper, at the moment anyway. **[Laughter]** As I say, I find it very strange that this is coming up when it is coming up because, as I mentioned, the Remuneration Committee is not constrained by this Article. The terms of reference are quite wide. It all seems a bit strange. I wish that we did have strong leadership and that the Chief Minister would say what he thinks but I will leave it to Members to decide.

The Deputy Bailiff:

The matter before the Assembly is whether to defer debate on this and refer it to the Council of Ministers to report. So, the appel is pour the proposition of Senator Shenton to refer it or contre. The Greffier will open the voting.

POUR: 6

Senator B.E. Shenton
Senator J.L. Perchard
Connétable of St. Helier
Deputy A. Breckon (S)
Deputy J.J. Huet (H)
Deputy S. Pitman (H)

CONTRE: 44

Senator S. Syvret
Senator L. Norman
Senator F.H. Walker
Senator W. Kinnard
Senator T.A. Le Sueur
Senator M.E. Vibert
Senator T.J. Le Main
Senator F.E. Cohen
Connétable of St. Ouen
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 Grouville
Connétable of St. Brelade
Connétable of St. Martin
Connétable of St. John
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy P.N. Troy (B)
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)

ABSTAIN: 0

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 P.V.F. Le Claire (H)
Deputy J.A.N. Le Fondré (L)
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy A.J.H. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy I.J. Gorst (C)
Deputy of St. Mary

Senator S. Syvret:

Sir, could I just ask a point of order whether Members need to declare indirect financial interest in this matter because it could have a bearing on a variety of different issues concerning Members' remuneration?

The Deputy Bailiff:

I would not have thought so, no. I will ask the Greffier to read the proposition.

The Greffier of the States:

Draft States of Jersey (Amendment No. 3) Law 200-. A law to amend further the States of Jersey Law 2005. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

9.2 The Connétable of St. Clement (Chairman of the Privileges and Procedures Committee):

Taking words of advice from you about the previous debate, I am going to be pretty brief as well, Sir. The purpose of this amendment to Article 44 of the States of Jersey Law is to enable the independent States Members' Remuneration Review Body to look at all aspects of Members'

remuneration and benefits. It is not about whether or not some Members should be paid more than others. In fact, it does not give that body any instruction on what conclusions they should be reaching but it does allow them to consider all the issues involved. I hope Members will take heed of this during the debate. There will be opportunities for Members to make representation to the Review Body at the appropriate time. To this end, P.P.C. intends to take steps to reconstitute the Remuneration Body. The previous Review Body found that Article 44 was an obstacle that prevented them looking at all aspects of Members' remuneration. I would remind Members that this Assembly adopted a proposition on 22nd June 2005 that amended the terms of reference of the Members' Remuneration Review Body to enable it to consider and make recommendations on any matter relating to the remuneration, allowances, benefits available to elected Members of the States as it considered appropriate. Despite this being passed by 35 votes in favour to only 3 against, the body, after receiving legal opinion, felt it was unable to widen its review due to the wording of Article 44. Passing this amendment will enable the reconstituted body to fully consider all aspect of Members' pay and benefits. I believe that the report attached to this projet covers all the issues fully and fairly. I therefore move for the amendment, but I will answer any questions.

The Deputy Bailiff:

Are the principles of the law seconded? **[Seconded]** Does any Member wish to speak on the principles of the Law? Deputy Le Claire.

9.2.1 Deputy P.V.F. Le Claire:

When I was a Member of the Privileges and Procedures Committee I, together with Deputy Troy, were tasked by the President and the Committee to look at setting up the Remuneration Review Board on the recommendation of the States having adopted a proposition by the ex-Senator Ted Vibert in relation to having an outside body making adjudication in terms of our remuneration and expense allowance. In so doing we interviewed a number of people that applied for the position. We finally settled on a group of people that were eminently qualified to do the work that they have done so far. Work proceeded and recommendations were made and awards were recommended and also instituted by the States in respect of increases. When it came to the past look at what the States' Members were getting, there was no recommendation in respect of pensions. In particular that was one area that many Members of the States of Jersey, and indeed members of the public who wanted to be States' Members, and others who were keeping just a general eye on the public purse thought that there should be provision for. Having discussed the issue with the Chairman and the other members of the Remuneration Review Board I was told that the reason that they could not recommend to the States of Jersey the consideration of the inclusion of pensions... the whys and wherefores should be discussed another time. The issue was not available for recommendation on the grounds, they informed me, that certain Members of the States of Jersey enjoy, as it is, certain pension provisions; some even from within ex-States employment. So, those people could not be forced to join a pension scheme that they would not want to be with and I was told that those were the reasons why there would then be a differential level of pay. That is why, they told me, that in order for them to consider matters, including pensions and other issues, this part of the Law would need to be changed. I believe that is why we are here today. The issues about whether or not we increase pay, reduce pay, give different levels of pay, or indeed provide pensions for Members, is an issue for another day. I certainly do hope that I am not going to be followed by other Members that are going to get into those issues. I have one question for the proposer of the proposition in respect of his speech when he said that the constitution of the membership of the Remuneration Board would be reconstituted in the future. While supporting the proposition may I ask in what respect does he mean reconstituted? Will it continue to be non-States Members as it is currently?

9.2.2 Deputy R.G. Le Hérissier:

Due to overexcitement I gave the speech earlier but I would just like to quickly summarise it: I have been influenced by Deputy Reed I am afraid. The point I would like to make, Sir, having considered this, having been embroiled in all this issue as Deputy Le Claire has said, and the States having moved towards a detached kind of system to remove as much of the emotion as possible from this, I think things have moved on, Sir. I think because of the deep public dissatisfaction that surrounds the States; I think because of the work that is now being done on the composition of the States it would be extremely impolitic to move ahead with this at this point in time. I think the public will conflate the 2 issues that here we are rewarding or attempting, rightly or wrongly, and I can see how the Chairman is trying to carve it, but it will see us as yet again trying to reward ourselves and sadly, Sir, wrongly, they will see an incompetent organisation trying to reward itself yet again. I would suggest at the moment, Sir, we leave the current structure in place, we leave the constrictions placed upon it by Article 44, and I look forward to hearing Senator Syvret's words as to whether he may have changed his thinking, but I will be listening to his words because we did accept his proposition last time round. I think it would be very, very unwise, Sir, to move on this.

9.2.3 Deputy J. B. Fox:

I too agree that this is not the right time to do this. We still have not completed the Clothier Review or the subsequent 'Son of Clothier.' We still have to look at various aspects including the appropriate number of States Members, how they are broken up, *et cetera*, the constituencies or the Parishes, *et cetera*. How you can ask any review body: even if this was to go through today, I do not believe that they could make any consideration that would be meaningful. Therefore I will vote against this today and ask that any consideration of this be forwarded to the time when we debate the whole thing together and not piecemeal.

9.2.4 Deputy C.H. Egré of St. Peter:

I am pleased to follow the last speaker. I just wish to emphasise if one takes the trouble of reading the report to note that this is not a passport to review the current pay structure now. The Committee agrees that the current pay structure will stay in place until 2008. What it does, it allows in future when the board sits that they can look at this without constraint, and it is the Review Board that came to us and said they felt constrained and they should not have been. I just remind you there is no immediate change.

9.2.5 Deputy G.C.L. Baudains:

In contrast to the previous speaker, unfortunately as a Member of the same Committee I do not share his view. I do not support the removal of Article 44, Sir, for various reasons. Because to my mind no matter how it is disguised it can only be about differential pay. There can be no other reason. I am concerned for a number of reasons, I will just mention a couple of them. Patronage; those Members who may be enticed by monetary gain could be inclined to compromise their principles in the process and we should not be creating that temptation. In my view the suggestion that matters such as pensions cannot be addressed under the present situation is a red herring. For a start, Sir, we are all self-employed. Self-employed people make their own pension arrangements as, indeed, I have done since I was self-employed in 1974. I see no reason why States' Members should be any different. We have noticed in the media, Sir... I do not share Senator Shenton's view on its accuracy, but I note the Chief Minister believes his Ministers should receive more money in recognition of the responsibility that they assume. I do not subscribe to that view either, Sir. Our income is an income supplement designed to compensate us for the time that we lose from attending to our own business. As such, Sir, responsibility does not, in my view, enter the equation. The responsibility factor should be part of the honorary part of our service. How would anybody determine responsibility anyway? Some Ministers, such as the Planning Minister or the Minister of Economic Development have huge responsibility. Other Ministers and Assistant Ministers have considerably less. How does one judge that? When it comes to work schedule, it does not necessarily follow that a Minister, or Scrutiny Chairman even, work longer hours than

other Members who may be neither Ministers nor Assistant Ministers nor in fact Panel Chairmen. Sir, it does appear to me that by removing Article 44 we have the danger of forming... subsequently to the board's assessment of what a Member should be paid. We have the danger that we could be forming an elite among States' Members by giving differential pay. Until, Sir, we have a party system - and I do not advocate one, I am not in favour of them - income support should remain, in my view, the same for all Members. So, therefore, there is no need to tamper with this. It does occur to me that if Ministers and perhaps Assistant Ministers have inherited some of the privileges enjoyed that the Presidents previously enjoyed such as free telephone services and so on, that should be sufficient. I really cannot consider that the removal of Article 44 would be of benefit to anybody. I share Deputy Le Hérisier's concerns about it. It certainly would not go down well with the public. I simply do not agree with it.

9.2.6 Senator S. Syvret:

I am pleased to follow the last speaker who dismissed the whole concept of there needing to be any kind of pension arrangement for States' Members. It is amazing what just having inherited £2 million worth of property does to your attitude to States' Members' remuneration. **[Members: Oh!]**

The Deputy Bailiff:

Senator, if that is meant to be any sort of personal...

Deputy G.C.L. Baudains:

If he would like to buy it at that price, Sir, I would certainly sell it to him.

The Deputy Bailiff:

Withdraw it, please.

Senator S. Syvret:

Yes, Sir, I will withdraw that remark. But the fact remains in general terms that a very, very substantial number of Members of this Assembly, as I have said in other contexts, are either cash or property millionaires or both. So before the public get too carried away with heaping great admiration upon those who condemn the idea of pension arrangements for States' Members just think about what their private circumstances might be. It is an easy thing to do. The Deputy also mentioned that we were self-employed as States' Members. I am not persuaded that that is the case. In fact I am not convinced that the refusal of the States to pay, as an employer would, the Social Security contributions over the years is not, in fact, *ultra vires*. As far as I am concerned I have been employed for the last 16 years as a States' Member; that is my job. I have been paid by the States to do it. The pretence otherwise is simply an artifice. The fact remains that I have been a States' Member now for 16 years. I took a pay cut when I became a States' Member from the earnings that I was getting at the time because there was very little compensatory remuneration available, so I certainly did not enter the Assembly to make money. Having committed myself fully to working as a States' Member for many, many years and often working 6 or even 7-day weeks and working 10 or 12 hours a day on some occasions I have committed myself fully to being a States' Member. Over that time I have accrued nothing by way of any kind of occupational pension. I do not think that is reasonable. I have never thought that was reasonable. I would make a similar point also about some form of resettlement payment for Members who retire or lose their office. I have known Members of this Assembly who have committed themselves to the job, lost in the election and thus are immediately rendered unemployed without any income whatsoever. Now, of course, members of the public and a lot of Members of this Assembly will be saying: "Well, you know, he is a politician. Why should one have any sympathy for them at all?" But the fact is some issues require leadership and they cannot always be popular and I think this is one of them. There is a saying that if you pay peanuts you get monkeys. I am not yet, Sir, resolved as to which way I will vote on this proposition. The claim by Senator Shenton that the Review Board were not

constrained by Article 44 is not borne out by the advice of the Attorney General. He says the Review Board are constrained by Article 44 and cannot therefore consider issues such as pension arrangements and resettlement payments. So, on that basis, I might be tempted to vote for the proposition. But, having said that, on the other hand it is true, and I will agree with what Deputy Baudains said on this point; some Members who may be Back-Benchers with no particular executive responsibility at all do work immensely hard, extremely hard, day in day out on behalf of their constituents and I have known over the years former Committee Presidents, Vice-Presidents, who frankly did next to nothing and everything was done for them by their department. So it is not necessarily easy to gauge how much work a person is doing merely by the position they hold within public administration. I would just ask that that point be borne in mind. To return finally, Sir, to Article 44, when I proposed originally this Article as an amendment to the States of Jersey Law I did so - I certainly drew it up and wanted to bring it forward - against a very, very difficult background. The background is going to be that the Assembly would elect the Chief Minister and that the Chief Minister would then choose all of his Ministers and he or she alone would then propose *en bloc* their entire slate of Ministers to the Assembly with the Assembly being able only to say yea or nay to the entire slate: not able to elect individual Ministers; not able to propose and perhaps elect alternative choices. I succeeded in amending that and we have the situation - and I am very glad that we do - whereby the Chief Minister has to propose individual Ministers and that can be challenged by the Assembly. The second factor that drove my concern in this issue was that there was every intention of having the doctrine of collective responsibility in place for the Council of Ministers whereby Ministers ultimately had to toe the Council of Ministers' line or resign. It seemed to me that to have the gift of a ministerial post in the hands of the Chief Minister when a doctrine of collective responsibility was applying would be immensely unhealthy, dangerous and very, very unsatisfactory in a non-party political environment of the kind which we operate. You would effectively be conferring to whoever the Chief Minister was the ability to *de facto* bribe Members of the States to be quiet, toe the party line, and then I will have you as a Minister and you can get an extra £20,000 or £30,000 a year for this or whatever. I was very, very concerned about those aspects but again, fortunately, you have moved away from going down that path. So, the fears and concerns that I had originally about patronage and the inappropriate influence that elevated levels of pay could bring to bear was adequately addressed in many respects. As I said, Sir, I am not sure which way I will vote on this. As far as I am concerned I am absolutely clear on this; it is not about elevated, differentiated rates of pay for Ministers. It is about being simply realistic about the basic employment considerations terms and conditions such as some kind of pension arrangement, some kind of redundancy pay, for Members of this Assembly who will have devoted often many, many years of very hard work.

9.2.7 Deputy J.A. Martin:

I certainly will not be supporting this. I think it is a very dangerous move and I think it is a case of what does a Minister do? We heard that earlier: who watches the watcher? How would I know necessarily which Minister works the hardest and why should they be paid more than a Back-Bencher or a president of Scrutiny. This is where I do think this is leading. I have always had a problem with the States of Jersey Law Article 44. I already think, Sir, it is, dare I say, abused if not slightly stretched. I mean: "No scheme, agreement or other arrangement." What Minister does not have an office in their Ministry; secretarial backup, the civil servant on a highly paid sum, Sir. The Minister of Health, Sir, does not, but that is out of choice, but I think every other Minister does. This is little perks. The Communications Office does not serve Scrutiny because there is no budget for it. So I think even with this Law Ministers, although it is not pay in their hands, do get a preferential advantage over Back-Benchers, and I would also like the Attorney General to interpret this for me because I do not believe it is stopping a Remuneration Board giving States' Members pension rights or resettlement pay because it says: "As long as we all get the same." I think it is political. I do not think - I would suggest - that many boards, whoever sits on them, would want to get into that depth of political discussion and move completely away. So I think that is a total red

herring, Sir. I will not support this because I can see it is going: “More money for Ministers, are we doing a good job?” We already had that over lunch and so far they have lots of green lights, again self-assessed. I am not disputing them. I have to study them first, Sir. But at the moment, as everybody before me has contributed, we do not have a full system. We had one election for Ministers, although the comments from the Minister for Health has said maybe in the future everybody will be standing for Minister if there was a bit more pay involved and who would want to be in Scrutiny or a Back-Bencher. I think the previous speaker, Sir, the Minister of Health was the one who said for the Executive to work you must have a very strong Scrutiny. But if they are not worth anything, and the worth is we are all elected States’ Members and our worth financially... and I am a single mother of 3 and I do not get a pension and I knew that when I took the job on and if I want one I supply one. So, I really think it is too soon and we should not go down this route. But I really would like that interpretation from the Attorney General. Thank you, Sir.

The Deputy Bailiff:

Mr. Attorney, do you want to respond to the questions posed of you?

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

Yes, if I am wanted to do so, Sir. I think Article 44 does prohibit the payment of different contributions for pensions for different Members and because most pension schemes depend upon the age of the person and the length of time that they have been in service it is very probable that there will be a different payment as the States’ contribution towards the pensions that Members would be entitled to. That is the view that I formed about Article 44 and that is the view I hold and I have expressed it. I am going from memory because I expressed it about 18 months ago when first asked to do so. It is perfectly possible if there is a political wish to pay pensions to find relevant language that allows it, but I do not believe that Article 44 does.

Senator B.E. Shenton:

Can I just point out to the Attorney General that the terms of reference of the remuneration review body does not preclude them from looking at pensions and other issues. Article 44 would just prevent them from implementing them. They could give a report to the States and it would be up to the States to remove them. The terms of reference of the remuneration review body are quite wide.

The Attorney General:

I think the review body took the view that it did not wish to review something which it had no power to recommend be implemented.

Deputy of St. Ouen:

Could I just ask the Attorney General to confirm it is Article 43 that we are speaking of, not Article 44.

The Attorney General:

I understand that it may be the renumbering in the revised edition of the Law.

