

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 27th FEBRUARY 2007

QUESTIONS.....	4
1. Written Questions	4
1.1 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING BACKLOGS AT THE INCOME TAX DEPARTMENT OVER THE PROCESSING OF ITIS DATA:	4
1.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT CONCERNING ENVIRONMENTAL ISSUES:	6
1.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE CO-ORDINATION OF DATA GATHERED BY DEPARTMENTS:	7
1.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING SPENDING PRESSURES:.....	9
1.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE SELL-OFF OF SOCIAL HOUSING RENTAL STOCK:.....	9
1.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING LONG TERM INCAPACITY ALLOWANCE:.....	11
1.7 DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE CHAIRMAN OF THE HIGHER EDUCATION DEVELOPMENT GROUP:.....	13
2. Oral Questions.....	13
2.1 Deputy K.C. Lewis of St. Saviour of the Minister for Home Affairs regarding Jersey Field Squadron R.E. personnel serving in Iraq:	13
2.1.1 Deputy K.C. Lewis:	14
2.1.2 Senator B.E. Shenton:.....	14
2.2 Deputy S. Pitman of St. Helier of the Minister for Housing regarding the demolition of Convent Court and Caesarea Court, St. Helier:	14
2.2.1 Deputy S. Pitman:.....	14
2.2.2 Connétable A.S. Crowcroft of St. Helier:	15
2.2.3 Deputy R.G. Le Hérisssier of St. Saviour:	15
2.2.4 Deputy C.J. Scott Warren of St. Saviour:	15
2.2.5 Deputy G.P. Southern of St. Helier:	16
2.2.6 Deputy G.P. Southern:	16
2.2.7 Deputy S. Pitman:.....	16
2.2.8 Deputy K.C. Lewis:	17
2.2.9 Deputy S.C. Ferguson of St. Brelade:	17
2.3 Senator B.E. Shenton of the Chief Minister regarding the conduct of business by the States Employment Board:	18
2.4 Deputy S. Pitman of the Minister for Housing regarding plans to re-house tenants of Convent Court, St. Helier during reconstruction work:.....	18

2.4.1 Deputy S. Pitman:.....	19
2.4.2 Deputy R.G. Le Hérisier:	19
2.4.3 Deputy G.P. Southern:.....	19
2.4.4 Deputy J.A. Martin of St. Helier:	19
2.4.5 Deputy C.J. Scott Warren:	20
2.4.6 Deputy S. Pitman:.....	20
2.5 Deputy G.P. Southern of the Assistant Minister for Economic Development regarding Jersey Competition Regulatory Authority powers and their enforcement following a sell-off of Jersey Telecom:	21
2.5.1 Deputy G.P. Southern:.....	21
2.5.2 Deputy G.P. Southern:.....	21
2.5.3 Deputy G.P. Southern:.....	22
2.5.4 Deputy S.C. Ferguson:.....	22
2.6 Deputy G.P. Southern of the Minister for Treasury and Resources regarding funding the public sector pay award 2007:.....	22
2.6.1 Deputy G.P. Southern:.....	22
2.6.2 Deputy G.P. Southern:.....	23
2.6.3 Deputy G.P. Southern:.....	23
2.6.4 Deputy R.G. Le Hérisier:	23
2.6.5 Deputy G.P. Southern:.....	23
2.7 Senator B.E. Shenton of the Minister for Home Affairs regarding categorisation of prisoners as vulnerable at H.M. Prison La Moye:.....	23
2.8 Deputy K.C. Lewis of the Minister for Education, Sport and Culture regarding the amphibious vehicle service to Elizabeth Castle, St. Helier:	24
Deputy C.F.L. Labey for Grouville (Assistant Minister for Education, Sport and Culture)	24
2.8.1 Deputy K.C. Lewis:.....	24
2.8.2 Deputy K.C. Lewis:	25
2.8.3 Deputy D.W. Mezbourian of St. Lawrence:	25
2.8.4 Deputy G.C.L. Baudains of St. Clement:	25
2.8.5 Deputy S.C. Ferguson:.....	26
2.8.6 Deputy P.V.F. Le Claire of St. Helier:	26
2.8.7 Deputy S. Power of St. Brelade:	26
2.8.8 Deputy D.W. Mezbourian:.....	26
2.8.9 Deputy P.V.F. Le Claire:	26
2.8.10 Deputy C.J. Scott Warren:.....	27
2.8.11 Deputy K.C. Lewis:	27
3. Questions to Ministers without notice - The Minister for Home Affairs	28
The Bailiff:.....	28
3.1 Deputy F.J. Hill of St. Martin:	28
Senator W. Kinnard (The Minister for Home Affairs):.....	28
3.2 Deputy R.G. Le Hérisier:	28
3.3 Senator B.E. Shenton:.....	28
3.3.1 The Deputy of St. Martin:.....	29
3.4 Deputy S. Power:.....	29
3.5 Deputy P.V.F. Le Claire:	29
3.6 Deputy G.P. Southern:.....	29
3.7 Deputy D.W. Mezbourian:.....	30
3.8 Deputy C.J. Scott Warren:	30
3.9 Deputy S.C. Ferguson:.....	30
3.10 Deputy J.A. Martin:	31
3.11 Deputy K.C. Lewis:	31

4. Questions to Ministers without notice - The Minister for Transport and Technical Services	32
The Bailiff:	32
4.1 Deputy R.G. Le Hérisier:	32
4.2 Deputy D.W. Mezbourian:	32
4.3 Deputy S.C. Ferguson:	33
4.4 Deputy C.H. Egré of St. Peter:	33
4.5 Deputy P.V.F. Le Claire:	34
4.6 Deputy R.C. Duhamel of St. Saviour:	34
4.7 Deputy G.C.L. Baudains:	35
4.8 Deputy A.D. Lewis of St. John:	35
The Bailiff:	36
PERSONAL STATEMENTS	36
5. Deputy G.W.J. de Faye:	36
STATEMENTS OF A MATTER OF OFFICIAL RESPONSIBILITY	36
6.1 Deputy G.P. Southern (Chairman of the Economic Affairs Scrutiny Panel - Telecoms Privatisation Sub-Panel):	36
6.1.1 Deputy R.G. Le Hérisier:	37
PUBLIC BUSINESS	37
7. Draft Police (Honorary Police Complaints and Discipline Procedure) (Amendment) (Jersey) Regulations 200- (P.2/2007).....	37
The Bailiff:	37
7.1 Senator W. Kinnard (The Minister for H:	37
7.2 The Deputy of St. Martin:	38
Deputy G.C.L. Baudains:	38
Connétable K.P. Vibert of St. Ouen:	38
Senator W. Kinnard:	38
The Deputy of St. Martin (Chairman of the Education and Home Affairs Scrutiny Panel)	38
8. Field 512 La Route des Camps St. Brelade: proposed deed of arrangement (P.3/2007)	39
The Bailiff:	39
8.1 Senator T.A. Le Sueur (The Minister for Treasury and Resources):	39
8.2 Senator M.E. Vibert:	40
8.3 Connétable M.K. Jackson of St. Brelade:	40
8.4 Deputy P.N. Troy of St. Brelade:	40
8.5 Deputy R.G. Le Hérisier:	40
9. Draft Criminal Offences (Jersey) Law 200- (P.7/2007).....	41
The Bailiff:	41
9.1 Connétable K.P. Vibert of St. Ouen (Assistant Minister, Chief Minister's Department):	41
9.2 Deputy R.G. Le Hérisier:	41
9.3 Senator S. Syvret:	41
10. Draft Corruption (Jersey) Law 200- (Appointed Day) Act 200- (P.16/2007).....	42
The Bailiff:	42
10.1 Senator W. Kinnard (The Minister for Home Affairs):	42
11. Deep Groundwater: La Rocque and St. Catherine boreholes (P.22/2007).....	43

The Bailiff:.....	43
11.1 Deputy G.C.L. Baudains:.....	43
11.2 Deputy S.C. Ferguson:.....	47
11.3 Senator M.E. Vibert:.....	49
11.4 Deputy R.C. Duhamel:	50
Deputy G.W.J. de Faye:	52
11.5 Senator F.E. Cohen (The Minister for Planning and Environment):.....	52
The Bailiff:.....	54
LUNCHEON ADJOURNMENT.....	54
The Bailiff:.....	54
11.6 The Deputy of St. John:	54
11.7 Connétable S.A. Yates of St. Martin:	54
11.8 Deputy C.J. Scott Warren:	55
11.9 Deputy J. Gallichan of St. Mary:.....	55
11.10 Senator S. Syvret:	56
11.11 Deputy K.C. Lewis:	57
11.12 Deputy G.W.J. de Faye:.....	58
11.13 Deputy P.N. Troy:	58
11.14 Deputy J.B. Fox of St. Helier:.....	59
11.15 Senator F.H. Walker:	59
11.16 Deputy G.C.L. Baudains:.....	60
Senator L. Norman:	63
Deputy G.C.L. Baudains:.....	63
The Bailiff:.....	64
The Bailiff:.....	65
ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS	67
12. Connétable D.F. Gray of St. Clement (Chairman of the Privileges and Procedures Committee):	67
12.1 Senator P.F. Routier (The Minister for Social Security):	67
12.2 Deputy G.P. Southern:.....	67
The Bailiff:.....	68
Senator P.F. Routier:.....	68
12.3 Deputy P.N. Troy:	68
The Bailiff:.....	68
ADJOURNMENT.....	70

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

QUESTIONS

1. Written Questions

1.1 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING BACKLOGS AT THE INCOME TAX DEPARTMENT OVER THE PROCESSING OF ITIS DATA:

Question

Would the Minister inform members what backlogs, if any, currently exist at the Income Tax Department over processing ITIS data for employers, employees (including repayments) and the

self-employed? What measures, if any, are in place to ensure that the department remains up to date, and by when will any backlogs be eliminated?

Answer

Due to the unprecedented level of repayment claims made by ITIS employees in the last 3 months, in preference to having any overpayment factored into the following year's effective rate, Income Tax have made repayments totalling £2.6 million in the last 3 months, to 3,204 ITIS employees, that figure being split as to 2,854 for year 2005, 344 for year 2006 and 6 for the year 2007.

Currently, there is a backlog of only 179 repayment claims relating to ITIS employees, either because the data received from employers is inaccurate and needs to be corrected by Income Tax in conjunction with the employer, or, alternatively, because no data has as yet been received from the employer for a particular month.

The Income Tax ITIS team are in contact with 302 employers over inaccurate and / or undelivered ITIS returns. However, the vast majority of ITIS employers are completely up to date with their ITIS returns and employers, generally, have made ITIS a success with their excellent compliance to the new ITIS regime. This is also reflected in the statistic that the Income Tax IS Division currently have just 71 ITIS employers with problems and issues to resolve relating to ITIS returns. To put that particular backlog in context, Income Tax handle approximately 4,400 ITIS employers every month, although these employers make a total of approximately 6,000 ITIS returns monthly, as some employers have more than one payroll / business record. As these statistics show, the vast majority of ITIS employer returns are being processed on time and without any problems.

The recent press coverage in the letters page of the Jersey Evening Post does not, therefore, give an accurate reflection of either the volume of work being done by Income Tax Department employees or, indeed, of the relatively minor backlog of repayments outstanding.