9.2.8 Senator J.L. Perchard:

Briefly, Sir, I am firmly of the opinion that this is a valid and worthwhile proposition and a debate must be held, but why today? What is the urgency? Why the insensitivity? I see this subject fundamentally linked to the reform of the machinery government debate, particularly the area of restructuring the membership of this Assembly. I say to Members, when this House delivers on its promise to restructure the makeup of this House, as it must do, maybe that is the appropriate time in

which we could consider removing Article 44 allowing the Remuneration Board the flexibility which may be necessary, but only then.

9.2.9 Deputy G.P. Southern:

I, too, would like to point to the difference between the principal decision and enacting something. It seems to me that Article 44 allows the examination of all the principles in the world, quite rightly too, however I am prepared to accept the Attorney General's view of what is put before us. But in that case the answer is not to take Article 44 out but to amend it properly so that it fits. But overall it really is time for this Assembly to wake up and smell the coffee. Only this morning we had it confirmed in report 3 on States' Pay Policy and confirmed at question time that we will impose a 2.4 per cent pay rise this year, like Dornée, and if States' workers do not like it then if they manage to claim any more they will have job losses and service cuts all around them. That policy, we are told very firmly today, is to be repeated next year when it cannot be changed; nobody in this House can do it, we are committed to it. Who was awake when that was going through? But then we will also apply in 2008 and 2009. Four years of squeezing wages of the public sector. How long before the private sector join this bandwagon and start squeezing their own workers, no matter how much the economy grows.

The Deputy Bailiff:

Could I bring you back to the proposition?

Deputy G. P. Southern:

Sir, I am coming back to it as you speak. The fact is that ordinary workers out there, civil servants, teachers, nurses, manual workers are all sitting there looking at the prospect of 4 years of hell, and this Chamber is not discussing their condition. It is busying itself discussing its own remuneration and finding a back door way of getting more money for itself. That is how this will be perceived out there and that indicates to me, and should indicate to every Member sitting here, that the time to do that, whenever it is, is not now. Do not squeeze the ordinary workers out there, and we are doing, while allowing ourselves a far more comfortable time of it. Please, Members, reject this motion at this time.

9.2.10 Deputy G.W.J. De Faye:

I am somewhat baffled by the speeches that I have heard so far, not least by the last one. If anyone should wake up and smell the coffee it is Deputy Southern who it appears has completely overlooked the quite considerable level of pay freezes that have existed in the private sector for a considerable period of time. But we are not here to debate what is going on in public and private sector pay. This is to do with the pay of States' Members and the operation of the Remuneration Board and I wonder how many padlocks Members wish to slap on the Remuneration Board. It seems to me that Members have rather forgotten how the board works and why, in fact, it was instituted in the first place. The Remuneration Board to review States' Members' pay was instituted in the first place because of the sheer embarrassment of having to debate States' Members' pay in this Chamber. All I have listened to this afternoon so far have been a number of propositions on variations on the theme of how States' Members may be paid. This is precisely the sort of debate the Remuneration Board was set up to avoid. So why do we persist in putting all our small agendas forward? Because I suggest to Members that we are missing the point. The point is a clear and simple one and there are a number of elements to it. First of all, as Senator Syvret has quite clearly pointed out, he brought in Section 44 as an amendment because of the concerns over the possibility of the Chief Minister having patronage over sections of the House because there was again a possibility that ministerial pay may be different to the pay of ordinary Members. That turned out not to be the case and it has also turned out that the way that the Ministers are elected was not the way that was originally proposed. So, that is all changed. Nevertheless Article 44 went through before those changes, incidentally, as - as it were - a double-locking mechanism to make

sure that the Chief Minister could never get his hands on patronage. That is now all history and I really ask Members what is it that we are worried about? Deputy Le Hérissier is concerned about what he thinks the public might think about what we are thinking and therefore we should not proceed with this. Let me again remind Members what one of the functions of the Remuneration Board is. It is to gauge the views of the public about what they think about the way States' Members are paid. The public are directly engaged. Any member of the public who has a strong view on States' pay may address the board directly with their opinion. That seems to me to be an entirely wholesome and acceptable approach. States' Members with their concerns about aspects of how they are remunerated or not rewarded are also entitled to put their views to the Remuneration Board. But let us not forget the board then makes its recommendation, and the recommendation is put before the States, and States' Members may decide to accept those recommendations or reject them. So we have an ability, every one of us in debate, to reject whatever the Remuneration Board recommend. Whether that is pensions, whether that is redundancy payments or whether that is no increase in payments at all, whether it is a reduction in payment, whatever the recommendations are the matter still remains in the hands of the States. Therefore I ask Members why are we reluctant to allow the Remuneration Board what they are simply asking for, which is an ability to cast their remit further? They have simply said, they are saying to the States: "We wish to discuss wider matters in respect of States' Members' remuneration but Article 44 makes that a pointless exercise because we are not in a position to make recommendations that could possibly be implemented. Therefore there is no point in wasting our time on looking at what those recommendations may be. The Panel are quite clearly asking the States simply for one thing; a level of flexibility in how they conduct their business on our behalf in an independent way. I find it extraordinary that some Members here seem to think it is appropriate at this moment in time, due to insensitivities, that we should prevent the Panel from taking an independent view in their role in public service, which includes consulting the public. What could possibly be wrong with that? Because at the end of the day if this Chamber does not like what the Panel is recommending it may reject it or accept it. I commend the Constable of St. Clements when he got up and said: "I do not want to take too much time over this" and it is really quite astonishing how much time we are taking up, and I regret having to speak at this length. This is a simple matter. Support the recommendation from Privileges and Procedures and allow the Remuneration Board to do its work as it sees fit and if you do not like its recommendations reject them.

9.2.11 Senator M.E. Vibert:

I listen to this debate with increasing sadness because many of the speeches I have heard have not addressed what this proposition is about. What they have been addressing is something totally different. We must be clear what we are being asked to do. We are not being asked to decide whether Members should be paid differently, some Members more than others. We are not being asked whether Ministers should be paid more, whether Scrutiny Panel Chairmen should be paid more. What we are being asked today is whether we should continue to place restrictions on an independent body that we asked to review States' Members' remuneration. I think it is very unfortunate that this issue has been hijacked first by the media and made into something it is not. It is not an issue of ministerial pay. Then that has been taken up by some Members of the House who seem more concerned with perception than reality. I support this amendment because what this amendment purely seeks to do is to remove an unnecessary restriction on the independent body that was introduced in 2005 and this restriction that was introduced went far further than either the proposer, Senator Syvret, or States' Members voting for it realised. I do not think any Member, at least no Member has spoken to me, and certainly Senator Syvret did not believe that putting in this Article would restrict the review body from looking at such issues as pension and resettlement pay. But, as we have heard from the Attorney General, who advised the independent review body, it does, and that review body says it is not prepared to look at such issues on that advice as it stands while Article 44 still exists. The States set up the independent review body and gave it terms of reference and then mistakenly, I believe, introduced an Article in a different area in the States of

Jersey Law that put a restriction on those terms of reference. The independent review body merely recommends to the States of the day. I believe we should allow the review body to do the work it is meant to do, which is to carry out its terms of reference and to look at all areas and then it will be for the States of the day to decide whether they wish to approve those recommendations. What this does not do, it does not instruct or even ask the review body to consider any particular area. It does not ask them to consider pay, it does not ask them to consider pensions, it does not ask them to consider resettlement. What it does is remove the restrictions so that they can decide what they wish to look at under their original terms of reference. I am afraid I have seen some posturing, Sir, among Members speaking against this in the House today. I do not think it does them credit. I think they should leave their perceptions behind. I think they should look at what P.P.C. are trying to achieve which is an improvement and which will allow an independent body set up by this House to do what it was set up to do and they should have the courage of facing up to reality, not pandering to media hype and perceptions and support the removal of this restrictive covenant.

9.2.12 The Connétable of St. Helier:

At the risk of “pandering to media hype” it is interesting to note that both of the last 2 speakers who spoke at some length - and I am not going to - are both Ministers and more interestingly they both used to work for the media. That makes it all the more surprising to me that they cannot see the simple headline that will come out of today’s debate: “The States pave the way for higher pay.” If I was a sub-editor that is what I would put on it. I think the other thing that made me a little sad was that while one of the Ministers was speaking the visitors to the gallery left the Chamber and I can just imagine them getting home this evening and the parents saying to them: “Well, what were the States discussing when you visited the Chamber?” “Well, they were discussing higher pay.” “That is funny” the parents will say looking at their newspaper - because I have not seen the front page but I suspect somewhere in the paper is news of the States’ revised statement or new attitude towards the current pay dispute. I can just see the sort of cynical smiles across the dinner tables this evening around the Island. I am sorry if that is pandering to perception or pandering to the media but the fact is communication is important. We heard about that over lunch from the Chief Minister, and I think what will be seen as voting ourselves the ability to pay ourselves more, making that decision this afternoon would be a retrograde step. It would be an example of extremely bad communication and I certainly will not be part of it.

9.2.13 Deputy P.N. Troy:

This proposition is brought forward by the Privileges and Procedures Committee. It is not brought forward by the Council of Ministers. As Senator Vibert said this is not about differential rates of pay and those Members who consider this to be about pay differentials are incorrect. I think the Members, I know that others have looked at this pension provision, but the Civil Service has access to pension provision, it has access to ill health retirement provision and death in service and widow’s benefit. States’ Members have absolutely none of these and the work that States’ Members do is obviously up to the government of this Island. I really do believe that those are issues that the Remuneration Review Body should look at in the future and I think that Members who believe that this is a conspiracy whereby P.P.C. and the Council of Ministers have colluded to achieve an outcome specifically to the benefit of Ministers... I really do believe Members should throw that theory away; and some of the speeches clearly show that Members of this Assembly are highly suspicious of this and believe in a conspiracy theory, and obviously that is not the case. It is nonsense and I urge Members to think about this as a proposition brought forward by P.P.C. It has reviewed this, it has looked at this and wants to take this forward and we have already been reminded that the review body feel that they are constrained in this. Members really must throw away the conspiracy theory thoughts and Members should consequently support this proposition which is important for future Members of this Assembly. Even if Members here are not interested in pension provision, ill health retirement and widow’s benefits and so on, think about it for future Members of this Assembly.

9.2.14 Senator T.A. Le Sueur:

There is inference in the remarks of the Constable of St. Helier which disconcerted me when he suggested that maybe our decision would be influenced by the way in which a newspaper sub-editor might report it. I hope that is not the way in which I would make a decision. I will make a decision on what I believe is the right thing to do for the Island and for the States. There is little I can add to what Deputy de Faye has said which is more or less what I was going to say myself, except to add that I think if I were considering being a member of this Remuneration Board and I was told: "Oh, by the way, there are so many constraints to doing this job that you will only be able to do half the job" I would not bother to volunteer for it. I think if you want people to do this Remuneration Board work, which is demanding work and gets very little thanks, we can at least give them all the tools they need to do the job, and to deny them what is an essential part - the flexibility to make wide-ranging comments which may or may not be accepted - unless we give them the right to make those comments I can understand why if I were asked to do it I would say: "No, thank you. It is not worth the bother."

9.2.15 Deputy J. Gallichan of St. Mary:

Various Members before me have attempted to draw the House's attention back to the core issue here. I would like to use the word that I use most often recently, that is focus. Focus not only on what the proposition is asking you but have a think about specifically what it is not saying. This proposition is not mentioning higher pay; that is not an issue. It is not even mentioning the provision of pensions. It is certainly not mentioning the differential pay for different Members of the House in different capacities. All this proposition will allow is the Remuneration Panel to have a free and comprehensive review of all aspects of States' Members' remuneration. It is even quite possible that they would recommend no increase. We have not even thought of that. What I am concerned about, and some Members here have said they are concerned about what the media will think, well that does not worry me. What the electorate, the people I represent would think, that does. I am more concerned about what happens if we do not remove this. Are we in fact serious about removing the restrictions on the Panel or do we want to keep a little bit of control over what they are doing? There is an old saying that is quite appropriate here I think: "You do not have a dog and bark yourself." What on earth is the point of charging a separate body to look at our pay and then telling them areas that they are not allowed to look into? To me, Sir, that just does not seem right. I would just ask Members again, please focus on what you are being asked here, support the proposition if you feel you can because it is a way forward and to say that we should not be doing this now, before the reform of the composition of the States is decided... in fact we are looking almost at a lead time here. We are looking towards a board to be constituted now for the remuneration of the new House in November/December 2008. What this allows is clarity for the persons who would consider standing in those elections. It has absolutely no relevance to all but 6 of us who are in this Chamber today. Thank you, Sir.

9.2.16 Deputy of St. John:

I think we are in real danger here of this type of debate making the public even more sceptical about this whole issue, so I really hope that this will be drawn to a close very soon. Constable Crowcroft was quite right in that there is never a good time to spin a story out like this. If you pick your time, Constable, you will be accused of burying bad news. It has to come out at some stage. It needs to be discussed. We have an independent review board, they should be allowed to get on and do their job as other Members have already said. I do not think we should let the media dictate as to how we do that. That is a matter for the board and we must not be dictated to by the media. We are answerable to the public and unfortunately the media often skews the story, albeit they do report the facts, and I have been accused of accusing them of not reporting the facts in the past. They do report the facts, but it is the way they spin it out, and if you allow them this opportunity, which I am sure they are going to love today, it will just make it worse. I would urge Members to

draw this debate to a close, vote with your conscience; focus, as the Deputy of St. Mary suggested, and let the Remuneration Board get on with the job we have charged them with the task of doing.

9.2.17 Deputy P.J.D. Ryan:

To make a link between States' Members' pay, electoral reform and the makeup of the numbers of the States' Members and the Assembly I think is very, very dangerous. The cost of running our Parliament, after all our Parliament is the most fundamental foundation of our democracy, even for the most cost-conscious of cost-cutters, either elected or indeed un-elected, even they would surely agree that individual States' Members' pay and conditions must always, always be secondary to what is right and best to deliver good government, effective government and the best democratic franchise that we can design. I do not think that it is helpful or healthy to mix these issues by insisting that pay and conditions be debated at the same time as electoral reform and the makeup of the Assembly. Finally, Sir, I can quite understand the reluctance of a Remuneration Board member to spend valuable time, costly time, considering items that they may not be sure have the overall support of the States. Sir, I will be supporting the proposition, thank you.

9.2.18 Deputy S. Pitman:

This debate may not be about pay differentials of Members but it will put in place the apparatus for it. Sir, at a time when we are offering our manual workers only 2.4 per cent pay rise and we can only offer low paid workers a low minimum wage of £5.40 per hour - not a liveable wage - I feel it rather hypocritical that we are discussing the subject and I feel public perception would be the same. Thank you, Sir.

The Deputy Bailiff:

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

9.2.19 The Connétable of St. Clement:

Thank you, Sir. I would like to thank all Members for taking part in the debate. Unfortunately as usual we got completely off the subject. The subject was repealing Article 44 and not whether Members should be paid more or less and I think a number of speakers have made that very point. I would also point out to the Members - I think Deputy Southern, Deputy Pitman and Deputy Martin - that States' Members are already restricted to 2.5 per cent increases. They are not getting any more. The recommendation was 2.5 per cent and that is what the States' Members get so bear that in mind. I have gone slightly off the subject but nevertheless we are pay-constrained as well. I thank, as I said before, all the Members. I would like to say just one or 2 comments and to address one or 2 Members. Deputy Le Claire asked what the makeup of the remuneration body would be and that would be independent members, not Members of the States as it is at the moment. I also agree with Deputy Ryan saying that there is no connection between the election of the States and the makeup of the States. The body is not being asked anything about that. They are asked to look at the remuneration of Members. They are not asked to say how many Members there should be. If there is only one Member they would still be asked to look at that recommendation, if there was 100 Members it would also apply.

The Deputy Bailiff:

May I just interrupt for a moment? I had it in mind to ask P.P.C. to bring a proposition that in future to be a Senator you should learn how to whisper. I must again ask the Members not to make so much noise. The Senatorial benches are always at fault and it is discourteous to other Members to speak so loudly.

The Connétable of St. Clement:

Thank you, Sir. The reason that we are making recommendation now, as the Deputy of St. Mary has pointed out, is to enable the body to be constituted. It would allow the body to ask the public - and one of the things that they are going to do is to ask the public - what they feel about

remuneration for Members. It is in no way, and I said in my speech, it is in no way to do with differentials. It is in no way to do with increases. There is always a possibility, is there not, that after they have reviewed what Members do, after they have asked the public, they may recommend a reduction in Members' pay. That is always a possibility. After all we are not putting any restraints on up or down. They may even think that Ministers should be paid less than other Members of this Assembly. But I am not trying to put words into their mouth and I hope you do not think I am. I think that most of the concerns have been addressed by members of the Committee that have spoken and I thank them for doing so. As I said at the beginning I will not elaborate too much on this. The proposition is to allow the body to have a wider remit than they have at the moment. We do know, having spoken myself to the Chairman of the body, that they did feel constrained. They did feel constrained by Article 44 and they were not able to look at all aspects of Members' pay. So I do ask Members to consider that. We are not looking... and I must just make this point, that the only reason that the media will be reporting on whether we should increase Members' pay or not is because the Members themselves have put it into the public domain by speaking about it now. If they had not mentioned it it would not have been reported in the paper as such. Having said that, I think I have said enough now. I ask Members to really consider what they are voting for and vote in favour of removing this restriction. I ask for the appel, Sir.

The Deputy Bailiff:

The appel is asked for in relation to the principles of the law. I invite Members to return to the Chamber and the Greffier will open the voting.

POUR: 23

Senator S. Syvret

Senator L. Norman

Senator F.H. Walker

Senator W. Kinnard

Senator T.A. Le Sueur

Senator P.F. Routier

Senator M.E. Vibert

Senator T.J. Le Main

Senator F.E. Cohen

Connétable of St. Mary

Connétable of St. Clement

Connétable of Trinity

Connétable of Grouville

Connétable of St. Martin

CONTRE: 28

Senator B.E. Shenton

Senator J.L. Perchard

Connétable of St. Ouen

Connétable of St. Saviour

Connétable of St. Peter

Connétable of St. Helier

Connétable of St. Lawrence

Connétable of St. Brelade

Connétable of St. John

Deputy R.C. Duhamel (S)

Deputy A. Breckon (S)

Deputy J.J. Huet (H)

Deputy of St. Martin

Deputy G.C.L. Baudains (C)

ABSTAIN: 0

Deputy P.N. Troy (B)	Deputy R.G. Le Hérisssier (S)
Deputy P.J.D. Ryan (H)	Deputy J.B. Fox (H)
Deputy of Grouville	Deputy J.A. Martin (H)
Deputy of St. Peter	Deputy G.P. Southern (H)
Deputy G.W.J. de Faye (H)	Deputy S.C. Ferguson (B)
Deputy P.V.F. Le Claire (H)	Deputy of St. Ouen
Deputy A.J.H. Maclean (H)	Deputy J.A. Hilton (H)
Deputy of St. John	Deputy J.A.N. Le Fondré (L)
Deputy of St. Mary	Deputy D.W. Mezbourian (L)
	Deputy of Trinity
	Deputy S.S.P.A. Power (B)
	Deputy S. Pitman (H)
	Deputy K.C. Lewis (S)
	Deputy I.J. Gorst (C)

The Deputy Bailiff:

Very well, that brings the debate on that matter to an end.

10. Draft Employment (Amendment No. 3) (Jersey) Law 200- (P.134/06)

The Deputy Bailiff:

So, we move next to the Draft Employment (Amendment No. 3) (Jersey) Law - Projet No. 134 - in the name of Minister of Social Security. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Employment (Amendment No. 3) (Jersey) Law 200-. A law to amend further the Employment (Jersey) Law 200-. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

The Deputy Bailiff:

I call upon the Minister to propose it.

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

Yes, Sir, it was anticipated that I would not have returned to the House as I was attending a funeral. I asked my Assistant Minister to prepare for this debate so would like to ask him to continue if he is quite happy with that.

Deputy P.N. Troy (Assistant Minister for Social Security):

This change to the Law allows the Social Security Minister to set Tribunal Members' remuneration by Order. When we initially set the Chairman's daily rate of pay it was agreed that the rate for Commissioners of the Royal Court would be a good comparator in order to attract and retain competent, qualified people. The rate for Commissioners of the Royal Court is set by Order and has increased 3 times since the Tribunal Regulations were drafted whereas the Tribunal Chairman's rate has not increased since 1st April 2004. The current requirement to amend the Regulations to increase the remuneration of Tribunal Members is considered to be unnecessary and time-consuming and may lead to the Tribunal Members' pay falling behind an appropriate rate. So, Sir, I propose that the amendment to provide that the Tribunal Members' remuneration can be determined by Order instead of Regulations. I make the proposition.

The Deputy Bailiff:

Are the principles of the law seconded? **[Seconded]** Does any Member wish to speak on the principles of the Law? Very well, all those in favour of adopting the principles kindly show. Those against. The principles are adopted. I have to at this stage request the Chairman of the relevant Scrutiny Panel as to whether he wishes to have the matter referred to him, that is Deputy Breckon, in relation to your Panel?

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

No, Sir.

The Deputy Bailiff:

Do you propose the Articles *en bloc* then? Are they seconded? **[Seconded]** Does any Member wish to speak on Articles 1 or 2? All those in favour of adopting Articles 1 and 2 kindly show. Those against. The Articles are adopted. Do you propose the Bill in Third Reading? Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the bill in Third Reading kindly show. Those against. The Bill is adopted in Third Reading.

11. Draft Highway Encroachments (Amendment No. 2) (Jersey) Regulations 200- (P.141/06)

The Deputy Bailiff:

We come next to the Draft Highway Encroachments (Amendment No. 2) (Jersey) Regulations - Projet 141 - in the name of the Minister for Transport and Technical Services. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Highway Encroachments (Amendment No. 2) (Jersey) Regulations 200-. The States, pursuant to Article 3 of the Highways (Jersey) Law 1957, have made the following Regulations.

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

Sir, I hesitate to describe this as a minor piece of housekeeping because the last time I did that as Vice-President of the Legislation Committee when I sought to raise dog licences from £5 to £8, at the time a bargain in inflationary terms, the debate went for over one and quarter hours and had its barking elements. So I will have to describe I think the Highway Encroachments (Jersey) Regulations 1957 and the amendment to it as probably one of the more obscure aspects of the Island's legal framework. Regrettably so obscure, as Members will come to learn, that it evaded previous incarnations of my department, namely Public Services and Environment and Public Services. But I do hope because of its obscurity Members will not ask me any questions on this that are too detailed. The Highway Encroachments (Jersey) Regulations 1957 mainly allow minor encroachments over the public highway such as windowsills and water pipes, lamps and flags, but the Regulations also state that the Highway Authority may place raised paving or other material on any carriageway to assist pedestrians or direct traffic, providing that in the case of a main road a

plan has been approved by the States or, for a by-road, the Parish Assembly. Now, in respect of the overall approach to our highways and infrastructure our Laws, Orders and Regulations are numerous. This particular requirement has, I am sorry to say, been overlooked, certainly in modern times, both by my department in its previous incarnations and, indeed, by the Parishes. It is, in fact, a very onerous requirement requiring a full States Assembly to approve very minor items of work such as what are known technically as “splitter islands” at a set of traffic signals or, indeed, the installation of a pedestrian refuge. The department is, in fact, unaware of any such works ever being presented to the States on the basis of these Regulations. On realising this requirement, the department, in its previous incarnations, consulted the Comité des Connétables and a report was presented to the then Public Services Committee in November 2003. That Committee decided that the Regulations should be changed to remove the requirements and to replace it with a requirement to consult between the Connétables and the then Public Services Committee, which would be more consistent with modern legislation such as Road Hump Regulations. Amending legislation was being arranged by a contract traffic engineer. However, I regret to inform the House that he returned to the United Kingdom before completing the work and, therefore, as Members will have already worked out from the original timeline I gave of November 2003, there has been a considerable delay in the item being carried forward by another officer. Nevertheless, the appropriate legislation has now been prepared and amended to take account of Ministerial government, and I put it before the House now. In essence, this removes the requirement to put these very minor issues before a full States Assembly and allows, in effect, main roads to be considered by the Minister of Transport and Technical Services, and Parish roads to be considered by the appropriate Connétables. I commend the proposition to the House, Sir.

The Deputy Bailiff:

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

11.2 Connétable K.P. Vibert of St. Ouen:

As the Minister has said the Comité des Connétables have been involved in consultation on this matter for a number of years and have agreed that there should come forward confident that the rights of a Parish Assembly to make decisions on its own behalf are not in any way affected. Thank you, Sir.

11.3 Deputy J.B. Fox:

I am delighted to see this coming forward today. For some time now I have been very concerned about the traffic island at the bottom of Wellington Hill at the junction with St. Saviour’s Road. I have spoken to the Vice-President of T.T.S. (Transport and Technical Services) on the subject. But now they have finished all the other road works and put lovely new islands in the middle - which come under this for coming directly into being - could they do the other one as well? That is the one that most children cross, and it is the one that is not lit up. So it gives me an opportunity to bring that piece of work forward at the same time as supporting this. Thank you, Sir.

11.4 Deputy G.C.L. Baudains:

It does occur to me from the facts as outlined by the Minister that over the last 50 years, or possibly slightly less, a raft of road modifications has been carried out illegally. Could I have a view, Sir, of whether this legislation is retrospective or not, or does it mean that all those illegally constructed pieces of roadwork now have to be taken up?

The Deputy Bailiff:

Does any other Member wish to speak?

11.5 The Connétable of St. Helier:

I would like to add my support to other Members who have spoken and point out 2 things: firstly, that a great deal of road improvements carried out by Parishes are, of course, taken to the Parish Assembly annually in the form of the Rates Assembly where parishioners are asked to approve budget for various works. Secondly, that this Law does not prevent, as I understand it, either the Minister, or any individual Connétable, from bringing to the States Assembly or the Parish Assembly matters that he or she believes are important and should be aired more widely than as otherwise would be the case. Thank you, Sir.

The Deputy Bailiff:

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

11.6 Deputy G.W.J. de Faye:

I am very grateful for all the Members who have spoken. I hope, if Deputy Baudains will allow me, I will decline his offer to consult the Attorney General on just how retrospective this Regulation may or may not be in case the Attorney General gives me an answer that I would not wish to hear. **[Laughter]** Consequently, Sir, I would just like to go to the vote.

The Deputy Bailiff:

Very well. All those in favour of adopting the principles of Regulations kindly show. Those against. The principles are adopted. Do you propose the Regulations *en bloc*? I beg your pardon, I have to ask the Chairman of the relevant Scrutiny Panel. Deputy Duhamel do you wish to have this referred to you?

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

No, Sir.

The Deputy Bailiff:

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

Deputy G.W.J. de Faye:

Yes, Sir.

The Deputy Bailiff:

So, you propose Regulations 1 and 2. Is that seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? All those in favour of adopting the Regulations kindly show. Those against. The Regulations are adopted. Do you propose the Regulations in Third Reading?

Deputy G.W.J. de Faye:

Yes, please, Sir.

The Deputy Bailiff:

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

12. Draft Restriction on Smoking (Vending Machines) (Amendment) (Jersey) Regulations 200- (P.150/2006)

The Deputy Bailiff:

We come next to the Draft Restriction on Smoking (Vending Machines) (Amendment) (Jersey) Regulations - P.150 - in the name of the Minister for Health and Social Services, and I will ask the Greffier to read the citation.

The Greffier of the States:

The Draft Restriction on Smoking (Vending Machines) (Amendment) (Jersey) Regulations 200-. The States, in pursuance of Articles 1, 1(b), 1(g) and 2 of the Restriction on Smoking (Jersey) Law 1973, have made the following Regulations.

12.1 Senator S. Syvret:

The purpose of these Regulations is to restrict the operation of tobacco vending machines at events that are exclusively for the attendance of those under the age of 18, the States having agreed previously and having, indeed, enacted legislation that prevents the sale of tobacco products to people below the age of 18. I propose the preamble, Sir.

The Deputy Bailiff:

Are the principles for the Regulations seconded? **[Seconded]** Does any Member wish to speak on the principle? Very well. All those in favour of adopting the principles kindly show. Those against. The principles are adopted. Do you propose the Regulations *en bloc*? I do beg your pardon.

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

No, Sir.

The Deputy Bailiff:

Deputy Breckon, you do not wish to have this referred to? I shall get better at this process.

Senator S. Syvret:

I propose the Regulations *en bloc*, Sir.

The Deputy Bailiff:

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

12.2 Deputy R.G. Le Hérisier:

Has the Minister been able to confirm that these machines can, in fact, be disabled if they are on premises normally used by the over-18s?

The Deputy Bailiff:

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

12.3 Senator S. Syvret:

Yes, Sir, they can.

The Deputy Bailiff:

Very well. All those in favour of adopting Regulations 1 and 2 kindly show. Those against. The Regulations are adopted. Do you propose the Regulations in Third Reading?

Senator S. Syvret:

Yes, Sir.

The Deputy Bailiff:

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

13. Draft Crime (Disorder Conduct and Harassment) (Jersey) Law 200- (P.151/06)

The Deputy Bailiff:

I come next to the Draft Crime (Disorderly Conduct and Harassment) (Jersey) Law - P.151 - in the name of the Minister for Home Affairs. I will ask the Greffier to read the citation.

The Greffier of the States:

The Draft Crime (Disorderly Conduct and Harassment) (Jersey) Law 200-. A Law to create an offence of threatening, abusive, insulting or disorderly conduct and an offence of harassment, to enable restraining orders to be imposed in respect of persons convicted of harassment, and for related purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

This legislation is a vital step towards enabling the police to remedy low level public disorder and harassment and in so doing improve the quality of life for Islanders. It seeks to fill perceived gaps in our current legislation and brings Jersey closer in line with U.K. legislation, notably the Public Order Act 1986 and the Protection of Harassment Act 1997. At present in Jersey, public order is primarily enforced using common law powers notably arising from the offences of being drunk and disorderly, committing a public nuisance, and causing a breach of the peace, or acting in a manner likely to cause a breach of the peace. Offences also exist within statute law: policing of roads, parks and beaches. There are, however, gaps in the powers provided by such legislation which can be demonstrated by the difficulties experienced by police officers and the magistrate when dealing with the variety of public order incidents that commonly occur. It may be useful for Members to expand slightly on the criteria needed for these above offences to have been committed. For drunk and disorderly, the disorderly conduct needs to be supported by evidence beyond all reasonable doubt that the offender was drunk and therefore not fully in control of his actions. A person could clearly be disorderly yet, in the absence of other criteria, not committing any offences. Breach of the peace is a common law offence which requires participating in violence, either against another person or property. The offence of conduct likely to cause a breach of the peace also covers situations where an outbreak of violence is imminent due to a person's actions or behaviour. Police officers, therefore, have powers to deal with people where violence is imminent, but there are instances, however, where the behaviour of an individual may cause some violent reaction, but where such reaction is considered too remote in terms of time or distance to be considered imminent. In the case of public nuisance, a person offends under this common law offence if he or she does an action which damages the health, comfort, morals or comfort of the public. Although this can be a wide-ranging offence, in practice, prosecution is often hampered by the need to show that more than one person has been affected. In other words, the police generally need to have at least 2 formal complaints which is not satisfactory for a solitary member of the public who has been adversely affected. The policing of roads, parks and beaches legislation covers a range of low level nuisances in public such as littering, spitting, dog fouling, and so on. It also includes behaviour or clothing in a manner likely to offend public decency, but this tends to restrict itself to the more sexually offensive side of things and is, therefore, very limited in scope. Police officers can also arrest for the common law offences of refusing to obey the lawful orders of a police officer, or obstruction of an officer carrying out his lawful duty. If a legal, albeit socially unacceptable, act was being carried out an order to cease such action would not be lawful, particularly if there was no reasonable concern that the commission of any other offence was imminent. Thus, it is possible to find a range of situations where someone may act in a manner which is unacceptable to society, yet not unlawful under current legislation. Someone could be insulting, abusive or threatening to individuals where no outbreak of violence is likely, where no drunkenness is present, resulting in socially unacceptable behaviour for which the police have little, or few, powers indeed to deal with it appropriately. The difficulties currently faced, I think, in terms of public disorder can be best demonstrated to Members, Sir, by some examples. In my first example: it is 11.00 p.m. and a group of 5 young men leave a licensed premises in the town centre and start singing and shouting in