There has been an unexpected and significant increase in workload generated by ITIS, illustrated by -

- the number of callers at the Help Desk increasing from 29,107 in 2004 to 91,165 in 2006
- the personal taxpayer base increasing from 52,171 in 2004 to 68,001 as at today's date
- transactions posted in 2006 increasing to 890,000 compared to 390,000 in 2005, and,
- repayment transactions in the last 3 months alone already surpassing all the repayments normally made in a year.

These statistics show an unprecedented level of activity, in particular on the Help Desk. To achieve these levels of repayments, to correct and maintain up to date incomplete and inaccurate employer returns, and to deliver all these services, in addition to handling the normal and everyday business and personal tax operational activities of Income Tax, shows how well the system, and matters generally, are working after only the first year of ITIS operations.

Although the Comptroller of Income Tax is currently recruiting to fill approved posts and thereby deliver an enhanced level of service, it will take at least 2 years to train them to the professional standard expected, so Income Tax will remain under operational pressure for the next year. By way of background information, ITIS is the biggest administrative, legal and operational challenge Income Tax has ever faced and it would be both highly unusual and quite extraordinary for such a major project to have gone absolutely smoothly and without any difficulties whatsoever. Although there have been problems, notably with the wording on some effective rate notices and on the remittance advice on the Notice of Assessment, Income Tax continue to resolve these problems and to make improvements, to try and make this new system of paying tax as efficient and effective as

possible for employers and as convenient as possible for employees. For example, there is a Chamber of Commerce presentation and meeting scheduled later on this month where Income Tax will be available to discuss any issues and answer any questions on ITIS. Staff of the Income Tax Department will continue to work with all interested parties to ensure that ITIS improves even further in the years ahead.

1.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT CONCERNING ENVIRONMENTAL ISSUES:

Question 1

Has the Minister investigated what costs and energy savings are involved in the installation of the following energy saving actions for the average household -

Small windmill

Solar power

Cavity insulation

and, if so, could he provide details for members? What concrete support, if any, does his department plan for any of these initiatives in the Annual Business Plan for 2008?

Answer

The Deputy will be aware of the ongoing work on energy policy which I will bring to the States later this year, including the type of detail that the Deputy requests in his question. As part of the research for this policy work, my Department is evaluating various types of energy efficiency measures and also microgeneration technologies for the contribution they would make towards carbon reduction targets.

The extent of Jersey's carbon reduction targets will be a matter to be debated within the energy policy when it is brought forward for adoption. This will in turn allow us to assess what levels of support for energy efficiency and microgeneration technology are necessary, cost-effective and appropriate.

It is clear that the most important and effective investment will be through improved household insulation as this reduces demand thereby saving energy and reducing heating costs in one action. An additional advantage is that it requires relatively lower initial investment and has a shorter payback period. Not all houses can receive cavity wall insulation and other measures such as roof insulation, draft proofing and double glazing also need to be considered.

Once demand for energy is reduced as far as possible by better insulation (and in the longer term by better buildings) we can look at further ways of reducing our use of energy and decreasing associated carbon emissions. Micro generation techniques such as solar thermal water heating, micro wind generation and photo voltaic cells may have a part to play in further reducing carbon emissions but the return on investment is much slower and so these would not be measures given early priority in a support programme. In addition, when considering carbon dioxide production, it has to be remembered that Jersey's electricity supply is very low carbon already and so displacing it with micro generation would deliver little reduction in carbon.

Funding to support energy efficiency initiatives will come from the proposed introduction of environmental taxes. Details of the environmental tax options are being released for public

consultation on 28th February but I can say now that this will include a proposal for significant funding to be allocated from revenues raised by such taxation towards energy efficiency measures.

Question 2

Would the Minister inform members of the current and future costs of the Eco-Active campaign including the postage and packaging costs of sending out free pencils and badges to a wide number of recipients? Would he state which budget these costs come from and whether he is satisfied that such actions are ecologically justified?

Answer

ECO-ACTIVE is a major new initiative to help people in Jersey to make environmentally conscious decisions. It has already generated a tremendous response both from the public and corporate sector. Specifically, 10,000 people attended the launch at the Planet Jersey event between the 9th and 12th February. Islanders have made over 1,800 pledges to improve their environmental performance. Furthermore there have been nearly 30,000 hits on the website since the launch. This gives us further confidence that it can and will make a real difference to Jersey's environmental performance.

Resources are twofold; from my Department and from the generous sponsorship we have received. The programme has and, will be, managed within current departmental resources plus whatever can be achieved through continued sponsorship. To date sponsorship has amounted to £24,000 relating to the development and launch of ECO-ACTIVE and the related Planet Jersey event. £14,000 was received from HSBC and £10,000 from the Ecology Fund. Furthermore 30 HSBC staff members gave their time to assist with the launch at ECO-ACTIVE and Planet Jersey. The Jersey Evening Post are partners in this project and their staff have also devoted considerable time to promoting the aims of ECO-ACTIVE. I anticipate continuing sponsorship in the future which will allow us to expand the programme.

To raise awareness of the campaign and the ECO-ACTIVE website some sponsorship money was used to purchase pencils and badges. These were distributed by hand at the Planet Jersey event and from our sponsor's offices. The only postage incurred was to send samples of these promotional materials to all States members which I did at my own expense.

The promotional pencils are made from recycled materials. The pencils and badges were purchased from companies whose ethical and environmental performance is viewed as robust by other bodies such as the World Wildlife Fund.

We will shortly be distributing free ECO-ACTIVE badges to most of Jersey's schoolchildren. Furthermore in a couple of weeks we will be distributing free ECO-ACTIVE pencils to all Jersey schoolchildren as a partnership with the Education Department.

I am delighted with the initial success of ECO-ACTIVE and am certain that the resources applied are justified.

1.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE CO-ORDINATION OF DATA GATHERED BY DEPARTMENTS:

Question

On 6th December 2006 the Minister for Economic Development stated that “we have seen in the last few months reconciliation between the numbers of people on social security and Regulation of Undertakings licences.” Would the Chief Minister confirm that this reconciliation has been undertaken by the Statistics Unit and, if not, state why, and would he also indicate what progress, if any, has been made to co-ordinate approaches to data gathering between the Chief Minister’s Department, Social Security and Health and Social Services?

Answer

The comment from the Minister for Economic Development was made in the context of a debate on our ability to measure the working population so it is worth revisiting this point.

The Regulations of Undertakings and Development Law (RUDL) requires that all Private Sector companies (including one-person businesses) submit a return to the RUDL office stating their level of employment broken down by employment qualifications, full/part time, contract and seasonal workers every 6 months (this is often called the manpower survey, despite the fact it is a census). Put another way every 6 months a full employment census of the private sector is run in Jersey. The returns under "manpower survey" are then analysed by the Statistics Unit to produce the total private sector employment and sector breakdown. This private sector information is then supplemented by data on the public sector which is compiled by the Treasury, and the combined totals are published by the Statistics Unit every 6 months in the Labour Market Report.

As a result of these legal requirements, Jersey has a complete measure of employment every 6 months and indeed the level of data we have on employment far exceeds that of other comparable jurisdictions.

As for reconciliation between employment and Social Security Department data, the Statistics Unit has done some work on this, in order to obtain an insight into the make up of Jersey’s workforce by nationality¹, which it published in the Labour Market Report in October last year. However, as it explained in its report there are some important differences between Social Security and Labour Market Report data.

Social Security data are contributions, that is the number of actual contributions paid in a given quarter. The number of contributions will differ from the number employed for a variety of reasons including:

- social security contributions are deducted from earnings and paid by the employer on behalf of the employee (for the majority of the workforce). This means that any person changing jobs in a quarter will be counted twice as a different contribution will be received on their behalf from two employers. To give a guide to the scale of this, around 10% of the finance sector’s workforce changed jobs within Jersey in 2005². Equally if two people are involved in a changeover of a position or contract post it will be counted as two; and
- the data on Social Security contributions represent the number of unique contributions paid over the entire quarter, whilst the employment data is a point in time estimate at either 30 June or 31 December each year.

¹ Under the Social Security (Jersey) Law 1974 one of the pieces of information held against everyone’s unique registration number is their nationality.

² Source: analysis from the Survey of Financial Institutions 2005, States of Jersey Statistics Unit.

As a result of these differences it is not possible to undertake a direct comparison of social security contributions and numbers in employment as the former will always be higher by definition. However, on average the difference is around 10%, reflecting the turnover in the job market as described above and the robustness of both data sets for their specific purposes.

Over the past couple of years we have seen significant advances in close working co-operation between not only the Statistics Unit, Social Security and Health and Social Services, but all Government departments in the field of statistics. One only has to look at the comprehensive and wide ranging report produced last week on the Jersey Annual Social Survey to see how well departments are now working together to produce timely and accurate statistics in a very efficient way to the benefit of us all.

1.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING SPENDING PRESSURES:

Question 1

Would the Chief Minister agree to release to members the information regarding emerging spending pressures that was recently discussed at the Council of Ministers and, if not, when will this data be released into the public domain?

Answer

I am sure that the Chief Minister will agree to keep all members informed of spending pressures as and when those pressures are more clearly identified and prioritised.

The Council of Ministers is currently working on the background to the 2008 Business Plan and developing proposals for spending limits which are due to be lodged in July as part of that Plan. The Council has developed a structured and detailed timetable for the process and has discussed and agreed this at a high level with the Corporate Services Scrutiny Panel and the Chairmen's Committee. The Corporate Services Scrutiny Panel has also received regular briefings as the background and proposals have been developed.

The next stage of this briefing is scheduled for the week commencing 19th March 2007 when the Council will present its proposals for spending limits by department to the Corporate Services Scrutiny Panel. The Council will also then release details of departments' proposed spending limits to the individual Scrutiny Panels.

The Council will also be providing a presentation to all States members after 19th March 2007 incorporating the background to the process and the principles behind the proposed spending limits that have been developed.

States members need to be aware that the proposals could still change as they are considered further by Ministers, departments and the individual Scrutiny Panels, but a further presentation of the final proposals will, if necessary, be held immediately prior to lodging in July.

1.5 DEPUTY G.P. SOUTHER OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE SELL-OFF OF SOCIAL HOUSING RENTAL STOCK:

Question 1

Would the Minister –

- (a) explain why the Social Housing Property Plan envisages the sale of social rental stock when the proportion of such accommodation (States plus housing trusts) is already lower than the 17% figure in the United Kingdom?
- (b) give the current waiting period for 3-bed accommodation being notified to applicants by his department at a time when some of this housing is targeted for sale?

Answer

- (a) I would again preface this answer with that of my answer of 30th January 2007. In my statement to the Assembly in January 2007, I made it clear that I would be happy to discuss the Property Plan in detail with the relevant Scrutiny Panel. It seems to me that a Scrutiny Panel review of the Plan would be a more appropriate and effective forum for this sort of discussion, than a constant stream of questions in the Assembly. However -

Social housing figures from the UK are of little consequence in this context. It is akin to comparing 'apples and pears'. There is no single 'correct' level of social housing which could be applied to all communities, and no suggestion that the UK is a model of best practice which Jersey is obliged to imitate. It is a fact that the Island rate of owner-occupation is low, which is why the States last year requested the Housing Department to bring forward proposals to use social housing stock to progress a shared equity scheme, in order to encourage an increase in levels of home ownership in the Island.

The Housing Department has continually relaxed allocations criteria in order to let available stock. When this is coupled to a large proportion of social housing tenants not needing to claim rental subsidy; when these wealthier tenants far outnumber people on the Housing Waiting List; when people with incomes much higher than the average can access social housing and claim subsidy then, I believe there are good grounds for reasoning that the number of social housing units of accommodation exceeds the number of households in genuine social housing need. Therefore, in my view there is little relevance to the quoted 17% statistic.

- (b) The waiting period for a 3 bedroom home notified to applicants will differ significantly depending on the needs and preferences of individual applicants. For instance, an applicant who is willing to consider a variety of locations for a home would be advised that they could be housed almost immediately. However, an applicant with more specific requirements, understandably would need to wait for a longer period of time.

Question 2

Would the Minister set out the Department's current policy on carrying out repairs or installing much needed facilities for disability for tenants in rental arrears? If no such work is undertaken how does the department prevent hardship to tenants and a deterioration in the fabric of its housing stock?

Answer

The Department has an arrears policy which seeks to ensure that rent due is paid and that where arrears of rent accrue, these are recovered as quickly as possible having due regard for the individual circumstances of the tenant. This policy does allow the Department to withhold non-essential maintenance and other services, where tenants are refusing to pay rent regularly, failing to

address their rent arrears or abide by agreements that they have entered into. Where tenants in arrears of rent are willing to work with the Department to manage the repayment of their debts, and agreements made to repay are abided by, then services will certainly not be withheld. It is a fact therefore that whether or not a tenant suffers any form of hardship through the withdrawal of any service is entirely in their control. The Department merely asks that a tenant in rent arrears addresses the issue and does not ignore the problem.

To prevent any deterioration of the stock, structural and wind and watertight repairs are undertaken even where unmanaged rent arrears are present to ensure that accommodation remains safe and habitable.

1.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING LONG TERM INCAPACITY ALLOWANCE:

Question 1

- (a) Comparison of the 2004 and 2005 Social Security Report and Accounts shows a growth in payments for Long Term Incapacity Allowance (LTIA) from some £1 million in 2004 to just over £5 million in 2005 without an apparent compensatory drop in funding elsewhere. Would the Minister account for this rise to members, inform members how many recipients of LTIA these figures refer to and state what estimate he has for 2006?
- (b) In a written answer on 13th February 2007 the Minister stated that data protection issues prevented his department knowing how many LTIA recipients were in receipt of additional welfare from their Parish. Would the Minister agree to seek anonymised data from the Parishes on the size of this sum which is soon to be transferred to Social Security under the income support system?
- (c) What start date is the Minister now working to for the implementation of the income support system?

Answer

- (a) The increase from £1 million to £5 million between 2004 and 2005 reflects the introduction of LTIA in October 2004; the figure for 2004 is only a part year figure.

Were Deputy Southern seeking a meaningful comparison between 2004 and 2005 for numbers of individuals in receipt of and the cost of Long Term Incapacity, the totals of the current benefit (LTIA) and the legacy benefits it superseded, Invalidity and Disablement Benefits should be analysed. In 2004 the total spent on all these benefits totalled £22.67 million and in 2005 £23.26 million. As at 31st December 2004 there were a total of 3,076 claims across these benefits, at 31st December 2005 the figure stood at 3,332.

The Accounts of the Social Security Fund are currently being prepared and I shall release final figures for 2006 once those Accounts are finalised and audited.

- (b) No. The data gathering exercise currently underway for Income Support will include Parish Welfare recipients so that by the time income support is implemented the Department will know the benefit position of all recipients.

I shall not be seeking this information from the Parishes, because as I currently understand matters, the information is not readily available. The Parishes would only be able to provide

this information by reviewing all claims and collating the data manually and I am informed that the Parishes would not have the resource to undertake such an exercise at this time.

- (c) The department is working to an implementation date of 30th July 2007.

Question 2

Would the Minister inform members whether the dates of incapacity on medical certificates completed by General Practitioners are intended to be inclusive and, if so, state whether the Social Security Department includes the second date in payment of sickness benefit?

Answer

The dates on the medical certificate designate the period of incapacity. The Social Security (Medical Certification) (Jersey) Order, 1974 lays down the rules to be followed by General Practitioners and claimants when making a claim to incapacity benefit.

The information given on the form by both the general practitioner and the claimant is used to identify the period of incapacity. The dates normally used are the date on which the person last worked and the date on which they resume work, neither of which is inclusive in benefit payment. That is to say that the second date is not included in the payment for Short-term Incapacity Benefit. The date of return to work is normally discussed by the general practitioner and the claimant at the time of consultation.

Question 3

Would the Minister inform members what progress, if any, has been made in assessing the causes of the unexpected large rises in supplementation predicted for coming years and state whether new estimates are available?

Answer

A larger than budgeted increase in supplementation is estimated for 2006. The final figure will not be known until the last quarter (October to December 2006) is processed in March 2007. The predicted figure is £56.56 million compared to a budgeted figure of £53.2 million. With the contributions collected from workers and employers estimated to be £123.155 million supplementation represents 31.5% of Social Security contributory income. This increase in supplementation follows on from a trend of relatively low increases in supplementation; 2002 £48.14million, 2003 £49.89 million (3.6% increase), 2004 £50.8 million (1.8%), 2005 £50.78 million (0.05% decrease) 2006 (estimate) £56.56 million (11.4%). By way of comparison increases in contribution income over the same period were; 2002 £103.99 million, 2003 £108.43 million (4.3% increase), 2004 £110.32 million (1.8%), 2005 £115.50 million (4.7%) and 2006 (estimate) £123.15 million (6.6%).

Table showing increases in contribution income and supplementation

	2002	2003	2004	2005	2006 (EST)
Contributions paid (£millions)	103.99	108.43	110.32	115.50	123.15

Percentage increase		+4.3%	+1.8%	+4.7%	+6.6%
Supplementation (£millions)	48.14	49.89	50.80	50.78	56.56
Percentage increase		+3.6%	+1.8%	-0.05%	+11.4%

The reason for this unexpected increase is that the average number of contributors attracting supplementation increased compared to the previous year and the average value of supplementation also increased. The average number of overall contributors also increased. In 2005, the average number of contributors was 55,180 of which 31,887 attracted supplementation with an average value of £132.70 a month. In 2006, the estimated figures are 56,169 (1.8% increase), 32,720 (2.6% increase) and £144.07 (8.6% increase). This trend appeared to begin in the last quarter of 2005, and continued throughout 2006. The Department is committed to analysing contribution data to determine the significant variables in the labour market that drive the total value of supplementation. This work will be undertaken with amongst others the Economic Adviser and the Treasury and Resources Department. The purpose will be to understand the sensitivities in the labour market so that even though supplementation is calculated in arrears and therefore reacts to changes in the labour market, better estimates and forecasts can be made in the future. This major review will also identify options for reducing or limiting expenditure on supplementation.

1.7 DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE CHAIRMAN OF THE HIGHER EDUCATION DEVELOPMENT GROUP:

Question

Further to his written answer on 13th February 2007 would the Minister state the total expenses, if any, paid to Dr. Michael Goldstein, additional to consultancy fees, in his role as Chairman of the Higher Education Development Group?

Answer

My written answer on the 13th February 2007 gave information on the fees claimed by Dr. Michael Goldstein as Chairman of the Higher Education Development Group. The amount I quoted (£24,085.65) included his air fares. The only additional expenses paid to Dr Goldstein relate to accommodation, subsistence and taxi fares in the Island. They amount to £968.00.

2. Oral Questions

2.1 Deputy K.C. Lewis of St. Saviour of the Minister for Home Affairs regarding Jersey Field Squadron R.E. personnel serving in Iraq:

Would the Minister inform Members how many personnel from the Jersey Field Squadron are currently serving in Iraq and whether the announcement that some 1,600 British troops are to be withdrawn in the not too distant future will have any effect on the Jersey T.A. Unit?

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

There are no members of the Jersey Field Squadron currently serving in Iraq. The last person to serve in Iraq returned last November. I have not been informed that the plan for withdrawal of British troops will have any effect on the Jersey Field Squadron. The Field Squadron will still be

trained to support the regular army in its commitments to ongoing operations, particularly those currently taking place in Bosnia and Afghanistan and Iraq. Indeed, we currently have 4 individuals, 2 officers and 2 other ranks, on pre-deployment training to join the 26th Engineering Unit in Afghanistan in March. This will be for a 7-month tour of duty.

2.1.1 Deputy K.C. Lewis:

Supplementary, Sir. I did not quite catch all of the Minister's answer there. Are there any plans to send members of the TA to Afghanistan?

Senator W. Kinnard:

Yes. In my answer I explained that there were 4 individuals, 2 officers and 2 of other ranks, on pre-deployment training for joining the 26th Engineering Unit in Afghanistan in March.

2.1.2 Senator B.E. Shenton:

The T.A. Unit has run consistently over budget during recent years. Can the Home Affairs Minister confirm that she does have full control of the T.A. budget?

Senator W. Kinnard:

The budget, in fact, for 2006 shows an under-spend of £4,000.

2.2 Deputy S. Pitman of St. Helier of the Minister for Housing regarding the demolition of Convent Court and Caesarea Court, St. Helier:

Would the Minister inform Members whether Convent Court needs to be demolished within the next 18 months and Caesarea Court by 2010 and, if so, would he provide Members with detailed research supporting this decision, and would he further explain whether the plan made public last year to assign Caesarea Court as accommodation for the over-50s has now been abandoned?

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

Convent Court does not need to be demolished within the next 18 months, however, Sir, the building suffers with concrete degradation and as such requires work every 5 years to check and repair affected reinforcement and concrete spoiling. It was last carried out in 2004 and, therefore, is due again in 2009. The work would be very substantial. The department is keen not to expend further monies than absolutely necessary. Should the States Assembly and the Planning and Environment Minister agree to allow the building to be demolished it will be demolished, hence the desire, if possible, to relocate tenants before additional works are required. The building is not unsafe. Naturally, I wish to see tenants at Convent Court living in high quality, warm and appropriate homes. The sooner that happens the better. The Housing Department has not abandoned plans to use high-rise buildings for the over-50s, however, this takes time and will be in full consultation with our high-rise panel made up of existing residents. However, in respect of Convent Court and Caesarea Court, the case for replacement and regeneration is frankly quite overwhelming. I am sure that if the States Assembly agree the end product for residents of Val Plaisant and St. Helier and ultimately the new residents of these proposed schemes will be superb.

2.2.1 Deputy S. Pitman:

According to the Minister, structural engineers have informed him that concrete has been falling off Convent Court. What would he say to residents who have informed me that, in fact, the only concrete that has fallen is that from a neighbouring plant pot? Furthermore, that having been shown around the building myself, I could not see any evidence of such falling concrete whatsoever.