the street. Although slightly intoxicated, they are not drunk and neither their co-ordination nor speech is affected. Other persons are walking by in the street and appear to be ignoring this group. Despite a request from the police officer to desist such behaviour, the group continue to sing and shout as they walk on up the street in a manner which the officer considers disorderly. Although the behaviour may well be considered disorderly there is not evidence that they are drunk. They are not demonstrating violent tendencies, so there is no breach of the peace. Indeed, there is the absence of complaints because people are walking by ignoring them, so there is doubt in the officer's mind as to whether a public nuisance offence is being committed. The officer could consider arresting the group members for refusing to obey lawful orders of a police officer, having failed when requested to desist from such behaviour. But there may well be a very strong defence case put forward owing to the absence of any complaints about the behaviour, no public nuisance has occurred, and no public nuisance is about to occur. So the arrest may, therefore, be deemed unlawful and the officer open potentially to allegations of assault if force was necessary during the arrest. I think this example, Sir, portrays some of the issues that officers have to consider on the street which tends towards confusion and hesitancy, as it is not clear under existing legislation whether or not offences are being committed in the circumstances, despite the fact that a reasonable person may consider the actions of that group disorderly. In another type of example, a male, say of Asian origin, is walking along the pavement by himself when a car drives past. The occupant of the car is sober but is shouting out racial abuse and vulgarities towards him. The car continues driving on and is not seen again by the pedestrian. Clearly, this is socially unacceptable and the vast majority of society, I believe, would find such behaviour abhorrent. The pedestrian, himself, would probably be very much insulted and upset. Are there any offences for which the occupants of the car could be prosecuted? The behaviour was disorderly, however the occupant was sober. There was no concern that there would be an imminent outbreak of violence as the car pulled away. Only the pedestrian heard the abuse; nobody else was affected. None of the offences of drunk and disorderly, breach of the peace, or public nuisance seem to apply in this scenario. Again, therefore, there is no strong case that an offence has been committed. In a third example I will use, Sir, an elderly female with a walking frame is walking down the street and a young, sober male, for whatever reason, walks up within 6 feet of her and is verbally abusive to her about her appearance before turning and walking away, leaving the poor woman in tears. Again, clearly, socially unacceptable and abhorrent behaviour, but no drunkenness, no indication of intended violence, and the elderly female is not in a position herself, of course, to respond with violence, so we are in a situation, again, where we have no strong evidence of an offence being committed that we can prosecute. In addition, Sir, currently under Jersey law, there is no offence to deal with stalking or causing harassment where one person may be affected and where violence or a breach of the peace is unlikely to occur. Again, by way of example, let us take a female who has spurned the advances of a male admirer. Despite her pleading with him to leave her alone, he persists in waiting outside her place of work each evening. When she leaves he calmly follows her at a distance of about 50 metres without speaking or approaching her further. He is clearly aware that she knows that he is doing it as eye contact is often made and she regularly breaks down in tears on seeing him. When she has turned to confront him he turns his back and walks away. This continues day after day for a number of weeks, causing her extreme distress. His behaviour cannot be said to be disorderly, and he is, in fact, quite sober. No outbreak of violence is ever imminent owing to the distance he keeps, his calm nature, and the fact that he turns away when she attempts confrontation. No other persons are affected; just the one individual. Again, there is no strong case here of an offence being committed, and the police would be in an extremely frustrating position of having to advise her to take out a civil injunction, or having to wait until something further happens before they could lawfully act. Notwithstanding, of course, that they could give suitable words of advice to the male, but they would have a quite limited ability to back this up. By contrast, Sir, the legislation before Members today, the Crime (Disorderly Conduct and Harassment) (Jersey) Law 200-, seeks to fill such gaps in the police's ability to deal with public disorder and stalking, and it does this by legislating against threatening, abusive, or insulting words or behaviour and harassment. It states

that a person commits an offence if they engage in disorderly behaviour, or use words, display visible representations, or behave in a way that is threatening, abusive, or insulting within the hearing or sight of a person likely to be caused alarm or distress. Such offences may be committed in public or in a private place, including a dwelling, except those instances where both parties concerned are within the same dwelling. An offence is committed if a person intends such actions to be disorderly, threatening, abusive, or insulting, or if he or she is aware that they may be disorderly, threatening, abusive, or insulting. It will also legislate against someone pursuing a course of conduct that amounts to harassment of another person, where he or she knows, or ought to know, that their conduct would amount to harassment. Provision is also made for restraining orders where a person has been convicted of harassment. The draft law mirrors similar provisions in the United Kingdom Public Order Act 1986, and in so doing it mirrors the defences. It will be a defence for an accused person to prove that they have no reason to believe that there were any persons within the hearing or sight of them who were liable to be caused alarm or distress, or that the conduct was, in fact, reasonable or was done within the requirements of the statute. These are wide-ranging to ensure appropriate proportionality. Sir, a significant section of our community is concerned about anti-social and disorderly behaviour and many rate it as one of their highest concerns in respect of their quality of life. This proposed legislation is necessary for the police to be able to confidently, and comprehensively, tackle the wide range of incidents that occur to combat anti-social behaviour and disorderly behaviour of the type I have just described. So, therefore, Sir, I propose the preamble to the Bill.

The Deputy Bailiff:

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

13.2 The Connétable of St. Helier:

I must say how much I welcome this legislation and would compliment the Minister on the way in which she set out its purpose. I think, in particular, when she was giving the 3 case studies, although clearly details have been removed to protect the identity of the persons, it was very clear to me that these were real cases she was talking about and, obviously, I am sure all Members will join with me in deploring that kind of behaviour and welcoming the fact that the police will now have the necessary powers to, if not prevent, at least discourage this sort of behaviour from occurring. Any Member who lives in the urban area of the Island - and, of course, I am not just speaking about St. Helier, but the other Parishes which have urban areas - will know how easy it is for lives to be disrupted and our constituents' lives to be severely disrupted by the aggressive, harassing, anti-social behaviour of a minority, one hopes, of people out there in the streets. One hears so often that there is little the police can do other than giving words of advice in so many complaints which lead to the arrival of the police on the scene, one understands get no further than that. So I think it is high time we have this instrument available to us, and I believe that it will be used and it will make an appreciable difference to the quality of life of all Islanders and, indeed, of visitors to the Island. I think at the same time it, perhaps, should be said that the Home Affairs Minister is at the forefront of efforts to encourage more orderly behaviour; less anti-social behaviour, and that while this important stick is being offered to the judiciary today, there are many other forms of incentivising good behaviour, encouraging responsible behaviour, which are currently being explored by her department and, indeed, by the Safer St. Helier initiative that her officers are participating with the Parish of St. Helier and other private sector bodies in. I believe it is that combination of new legislation such as this piece before us today, and other efforts to educate the public into what behaviour is appropriate and what is not appropriate, that will bring forward a much safer society and a society which does not lead to the kind of inconvenience and distress that the sort of examples the Minister has just given us give cause to. So I welcome this new law and I will be giving my full support.

13.3 Deputy R.C. Duhamel:

I am reminded, in my youth, when we used to be told by my parents: “Sticks and stones will break your bones, but names will never hurt you.” I am wondering very much, Sir, whether or not this is political correctness and the nanny State gone mad. Picking up on one of the points made by the previous speaker, Sir, I would have preferred more carrot and less stick. I am not sure how I can sensibly support this. Thank you, Sir.

13.4 Deputy J.B. Fox:

I think that when the Minister said basically the appropriateness of utilising it - which is having the stick in the legislation but having the carrot in the officers, or anybody else for that matter, persuading people not to use such profound language that offends not only them but other people that might be around - I think that it is important that we bear in mind that this is an important tool and I shall be voting for it. But I also, coming from a background of preventions, see it as a tool that can be used for preventing an offence from occurring, or from continuing, and hoping that we are not going to get a rush of people being marched to the court - whether it is the Juvenile or the Magistrates Court - and that some of these can be dealt with at suitable Parish Hall Inquiries or wherever, so the offence does not occur again as opposed to something that has been referred to as a stick all the time. I think there is a lot of merit in this and the Minister and her officers should be applauded in bringing it forward, but there is a balance that we have to make sure is achieved. Thank you, Sir.

13.5 Deputy G.C.L. Baudains:

Firstly, I have to say some of the scenarios used in support of this legislation by the Minister are, in my view, not credible. For surely in the example that you are abused in the street and somebody is hurling verbal abuse at you, what do you do? You go and telephone the police and say: “I have just been abused.” Where is your proof? It simply cannot happen. Sir, I believe to cite such cases was unhelpful. Also, in my view, somewhat sexist to portray the case of a spurned man pursuing a woman: why not the other way around? It rather surprised me from a Minister known to be wedded so closely to the principle of non-discrimination. Nevertheless, Sir, this legislation does appear, at first glance, to have merit, but I do have some concerns which a couple of previous speakers have alluded to. It does seem not only the case that there may be problems proving a case under this legislation but I am concerned about equity; about fairness. Will the police ignore most breaches, but just pick on one or 2 people? Because given the enormity of the offensive behaviour these days, Sir, one may presume that if the Law was policed fully, it would constitute an enormous challenge to our police from a manpower aspect, that is, Sir, unless the risks for breach of this Law are going to be arbitrary which would be, in my view, quite undesirable. So what I would like in the Minister’s summing up, Sir, is to tell us what exactly are the implications on manpower, because quite frankly I cannot believe the statement on page 4 where it says: “There are no manpower implications.” Surely, Sir, that cannot be correct.

13.6 Deputy of St. Martin:

I was most surprised initially to read, when I received the draft way back in July, that the Island was still relying on common law, but no doubt the police officers have done very well. I think most police officers will be able to cope with dealing with it under common law. However, I do welcome new legislation. I think it is most important we have it, and long overdue. I think it gives clarity, and to Deputy Duhamel, a fellow scrutineer, I would say that this has a good balance. We did discuss it on our Scrutiny Panel and some of the members were a little bit concerned whether, indeed, the balance was wrong. But I do think it is a good balance. It is going to protect the interests of the police and, most importantly, the interests of the public. So I think, again, it is good. I am particularly delighted to see stalking and harassment coming into legislation. It has always been a very difficult one to police, because it is a case of trying to find the evidence, but if you find the evidence you then do not have the offence - something in statute - to carry out the role. It is very difficult to enforce, so that is very good. Also, the restraining order and the breach of

orders, I think that, again, has to be a plus for the Island. So, all in all, can I say that as far as I am concerned, the legislation, although a bit late in coming, is welcome. Long overdue, but it is good to have it. I shall be supporting it.

Deputy J.A.N. Le Fondre:

I would like to reserve my right to speak afterwards, but I would like to seek a point of clarification from the Attorney General, if that is possible. Just by way of context, my slight concern is in relation to page 11, Article 2, I guess it is 1(d).

The Deputy Bailiff:

Can I just be clear, Deputy? You will get an opportunity to speak of the detail when we come to deal with the particular Article?

Deputy J.A.N. Le Fondre:

Yes, Sir, but I would like to know a legal position if possible, Sir.

The Deputy Bailiff:

Yes. For the moment you can only go into details to the extent it is necessary to consider the principles of the law.

Deputy J.A.N. Le Fondre:

It is quite a strong principle. The query I have, Sir, in the context, is it states: "The person commits an offence if he or she displays any writing, sign, or other visible representation within the hearing or sight of the person likely to be caused alarm or distress." I would say that I previously asked a query of the Attorney General - and he has recently answered - and the query I had at the time was as a principle, and I have to use examples I am afraid, the thing that merely came to mind was the house at the bottom of Mont Cochon owned by Mr. Bisson which had lots of Bible quotations written on the outside. I wondered, Sir, if it could be argued that that could be insulting or threatening to an atheist or someone of another religion or, equally, in other words, could it spread further, Sir, beyond public order, which I support, to effectively have an impact upon freedom of speech which is the principle I am concerned about. Examples might be controversial writings like Salman Rushdie, or satirical cartoons, portrayals of Allah or Mohammed, for example, or adverts for the Life of Brian. That is the context. My further query, Sir, is as follows for the Attorney General, and it is in 3 parts: can we be absolutely certain that the Law could not, in future, be used to limit the printed word or freedom of expression? Number 2, if we are to trust the police to be sensible in the application of this Law, how does that fit in with, I believe, the example in the U.K. relatively recently of, I think it was a Christian couple who were arrested for distribution of leaflets expressing their views on, I believe, homosexuality? I hasten to add I do not necessarily condone those views, but I do condone their right to express those views. Thirdly, Sir, in - and maybe this is too detailed, I do not know - Article 2(5), would a better level of protection have been offered by the prosecution having to demonstrate that the defendant was unreasonable in their action, rather than the defendant having to demonstrate that their behaviour was reasonable? Thank you, Sir.

The Deputy Bailiff:

Mr. Attorney, are you in a position to respond to those?

H.M. Attorney General:

I think the right place to start is just to look at the offence itself in Article 2: "The person commits an offence if he or she uses words that are threatening, abusive, or insulting, behaves in a threatening, abusive, or insulting way, engages in disorderly behaviour, or displays any writing, sign, or other visible representation that is threatening, abusive, or insulting, that person doing any of those things within the hearing or sight of a person likely to be caused alarm or distress by the words, behaviour or writing, sign or other visible representation." So that is really an objective test

as to whether a person has done any of those 4 things. I suppose that part of the reason for sub-paragraph (d) - because the Deputy referred to writing on somebody's house - is that there would not be very much difference, one might think, between a person saying something which was threatening, abusive, or insulting, or holding up a placard on which the words were shown which were also threatening, abusive, or insulting. So it would be odd if sub-paragraph (d) did not appear. The second thing to point out in relation to the offence is that there is a guilty mind - a *mens rea* - which the prosecution have to show. If you go to paragraph (3) of Article 2: "A person commits an offence under paragraph (1) if, in the case of (a), (b) or (d) [so that is not being disorderly, but that is using threatening words; behaving in a threatening way, and so on] if he or she intends his or her words or behaviour, or the writing, sign, or other visible representation to be threatening, abusive, or insulting, or is aware that it may be threatening, abusive, or insulting." So in answer to the comment about the Biblical quotations on the house on Mont Cochon, it may well be that the Crown would have difficulty in proving that that particular owner of the household either intended to be threatening, abusive, or insulting - as I am sure he did not - or even that he was aware that it might be threatening, abusive, or insulting, because he may well not have been. So there is an important mental element to that part of the offence. In the case of 1(c) - being disorderly in the mental state - is the person must be aware that it should be disorderly. So it is really against that background, I think, that there were 3 questions: can we be sure that the Law cannot be used for preventing freedom of expression in the distribution of the material? Well, it is very difficult to be sure about anything in any world, but there are a series of protections which are built into the process. The first of them is that the police are public authorities for the purposes of the Human Rights Law, and therefore they are required, in the exercise of their duties as police officers, to have regard to the convention rights which are now enshrined in domestic law. One would expect the police to have regard to those convention rights, and to act accordingly. But on the assumption that they did not do so, then the next stage is that the case has to be prosecuted. At the moment, day-to-day decisions, and particularly if one is looking at decisions in the Magistrates Court where it seems to me it is likely they will be taken, these decisions will be taken by Centeniers. So the second line of defence, if you like, would be that the Centenier, himself, has to decide whether he thinks that the conduct which he is considering is such that it is right to charge it. Of course, he or she has the ability to go either to the Law Officers or to the legal advisers at the police station in that connection. The third protection is that, of course, even if there is a prosecution, it comes to the court, the court or jury - with jurors it would be in this case the Magistrates Court likely as not - is there and will have to decide whether or not the offence is made out. For my part, I approach the matter on the basis that one would certainly expect the court to be reasonable in the way in which it approaches a particular prosecution. The court is given some guidance under paragraph (5) in the sense that the accused can establish a defence by showing that he or she did not think there was anyone within hearing range or sight likely to be caused alarm or distress, or that his or her conduct was reasonable, and gives a reasonable explanation for why he or she did what they did. But, of course, I accept that in the context of both - the decision to bring a prosecution and the decision of the court if a prosecution is brought - there is an element of interference with the rights of the citizen, because he or she may have been arrested by the police and held for such a time until that prosecution comes forward. Really, what it is for the Assembly to balance is the potential downside if the police do not perform their convention rights against the upside in creating a structure for dealing with public disorder of the kind the Minister has set out. That really is what the Assembly has to decide today. The second question, I think, was probably more one for the Minister than for me, but unless I misunderstood it, it was: can we rely on the police? I think that is more a matter for the Minister than for me. The third one was: should the Crown not have to prove that the conduct was unreasonable, rather than that the conduct was reasonable? This sort of reverse burden often causes quite a lot of difficulty when laws are being drafted, but the reason for it in this sort of case is that very often the Crown will not know what has guided the particular defendant. He may have a particular explanation which, when he gives it, everyone will say is: "How reasonable?" But it does not follow that until you get that explanation out of him you can

prove that he was being unreasonable, because there may be a range of potentially reasonable explanations for what the accused has done. That is the reason why it is framed in the way it is.

13.7 Senator M.E. Vibert:

I am pleased to be following Deputy Le Fondre, because it was similar issues and concerns I wish to raise. I raised them at the Council of Ministers with the Minister, and I would seek assurances that I sought then. I am concerned about not the intended consequences of this Law - which I fully support, in seeking to stop the behaviour described by the Minister - but possible unintended consequences. It is to do with civil liberties that I have this concern. I will not go over all the issues that Deputy Le Fondre did, but I may be so bold as to divert slightly from the Attorney General when he referred to Article 2 and described it as being objective. I think part of it is subjective, and the subjective part is within the hearing or sight of a person likely to be caused alarm, distress by the words, behaviour, or writing, sign, or other visible representation. I think that is very subjective. Like the Minister gave a number of examples, I would like to give a possible example which I am sure we all agree should be stopped. But we do have demonstrations even in Jersey, and I have seen placards that have caused me distress. I am sure other people have, depending on their points of view. Because they caused me distress, I do not think they should be a criminal offence for displaying it. You could have placards held up by some animal rights protesters, some anti-abortionists who will put up placards calling certain people "murderers". Even doctors. I think that can be very distressing to some people. But the only defence appears to be because it would meet "uses words that are threatening, abusive, or insulting"; I think "murderer" would probably be covered in that. "Within the hearing or sight of a person likely to be caused alarm or distress by the words, behaviour or writing"; I think that is quite likely, so your defence would be - because you know when you are doing it that you are likely to be causing offence, let us be quite honest - that the conduct was reasonable, and you would have to prove that. As the Attorney General said one of the thornier issues, certainly in British law, is that generally the onus is on the prosecution to prove something; not for the defence to prove their innocence. I look for assurances from the Minister, but I think the real issue is it is not the intending consequences of this Law I am concerned about, it is the unintended consequences. I am particularly concerned that it was based on a U.K. law. I believe legislation was used at one time in the U.K., whether rightly or wrongly, to arrest some anti-Iraqi war protesters and to get them out of the way before the visit of an important person. Now I am not suggesting in any way that our police force would ever do that. But what I am saying is that I am concerned that this is a law that would leave that possibility open. I want to hear from the Minister - assurances again - what protection there is going to be against this Law being abused; not used. I listened to the Attorney General and I am afraid it is too late to make the argument once the arrest has been done; once the charge has been made. You are putting people through a lot. Now I want a law that is going to stop some of this disorderly conduct that we all disapprove of. What I am concerned about is that we may be getting a law that allows other things to be stopped that in the future could affect our civil liberties. Now I received certain assurances at the Council of Ministers, and I hope those assurances will be given again. But we need to be very careful, I believe, about giving wide-ranging powers. But though they will have intended consequences, which we agree with, we have to be careful they may lay the way open for unintended consequences, and I would like some assurances from the Minister that this Law will not, and has safeguards against being misused to curtail civil liberties.