Senator T.J. Le Main:

Well, what can I say to that question, Sir. The evidence by the professionals that advise us - the States' quantity surveyors, the professionals we employ - is quite clear. It is unambiguous, it is quite clear that there has been... and it continues to have problems with the concrete falling off, and only recently a lump of concrete fell from Convent Court and luckily nobody was injured because nobody was around. I cannot see where Deputy Pitman, as a lay person, can lay claim to saying that she does not see that there is anything wrong with the building. I think it is quite incredible. We have to rely on the people that advise us and the people that advise us are quite clear. And, as I say, Sir, the other issue is that the States insurers over the years have on occasions made it quite clear to States Departments - particularly Transport and Technical Services, when I was a Committee Member, and over the years to my department - about the need to properly maintain high-rise buildings especially when concrete degradation has been identified and this has been identified some years ago and is a continuing problem.

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

I am sure the Minister is aware of the work of a local historian on the destruction of many of Jersey's finest buildings and the Convent in Val Plaisant must be one of the worst examples of the wanton destruction of the 1960s. Would the Minister agree that, if the state of the current building is such that it warrants replacement, that he will look very closely at the possibility of in some way having a building design which will truly hark back to the architecture of the former site and in some way repair the streetscape which is currently in such a bad condition?

Senator T.J. Le Main:

Yes, Sir, I am in absolutely 100 per cent agreement. I do not think it will be the Housing Department or my department that will finally... if the States approve this plan, I think it ought to go out to public consultation. It should be with the Parish of St. Helier, it should be with everybody concerned that live in the area, that what we replace in the future is going to be something that is going to be a credit. It is an absolute disaster what we have seen happen over the years and the demolition of wonderful old buildings and replacing them with buildings such as Convent Court, De Quetteville Court and others.

2.2.3 Deputy R.G. Le Hérisier of St. Saviour:

Given the Housing Minister's understanding that concrete is at risk of falling off, will he be taking precautions so that nobody within walking distance of Convent Court will be walking under areas where they are liable to be hit by falling concrete?

Senator T.J. Le Main:

As I say, Sir, Convent Court and others that are suffering with similar problems are monitored on a regular basis, and we regularly monitor... and it is due to take place again very soon, I think, I did say in 2009. But all precautions are taken to make sure that there will be nobody injured or otherwise.

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

Could the Minister clarify further please on the original question? What is the position regarding the elderly residents living at Caesarea Court at present? What is going to be the situation? There are, obviously, elderly residents at Caesarea Court and some of them must be very concerned. Could the Minister please clarify this?

Senator T.J. Le Main:

Currently I am working very closely with the Planning Minister to try to identify some land that we desperately need to produce more sheltered homes for the elderly and many of our elderly are living in conditions that do not warrant the year that we are in and all the elderly tenants will have a top priority. I will treat the elderly tenants as if they were my mum or my dad and I would make

sure personally that they will be seen to as top priority and they will be treated in the best possible manner.

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

Will the Minister agree to release technical details of the nature of the problems with the concrete and including the estimated demolition and replacement costs and the costs of continuing maintenance?

Senator T.J. Le Main:

No, Sir, not at the present time, I do not see any point. That will take place once this Assembly approves issues, but my staff are terribly busy at the moment. We are short... as I have explained to one or 2 Members. We have got one senior manager on maternity leave, another one is a vacant position. We have complied with the States' request to reduce our staff membership and at the moment we are very, very busy. I do not see any point in scaring people or otherwise at the moment in acceding to that request.

2.2.6 Deputy G.P. Southern:

Supplementary, Sir. By what right does the Minister believe he can withhold information from this Chamber? This is information about the state of buildings which people are currently living in which is vital to give them assurance that their building is not going to fall on their heads and projected costs must surely be estimated since he is working on a plan to go forward.

Senator T.J. Le Main:

No, Sir, I am not prepared to accede to that, Sir. The Deputy is one of those that will run along with this and scare people. I am not prepared to put up with that. If the Deputy... **[Interruption]** can I finish please? If the Deputy or any other Member would like to come in and talk to officers I am very happy they come and talk to officers, but I am not going out in the public gallery with some of these issues at the moment.

2.2.7 Deputy S. Pitman:

First of all, I would ask the Minister if he could get his officers to point out the structural damage at Convent Court and, further, Sir, why if the department declared that Convent Court was structurally dangerous in 2004 has he only last year - his department - refurbished 14 floors with new flooring and paint in Convent Court and at the same time, Sir, his department are asking residents if they would like a community room for coffee mornings?

Senator T.J. Le Main:

Can I say, Sir, that we have to continue redecoration and whatever. People have to live in these places and we just cannot let them go. So, there is an ongoing maintenance cost and I am not prepared to see people - because there may be some future plans for redevelopment or otherwise... People have still got to live in these places and we have an ongoing duty to continue to maintain some of these properties and paint them up as we go along.

The Bailiff:

I think, Minister, the Deputy also asked you whether your officers would be able to show her the places where concrete degradation has taken place?

Senator T.J. Le Main:

Yes, Sir, I have said a few moments ago that if the Deputy or any other member would like to make an appointment to see officers of the department... and that offer is open to any Member, and any Member is entitled to go and talk to my officers at any time on any subject. But some of the issues that some of the Members of this Assembly - one or 2 Members of this Assembly - always feel

should be publicly aired and I do not feel that it is in the best interests to publicly air some of these issues.

2.2.8 Deputy K.C. Lewis:

I will choose my words very carefully, Sir. I would not want to be accused of being alarmist. There is reference to reports in the *J.E.P. (Jersey Evening Post)* 16th February which allegedly comes from the Housing Minister saying lumps of concrete are falling off the high-rise block and that it must be pulled down within 18 months. I would not want to be called a scaremonger, but blocks of concrete falling off a 12-storey block of flats is quite scary. I wonder if the Minister could confirm absolutely either the building is unsafe and must be evacuated and a perimeter fence put around it, or it has been made absolutely safe and that the residents have nothing to fear?

Senator T.J. Le Main:

The building is absolutely safe at the present time and the residents have nothing to fear. The issue is that at the end of the day there is a cost. The financial cost of refurbishing and bringing up to modern-day standards - which we do not believe with the design of the building can be met anyway - will be more than if it was demolished to house virtually the similar amount of people in what would be classed in modern, appropriate conditions. There is an opportunity to have a development that would be a credit to that part of St. Helier and to get rid of this blot on the landscape. I know that the Connétable of St. Helier is very keen to be involved with any future developments and I would make an offer that if anyone is particularly interested in redevelopment of this area then we would be very happy to work with them.

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

The Minister has said, Sir, that it will cost a great deal more to refurbish than to redevelop the site. Can I assume from that, therefore, that the Minister has detailed figures on the comparison between refurbishment and redevelopment and will these figures be available to the Scrutiny Panel who are looking at the housing policy?

Senator T.J. Le Main:

Can I say, Sir, that the advice I have been given by my department that it would cost more to refurbish and try to bring that building back to modern-day standard, than demolition and providing accommodation on that site on low-rise accommodation. The officers have not given me the figures, but I know that very well. I have written a letter to Deputy Breckon this morning to say that full co-operation will be given by the Housing Department - by its officers - on any issue regarding the property plan which includes Convent Court and Caesarea Court. There is nothing to hide and the Scrutiny Panel will be given free access to our officers' advice, information, *et cetera*.

Deputy S.C. Ferguson:

The Minister has not quite answered my question. Has he got the figures? He said that he has been told, but if he is looking at the project he should have the figures before he starts planning the project.

Senator T.J. Le Main:

No, Sir, I have not got the figures. I presume there are figures. The department has said to us - which includes in the property plan - that it will not be cost effective to refurbish the high-rise block of flats. It would be far more cost effective for demolition and re-create some good high quality low-rise accommodation particularly for elderly people on the site. I have not got figures right in front of me. The officers have advised my Assistant Minister this is the case. It is in the property plan and I presume that the officers have that information. They would not have told me otherwise the figures they would have and if the Deputy would like to go and see the department as well and offer you are more than welcome.

Deputy S.C. Ferguson:

Thank you, Sir, I will.

2.3 Senator B.E. Shenton of the Chief Minister regarding the conduct of business by the States Employment Board:

In light of the written answer on 13th February 2007 that Senator Vibert takes no part in discussions relating to teachers at the States' Employment Board, would the Chief Minister explain how the board conducts its business in relation to these matters when its legal quorum is fixed at 3 Ministers by the Employment of States of Jersey Employees (Jersey) Law 2005?

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

Senator Shenton is correct that the States Employment Board was established with a membership of 3: namely myself and Senators Le Sueur and Vibert. It is also correct to state that the quorum was set in the legislation at 3. I am grateful to Senator Shenton for highlighting this, as erroneously in line with the previous arrangements for the then Human Resources Sub-Committee, the Board had been working on the understanding that the quorum had been set at 2. I can assure him and the House, however, that to date all decisions taken by the Board have been agreed by all 3 members. Additionally, I can confirm that the Board has taken no decisions during the period from inception to date specifically regarding teachers' conditions of service. As one would expect, the Board has had discussions about general pay awards and Senator Vibert has on each occasion properly declared an interest in relation to his wife's employment as a teacher. The only issue specifically pertaining to teachers which was referred to the Board was in November 2006, when the Board was advised that, due to a delay at the Privy Council, the enactment of new arrangements relating to teacher pensions would be delayed from 1st of January 2007 to 1st March 2007. Now, this issue of the quorum has been brought to our attention, the Board has agreed to extend its membership to 4 and the report will be placed before the Council of Ministers on 1st March seeking its agreement to appoint another Minister to the Board.

2.4 Deputy S. Pitman of the Minister for Housing regarding plans to re-house tenants of Convent Court, St. Helier during reconstruction work:

Would the Minister inform Members what plans, if any, have been made to re-house existing tenants of Convent Court while it is being reconstructed and, in particular, would he inform Members whether all tenants' temporary homes will be equivalent to their current accommodation and whether they will be given accommodation equivalent to their current accommodation once the reconstruction has been completed?

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

All residents of Convent Court will be visited to assess their needs and requirements. These visits will take place this year. Those tenants wishing to return to new developments will, where possible, be able to do so. However, a number of new sheltered housing developments will be commencing soon, hopefully, when planning decisions on some of the issues regarding land availability are made. These should be wonderful bungalows similar to those of the department at Don Farm. These would provide excellent homes for an aging population and, therefore, residents of both Convent Court and Caesarea Court will have plenty of choice available to them. The department will do its very best to ensure that tenants currently enjoying an additional bedroom, as the result of living in Convent Court or Caesarea Court, will have the same benefits in a new home. However, understandably much will depend on what is available at the time and the numbers of people involved. All options will be discussed with the tenants at the time and I have given a categorical assurance again last week to a public meeting that I will personally visit - my Assistant

Minister or myself - any tenant to clarify the situation. We are going to give them assurances that they will be treated with total respect and, as I say, just as if I was treating my mum and dad.

2.4.1 Deputy S. Pitman:

Convent Court when reconstructed by the States will include 9 3-bedroom units being put up for sale. Has the Minister any indication of current residents wanting to buy, given that no residents live in or currently require accommodation of this size? Further still, Sir, if the Minister is informed that no current occupant wishes to buy, what then would happen to these 3 bedroom units bearing in mind that the Minister has promised that no tenants will be evicted?

Senator T.J. Le Main:

No, Sir, I cannot give you information to that question because I do not know the answer. But, yes, the question is quite clear that no tenant will be evicted and we hope that over the period of a time that the residents and attendants will work with my department and my officers with the high-rise tenant groups to make sure that we can work with them to move them to more appropriate and far better accommodation.