13.8 Deputy J.A. Martin:

It is a pleasure for once to follow the Minister for Education, because I agree with nearly everything he said. I do also have a couple of questions - I need reassurance. I was one of the people on the then Social Affairs Panel that had a problem with this thinking we were giving too much power to the police. We have managed for 21 years and we have heard from Deputy Fox and the Deputy of St. Martin who both, in their former lives, were policemen, and very well respected. But I am afraid we are dealing with different types of people now. They are doing a very good job,

but many are very young and inexperienced and we are giving them a lot of power. There is a sentence, penultimate in the second paragraph which says: "Breach of the peace offences will require an outbreak of violence or imminent outbreak of such." Well, I am very sorry, I can see the whole of the weighbridge taxi queue being arrested on a Saturday night. This is what this Law will allow, Sir. I really think it is going a bit too far. I would also like assurances where Deputy Baudains was coming from. This part I do agree with, it is supposed to help with now having a lack of an offence to deal with stalking or causing harassment. But it is no good if someone is being stalked and there is one entrance into their flat, and the person who has stalked or harassing them has followed them there. To call the police it takes 3 to 4 hours for somebody to turn out, because this says there is no manpower or financial implications. But if we are going to have the power to arrest all these extra people, take them to court, hold them in our very overcrowded police station or prison, I really cannot see how this last paragraph is able to stand up. At the moment, I have more doubts than I have support for this proposition, as I always have. We are signing away the rights to a police force that basically now, like with everything - schools and everything - depends on league tables and how many convictions there are. This is a very strong piece of legislation that will go to support that. So unless I can be convinced by the Minister, I am very sorry, Sir, I will not support this proposition. Thank you.

13.9 Deputy S.C. Ferguson:

Just a short one. I concur with the comments made by both the Minister for Education and Deputy Martin because we have talked about threatening, abusive, or insulting. Well, now "insulting" is a word with a myriad of meanings. What is insulting for one person need not be insulting for somebody else. We do have a number of sensitive blossoms in this House who **[Laughter]** can be insulted at the drop of a hat, and then there are others who just sort of shrug their shoulders and say: "It goes with the territory." We have seen the lack of commonsense that was applied with a drunken youth at Snow Hill recently, and I am concerned that with no commonsense applied we are going to end up needing a prison that is double the size because so many people are being insulted.

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

I will be joining with other speakers. At first glance, this proposition does appear reasonable and I, with other Members, am aware of the need to deal with the anti-social behaviour in town. However, upon close inspection, it appears that this piece of legislation is a sledgehammer to crack a nut and this, indeed, creates a very wide offence. The question we must ask ourselves today is: will it be used in an oppressive way? There are a number of articles or, certainly, sentences in the Minister's report which I am unsure about. As Senator Vibert has already said: "Displaying visible representation of anything that is threatening, abusive, or insulting. A person commits an offence if he or she intends [that is important] such actions to be disorderly, threatening, abusive, or insulting, or is aware [take note of that] that they may be disorderly, threatening, abusive, or insulting." To return to the Minister's 3 scenarios, and I say this in all seriousness, unfortunately, her first scenario could have been me on my stag weekend. I think we need to think very carefully about the implications of what we may be permitting with this Act. I welcome the offence to do with stalking, and that, I believe, is long overdue. But as I have intimated already, I am concerned about the freedom of speech element and the civil liberties element. To add to Senator Vibert's list regarding visible representation, it may be that placards outside places of worship some would find insulting. It seems to me that this Law is asking this Chamber and we as Members to trust: to trust that the police will act sensibly, to trust that prosecution will not prosecute bad or seemingly silly cases, and to trust that the court or jury may acquit appropriately. How can the Minister assure us that this trust will be well placed? Thank you.

13.11 The Connétable of Grouville:

Very quickly, I think Deputy Ferguson stole most of what I was going to say, but I would just like to say that this is not a law too far; it is a word too far, and that word is "insulting". Insulting is an

insult in range on a degree from 0 to 100. An insult can be a mild insult, it can be a medium insult, or it can be a real insult. Where would politicians be if they could not insult each other? This House would be empty. **[Laughter]** Sir, I am going to vote against this Law as it is going one step too far and we are putting too much emphasis on what can be. It could curb quite mild-mannered arguments and mild-mannered discussions. Thank you.

13.12 Deputy of St. John:

I think Members perhaps are getting a little bit confused here about the powers of the police and the powers of the courts. At the moment the police have powers to arrest in a number of different ways, and one of them at the moment is failing to obey the instructions and orders of a police officer. So when somebody is causing perhaps a breach of the peace, or doing something they really should not be doing, the police instruct them not to do it any more. If they do not obey, then the arrest order is “failing to obey the police officer”. But when it gets to court, then it is up to the court to decide as to what that person was doing based on the evidence from the police officer and any witnesses. I think Members are getting confused here between some actions and the arrest, and the subsequent court case. It is up to the court to decide as to what that person has done with the evidence provided, not the other way around. The police are trained to be proportionate with the way they approach the situation. They do use a great degree of commonsense in sometimes very difficult circumstances and, occasionally, yes, they might get it wrong. Then it is up to the court to decide as to whether that is the case or not, not the police officers. So we must not get confused here between the actions of the police and the actions of the courts. If we do not have this type of legislation in place it makes the court’s job quite difficult, and that is what we are talking about here. The police already have the powers to arrest, but they are arresting for the wrong types of crime. They need to have clarity here, and this is what the Law does: it provides that clarity so when it goes to the court the courts have a much more clear-cut reason for their arrest and then can proceed appropriately. Thank you, Sir.

13.13 Deputy P.N. Troy:

I must say that I share Senator Vibert’s concerns and, of course, a great deal of this will come down to the way in which the police interpret the Law, in the way in which they carry out their duties. I do sincerely hope that they do not get carried away and start proceedings where there are only minor infringements. Certainly, in many cases, I think, in carrying out their duty they will be able to give warnings to people and advise them of the Law and send them on their way and ensure that those people do not carry it out again; they would make a record of it. Then, I think, persistent offenders at some later date, if someone keeps coming back with racial abuse or any other type of abuse, then one could take it forward. But, certainly, probably only the most serious of offences should immediately be taken forward. Minor offences: give someone a warning, send them on their way, and wait until they re-offend before taking further action. I think, also, someone said that Magistrates need to take care here. Yes, hopefully, Magistrates will throw out any cases which do not deserve to be in court and, of course, we have to rely on their judgment. I was going to vote against this, but I am considering voting with it to put the Law in place, and I really do hope that the police, in exercising their duty, are very moderate in the way in which they proceed.

Deputy of St. Peter:

It is a question I would like to ask of the Attorney General, which is very important in the way I am going to vote. Having taken up the role at one point when I came back to Jersey as a Centenier, I regarded that position as paramount of this sort of way that justice is given out to people. Now we have had a lot of discussion today about the severity of the offence, and it can be picked up at a fairly minor level, or it can be very serious. What I would like to do is to find out from the Attorney General can this be dealt with at a Parish Hall Inquiry, although the case is proven that this person did do the offence?

The Attorney General:

Yes, it can. The Centenier has a 2-part test to apply when he decides whether or not to prosecute: the first is whether or not the evidential test is passed, is there such evidence that is more likely than not to result in a conviction? The second part of the test is whether there is any public interest reason not to prosecute. Guidance has been given by my predecessor as Attorney General to Centeniers as to how they should exercise that discretion; what factors they should take into account. So, in an appropriate case, the Centenier may decide not to prosecute. In other cases he may decide it is right to prosecute.

13.14 Deputy G.P. Southern:

I am aware from my time serving on the Home Affairs Committee - oh, joyous days - that the police do, indeed. That Committee was very concerned with 2 issues: one was harassment, which has been a long-standing thorn in our side, and the ability to deal with that harassment; and the second was disorderly behaviour. The key there was sober but disorderly behaviour. You cannot arrest somebody for being drunk and disorderly if they are sober, and that was a problem, because people behaving in a disorderly manner did not have to be drunk. My problem that comes with this, and here I must agree - I think it was Deputy Le Fondre, and I am surprised I should agree with him on almost anything, but I definitely agree with him on this one - the key goes down to, I am quite happy with, 2(1)(a), (b) and (c): they are all about disorderly conduct or behaviour. My sticking point comes with (d) in the form of displaying any writing which can be interpreted as threatening, abusive, or insulting. Here, I think, we are in severe danger of limiting people's freedom of speech and ability to demonstrate a particular action. I think, it seems to me, that this has been picked up from an increasingly repressive U.K. regime and I think that part (d) needs to be altered or to be removed. Until it is, I cannot vote for this.

The Deputy Bailiff:

Does any other Member wish to speak?

13.15 Senator F.H. Walker:

I do well understand the reservations about civil liberties, basically, which Members have expressed, but I would go back to the core of what is being proposed here. This is a very important Law, and it is a very important objective for the Council of Ministers and, indeed, for this House, to ensure that the streets of St. Helier are, indeed, quieter and more pleasant places for law-abiding residents to go about their business, to enjoy themselves, and to walk without fear of harassment, stalking, or whatever it may be. I am impressed with the very strong support shown by the Connétable of St. Helier who is a very much civil liberties-minded Member of the States, but who has studied this Law. In his perspective from the Town Hall he has given it his full support for very good reasons, because he is aware that we must act - we must act - to ensure that the streets of St. Helier are as we would want them to be. At the moment, it is very clear from the examples given, and I certainly do not share the view, I think, of Deputy Baudains that the examples are just fictional. They are hard possibilities and, indeed, as we heard from another speaker, quite likely, and in some cases may even be based on real instances. At the moment the police do have one hand tied behind their back. There is no doubt about that at all. The range of offences they can charge anyone of behaving in the way illustrated by the examples, a range of offences, just do not work. So we are in a position where, at times, the police are almost powerless to prevent a genuine and strong attempt at harassment, at noise nuisance, at threatening behaviour, whatever it may be - stalking - whatever it may be. They do have a hand tied behind their back. This Law takes that hand from behind their back and puts it where it should be, and gives them the ability to take action where action is necessary. Commonsense, as other speakers have said, is the key here. What we have to do is trust in the system that commonsense will be applied in the first instance by the police, and as we have heard from the Attorney General, the next step would be almost certainly a reference to a Parish Hall Inquiry. If the Parish Hall Inquiry decides that no real offence has been

committed, hopefully end of story, and then it is down to the courts to decide whether or not a sufficiently serious offence has been committed or not and to decide, if it has, what the penalty may be. So we are looking at a commonsense approach here to what we have all acknowledged is an increasing problem. Statistics may not necessarily totally bear it out, but a widely held perception, a real concern expressed by the public, is that the streets of St. Helier are not the place that they used to be and not the place that we want them to be. Let us face it, we want St. Helier to be a shining example of where people can live, work, and enjoy themselves without fear of harassment or stalking, or whatever it may be. Because, particularly, of the ability to refer a problem in the first instance to a Parish Hall Inquiry, for once, I disagree with Deputy Gorst of St. Clement that I do not believe that this is a sledgehammer to crack a nut. I believe it is a very sensible, entirely necessary, step forward to meet the objectives of the public to ensure that we can all enjoy the streets of St. Helier to the full. Sir, I would remind Members that if they vote against the principle, then they will be voting for no improvement in the current situation on the streets of St. Helier; no additional protection for the individuals that may suffer the sort of behaviour as illustrated by the Home Affairs Minister. So we will be making no progress whatsoever towards meeting the aspirations of the public to provide safer, quieter and more pleasant streets in St. Helier. Now there may be issues, and I will look, as I am sure she will, to the Home Affairs Minister to deal with the specific issues on, for example, paragraph (d) but, Sir, I would most certainly urge Members to vote in favour of the principle for, as I said, if they do not, then we are making no progress whatsoever in meeting the widely-held aspirations of the public, and in meeting the calls from many parts of the public to ensure that St. Helier is, indeed, as I have said, a pleasant place in which to live, work and, basically, to play. So, Sir, I strongly urge Members to accept the principle, then there may be some debate which I am sure the Home Affairs Minister can deal with on items detailed within the Law itself.

Deputy J.A. Martin:

Could I just ask if the Chief Minister is thinking this Law is just for St. Helier? Because he used that 7 times, and I would like to point out that they are not all drunks, villains, and harassers who live and drink in St. Helier, or work in St. Helier. Maybe he would just like to rephrase that. I think there is probably a few in every Parish. Thank you, Sir.

Senator F.H. Walker:

A fair point. I bow to the Deputy's greater knowledge, but **[Laughter]** we all know though that this - not entirely - does principally apply to St. Helier.

Deputy G.P. Southern:

Is that an insult? **[Laughter]**

The Deputy Bailiff:

Deputy Southern: you have spoken already, so...

Deputy G.P. Southern:

A point of information, Sir, the Chief Minister just referred to supporting this in principle, but this is an actual Law. This is a body of Law. This is not an in principle Act.

The Deputy Bailiff:

Yes, but it is at the moment of the principles of...

Deputy G.P. Southern:

Would you make it in principle so we could vote for the principle but then throw out the actual content? Vote against the content?

The Deputy Bailiff:

Well, yes, I suppose so. Now, Deputy Le Fondre, you have already spoken too.

13.15 Deputy J.A.N. Le Fondre:

No, I have not, Sir. I asked for a point of advice from the Attorney General. That was it. I did not speak. **[Interruption]**

The Deputy Bailiff:

It sounded remarkably like a speech to me.

Deputy J.A.N. Le Fondre:

I did reserve my right to speak later, Sir, sorry.

The Deputy Bailiff:

Did you?

Deputy J.A.N. Le Fondre:

Yes.

The Deputy Bailiff:

Very well.

Deputy J.A.N. Le Fondre:

I do agree with the Chief Minister. It is a very important issue and, ordinarily, I would welcome the Law, especially in respect of dealing with what I would call disorderly conduct and intimidatory behaviour. No question about it. Whether it is St. Helier, we all do want to see a better or a quieter life in the Island, effectively, from bad behaviour. But I come back, Sir, to the point that a number of us have raised and I will query why in examples given by the Minister she did not deal with written representations. I do remain very concerned, and an example I am using is satirical cartoons effectively, and the one that springs to mind is the huge uproar last year, I think the Dutch newspapers - or was it the Danish newspapers - kicked off about cartoons of Mohammed, I think it was. Sir, I can remember attending a meeting at the Town Hall many years ago which was to do with housing trusts, and it was attended by a representative of the States' Tenants' Action Group as well. I remember seeing a very uncomplimentary drawing of various individuals involved in the whole thing, and it was a very well-done drawing, I hasten to add, Sir. **[Laughter]** But the point being is that it could have created offence. I am afraid, Sir, that really does leave open in my mind the concern that if this Law was to be wrongly applied it could have an impact upon freedom of expression, even though that is not the intention that is in mind at present. Make no mistake, if there was no reference to written representation in the Law I would probably be supporting it, and to an extent - it may not be practical - but if for any reason this Law did not get approved I would very much welcome the Minister to bring it back in a different form. My concern is, on something this fundamental, I would not be willing to accept assurances that we would not use the Law in a particular way, given that the Law could be used in that way in the future. To me, if a tool has been made for a variety of purposes then there will be times when it will be used for all of those purposes, even if that was never the intention. We do seem to be placing reliance on the mechanism of, for example, the Centenier, or the process, rather than whether there is potentially an offence there for people to be arrested by in the first place. So, Sir, unless I hear some real fundamental reason for changing my mind, I am not going to be supporting this Law. I will continue to listen to the rest of the debate with interest. I think I would obviously like to ask the Minister in her summing up if she could address why reference has been made to written representation and why, in her opinion, this will not have any impact upon freedom of expression, given the nature of the cases we have started to see in the U.K. I will repeat the example I referred to in my request for advice from the Attorney General, and I believe it was a Christian couple - I

cannot remember - but it was certainly a couple expressing their view on a particular subject. From what I recall they were arrested. I make no judgment on their issue, but I do uphold their right to state their views on an issue and to protest on that issue should they so wish. I think such reservations could also be applied, for example, to the miners' strikes in the 1980s, which were very highly charged, but where they were peaceful - and I emphasise that, because sometimes they were not - I would not wish to impinge upon their right to protest. Although I do not condone their views, should someone be able to write "Death to Thatcherism" or possibly "Death to Thatcher" on a placard could that not have been construed to be insulting to the Prime Minister of that day? I think on that basis, Sir, I really would have to have some very stringent... and it has to be more than assurances, and I do not think the Minister can give them, to be honest. On that basis, I am likely to be voting against the principle, Sir. Thank you.

13.16 Deputy P.V.F. Le Claire:

I do not wish to be voting against any law that creates a safer society for people in St. Helier or St. Brelade or St. Mary; anywhere in the Island. But I too have had some concerns that probably will not be answered today, given the best intent of the Minister for Home Affairs, in relation to some aspects. I shall have faith. As they said in the Marines: "Trust, but verify." So what I would like to say is perhaps we should consider it going to one of the Scrutiny Panels in relation to what the actual implications are. **[Interruption]** It has been there. **[Interruption]** They support it? **[Interruption]** And there is a report.

The Deputy Bailiff:

Do you want to carry on rather than have a conversation?

Deputy P.V.F. Le Claire:

I did not see a report from the Scrutiny Panel in relation to the Law, Sir, and there are a number of issues that have been thrown up this afternoon. I would concur with the Chief Minister though, and the Constable of St. Helier, that the streets of St. Helier where I live sometimes, after dark, especially in the last year or so, have become areas where it is not necessarily a no-go zone but it is very much a try-to-walk-around-it zone if you want to get from A to B because there are just certain areas in town, and I can mention the Parade Park for one, where we have had a number of incidents that are extremely serious with people being stabbed and mugged and kicked to the floor and all these kinds of things which really have been giving some alarm to people in general. It is not something that I have made up out of the blue. It is something that occurs and we have had this on an ongoing basis. The level of concern for safety in the community is at an all-time high. I think most Members in the Assembly wish to see the right powers given to the police to ensure a safer society but there are a number of concerns this afternoon coming from many Members about the aspects of this Law. So I am not certain as to how I am going to go. I thought perhaps one of the ways forward would be to have the Scrutiny Panel come back with a definitive report in relation to these concerns that I have not been able to see because I do not think there is one. So I am in the hands of the Assembly, Sir. I certainly would not want to be seen not to be supporting the police. I would like to see a safer society. I would also want to make sure that what we are agreeing today is going to deliver what we are being asked of it.

13.17 Senator L. Norman:

Just briefly, it seems to me that most Members who have expressed concerns about aspects of this Law, and indeed the Minister bringing the proposition, are not very far apart at all. I think most of us agree with the Chief Minister when he says this is an improvement Law; it would be an improvement and basically it is a good Law. But, with hindsight, one or 2 of us who have got concerns should really have brought amendments to make it right and those of us who do have concerns have failed in that. But that does not make this Law ideal because we have not done that and I think we should take time to get this Law put right; I will support it. I cannot support it today

but I will support it if it is taken back or withdrawn or defeated, if the Minister insists on going that far, and it comes back with all references to insults and insulting removed and perhaps one or 2 other minor alterations, which I am sure the Minister has picked up from Members' comments today. So I want this Law, particularly bits on harassment and threatening behaviour and abusive behaviour, but I think, as some Members have indicated, it goes just a little bit too far and I will not be comforted by expressions by the Chief Minister that it will be administered carefully and whatever. The Law is the law and if someone insults somebody else they could be committing a criminal offence. That is going a bit too far and what I would really like to see is the Minister to withdraw it and come back with the amendments that have been suggested. Alternatively, we could defeat it and ask her to do the same thing.

13.18 Senator T.A. Le Sueur:

Following on from Senator Norman's comments there; I think there is not a great deal of difference between us and the main area of contention appears to have been Article 2. For myself, I was going to support the principles of this Law and then suggest that Article 2 be taken back for reconsideration because I think the remainder of the Law, dealing with harassment particularly, needs to come in sooner rather than later. But I see no reason why we could not pass the Law in its current form, with the exception of Article 2, if the States were so minded. We could still then have a coherent Law and the Minister could then bring back Article 2 in hopefully an improved form. That, of course, will assume that the principles of the Law have been adopted in the first place. But, subject to that, Sir, that is the way I would prefer to proceed.

13.19 Deputy J.J. Huet:

Senator Le Sueur is basically, I think, touching on the main point. You know we want all of Jersey to be safe and, in actual fact when I look around the Chamber, here are a lot of people in this Chamber that, throughout time, have put a lot of honorary service into making it safe. So we do know what the Parish halls are like and I have a worry here because, if we use this, I am going to call it "(d)" so we all know what we are talking about, this insulting, and if that should come to the Centenier - and it is proven - but the Centenier thinks: "Well, okay, it is proven but it is not what I class as serious, so I will give you a verbal warning, but you then have a record of course. You do realise that? You will have a record, a police record." Though we keep saying it will not be run the same way as it is in England because we will use commonsense, well, unfortunately when things get very fraught, commonsense sometimes flies out the window. We all know that. Things get done and said that should not be and it is because of a lack of commonsense and because of the situation. I am not willing, I do not think, to go along with this if I am supposed to rely on the word "commonsense". Commonsense sounds great and we all like to think we have it. It does not always apply and I want to be really sure. I do not like it with that "(d)" in there because I can see that going wrong and our youngsters ending up with a criminal record. I do not think that is a good thing.

13.20 Deputy P.V.F. Le Claire:

On a point of order, may I just clarify with you through the chair, Sir? When I was making my speech I was going to attempt to refer the Law to the Scrutiny Panel and I was given verbal instruction by the Home Affairs Minister and another Member, I believe the Panel Chairman himself, that it had been to Scrutiny and Scrutiny had supported the issue. I would just like to ask at this stage, because I was intending to refer it to Scrutiny and see if Members would support it, whether or not it has been to Scrutiny and whether or not Scrutiny has commented on this, because if it has not, Sir, I would like to propose that.

The Deputy Bailiff:

Perhaps the Deputy of St. Martin can assist.

Deputy of St. Martin:

Yes, Sir. As always is the case with our Panel, we look at every piece of legislation that comes to us. We did give quite a good thorough address of concerns to it and we did, in fact, write back to the Minister saying that we would not choose to scrutinise it because generally we were in support of the principle of the Law. So I think I would be safe in saying that. I do not know if the Minister has the letter but if she would confirm that we did write to her.

Deputy P.V.F. Le Claire:

Well, that really does put me in a different light in relation to what I was proposing on the floor of the House during my speech, Sir, which was that it should be referred to Scrutiny. The issue is that Scrutiny has looked at the issue but has decided not to scrutinise the proposition. Indeed, most Members will look at most things but whether or not they give it the full due course and attention that it deserves is another matter altogether. Given the concerns that have been raised today and given my desire not to vote against giving the police the correct authorities, I would like to propose formally, Sir, that it be referred to Scrutiny.

The Deputy Bailiff:

One moment, Deputy, you have already spoken in this matter.

Deputy P.V.F. Le Claire:

Sir, I ask perhaps for your guidance on this because I was interrupted during my speech and informed while I was proposing that by the Home Affairs Minister and one of the Scrutiny Panel chairmen that it had been to Scrutiny, and much to my surprise, Sir, which was incorrect.

The Deputy Bailiff:

Well, are you now seeking to propose that this matter be referred to Scrutiny under Article 79?

Deputy P.V.F. Le Claire:

I think it offers a way forward, Sir, that might be more suitable.

The Deputy Bailiff:

Are you proposing it?

Deputy P.V.F. Le Claire:

I am indeed, Sir, yes.

The Deputy Bailiff:

Very well. Is that seconded? **[Seconded]** Deputy Le Claire has the right to propose without notice that the debate be suspended and the States request the relevant Scrutiny Panel. So that is the matter now before the Assembly and the debate is open on that.

Deputy of St. Martin:

Sir, before we start, the Attorney General is not in the House but I would like clarification from something which Deputy Huet said, which I think is quite important because the Deputy said that if someone gets a caution or a warning at a Parish hall it is a criminal record. I would like to seek clarification of that because I think it is rather important.

The Deputy Bailiff:

I am sorry, Deputy. I think at this stage the question is whether to refer it to Scrutiny. We have left the debate of the principles of the law itself. Now, does anyone wish to speak on the proposition that this matter be referred to Scrutiny?

13.20.1 Deputy J.A.N. Le Fondre:

While I accept the Deputy's intentions and an interesting solution, I have to say I prefer the solution from the Minister for Treasury and Resources which is to suggest that we do adopt the principles but we just do not vote for Article 2 and, on that basis, I am going to vote against referring to Scrutiny. Thank you, Sir.

13.20.2 Senator W. Kinnard:

Sir, I would say that rather than have the heart of the legislation ripped out at this stage by removing the whole of Article 2 I would much rather it go to Scrutiny, and I am happy to co-operate with Scrutiny in any way possible to have it looked at, but I think it would be wrong to take out the heart of the legislation. There would be very little point in having just the harassment provisions, as the whole point of this legislation was to deal with disorderly behaviour which is not serious enough to cause a breach of the peace. We do not have the tools to deal with that at the moment.

The Deputy Bailiff:

May I just be clear, it may assist other Members, are you suggesting that it should go to Scrutiny?

Senator W. Kinnard:

No, Sir. I am saying that rather than risk the whole of Article 2 being lost at this stage, if Members wish to have the security of a report from Scrutiny that they have looked at these issues, then they still support the Law. I would be prepared to co-operate, in the shortest period of time possible, in order to achieve that because I do not think the Law is workable without Article 2.

13.20.3 Deputy G.P. Southern:

I do believe that, while well-intentioned, Deputy Le Claire's reference to Scrutiny is a fundamental misunderstanding of what Scrutiny is supposed to do. The fact is that reservations have been expressed about this piece of legislation very succinctly and very accurately and very well by many Members in this debate. The issues are clear that there is no role for Scrutiny to play in this to get this out in the air, to the public. They have been expressed today. It is not the role of Scrutiny to pull the Ministers out of a problem. That is not our role and that is what will happen if you do refer this back to Scrutiny. We will be running around doing ministerial work. The option, if the Minister does not want the heart of the piece ripped out of it, is for her to withdraw; not for this House to refer to Scrutiny when the issues are absolutely crystal clear.

13.20.4 Deputy G.C.L. Baudains:

It is obviously to be hoped we are not going to have a re-run of the debate that has been going on so far but, in view of the concerns which I have and other Members have expressed, I think the view of the House, as so eloquently put by Senator Vibert, this House would like to have the benefit of this legislation but without the disadvantages that may accompany it. I personally believe that an evidence-based report by Scrutiny would give us not necessarily the answers but the explanations that we need. Instead of arriving at conclusions which we are not quite sure whether this or that or something else may happen, some real evidence as to what the options are and what could or might happen would be enormously beneficial, which is why I do support the proposition.

The Deputy Bailiff:

Does any other Member wish to speak then on Deputy Le Claire's proposition to refer to Scrutiny?

13.20.5 Deputy of St. Martin:

As the Chairman whose Panel will have to scrutinise it, I will say now that it can be referred to us, we will look at it, we will probably come back with the same decisions we made when we discussed it and it will still be down to this Panel to say, yes, whether we want to or not. I will say now that we have already decided the Panel does not want to scrutinise it. So, therefore, if it is

referred to us, we do have the right to say: “We have looked at it and we do not want wish to scrutinise it.” I personally think that we have a choice today. Either we go for what is on the table today or for the Minister to withdraw it, but I certainly think this is a good Law and we should support it.

The Deputy Bailiff:

Can I just remind Members what the Standing Order says: “Any Member may propose that a matter go to Scrutiny. If the Assembly agrees, then debate is suspended until the next meeting. At the next meeting the Presiding Officer will ask the Chairman of the relevant Scrutiny Panel whether he wishes to have the proposition referred to him. If the Chairman confirms that the Panel does not wish to have the proposition referred to it, the States may either resume debate immediately or decide at which meeting the date should be listed.” It would seem that those are the options available to the Assembly and the Deputy has skipped ahead.

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

Sir, that being the opinion that you have expressed, might a way forward be for us to defer further debate on this at the moment and indeed come back to that precise point at the next sitting whereby that would enable 2 weeks’ lapse where the Minister may well consult and clarify the points at issue and, hopefully, we can conclude it, because otherwise we could be in danger of losing the whole thrust of it for perhaps a hasty decision now.

The Deputy Bailiff:

At the moment, the proposition before the Assembly is to refer it to Scrutiny and, if that happens, then it will be suspended for 2 weeks at which time the Chairman of the Scrutiny Panel will report back. Does any other Member wish to speak on Deputy Le Claire’s proposition?

13.20.7 Deputy S. Pitman:

I think it is very clear the issues that surround these Articles and I think that should go back to the Minister. That is ministerial work not Scrutiny and maybe Deputy Le Claire could scrutinise it himself. I am sure he has plenty of time.

13.20.8 Deputy G.W.J. de Faye:

I think Members are quite rightly being concerned when they see the common law being superseded by new statutory legislation. Common law, of course, is law established over many, many years. I think, also, we have heard, and possibly seen, some of the potential pitfalls of adapting a law from the United Kingdom to Jersey. I noted around the benches that there really were - despite the fact that the Minister, I think, was doing her best to be helpful as possible to the House - some levels of concern about the examples that she cited. I am not sure, and the Minister will know, whether these were genuine examples or sort of test cases that are put before...

The Deputy Bailiff:

Deputy, can I just ask you, this is simply a matter as to whether to go to Scrutiny or not.

Deputy G.W.J. de Faye:

Indeed it is, Sir.

The Deputy Bailiff:

Not a debate about the matter itself.

Deputy G.W.J. de Faye:

Indeed it is. But I think if it is going to go to Scrutiny certain things need to be borne in mind.

The Deputy Bailiff:

I am sorry, Deputy. The debate is whether to go to Scrutiny. We cannot have a debate about the whole principles of the Law under the guise of a debate as to whether to go to Scrutiny.

Deputy G.W.J. de Faye:

If it is to go to Scrutiny, and I am not entirely sure at this stage whether the Minister is offering to withdraw this or not, or whether we find another procedural mechanism like moving on to other business, is a matter that will follow in due course. Nevertheless, I think one of the problems that we have encountered in the course of this debate on whether things should be considered by Scrutiny, or whoever, does relate back to the contents of the debate we have been having and how best that can be addressed. I do not see that throwing this to Scrutiny necessarily will cast light on how applicable this Law is going to be to the Jersey situation. What is going to be the response to throwing carrots on to a football pitch during an Inter-Insular match? For example, I am not sure that Scrutiny are going to be in a position to deal with that type of approach but it may be that the Minister will be able to hold some sort of workshop with all those Members who have expressed concerns over, what seems to me, small elements of detail within the overall thrust of the Law. Therefore, I think that we must resist this going to Scrutiny. We have heard from one Panel Chairman that he anticipates his Panel would merely come back with the same decision as they have delivered already. So I see no way forward going in that particular direction. However, I am still at something of a loss as to what the Minister intends to do because, in the course of this debate, she has not been given an opportunity to really let us know. I think we are going to have to wait and listen to see what the Minister is going to say although, I regret, I think she has already spoken on this motion.

The Deputy Bailiff:

The Minister has already spoken on this particular debate. Does any other Member wish to speak on Deputy Le Claire's proposition?

13.20.9 Deputy J.A. Martin:

Just very briefly, Sir, because sometimes I do wonder, and I have been accused of it myself, is anybody listening to what the Chairman of the Social Affairs Scrutiny Panel says. One of his Members has spoken. You can delay the debate to the next sitting but they do not want to... and in fact the Chairman of the Social Affairs Scrutiny Panel says he thinks this is a very good Law and is that where you want it to go if you have any concerns? **[Laughter]** So I am very sorry. I know he probably would not be involved in the Panel. He is probably conflicted. I think when it goes so far back, Sir, that a Back-Bencher's amendment and... was this part of the Law? I might be wrong. He is shaking his head so I am wrong. This is one Law to Home Affairs he did not bring. But that was not being facetious, Sir, because I know the Deputy of St. Martin works very hard at bringing Back-Bencher's laws. But what I am saying, we have had a 2-hour debate and now it is for the Minister to decide where we go from here, Sir. If you want to delay for 2 weeks vote for the proposition of Deputy Le Claire but you can hear, I hope, from Deputy Mezbourian and the Deputy of St. Mary or the other 2 people. When I was on that Committee, as I said earlier, I had reservations but I was told you have a free hand in the House to vote against it. We decided we did not have time, did not have the commitments and, talking to the Member on my right who is also a Member of that Panel, they do not have the time or the commitments. So you can hold the debate up for 2 weeks but it should be the ministerial decision and I think she should withdraw it and come back with a Law that is sensible. Thank you, Sir.

13.20.10 Deputy P.N. Troy:

I would encourage the Minister not to withdraw this and take a different course of action. I think that she will get the support of the Chamber, even on Article 2. People have raised their concerns, some reservations - I think even I did that - but I am still going to support the Law and I think that many others will too. I hope that she does not withdraw it. I do not personally see that she will get

defeated. It is a good Law. Scrutiny have said they do not want to scrutinise it. There is no point in sending it to them. I hope that she continues on with this debate because I think she will get the support of the majority of the Assembly.

The Deputy Bailiff:

Very well. Does any other Member wish to speak on this particular debate? Deputy Le Claire, do you wish to reply?