2.4.2 Deputy R.G. Le Hérisier:

Would the Minister accelerate the re-housing given his statement that people are in mortal danger of being hit by concrete falling from up top and given that it will not be 2009 until the next proper report is done on this particular issue?

Senator T.J. Le Main:

I can only reiterate that we are in the hands of this Assembly at the moment. We are desperately waiting to see that the Scrutiny Panel includes... and work through the scrutiny process on this, and we hope that the Assembly will see the benefits overall of the property plan. There are huge benefits to people wanting to buy their own homes - home ownership - and there is also a huge amount of people... the 18 or 20 per cent of people that are living in homes that need refurbishment. It is a huge win-win situation and we will be working with all the tenants to make sure that this is the case. I can give a categoric assurance that if Deputy Le Hérisier is concerned about the concrete falling on to residents, that is not the case at all, Sir.

2.4.3 Deputy G.P. Southern:

May I congratulate the Minister on better informing members of the public than he does this House. He said previously he had no figures on Convent Court and yet in the community newsflash of 16th January 2007 he puts a figure of as much as £5 million to refurbish high-rise building at Convent Court to acceptable standard and then goes on to say: "We will instead demolish and replace them with sheltered housing. We will spend less money than we would refurbishing them." Is he seriously asking members of the public to believe that he can build decent sheltered housing, low-rise housing for under £5 million on this site?

Senator T.J. Le Main:

Yes, Sir.

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

It follows on in the same vein. In his first answer, the Minister for Housing said that some of the tenants would not obviously be re-housed because there would be some super new sheltered housing coming on line soon. Could he please identify where, how many units and in which parish particularly these are coming on line, because he identifies 400 needed over the next few years, so I hope this is on site? Is he anticipating the Sunshine site at the moment?

Senator T.J. Le Main:

The Sunshine site I do not believe is a goer for a start because of the conditions placed upon it for underground car parking by the Planning Department. It is anticipated that the cost of the Sunshine sites as units of sheltered accommodation could be as much as £200,000 plus. I do not see it as viable site at all and I would suspect that the best interests of the States of Jersey would be to sell the site on the open market and putting the money back into Senator Le Sueur's coffers. My view is that there are some developments coming on line. The Aquila sheltered housing site is on line with one of the Trusts and only this last week the Planning Minister and myself and our officers and our Assistant Ministers have met and we have agreed that in the next 4 or 5 weeks some land will be coming forward to this Assembly for rezoning and we have identified in those plans currently something like over 200 units of accommodation for sheltered housing. We are quite excited. At long last there are some very, very positive moves coming forward by the planners and by the Housing Department which will identify... and hopefully this Assembly will totally support the need and give the green light so we can get on with this work.

Deputy J.A. Martin:

I did ask which parishes. Could he identify which parishes these 200 sheltered housing are going to be proposed in?

Senator T.J. Le Main:

The Deputy will be advised very soon of the parishes but, yes, there are several parishes that are... well most of the Parish Constables- in fact all of the Parish Constables, I had better be careful what I say here - are very, very keen [**Laughter**] to support the issue of sheltered housing. Now, there are some political difficulties at the moment, as people are aware, but I am very, very confident that the Constables are working hand-in-hand with the need that is currently identified for sheltered homes.

2.4.5 Deputy C.J. Scott Warren:

For many tenants, Sir, this may involve 2 moves. Can the Minister confirm that there will be safeguards so that no tenants will be financially worse off?

Senator T.J. Le Main:

Yes, Sir.

The Bailiff:

Final supplementary, Deputy Pitman.

2.4.6 Deputy S. Pitman:

Currently at Convent Court there exist bed-sits, one-bedroom flats and 2-bedroom flats. I ask the Minister what sense is there in offering 3-bedroom units to residents while there is no indication that residents will want to buy these units?

Senator T.J. Le Main:

There are numerous bed-sits. In fact, the housing stock carries about 80 bed-sits in all its stock at the moment and bed-sits just do not meet the needs of anyone today, even those difficult tenants we house under rehabilitation schemes and what have you; it is just is not the kind of accommodation we want to offer in this day and age. I did not quite understand the question about the 3-bedrooms and the purchase on this. I am sorry, I might be a bit...

Deputy S. Pitman:

Can I clarify? I am asking the Minister if it makes sense if, currently, Convent Court consists of bed-sits, one bedroom flats and 2-bedroom flats... why is the department going to be offering, once reconstructed, 3-bedroom units?

Senator T.J. Le Main:

The department will only offer 3-bedroom units if there is a need for a 3-bedroom unit. They will not be offering 3-bedroom units to people that do not need 3-bedroom units. That is quite clear. There always has been a shortage of 3-bedroom units, there still is a shortage of 3-bedroom units, although not as great as has been in the past and the issue is that we have to use the stock to the best we can to manage.

2.5 Deputy G.P. Southern of the Assistant Minister for Economic Development regarding Jersey Competition Regulatory Authority powers and their enforcement following a sell-off of Jersey Telecom:

What further work, if any, has been done in conjunction with the Jersey Competition Regulatory Authority to ensure that any reservations the Authority has over its powers and the means to enforce them, in the absence of a structural separation of Jersey Telecom, are met following a sell-off of the company?

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

At both political and senior officer level there has been regular and open dialogue with the board and executive of the J.C.R.A. (Jersey Competition Regulatory Authority). To date, no suggestion has been made by the J.C.R.A. that they lack any powers or resource necessary to protect consumers or to undertake their statutory duties. The Minister for Economic Development has no additional evidence to suggest that there is an issue to address. However, the Minister has asked the department, in conjunction with the J.C.R.A., to arrange some briefings outlining how the Telecoms and Competition Law would apply to Jersey Telecom if it was sold to a large overseas corporation. I would urge Members who have any concerns to attend one of these briefings and seek reassurance and further information.

2.5.1 Deputy G.P. Southern:

It is interesting to hear that denial when I have in front of me evidence that the J.C.R.A. has reservations about its ability to regulate, and I will just briefly summarise. The J.C.R.A.'s position reflects its difficulty in regulating Jersey Telecom so as to facilitate access competition. In essence the report is an admission that regulating a dominant incumbent, so far as to promote competition, is extremely difficult as other regulators - including the U.K. regulator - have discovered. It took 20 years for the competition regulator in the U.K. to achieve proper competition - full competition - in the telecoms market. Why should it be any easier here?

Deputy A.J.H. Maclean:

I do not think there is any suggestion that it is going to be easy, but I think that the record that the J.C.R.A. has had to date in the Island has, without any shadow of doubt, benefited consumers in a number of different areas and I think it is fair to say, although this will be difficult, we have confidence in the J.C.R.A. and their ability to fulfil their obligations.

2.5.2 Deputy G.P. Southern:

Does he not accept that such confidence is misplaced because the J.C.R.A., in their own submission to the Scrutiny Panel on telecoms privatisation, admits that there are shortcomings in their powers?

Deputy A.J.H. Maclean:

I think it is fair that there are always areas where improvement can be reached. As the Deputy pointed out, it took a number of years in the U.K. for the regulator to, indeed, get into a position where it was effectively creating effective competition and I think a similar situation has been evolving in Jersey and will continue to do so as the market develops and matures.

2.5.3 Deputy G.P. Southern:

If I may, Sir, a supplementary? I am talking now about the means to enforce their powers and I quote again the J.C.R.A.'s executive director: "In principle, our costs under the Telecoms Law are borne by the operators through licence fees" so that is how expenses under the Telecoms Law are funded. Whereas, under the Competition Law the money comes from the States. Will the Economic Development Assistant Minister tell us how big the pot of money is to ensure that under Competition Law the J.C.R.A. can effectively promote competition?

Deputy A.J.H. Maclean:

The J.C.R.A. are funded to the tune of £600,000 currently. In the future it is accepted that that burden may, indeed, increase and I think at that particular point a review would be necessary to see what further funding, if any, is required to ensure - and this is the important point - to ensure fair and reasonable competition and that is exactly what we would intend to do.

2.5.4 Deputy S.C. Ferguson:

Would the Assistant Minister perhaps like to expand on this because I believe there are fees which are collected - licence fees - from the companies which are also used in the regulation of that particular industry?

Deputy A.J.H. Maclean:

That is absolutely correct. In fact, under the Jersey Telecoms Law 2002 there is a provision for additional regulation and requirements for the J.C.R.A., from a resource perspective, that the operators would fund, but that is certainly different to the competition issue: that is a regulatory issue.

2.6 Deputy G.P. Southern of the Minister for Treasury and Resources regarding funding the public sector pay award 2007:

Following the Chief Minister's answer on the 13th February 2007 when he stated that funding for the pay award to public sector would: "...come from departmental budgets or there will be a request to the House for other means of funding", would the Minister state what savings or other funding mechanisms, if any, are under consideration in departments affected and what Retail Price Index is anticipated for the 2007 pay award?

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

The Council of Ministers will be considering the issue of pay award funding at its meeting on Thursday, 1st March. The Council will be informed at that meeting that the cost of the increased pay offer from June to December 2006 of £360,000 has been accrued within department spending limits in the 2006 accounts. The Council will be asked to consider a number of options for remaining funding required in 2007. Each Minister is currently seeing what impact there might be for their own departments and will report back to the Council of Ministers next month. The Council is currently proposing that the 2008 Business Plan expenditure limits are increased to provide for the likely effect of the increased pay offer, however, this figure cannot be determined at the present time. Neither I nor the Council can know what the R.P.I. (Retail Price Index) will be in March 2007. It will be affected by many factors, in particular, whether or not the Bank of England decides to further increase base rates. The March R.P.I. will be published in April at which time a proper estimate of costs can be made.

2.6.1 Deputy G.P. Southern:

Given the pickle that the Minister has got himself in, does he not consider that his decision to remove what is called the Contingency Reserve from his armoury was a mistake?

Senator T.A. Le Sueur:

I am not in a pickle, Sir, and the answer is no.

2.6.2 Deputy G.P. Southern:

Is it not the case that the estimates for the R.P.I. due in March to be announced in April are of the order of 4 per cent and that the additional bill required in the latest pay deal for 2007 is likely to be of the order of £3 million and not £300,000 as for 2006?

Senator T.A. Le Sueur:

Yes, to the extent that my crystal ball is as good as Deputy Southern's crystal ball, I think the figure will be around 4 per cent and that would generate the costs he is talking about.

2.6.3 Deputy G.P. Southern:

Does the Minister not consider that, while it is prudent to make savings in advance in a considered manner, the fact that savings have been made on the 2007 budget already and now we are having a last minute scramble to make savings elsewhere in a panic, is bad government?

Senator T.A. Le Sueur:

I do not think any of my fellow Ministers are scrambling and panicking. I think we are trying to ensure that the States lives as far as it can within its means and does not spend more than it absolutely has to. The growth of spending already is quite significant and I would not wish, if we can possibly avoid it, to spend yet more money in dealing with this problem.

2.6.4 Deputy R.G. Le Hérisier:

Is it the Minister's thinking at this stage that it would be better that each Ministry take an equal hit so to speak in respect of paying for this deal, or is it his thinking that some will have to take a disproportionate hit so to speak?

Senator T.A. Le Sueur:

At this stage, Sir, I have asked the Minister to look at the different options. There is no decision yet as to whether that should be spread equally or disproportionately. That would be a matter for Council to decide at its meeting next month.