13.20.11 Deputy P.V.F. Le Claire:

Just briefly, Sir. We have had comments from Members that (1) I should scrutinise the issue; (2) we should not bother scrutinising the issue. The Home Affairs Minister says that she would be happy to have the issue scrutinised. The chairman of the Social Affairs Committee said that he would not and his Panel would not support it being scrutinised. Other people have said that it is a sensible Law so there is no need to change it. Other people have said that the Home Affairs Minister should withdraw it and then a sensible Law should come forward so that we can vote on that. The reality is, is that what has happened is a Law has come forward into the Assembly, quite clearly leaving Members in less than a secure position as to how they are going to vote today. No Member in this Assembly wants to take away the support that the Home Affairs Minister needs for her police force to deliver a safer society for Jersey. My proposition to have it referred to Scrutiny I believe was not wrongly placed. I thought it was an opportunity for us to decide whether or not there would be any merit in it. It seems quite evident there is not going to be any merit in it. I do take rather a little offence as to how that has been judged by some of the Members of the political party but there we are. I will call for the apel, Sir, and then we will go forward into the debate. But I would just like to say that I do hope the Minister for Home Affairs has not taken my intervention this afternoon as obstructing her. What it was merely trying to do was to stop what could possibly happen, which is the bones of the Law being thrown out.

The Deputy Bailiff:

Very well. So the proposition is maintained and the apel is asked for. So the matter before the Assembly is for or against the proposition of Deputy Le Claire to refer this matter to the Scrutiny Panel. The Greffier will open the voting.

POUR: 5

CONTRE: 44

ABSTAIN: 0

Senator W. Kinnard

Senator L. Norman

Connétable of St. Martin

Senator F.H. Walker

Deputy G.C.L. Baudains
(C)

Senator T.A. Le Sueur

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

Senator P.F. Routier

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

Senator M.E. Vibert

Senator T.J. Le Main

Senator B.E. Shenton

Senator F.E. Cohen

Senator J.L. Perchard

Connétable of St. Ouen
Connétable of St. Saviour
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of St. Helier
Connétable of St. Lawrence
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. John
Deputy R.C. Duhamel (S)
Deputy A. Breckon (S)
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy P.N. Troy (B)
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
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 G.W.J. de Faye (H)
Deputy J.A.N. Le Fondré (L)
Deputy D.W. Mezbourian (L)

Deputy of Trinity

Deputy S. Pitman (H)

Deputy A.J.H. Maclean (H)

Deputy K.C. Lewis (S)

Deputy of St. John

Deputy I.J. Gorst (C)

Deputy of St. Mary

Senator W. Kinnard:

I just wonder whether I might be able to just put everyone out of their misery. I had hoped that the whole point of the Scrutiny system was to avoid this kind of scenario but clearly it has not. So what I am going to plan to do, Sir, is I will now withdraw it and bring it back in early course, having consulted with Members. I am sure I can allay all the concerns that have been raised here today but I do feel that individuals have got somewhat bees in their bonnets and I do not think we are going to get any further with this until I have had an opportunity to rehearse all the arguments with Members and, as I say, allay their concerns and maybe take on board some of the points that have been raised about concerns about particular words such as insulting. So with the leave of the House, Sir, and your permission, I think it would be helpful if I were to do that.

The Deputy Bailiff:

Does the Assembly agree to the withdrawal of the Bill? And can I perhaps just say this from the Chair? Obviously, when it comes back, if Members do not like particular wording the correct route to have followed would have been to have lodged an amendment and then these problems that we have suffered today would have been avoided.

Senator W. Kinnard:

Thank you, Sir. It has been lodged since 14 November.

NOTIFICATION OF LODGED PROPOSITIONS

14. Jersey Financial Services Commission: Appointment of Commissioner (P.8/2007)

The Deputy Bailiff:

Now, just before we take any other matters, 2 papers have been lodged which I must notify Members of. The first is Projet 8 - Jersey Financial Services Commission: Appointment of Commissioner, lodged by the Minister for Economic Development. I would like to inform Members there has been a reissue of Projet 7. I think it was circulated earlier today but what is being circulated now is a reissued version because of errors in the first one.

PUBLIC BUSINESS (continued...)

15. Ratification of Agreements with Bulgaria and Romania on the Taxation of Saving Income (P.163/06)

The Deputy Bailiff:

The next item on the agenda is Projet 163 - Ratification of Agreements with Bulgaria and Romania on the Taxation of Saving Income lodged by the Chief Minister. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to ratify the Agreement with Bulgaria and Romania on the Taxation of Savings Income as set out in the appendix to the report of the Chief Minister dated 5th December 2006.

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

This should not be a contentious item. **[Laughter]** Sir, in 2004 the Island's response to the E.U. (European Union) savings directive was to agree to pay a retention tax on interest paid to individual citizens of E.U. member states or, at that individual's request, to exchange information. The States on 22nd June 2004 agreed 2 model agreements which were used as the basis for agreements with the then 25 member states of the E.U. and those agreements were duly signed and entered into in 2005. As we know, Bulgaria and Romania joined the European Union on 1st January of this year and we therefore need to extend the agreements to those 2 new member states. This is exactly the same principle and exactly the same process as we adopted for the original agreements with the 25 member states and it seems to me, Sir, to be a perfectly and very straightforward instance and therefore I make the proposition.

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.

16. Draft Taxation (Agreements with European Union Member States) (Amendment) (Jersey) Regulations 200- (P.164/06)

The Deputy Bailiff:

We come next to Projet 164 - Draft Taxation (Agreements with European Union Member States) (Amendment) (Jersey) Regulations 200-, lodged by the Chief Minister. I ask the Greffier to read the citation.

The Greffier of the States:

Draft Taxation (Agreements with European Union Member States) (Amendment) (Jersey) Regulations 200-. The States, in pursuance of Article 2(1) of the Taxation (Implementation) (Jersey) Law 2004 and following the decision of the States taken on the day these Regulations are made to adopt Projet 163 of 2006, have made the following regulations.

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

This follows, of course, as a consequential item on the back of the previous proposition because to bring the agreements into effect then the States need to adopt Regulations for that purpose and that is the sole purpose. Well, not quite the sole purpose of this proposition. There is another purpose which is that the opportunity has been taken to update the list of contracting parties and related entities in respect of Latvia, Poland and Slovakia. It was not, as events have turned out, a full list from the original agreements and we take the opportunity to recommend that we should update the list at this time, Sir. So I make the proposition.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles of the regulations? All those in favour of adopting the principles kindly show. Those against. The

principles are adopted. Do you propose the Regulations *en bloc* if Deputy Ryan does not want to have it referred to his Scrutiny Panel?

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

Thank you, Sir, no, I do not but while I am on my feet explaining that, can I ask your advice, Sir? Where there are more than one linked projet would it be possible in the future to link them, Sir, to save States time so they only need to vote once? Is that possible?

The Deputy Bailiff:

I fear not. One is a legislation, the other is simply an agreement to decide something. Now, do you propose the Regulations *en bloc*?

Senator F.H. Walker:

Yes, please, Sir.

The Deputy Bailiff:

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

Senator F.H. Walker:

Yes, please, Sir.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show. Those against. The Regulations are adopted in Third Reading.

17. Jersey Police Complaints Authority: Appointment of Chairman and Members (P.165/06)

The Deputy Bailiff:

We come next to Jersey Police Complaints Authority: Appointment of Chairman and Members - Projet 165 - in the name of the Minister for Home Affairs and I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion in accordance with Article 2 of and the Schedule to the Police (Complaints and Discipline) (Jersey) Law 1999; (a) to reappoint Mr. Leslie May F.C.C.A. as Chairman of the Jersey Police Complaints Authority for a further period of 3 years; (b) to reappoint the following as members of the Jersey Police Complaints Authority for a further period of 3 years, Mr. Anthony Beaumont, Mr. Andrew Cornish, Mrs. Toni Roberts and seek to appoint the following member of the Jersey Police Complaints Authority for a period of 3 years, Mr. Stephen Luce.

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

I think I might ask my Assistant Minister to do this in case it gets referred to Scrutiny. Thank you.

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

I certainly know of all the individuals as cited in this document as being fine upstanding individuals. I am not sure, perhaps, whether we need to go into camera for this one or not?

The Deputy Bailiff:

No.

The Deputy of St. John:

Well, I would like to propose the proposition that Leslie May continue as Chairman and that Anthony Beaumont, Andrew Cornish and Toni Roberts get reappointed as members of the Panel and that Stephen Luce should become a new member of the Panel, Sir. I move the proposition, Sir.

The Deputy Bailiff:

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

17.2 Deputy G.C.L. Baudains:

I am going to oppose this and I hasten to add it is not because I have a problem with any of the candidates but I do have a problem with the organisation because, in my view, it is completely ineffective and, as such, I see no point in appointing people to it, Sir, because it is not as people suppose - and I believe the Minister shares this view - an independent organisation that investigates complaints against the police. This much I do know, Sir, from...

Senator W. Kinnard:

Excuse me, Sir, I take exception to his assumption that I share any view that he may have.

Deputy G.C.L. Baudains:

If the Minister cared to listen to what I said, Sir, I was not insinuating that at all, as she may find out in a moment. The problem I have with this organisation, Sir, stems from personal experience, because when I was made aware of an unsatisfactory situation I was unable to pursue it because basically the police told me a pack of lies. I took that to the authorities, Sir, and I asked them to investigate. They told me they could not because it was outside their terms of reference and all that they can do is review the police investigating themselves. I find that quite unsatisfactory, Sir, and I see no point in perpetuating such a situation.

17.3 Deputy R.G. Le Hérissier:

The only thing I would recommend to the Deputy is he bring a proposition forward to reform the whole system rather than use this particular proposition.

The Deputy Bailiff:

Yes. This is a debate simply on membership of the existing body.

17.4 The Deputy of St. Martin:

It was just a quick one, Sir, for the Assistant Minister. Mr. Luce is replacing a member. Who will he be replacing and who is resigning?

The Deputy Bailiff:

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

17.5 The Deputy of St. John:

Thank you for Deputy Le Hérissier's intervention there. If Deputy Baudains feels strongly about that particular issue then, yes, he is able to bring a proposition to the States to disband this organisation. I happen to believe that it is very, very effective. All the members are very independent. They have no association with the police and I am very confident that every complaint, of which there are very few, that is brought before them is dealt in a very impartial and satisfactory manner. However, we are reviewing the situation at the moment, not because we think it is ineffective but because we are in the process at the moment of looking at a police authority

which may combine the auspices of the Police Complaints Authority if we feel that it would work that way. So we are looking at that at the moment. So I would like to propose the proposition, Sir.

The Deputy Bailiff:

There was a question, I think, from the Deputy of St. Martin.

The Deputy of St. John:

I beg your pardon, Sir. It was Mr. Le Maistre. I do not have the full details of the candidate. It was before my time, Sir.

The Deputy Bailiff:

Very well. The appel is called for then on the proposition of the Minister for Home Affairs. I invite Members to return to Chamber. The Greffier will open the voting.

POUR: 44

CONTRE: 1

ABSTAIN: 0

Senator S. Syvret

Deputy G.C.L. Baudains (C)

Senator L. Norman

Senator F.H. Walker

Senator W. Kinnard

Senator T.A. Le Sueur

Senator P.F. Routier

Senator M.E. Vibert

Senator T.J. Le Main

Senator B.E. Shenton

Senator F.E. Cohen

Senator J.L. Perchard

Connétable of St. Ouen

Connétable of St. Saviour

Connétable of St. Mary

Connétable of St. Peter

Connétable of St. Clement

Connétable of St. Helier

Connétable of St. Lawrence

Connétable of Grouville

Connétable of St. Brelade
Connétable of St. John
Deputy R.C. Duhamel (S)
Deputy A. Breckon (S)
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy P.N. Troy (B)
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy G.P. Southern (H)
Deputy S.C. Ferguson (B)
Deputy of St. Ouen
Deputy of Grouville
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy G.W.J. de Faye (H)
Deputy P.V.F. Le Claire (H)
Deputy J.A.N. Le Fondre (L)
Deputy D.W. Mezbourian (L)
Deputy S.S.P.A. Power (B)
Deputy A.J.H. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy I.J. Gorst (C)
Deputy of St. Mary

18. Draft Income Tax (Amendment No. 27) (Jersey) Law 200- (P.167/06)

The Deputy Bailiff:

We come next to the Draft Income Tax (Amendment No. 27) (Jersey) Law 200- (Projet 167) lodged by the Minister for Treasury and Resources and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Income Tax (Amendment No. 27) (Jersey) Law 200-, a Law to amend further Income Tax (Jersey) Law 1961. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

I will try to be brief. This is a slightly technical amendment and I think it is worth going through in a little detail. The initiative for this proposition came from the Economic Development Minister who lodged an amendment to the budget in December. Following discussions with him we agreed that that amendment should be withdrawn in favour of one which I would bring, which I felt he felt was an improvement. Members should be aware of the current position regarding the tax residence of companies in Jersey. Under existing Article 123, companies in Jersey are either residents and they pay tax at 20 per cent or they are exempt companies and pay a fee of £600 a year. Although we may regard exempt companies as non-resident, the fact is that the tax authorities in the U.K. and other jurisdictions regard exempt companies in Jersey as resident in Jersey. Thus, if an exempt company in Jersey is managed and controlled in the U.K., it will be dual resident both in Jersey and in the U.K. Now, for commercial reasons, there are many reasons where a Jersey company should be specifically regarded as non-resident in Jersey for tax purposes and that is something which cannot exist under the existing definition within the Law. That means that the Island is missing out on a clear range of commercial and economic opportunities. An example is real estate investment trusts where in the U.K. the requirement is that the company undertaking this work has to be non-resident in Jersey but resident in the U.K., or at least resident incorporated somewhere else but not resident in that jurisdiction. So, in terms of the legislation, what we have in Jersey is a shortfall which means that we are missing out on business opportunities. The effects of the move to Zero/10 is that exempt companies will in fact no longer exist. All Jersey companies will be taxed but will be taxed at a zero rate unless they are resident. So we need to have a specific definition of non-residents in the tax law. This we discussed with the Minister for Economic Development, with the professions and particularly with the Income Tax Department because I was concerned to be sure that there was no scope for existing duty tax payers trying to make use of this to avoid their legitimate responsibilities. The way that the amendment is structured, with a requirement to pay tax in another jurisdiction of at least 20 per cent, means that there is no opportunity for a genuine Jersey company to use this as an escape route. We discussed this with the Corporate Affairs Scrutiny Panel, among others, and I am satisfied that all the investigations required have been done. I believe the wording of the amendment meets all our objectives and I propose the Law in principle.

The Deputy Bailiff:

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

18.2 Deputy P.J.D. Ryan:

I would take a little bit of issue with the Treasury and Resources Minister when he says that he consulted with my Scrutiny Panel. Yes, there was consultation on the morning that this original thing took place by the Economic Development Minister and although we were consulted it was not exactly the same amendment as the Treasury and Resources Minister has brought today. There has been consultation while I have been away on holiday but that does not alter the fact that, in fact, Corporate Affairs wrote to the Economic Development Minister, and was copied to the Treasury and Resources Minister, seeking some form of involvement in consultation at a much earlier point in time. To date we have not received a reply. So I would just like to place that on record. We do support this amendment. We particularly support any amendments that fall into the category of moving swiftly on our feet in order to gain commercial opportunities where they exist. So we do certainly support that but I would just remind the Treasury and Resources Minister and, through him, the Economic Development Minister, that some better form of consultation at an earlier point with Corporate Services would be appreciated in the future. Thank you, Sir.

18.3 Deputy G.P. Southern:

Could I just ask the Treasury Minister what impact this may or may not have on our tax revenues going into the future? It seems to me we are giving up some revenue from exempt companies - the £600 registration fee - and is this a mechanism for gaining some of that back or not? What will be the overall impact on our tax revenues? Could I just re-emphasise the Corporate Services Chairman's words that this does all appear very rushed and consultation was minimal.

The Deputy Bailiff:

Does any other Member wish to speak on the principles?

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

The Minister for Economic Development is not here today obviously but, on behalf of the Economic Development Ministry, I can confirm that we are happy with this legislation and I note what the Chairman of the Scrutiny Panel has said.

18.5 Deputy P.V.F. Le Claire:

One of the main issues that the Code of Conduct pressured us in changing our tax position on was the exempt company and the revenues from the exempt companies amounted to many millions. The last time I asked questions, and Deputy Southern has asked questions on a number of occasions... is this Income Tax Law that is before us today going to preserve that revenue? Is that going to be something that we can then assess the need for the dramatic tax changes that we are looking at? Will we be able to expand upon this vehicle if it is going to be an alternative to the exempt company and how will this Income Tax (Amendment) (Jersey) Law been seen by the people who have pressured us in this area of exempt companies in the past?