The Bailiff:

Final supplementary, Deputy.

2.6.5 Deputy G.P. Southern:

Are the Minister's loins well girded in preparation for this meeting with his 9 other Ministers?

Senator T.J. Le Main:

Yes, Sir, I shall expect that meeting to be well informed to make an informed and sensible decision.

2.7 Senator B.E. Shenton of the Minister for Home Affairs regarding categorisation of prisoners as vulnerable at H.M. Prison La Moye:

Would the Minister inform Members whether there is a policy in H.M. Prison La Moye to categorise certain prisoners as vulnerable who might not be regarded as such in other places and, if so, could she reassure Members that this policy does not lead to less attention being directed towards very vulnerable prisoners with potentially tragic consequences?

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

H.M. Prison La Moye has to deal with a whole range of prisoners that the Jersey Court sends to them; men, women, young offenders and juveniles, remand and convicted, and any of these can be considered to be vulnerable for a range of reasons. In larger jurisdictions, the wide range of prisoners would not all be held in one single prison and it would be possible to transfer prisoners having difficulty relating to other prisoners to another prison. In order to operate a safe establishment as is possible within the constraints facing La Moye, prisoners are allocated to different parts of the prison according to a range of criteria. This leads to greater attention being paid to those who are identified as needing that attention, rather than the suggestion that there may be less attention. I would encourage the Senator and other States Members who have not visited the prison in recent times to do so. I know that the Prison Governor will certainly welcome any such approaches from Members and will facilitate such a visit.

2.8 Deputy K.C. Lewis of the Minister for Education, Sport and Culture regarding the amphibious vehicle service to Elizabeth Castle, St. Helier:

Further to the announcement that the Jersey Heritage Trust has entered into an agreement with a new provider of state-of-the-art amphibious vehicles to transport visitors to Elizabeth Castle, would the Minister inform Members whether the Trust can make arrangements for the existing amphibious vehicles to be used to cover the 2 month delay before the start of the new service and, if not, why not?

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

May I ask that the Deputy of Grouville - or my Assistant Minister, with the responsibility for culture and also a member of the Jersey Heritage Trust - to answer the question?

Deputy C.F.L. Labey for Grouville (Assistant Minister for Education, Sport and Culture):

Members will know that the Jersey Heritage Trust is charged with the long-term operation, maintenance and development of Elizabeth Castle under an agreement made with the then Public Services Committee and approved by this Assembly on 10th December 1996. The Trust's responsibilities include securing an agreement with an operator to run transport between West Park and Elizabeth Castle. Although the matters to which Deputy Lewis refers are operational and are not, therefore, directly the responsibility of Education, Sport and Culture Department, I am happy to set out the position of the Jersey Heritage Trust in this matter. Members will be aware that the Trust has concluded an agreement with an operator to use new vehicles for the service. Those vehicles are in the process of being constructed and are expected by the Trust to be operational on 26th May this year. The castle was due to reopen to the public on 31st March 2007, 8 weeks before the new service is now expected to commence. While the Trust very much regrets any delay in reopening the castle, it believes that the long-term interests of visitors will best be served by the introduction of the new operation. The Trust had understood from the previous operator that it would not be prepared to use its vehicles to cover any delay in the start of this new service. Recent reports in the media, however, have suggested that this might not be the case. Consequently, the Jersey Heritage Trust has written to the previous operator seeking to clarify the position. While no formal offer has therefore been made to run an interim service, the Jersey Heritage Trust would consider any such offer carefully, taking into account the desirability of maintaining public access to the castle and of its obligations under the new agreement.

2.8.1 Deputy K.C. Lewis:

Supplementary, Sir? Whilst I applaud the level of investment of the new operator, Sir, I am very concerned that with any operation like this needing specialist marine equipment, when ordering such equipment there can be sometimes very substantial delays; so it could be to a month, it could even be longer by the time the vehicles are tested, inspected and drivers trained. My information may be slightly different and I do believe that Heritage should go back and talk to the original

operators who have provided an excellent service for the last 9 years. Does the Minister not agree?
[Laughter]

The Deputy of Grouville:

Firstly, I would most certainly agree that the Puddle Ducks - the people that have been operating the service for the past 9 years - have given an excellent service. I am possibly more of an optimistic than the Deputy and the date that we have been given is 26th May this year, the operation will be up and working and that is the date that we are all very, very hopeful that will be the start of the opening of the castle.

2.8.2 Deputy K.C. Lewis:

Final supplementary, Sir. As Elizabeth Castle is one of our prime tourist attractions in Jersey, is the Minister willing to take that chance?

The Deputy of Grouville:

Yes, we are taking that chance, but we have also written to the previous operators, as I alluded to, in the light of the media reports and we are at this time waiting a response from them to see if they are, in fact, willing to operate an interim service.

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

Will the Assistant Minister advise why the public should be denied access to this cultural facility when they are able to make their own way to the castle?

The Deputy of Grouville:

Unfortunately we now live in a very safety conscious world and the safety aspects of people that walk out there and who - unaware of the tides and what have you - could be left stranded and, therefore, we feel it is in the public's best interest to have the operation up and running to allow the castle to open and I would agree it is one of the prime tourist sites.

Deputy D.W. Mezbourian:

I would suggest to the Assistant Minister that surely even when the amphibious vehicles are able to be used to access the castle, the public still have their own right and discretion to make their own way across to the castle anyway, so the response that the House has just been given, in fact, does not apply.

The Deputy of Grouville:

I would not agree with that. If visitors have made their own way out there, and the tide comes in, they still, with an operation in existence, have a means of returning back on shore.

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

Would the Assistant Minister tell us whether there is a plan in place should these vehicles not be delivered on time and, indeed, is there a penalty clause for non-delivery?

The Deputy of Grouville:

I would have to see if there is a penalty clause. I am unsure of that fact, but I am perfectly happy to get that information for the Deputy and, sorry, I have forgotten the rest of the question.

Deputy G.C.L. Baudains:

Basically, if there is not a penalty clause and there is some substantial delay, is there a contingency plan for ferrying people if, say, the vehicles prove not to be operative for a considerable period of time?

The Deputy of Grouville:

We have been given a date that these vehicles will be delivered to us and will be operational, so at this moment in time, no there is not a contingency plan.

2.8.5 Deputy S.C. Ferguson:

I am speechless. You know this is... **[Laughter]** I will pull myself together again. This is political correctness gone mad. Is it not possible to have a bell like they have at Corbiere to warn people before the causeway is going to be covered? Really, this is the nanny state run amok. Does the Minister not agree?

The Deputy of Grouville:

No, Sir. **[Laughter]**

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

The castle has more than one part of its facility that is not being accessed at the moment. I went there last year with the family and was surprised that the rear half of the castle has been closed-off for the large majority of the time. As a question of access, while it is important to ensure that there is an amphibious service that runs efficiently, would the Assistant Minister not look into the matter as to whether or not there could be a facility for providing deep water access to the castle from the pier, which is also another opportunity for people to be ferried across by a different form of transportation so that they could access this facility and enjoy the wonderful castle that we have. It is a great draw for Jersey in relation to tourism and I think it is really one of the poor accessible locations we have that is run by the Trust at the moment.

The Deputy of Grouville:

The date that the castle is due to be reopened is 26th May. That is the date that we are working to and when we have been informed that the new vehicles will be in situ. I have no reason to doubt that date. However, if for some reason they were not operational then, I am sure that the Jersey Heritage Trust would do all it can, including deep water access from the pier to the castle.

2.8.7 Deputy S. Power of St. Brelade:

Is the Assistant Minister aware it is an operating condition of the amphibious service to Elizabeth Castle that it runs from 1st April to the end of October? As this is now not the case, will the Jersey Heritage Trust be seeking compensation from the new operator for the loss of earnings from 1st April to the end of May?

The Deputy of Grouville:

I do not believe so, no.

2.8.8 Deputy D.W. Mezbourian:

I believe this is a ridiculous situation. When I used to work at Elizabeth Castle any visitors who chose not to return to shore by the old-style DUWKs were frankly left there to wait until the tide went out and they could walk back. Will the Assistant Minister advise the House whether she agrees with me that the public of the Island are being held hostage by the operators of this new amphibious facility?

The Deputy of Grouville:

No, I would not agree with that. These new vehicles are being delivered 8 weeks after what we had hoped would be the date. They are new vehicles and they are far more versatile vehicles than the old ones and we believe that they will serve the Island and the people here very well.

2.8.9 Deputy P.V.F. Le Claire:

What is to stop any member of the public accessing the castle by their own merits at a time of their own choosing once these amphibious vehicles have been delivered? At that stage, when the amphibious vehicles are in running order, are we then saying that we are going to police the beaches and stop people accessing the castles by other means?

The Deputy of Grouville:

No, we are not saying that all. We are just providing a facility of vehicle operation to and from the Castle. Anyone is at liberty to walk out there and walk back if they so wish.

Deputy P.V.F. Le Claire:

In that sense, Sir, the follow-up question is why is the castle closed then? Because if I want to walk out there and swim back, as I have done in the past, [Laughter] or swim there and walk back as I have done in the past, why can I not enjoy the facilities of the castle - perhaps go and fish, do whatever - enjoy what is really a fantastic historical site. We are being denied that opportunity, as are other members of the public and the tourists. [Applause] I really think that the Assistant Minister should sit down with the Jersey Heritage Trust and come up with a better way of doing things because it is obviously something that the House is feeling the same sort of support for, that we love amphibious vehicles but we love the castle more.

The Deputy of Grouville:

I am not sure if there was a question in among that.

Deputy P.V.F. Le Claire:

Would the Assistant Minister agree to sit down with the Jersey Heritage Trust to see if they could not come up with a better compromise than has been suggested so far of the delay that has been proposed?

The Deputy of Grouville:

The delay is 8 weeks. The Jersey Heritage Trust has written to the old operators to see if they are willing to operate in the interim. There is nothing to stop people walking out there and walking back but the castle is closed if there is no vehicle access for safety reasons. I am sorry that some Members feel denied of the facility of the castle but I wonder how many of those people that are stamping their feet have visited the castle this last season.

2.8.10 Deputy C.J. Scott Warren:

Will the Assistant Minister make reasonable efforts and do everything possible to encourage the... you have mentioned writing to the former operators but will you encourage them? Will the Assistant Minister try to find ways to encourage the former operators to operate over the intervening 6 weeks, I believe, from the beginning of April?

The Deputy of Grouville:

The indication that the old operator had given to the Jersey Heritage Trust was that they would not be willing to operate in the interim. However, media reports suggested the contrary so the Jersey Heritage Trust have written to the old operator to see if they would be prepared to put on the operation in the interim. I think the Assembly can rest assured that the Jersey Heritage Trust will do everything possible to ensure that the castle is open as soon as possible. 26th May is the date that we are working to and if the old operator is prepared to put on a service in the interim, Jersey Heritage Trust will be more than happy to open it before then.

2.8.11 Deputy K.C. Lewis:

If I may just seek clarification from the Assistant Minister. As I mentioned previously, I welcome the level of investment the new providers are putting in, but should there be some substantial delay

due to who knows what - industrial action, hurricane in the Atlantic, whatever - does this mean that Elizabeth Castle will be closed indefinitely or until such time as they do arrive?

The Deputy of Grouville:

I can only reiterate what I have already said in that the Jersey Heritage Trust will do everything in its power to ensure that the castle is opened as soon as possible and the delay is minimised to the absolute maximum of 8 weeks but hopefully less than that.

3. Questions to Ministers without notice - The Minister for Home Affairs

The Bailiff:

We come now to questions to Ministers without notice and the first question period is of the Minister for Home Affairs and I invite questions.

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

It was reported that over the weekend some 39 persons were arrested in town for disorderly behaviour of one sort or another. Are members of the public that unruly or is it that the States' police are adopting a zero tolerance policy?

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

Members will be aware that there has been public concern about disorderly behaviour in St. Helier. One of the ways in which we sought to deal with that is that the States of Jersey Police now have a 5-shift system, which means that there are now more police officers on the beat at the time at which there are likely to be more people on the streets of St. Helier. They are therefore in a position to apprehend offenders more readily and that seems to be contributing, I believe, to the higher number of arrests that we have seen of late.

3.2 Deputy R.G. Le Hérissier:

There were a large number of staff recruited in a support capacity at the prison in order, so it was suggested, to reduce stress on the current staff and, in particular, to reduce the size of the overtime bill, the result being it would be a neutral budgetary effect. Can the Minister tell us whether the overtime bill prior to that has been reduced considerably since the advent of this group of support staff and what is the percentage difference?

Senator W. Kinnard:

I would need notice of that. I am afraid it is quite a detailed question but I would say that we have, of course, recruited a number of officer support grades and the reason for that is that they are less expensive to recruit than full prison officers and can deal with a number of jobs and activities that are required at the prison. But, in respect of the exact details, I think it is only fair that I require some notice of that question. I do not have the figures to hand.

Deputy R.G. Le Hérissier:

Can we have that in written form, please, to Members?

Senator W. Kinnard:

Yes indeed, Sir.

3.3 Senator B.E. Shenton:

It was reported in the media that, with regard to the transfer of officers to the U.K., in fact we pay more for help from the U.K. because U.K. forces charge out for their mutual aid at 16-hour days, no matter how many hours their officers work, however Jersey will only charge for the hours our

officers work. This seems like a great deal for the U.K. and a lousy deal for the Jersey taxpayer. Could the Minister comment on it?

Senator W. Kinnard:

I do not make the rules, unfortunately, as to how officers are charged out in the United Kingdom. All officers that are, if you like, requested by other forces have to pay for the 16-hour day and we are no different to whether it might Devon and Cornwall or anywhere else. I think the way that we charge out is the fair way.

3.3.1 The Deputy of St. Martin:

Could I just ask a supplementary on that question. Could I ask the Minister is it really going to cost the Island money to send our officers over to help the others or will it cost nothing?

Senator W. Kinnard:

No, Sir, it is not going to cost the Jersey taxpayer anything at all and, in fact, it is going to be an extremely useful training opportunity for our officers locally.

3.4 Deputy S. Power:

The Minister will be aware of reports of taxis and cars being hit by objects thrown on the main Quennevais road between Don Bridge and Belle Vue. The Minister may or may not be aware that at least 7 rank taxis and 3 private hire taxis, plus a number of private cars, have been hit recently by objects ranging from bricks, blocks, paving slabs, golf balls and, on one occasion, a house door was thrown in front of a taxi. What steps is the Minister taking with the police chief and the parish authorities to investigate who the perpetrators are and to increase patrols in the area?

Senator W. Kinnard:

Clearly whenever there is a hotspot that becomes known to the police then there is a focus on that particular area. But, of course, the police cannot be there at all times and I think this is where we have to say that all of the agencies that could be involved in addressing this problem must be involved. I gather that some of the problem results from some children from particular Housing areas and I do believe that the Housing Department has an extremely proactive and very good unit in dealing with these kinds of matters. Certainly what I would do is, I intend to speak to the Housing Minister to see whether or not we, together, can do something to alleviate this problem.

3.5 Deputy P.V.F. Le Claire:

Shortly, if not as of now - I am not certain as to when - the report from the Buncefield incident will be made available to the U.K. authorities. I wonder whether or not the Minister has received any such report as of this time and at what stage that report will be available, if at all, to other Members if she is going to receive it, and whether or not that report will be discussed at the Council of Ministers as to its implications?

Senator W. Kinnard:

The Buncefield report: I have no idea personally when that is going to be available. I believe it is fairly imminent. It is being consulted upon at the moment. Of course, it will go to the Fire and Rescue Service and all those services that are involved with community safety and it really, I think, is for those experts to consider the implications and to advise the appropriate Ministers on their conclusions. I am not an expert in this field and certainly I would not expect to go into detail in that report but rather to expect a report from my officers with expertise in the field.

3.6 Deputy G.P. Southern:

I refer back to a previous question earlier this morning and question the Minister's budget responsibility for the Jersey Field Squadron. It is my understanding that it forms part of a defence contribution and therefore belongs elsewhere. Has the Minister made any progress in transferring

responsibility for the Jersey Field Squadron to the Chief Minister's Department where I believe it belongs?

Senator W. Kinnard:

The Deputy will be aware of this ongoing issue on Home Affairs from the time when he was a previous member of the committee. Unfortunately I have not had a lot of success in trying to offload that particular budget responsibility but what I will say is that the Department for Constitutional Affairs has already acknowledged the Island's request to renegotiate the inter-governmental agreement and that was notified to us on 6th February. In fact, the basis of that is that there are going to be changes taking place under the Future Army Structures Review and that is likely to reduce the authorised establishment of the Jersey Field Squadron from 148 to 97. This, I believe, provides an opportunity now for us to look at the financial contribution that is made by the Island in respect to the Field Squadron in respect of the changes that have been made.

3.7 Deputy D.W. Mezbourian:

Will the Minister advise the House why there is a delay in bringing forward a Sex Offenders' Register for Jersey and how she is addressing the matter?

Senator W. Kinnard:

The Sex Offenders' Law, which is I think really where this lies, was signed-off by myself in June 2005 and at the time I wrote to the Attorney General saying that I agreed with the proposals in principle and would look forward to a re-draft. I have also raised the issue again in Law Drafting in 2006. I have not yet received any further information from that from the Law Officers' Department. But there is a link to the lists which exist in the United Kingdom and some of the new arrangements that will apply once the Safeguarding Vulnerable Groups Act comes into force in the autumn of 2008. I believe that the delay perhaps in the Law Officers' Department may be connected to some of these developments.

3.8 Deputy C.J. Scott Warren:

Can the Minister give Members an update on the current educational programs available at the present, including for young offenders?

Senator W. Kinnard:

Yes. Sir, what we are doing at the moment is that there are interviews underway for the head of a Learning and Skills post because it is believed that, if we are going to deliver the most effective education to meet all of the needs of all of our prisoners, we really do need someone to fill that post and to advise on what sorts of teachers and what sorts of courses we are able to provide. The Deputy, because we have had correspondence about this, will be aware that there is some education that is offered by the Education Department in respect of some of our young offenders. We also have a number of courses that are available now through horticulture and we are looking as well to introduce courses through the kitchen and catering area as well as industrial cleaning. So there are a lot of things going on there. We are also recruiting many of the craftsmen in order for us to roll this out. So what I would say is this is very much work-in-progress and we are certainly moving full speed ahead. We hope to have a very good system in place by the end of 2007.

3.9 Deputy S.C. Ferguson:

When I was a Centenier - in a former life as one of my colleagues would say - any motorist stopped for speeding would usually appear within 7 days at a parish hall. Why is it now taking 52 days and would the Minister not think that the volume of offences which are being processed arising from the new car would skew the statistics so that a considerable number of offences will appear to have been solved and the real crimes are still unsolved?

Senator W. Kinnard:

No.

Deputy S.C. Ferguson:

Sorry, Sir, but I did ask why is it taking 52 days now?

Senator W. Kinnard:

That is an answer I cannot give. I know that when motorists are caught for speeding - which again is one of the highest concerns the community has about law breaking in the Island - that is notified to the parish hall and the parish hall decides how they wish to deal with it thereafter. So I suspect that it may be a question that may need to be addressed by the Connétables as well as by myself, but I am certainly happy to look into it.

Deputy S.C. Ferguson:

Can I ask through you, Sir, that the Minister does look at the system because what was a very... I would ask her to consider whether what was a very efficient system 6 years ago is now getting hopelessly clogged-up.

Senator W. Kinnard:

I think that the Deputy should bear in mind 2 things: (1) that is an assertion which has not yet been tested or investigated and I think she should await the outcome of my answer; and (2) I think that it is very important that we recognise that this is a serious concern that the public does take very seriously and I think that speeding is a matter that we, as the States of Jersey, should take seriously as well.

3.10 Deputy J.A. Martin:

It has been reported recently that the Chief of Police has had his contract extended for, I think, another 3 years to allow for succession training of a local candidate to be a new Chief of Police. Could the Home Affairs Minister inform the House whether this is best practice in the U.K., i.e. that an officer coming through the ranks then is head of that particular establishment?

Senator W. Kinnard:

It is generally the case - in most forces in the United Kingdom, in England and Wales, that is - that the police chief will come from outside the immediate area and certainly we have had that at present but we are very much concerned in the Island to try and bring forward local candidates. It is very important that our local officers feel that they are able to progress to the highest ranks and one of the ways in which we are able to ensure that they are trained to the appropriate standard is by ensuring that they have to pass sufficient tests so that they can stand their ground - stand their own - against any officers from the United Kingdom. I do believe that we have 4 candidates coming through at the moment as part of our succession plan and one of those, hopefully, will be successful. I do believe that any officer coming through the ranks will be equal to any officer that would we be able to recruit from elsewhere.

3.11 Deputy K.C. Lewis:

Late last year, Sir, I did raise the question with the Minister regarding children and young teens acquiring alcohol and cigarettes. The Minister did state at the time that she would consult with her fellow Ministers, especially that of Economic Development. Would the Minister update the Assembly with any progress so far? Thank you, Sir.

Senator W. Kinnard:

Yes, Sir. This really is being taken on board by the Safer St. Helier initiative and I know that one of the areas that they are going to be looking at, if they have not already - my Assistant Minister is the person who sits on it - is licensing and particularly in the area of alcohol sales to young people.

4. Questions to Ministers without notice - The Minister for Transport and Technical Services

The Bailiff:

That concludes the first question period. We come to the second question period, which is by substitution in the absence of the Minister for Economic Affairs, for the Minister for Transport and Technical Services and I invite questions.

4.1 Deputy R.G. Le Hérissier:

Since the advent of the Connex contract, one of the vexing issues has been the provision of follow-up buses and there are continuous complaints from areas - for example like First Tower and Millbrook - that rush-hour buses do not have the capacity. Would the Minister acknowledge that this is an issue and would he tell us, in his negotiations with Connex, how far he has got in resolving this particular issue?

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

I am aware that this is an issue, partly because of the current popularity of the existing services, which are being subscribed to on an ever-increasing rate year on year. The figures have effectively gone up from 4 per cent to 7 per cent and we are now looking at double figure increases in passenger volumes. This does create, at peak times only, certain difficulties at effectively the St. Aubin's Inner Road where buses at peak time have already filled-up further down the road, as it were. Connex do use relief buses in an attempt to deal with this matter. It is a high priority of ours to come up with additional solutions. We are working on that at the moment and I hope to announce some progress on that matter in due course. But the simple matter of fact is that we only have so many buses available at peak time and we are using the lot already and to continue further requires additional funding.