The Deputy Bailiff:

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

18.6 Senator T.A. Le Sueur:

Dealing first of all with the matter of Scrutiny. I apologise if there has been inadequate or late discussions with the Corporate Affairs Scrutiny Panel. Certainly, having lodged it in December and noting the intervening Christmas and New Year holidays, there was a meeting held last week with members of the Corporate Affairs Scrutiny Panel when the Chairman was unfortunately out of the Islands and it was discussed at some length with those members of the Panel who were able to be there. Whether that was considered adequate or not, I believe that there was a general good airing of the points of the legislation and a general understanding of the need to go ahead with this. I appreciate that Deputy Ryan also appreciates the need for this sort of legislation to be in place. Deputy Southern and, in fact, Deputy Le Claire ask about the impact on local tax revenues and the income of exempt company taxation. Of course, with the move to Zero/10 the £600 fee we are currently charging exempt companies will be lost in any event, come what may. This is not meant to be a direct substitute, that income is about £11 million or £12 million a year at the moment. It is not a direct substitute for that income. I do not know at this stage how much additional revenue this Law will produce. I do know that if we do not pass this Law the additional revenue will be absolutely zero. If we do pass this, it is a thriving marketplace in which we have tremendous expertise within the Island at the present time, we will be able to capitalise on that. We will not get the revenue from those companies. We will get the revenue from the administrators of those companies; the lawyers, the bankers, the accountants and so on, in the professional fees that they will charge to those entities. That is a considerable source of new business which Jersey has the opportunity to get into if we do it at this early stage, but if we delay and defer this the opportunity will be lost. I have no desire to lose the opportunity and therefore I brought this amendment at the earliest opportunity possible, Sir. Having I think dealt with all those things, and I appreciate the support from the Assistant Minister for Economic Development, I maintain my request for the principles.

Deputy P.V.F. Le Claire:

Could I press the Minister for just the last part of my questioning, which was in respect of the fact that this was one of the 4 measures that caused us so much concern - or did not cause us so much concern, caused the new Code of Conduct so much concern - what concern, if any, will this move have in anticipation of this move to those groups?

Senator T.A. Le Sueur:

I apologise to the Deputy for omitting to answer that point. In my view, it will be seen very favourably by authorities around the world in that it makes the Law far clearer than it currently is and that clarity, I think, will be welcomed. It does not alter the situation as far as the Code of Conduct is concerned. What it does is place the Jersey company in a clear situation that it is non-resident and defined as non-resident. I hope that deals with the Deputy's question.

The Deputy Bailiff:

Very well. All those in favour of adopting the principles of the Law kindly show. Those against. The principles are adopted. Deputy Ryan, as Chairman of the relevant Scrutiny Panel, do you wish it to be referred to you?

Deputy P.J.D. Ryan (Chairman of the Corporate Affairs Scrutiny Panel):

No, thank you, Sir. We support it.

The Deputy Bailiff:

Very well. Do you wish to propose the Articles *en bloc*?

Senator T.A. Le Sueur:

Yes, indeed, Sir. Articles 1 and 2. Article 1 is the meat of the amendment and it shows that there are 3 tests required for a company to be regarded as non-resident. Firstly, it has to be managed and controlled outside the Island. Secondly, it has to be managed and controlled in a place where the tax rate is 20 per cent or more, and thirdly, it has to be resident in that territory. Only if those conditions are met will it be non-resident. I propose the Articles.

The Deputy Bailiff:

Is that seconded? [**Seconded**] Very well. Does any Member wish to speak on the Articles? All those in favour of adopting Articles 1 and 2 kindly show. Those against. The Articles are adopted. Do you propose the Bill in Third Reading?

Senator T.A. Le Sueur:

Yes, Sir.

18.6.1 The Deputy Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on Third Reading? All those in favour of adopting the Bill in Third Reading kindly show. Those against. The Bill is adopted in Third Reading. Now, Senator Le Sueur has given notice that he would wish to take advantage of Standing Order 80A and proposed that this measure be given immediate effect. I will therefore ask the Greffier to read the Act.

The Greffier of the States:

Act declaring that the Income Tax (Amendment No. 27) (Jersey) Law 200- shall have immediate effect. The States, in pursuance of Article 19 of the Public Finances (Jersey) Law 2005, have made the following Act.

18.6.2 Senator T.A. Le Sueur:

Amendments to the Income Tax Law are normally made at budget time and we have got used to seeing Actes Operatoire at budget time. This is perhaps unusual to see it at this time of the year but the same principle applies, Sir, and I propose the Act.

The Deputy Bailiff:

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

19. Manual Workers' Joint Council: Employers' Side Membership (P.171/06)

The Deputy Bailiff:

Now, the Chief Minister has given notice that he would like to propose that Projet 171 - Manual Workers' Joint Council: Employers' Side Membership be debated at the present meeting. Chief Minister, do you wish to propose that?

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

Yes, please, Sir.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does the Assembly agree to take it immediately? Yes, the Greffier will therefore read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion, in accordance with their Act dated 9th November 1961, as amended, concerning the membership of the Manual Workers' Joint Council, to approve the nomination of the full representatives of the States to serve as members of the Employers' Side of the Council for 2007 as follows: Deputy Ian Joseph Gordon Gorst of St. Clement, Deputy Alan John Henry Maclean of St. Helier, Mr. John Michael Pollard, Chief Executive Health and Social Services, Mr. John Richardson, Chief Executive Officer, Transport and Technical Services.

19.1 Senator F.H. Walker:

I am sure the House will recall that we recently agreed to reduce the numbers of representatives on the Manual Workers' Joint Council to 4 from the employers and 4 from the employees. This proposition, in very straightforward fashion, nominates the 4 members for the employer side and I make the proposition.

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.

20. Draft Animal Welfare (Jersey) Law 2004 (Appointed Day) Act 200- (P.1/2007)

The Deputy Bailiff:

The Minister for Planning and Environment has given notice that he will propose that Projet 1 - Draft Animal Welfare (Jersey) Law 2004 (Appointed Day) Act 200- be debated at the present meeting. Minister, do you propose that at this meeting? Seconded? **[Seconded]** Do Members agree to take this matter at this present meeting? I ask the Greffier to read the proposition.

The Greffier of the States:

Draft Animal Welfare (Jersey) Law 2004 (Appointed Day) Act 200-. The States, in pursuance of Article 43 of the Animal Welfare (Jersey) Law 2004, have made the following Act.

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

This Act would bring the Animal Welfare (Jersey) Law into force on 1st February. The Law was adopted by the States on 20th April 2004. The amendment to the Law was passed in 2006. The Animal Welfare (Amendment) (Jersey) Law 2006 would automatically come into force on the same day. The Law was sanctioned by the Privy Council on 13th October 2004 and registered in the Royal Court on 29th October 2004. Having considered the assurances that were given at the time of the original debate on the Law, I would be making an Order to come into force on the same day as the Law, which has the effect of delaying for 6 months the requirement for certain existing premises to be licensed. I believe that this measure, coupled with the almost 3 years that have elapsed since the Law was adopted by the States, is a sufficient period of time for existing operators to bring their establishments into line with good practice. Members will be aware that we have a new States' Veterinary Officer in place and I can inform Members that I have asked her to rigorously review the codes of practice for animal welfare to ensure that they represent both practical and essential measures. I have also asked her to liaise with premises that will be affected by the licensing provisions of the Law so that, where necessary, a phased program of improvement can be agreed as part of the licensing conditions. As the report accompanying this Act indicates, I shall also make Orders to (1) reduce the age at which pigs can be castrated without anaesthetic; (2) to prohibit certain poisons in animals; and (3) to set fees for the licensing of businesses. The annual fees will be based on the recovery of costs of the States' Veterinary Officer and her assistant in carrying out the necessary inspection visits and will be in 2 bands depending on the scale of operation. For premises engaged in breeding, boarding or sanctuary the fees will be £165 for larger establishments of 10 or more animals and £110 for smaller establishments of less than 10 animals. For premises engaged in grooming, sale, exhibition or performance, the fee will be £82. Bringing this Law into force is an important measure to promote animal welfare and to give improved powers to investigate cases of cruelty. I urge you to support the Act.

The Deputy Bailiff:

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

20.2 Senator M.E. Vibert:

Yes, Sir, it is seconded and, seconding it, I would like to say that I, as a Member of the Assembly, would like to apologise that this Law has taken so long to come into force. I think it is long overdue and, as an Assembly, we should be ashamed that it has taken so long to get this necessary piece of legislation into force.

20.3 Deputy P.N. Troy:

I did much work on the Animal Welfare Law in the past and I welcome this. As Senator Vibert says, it is exactly time to get this fully through now and I am pleased that we are progressing with it.

20.4 Deputy of St. Martin:

Members may recall that I did express my concern about the Law, not because I was concerned about the Welfare Law because it was welcome, but I just felt that the licensing side really was going to cause a lot of hardship, not only to the establishments but also to the pet owners themselves. However since the appointment date has been lodged I have discussed the matter with the Minister and members of his department. I am glad to say that he has given me his assurance that this will be approached with a light touch and also that members of his department and some of the stakeholders will be meeting very soon to ensure that there is a pragmatic approach taken otherwise, if we are not careful, we will see a number of establishments close down and the pet

owners themselves will be the losers. So I will be supporting it and I am reassured by the assurances I have been given by the Minister. Thank you, Minister.

20.5 Deputy G.P. Southern:

If the Minister wishes to obtain my support on this measure he must surely explain to the House of the necessity of reducing the age at which pigs can be castrated and I look forward to his explanation. [Laughter]

The Deputy Bailiff:

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

20.6 Senator F.E. Cohen:

I would like to thank the first 3 Members. [Laughter] Unfortunately, I will have to inform the House that I have not the slightest idea why the age has been reduced from one month to one week but I am assured by the States' Veterinary Officer that it is absolutely essential. Thank you, Sir.

The Deputy Bailiff:

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

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

21. The Deputy Bailiff:

So we come finally under M to Arrangement of Public Business for Future Meetings and I invite the President of the P.P.C. to propose it.

21.1 The Connétable of St. Clement (Chairman of the Privileges and Procedures Committee):

I would like to propose the arrangements that are listed in the pink sheet under M with the addition of P.8 which was lodged today, that is the Jersey Financial Services Commission: Appointment of Commissioner which is now listed for 13th February.

The Deputy Bailiff:

Sorry. You are adding P.8, is that right?

The Connétable of St. Clement:

To 13th February, Sir.

21.1.1 Senator T.A. Le Sueur:

I do not know if we have yet agreed this list for 30th January and I may be jumping the gun, Sir, but were the list to be agreed, including that of P.5 of Deputy Fox: Relocation of Jersey Dairy, could I suggest that P.170 on the Howard Davis Farm covenant put down for the 13th be moved forward to the same day, to be debated after Deputy Fox's proposition.

The Deputy Bailiff:

But is it not the case that, in respect of your Projet, Minister, it will not have been lodged for the relevant period?

Senator T.A. Le Sueur:

Yes. I would need to seek the leave of the House, Sir. It would not have been lodged for 6 weeks. It would have been lodged for 5 weeks, 5 days and a bit but, given the urgency of this matter, I

would seek the leave of the House to suspend that particular Standing Order and to deal with it in advance of the 6 week ruling.

The Deputy Bailiff:

The Standing Order says that the States may reduce the minimum lodging period if they are of the opinion that the proposition relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate. So I think you need to make the case... **[Interruption]**

Senator T.A. Le Sueur:

If it is to be made now, Sir.

The Deputy Bailiff:

I think you have to make it now if you are going to invite Members to add it to the list on that day.

Senator T.A. Le Sueur:

Very well, Sir. The reason for asking for an early date is that Members who have read the Promar Report will be well aware of the situation in which the dairy company finds itself and the need to resolve their problems without undue delay. What this will do, I think, is give the dairy the certainty it requires in order to pursue its objectives for the coming year. I recognise it will take some time for the Law to be rationalised and all procedures followed but it will give the dairy that certainty to continue which, at the present time, they do not have. I think that uncertainty is bad, not just for the industry but for the Island itself, for the future of the dairy farmer and the cattle producer generally in the Island and the sooner we can resolve this matter the better. I had not at this stage intended to ask for an earlier date because I was not sure whether the Scrutiny Panel who are looking at this would have completed their inquiries. I have asked Deputy Breckon of the status of that and he assures me that their report will be produced well in advance of 30th January and will enable us to have all the information required to make a decision at that time. All that it therefore requires is the goodwill of the House to take it at that earlier date.

The Deputy Bailiff:

So you are asking for P.170 to be taken on that date as well, even though the 6 weeks will not have been...

Senator T.A. Le Sueur:

Yes.

21.1.2 Deputy A. Breckon:

For Members' information, Sir, if I could say that the joint review that was taken with the Chief Minister - who was acting because the Economic Development Minister was conflicted because of an interest - is on a very near final draft and we have a meeting again tomorrow. So, to inform Members, I am hopeful that it will be in a presentable form by Friday lunchtime to be sent out at the weekend and officially lodged on Monday. But I am dependant on the Panel for that, Sir, and the final conclusions but that is the target at this stage, which would mean that Members would have at least a week before a debate if it were to take place on 30th January.

21.1.3 Deputy G.P. Southern:

If I may, Sir, I do not believe that the Treasury Minister has made the case that this is prejudicial to the whole Island of Jersey and the fact is that giving a few days to read the depth and solidity of a full Scrutiny report is not really paying respect to that report. I see absolutely no reason why the House should accept this move forward and reduction in the lodging time.

21.1.4 Senator F.H. Walker:

As Deputy Breckon has mentioned, because of the conflict of interest of the Economic Development Minister I have the responsibility, from a ministerial point of view, for the review of the dairy industry and making a recommendation on its future. Can I just support the proposition of the Treasury and Resources Minister? There is real urgency here to give the dairy industry of Jersey certainty that they do indeed have a future and until they are aware that a new fit-for-purpose dairy can be built on a particular site they will not have that certainty. I can see no harm whatsoever in moving forward the debate I think it is by 2 days from the 6 week lodging period, particularly if, as I understand it, the Scrutiny Panel or the sub-panel under Deputy Breckon, themselves have no objection to the proposition on the lifting of the covenant going ahead, which is a different matter to that raised by Deputy Southern because their overall review is the future of the dairy industry, not just the lifting of the covenant on the site. I cannot believe that anyone could object to a shortening of the lodging period by 2 days on this matter. There is real urgency here, Sir, and I would urge the House to agree to debate it on the 30th.

The Deputy Bailiff:

Very well. The matter before the Assembly then is whether to add to the list on 30th January, Projet 170, that is the Abrogation of Covenant, and in order to do that the Assembly must agree to reduce the 6-week notice period. So all those in favour of the proposition of the Treasury Minister kindly show. We had better have a count. No, perhaps not. Those against. Thank you. The matter is added to the list.

21.2 Deputy P.V.F. Le Claire:

On 13th February this year we have down for debate, as agreed by the States, Public Elections: Reduction in Voting Age to 16 - P.166 - lodged by myself, Sir. Having discussed the issue with Members, and in particular the Deputy of Grouville who has done an enormous amount of work on this issue, I have been asked if I could hold back a little so that some consultation can take place. I am more than happy to do that, Sir, and I would like to suggest that if the States are willing to accept an alternative date that occurs and I place it for debate on 28th March. With the States Assembly agreement, Sir, I will defer that proposition if that is acceptable.

The Deputy Bailiff:

Very well. You want to move that one from 13th February to 28th March?

Deputy P.V.F. Le Claire:

Yes, Sir, and if I may ask permission of the House to move P.128 - my proposition on amending the draft Employment Law - back to 13th February. I am still waiting for the amended version to come from the Social Security Department, which is not going to be lodged in time for a debate on 30th January, but should be, I hope, for 13th February.

The Deputy Bailiff:

Very well. You want to move Projet 128 to 13th February. Are there any other comments or amendments? Subject to that then, does the Assembly agree to take on 30th January the matters listed, less Projet 128, plus Projet 170? The Greffier has asked me to inquire whether it is right that Projet 5 will be taken before Projet 170. Is that correct?

Senator T.A. Le Sueur:

Yes, indeed, Sir.

21.3 Senator S. Syvret:

I wondered if I could just ask, before we adjourn, whether a copy of the statement by the Chairmen's Panel Chairman was going to be distributed. I do not appear to have one. Perhaps it has passed me by.

Deputy R.C. Duhamel (President of the Chairmen's Committee):

It already has been distributed.

The Deputy Bailiff:

It should be on the question bundle, I think, Senator. I am sure another copy can be obtained from the Greffe if necessary.

21.4 Deputy G.W.J. de Faye:

Could I ask for a point of clarification? Did I understand that Projet 5, that is Deputy Fox's proposition, is it not, that there will be a number of sites for consideration for the dairy, is to be taken now ahead of P.170? It strikes me that this could cause a level of confusion if we are debating alternative sites when we are not sure whether the Howard Davis Farm site is a potential site, given that the covenant may or may not have been lifted. It seems to me there is somewhat more logic in debating it the other way round.

21.4.1 Senator T.A. Le Sueur:

I do not think it is that critical either way, Sir. I think in fairness to Deputy Fox, there might be some feeling of *déjà vu* if we debate the Howard Davis Farm one; that that has already been earmarked in his proposition might be considered redundant. I do not wish to infer that to him whatsoever. They are separate propositions and I want to give him full rights to speak if he wishes. I am in the hands of the House.

21.4.2 Deputy J.B. Fox:

The purpose of my proposition is that the proposition of the Minister is silent.

The Deputy Bailiff:

The Greffier is advising that it would seem that Projet 170 really does not come into it unless Projet 5 is rejected. In other words it is consequential.

Deputy J.B. Fox:

Indeed. Yes, Sir.

The Deputy Bailiff:

So it ought to remain probably in the order.

Deputy J.B. Fox:

That is kind. Thank you, Sir.

ADJOURNMENT

The Deputy Bailiff:

That concludes the business of the Assembly. We stand adjourned until 30th January 2007.