Deputy R.G. Le Hérissier:

Would the Minister not acknowledge that this is an issue with public transport operators all over the world, i.e. how you deal with the peak and what do you do the rest of the day, and he has mentioned this from time to time. Would he not acknowledge that this issue has been with the contract since its very beginning and that it is now desperately needed that we come up with a resolution? Would he acknowledge that? Secondly, Sir, would he tell us when he aims to put this particular resolution into the public domain and to change the service?

Deputy G.W.J. de Faye:

Well, I am not entirely sure what the Deputy means, Sir, about putting this matter into the public domain. It very much is in the public domain. I have been entirely open about the problems that face running public transport services. The Deputy is quite right, Sir. The sort of problems we face here in Jersey in many ways are similar to the problems that public transport services face elsewhere. In other ways they are very unique because of the Island's particular geography and also the infrastructure with numbers of small lanes, no obvious crossroads to the north of the Island, the only main infrastructure, main highways, are along the south. There are numerous problems. We are aware of them and we have attempted to address them. The House will well know that I tried an experiment last year with the so-called Airport Express to see if we could relieve congestion. That is an experiment that was, to some extent, successful. We are still analysing how successful. I can assure both the Deputy and the House that it is my top priority to improve the routes that pass by First Tower - in particular the Route 15 - and also let us not forget that there is a similar problem with the Route 1 to the east of the Island.

4.2 Deputy D.W. Mezbourian:

Will the Minister advise the House what driving qualifications, if any, are necessary in order to drive mobility scooters on Jersey roads and pavements?

Deputy G.W.J. de Faye:

I am not aware that any driving qualifications *per se* are required to drive a disabled mobility scooter but I will certainly investigate that matter and, if there are requirements, I will inform the Deputy.

Deputy D.W. Mezbourian:

Supplementary, Sir. Thank you. Notwithstanding the Minister's reply, I wonder whether the Minister would advise the House whether it is compulsory for the drivers of these vehicles to have any form of motor vehicle insurance?

Deputy G.W.J. de Faye:

I do not believe it is a requirement, Sir.

4.3 Deputy S.C. Ferguson:

In view of the substantial road works that have been going on near Beaumont, I wonder if the Minister could give us an idea of the number of complaints he has had regarding this project and will the Minister tell us if the schedule is being met?

Deputy G.W.J. de Faye:

As I am sure Members are well aware, the Transport and Technical Services Department is currently engaged in probably one of the largest highways maintenance projects that this Island has ever undertaken and they are by no means simple projects. They require an awful lot of logistical analysis to make sure that busy traffic can continue to flow adequately. I am very pleased to say that measures that I instituted last year with respect, in particular, to the on-road signage have proved extremely valuable in ensuring that traffic flows continue. Indeed, in the recent statistical report, those changes in how we do things got a 90 per cent positive rating. In respect to this particular project, I am delighted to say that we are currently a week ahead of schedule. I am aware simply of one complaint made to me in respect to phase 1 of the project and that was to do with a local business inquiring about where they could put a sign to indicate they were still open. I believe that matter has been resolved. I have had no other complaints whatsoever and it is my best understanding that this extremely complex road engineering project is in fact running very smoothly indeed.

4.4 Deputy C.H. Egré of St. Peter:

I have received a prod in my back: mains drains. Would the Minister indicate whether there is a current plan to supply mains drains along the Five Mile Road to serve the commercial establishments like the Watersplash?

Deputy G.W.J. de Faye:

If there is a current plan, all I can say to the Deputy is that I have not seen it and so I am not aware of it but I know that a number of discussions have taken place with regard to a number of mains services, including water, I believe, being provided along the Five Mile Road. I have to say, quite candidly, I do not know at what stage those discussions are at the moment.

The Deputy of St. Peter:

Supplementary, Sir. If there should be plans to supply mains drains along the Five Mile Road, would the Minister please look into the supply of mains drains to the 20 houses that sit at the bottom of Jubilee Hill that have approximately a 200-metre run downhill to a mains drains connecting point. If plant is to go down there, it will be useful to utilise that plant to service those particular houses.

Deputy G.W.J. de Faye:

I can assure the Deputy that, if plans of the nature he alludes to do go ahead, those are precisely the sorts of things that my department engineers will be looking at, as they do for any other drainage installation project. These are projects that cause a certain level of disruption, simply by the fact that we have to dig up trenches all over the place, and the department does its best to maximise any opportunities that arise for each project as it comes along. But I have to remind the House, before any other Deputy or Member gets too excited about the prospect of new drainage, we simply do not have the budget for any major extensions to the drainage system at the moment but this matter will be fully reviewed under the Liquid Waste Strategy, which certainly my department will be dealing with this year.

4.5 Deputy P.V.F. Le Claire:

Given my desire to see Elizabeth Castle opened earlier this year, I am tempted to ask the Minister whether or not he has any amphibious buses at his disposal. But I rise to ask a question in regard to the compost site and a meeting that took place with Deputy Duhamel, myself and the Minister and his department in relation to the advertisement for the possible interest of private individuals in the countryside in Jersey who might be willing to tender for expressions of interest in taking the compost facility into the countryside. I wonder if the Minister could update Members as to what progress has been made in that area?

Deputy G.W.J. de Faye:

Yes, Sir. I am pleased to inform the House that we have now advertised, I think fairly thoroughly, for expressions of interest in the possibility of setting up various locations allied to the composting processes that the Island is going to need over the next few decades. I am pleased to say that there were a number of responses. I have not looked at them in any detail myself at this stage but I know that they are currently being considered by the officers who are directly concerned with composting and I anticipate that we will make due progress on that in the next month or so.

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

The Minister is aware that I have been discussing various new modes of personal transport with the D.V.S. (Driver and Vehicle Standards) Department and am keen to see that legislation is changed, if that is what is required, to enable these vehicles to use Jersey roads. Will the Minister confirm that the Integrated Travel and Transport Plan does not mention specific examples of new types of vehicle but is explicit in its support for less polluting modes of transport and, if law changes are required in order to bring about the use of those vehicles on Jersey roads, then the department will facilitate what is needed as long as safety is not compromised?

Deputy G.W.J. de Faye:

Fortunately this is one of those not so rare occasions where Deputy Duhamel and I are singing largely from the same hymn sheet in that we both have an enthusiasm for the potential of new technology, specifically in relation to vehicles. I have to correct the Deputy, in fact he will find that rickshaws are specifically mentioned in the Integrated Travel and Transport Plan. I am sure many Members who are well travelled outside the Island will know, if they go to various capital cities around the world, all sorts of interesting variations on the rickshaw theme - pedalled, electric-powered, glass fibre and so on and so forth - are now in evidence as, clearly, quite useful public transport. All these different options will be looked at but I have to say that they will be looked at in a responsible way that will judge not simply whether they are powered or in a certain style but also what the impact would be if new vehicles were introduced on to our roads and highways and, for example, may be seen in any significant number around town because different types of vehicle, frankly, have different impacts. But I can assure the Deputy that all new technology will be considered very fairly. It will have to ultimately comply to local construction and use law but I do

receive applications from time to time and they will be, and will continue to be, considered on their individual merits.

4.7 Deputy G.C.L. Baudains:

With regard to the proposed new incinerator, I wonder if the Minister could advise us in the event of an emergency on site, which he assures us is highly unlikely, does he have any figures as to how soon, for example, the furnace could be extinguished and the plant quenched, would that cause any damage to the plant and would such a problem affect his choice of type of plant?

Deputy G.W.J. de Faye:

I regret that I have no figures immediately to hand relating to the sort of questions that the Deputy is posing. I can certainly say and reiterate that the question of safety down at La Collette in relation to all the matters pertaining to the various sites and installations there is one under constant review. I am sure it will be of help to the House to know that, since I spoke on this matter only 2 weeks ago, it has been brought to my attention that the U.K. Health and Safety Executive are continuing their investigation into the Buncefield Depot fire and have indicated that they will be reviewing their guidelines and that will be a process that I imagine will take another 18 months - possibly 2 years - to come to final conclusions. Now, clearly any implication in changing guidelines has implications for...

The Bailiff:

Concisely please, Minister.

Deputy G.W.J. de Faye:

We are keeping the situation under continual and constant review, Sir.

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

During correspondence with the Minister's department over the past 14 months concerning traffic calming and management issues, I have been consistently advised, due to numerous similar requests from other parish Deputies, that I, like others, must join the queue for attention. Sir, could I ask the Minister if he would be prepared to publish some sort of timeline whereby reasonable requests for assistance and advice can be met? Thank you, Sir.

Deputy G.W.J. de Faye:

Very early on in my understandings with the workings of the Transport and Technical Services Department, I was informed of an unusual phenomena that occurs every election time, if the Deputy is looking for timelines, and that is that almost immediately after successful elections for Deputies in particular, it turns out, there is a sudden flurry of applications for various traffic calming measures - road widening schemes, speed limits and so on - doubtless all very well intentioned. Unfortunately, the procedures run in such a way that I still have on my books requests from very worthy Deputies who are now no longer Deputies but nevertheless who put forward ideas that are probably good on highway infrastructure. I have, as a result of this entirely haphazard scattergun process that I was faced with, instituted a new procedure so that the bulk of all road safety issues of this nature are funnelled, and I am very grateful to the Comité des Connétables for their help on this, through the Comité so that they can have a level of priority. That meeting will be coming up soon and we will see how the Deputy performs under that process.

The Bailiff:

I am afraid that concludes oral question.

The Deputy of St. John:

He did not even answer my question, Sir.

The Bailiff:

We are overtime already. Now, before we move on to statements, Deputy de Faye, or Minister perhaps, could I ask whether you are content that the statement that you are proposing to make is a matter of official responsibility rather than a personal statement?

Deputy G.W.J. de Faye:

It is going to be a personal statement.

The Bailiff:

I certainly read it that way when I saw it. I then call upon Deputy de Faye to make his personal statement.

PERSONAL STATEMENTS

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

I wish to take this opportunity, Sir, to apologise to Deputy Kevin Lewis for any embarrassment he may have suffered as a result of my response to an oral question posed by the Deputy during the last meeting of the States. Members will recall that I made a forthright and robust response to the Deputy's question relating to safety at La Collette II. I have since had correspondence, and indeed discussion, with Deputy Lewis on that exchange and it is clear to me now that the Deputy feels that the tone of my reply was both condescending and insulting. I would like to emphasise that it was not my intention to insult the Deputy and I regret if I was perceived to have acted in a condescending manner toward him. However, the Deputy does clearly feel aggrieved and, accordingly, I would like to say that I am sorry for that, Deputy. **[Applause]**

Deputy K.C. Lewis:

May I respond?

The Bailiff:

You do not have a right of response, Deputy. No. It is a personal statement. We come now to Statements of Official Responsibility and the Chairman of the Economic Affairs Scrutiny Panel wishes to make a statement regarding the review of the proposed sale of Jersey Telecom.

STATEMENTS OF A MATTER OF OFFICIAL RESPONSIBILITY

6.1 Deputy G.P. Southern (Chairman of the Economic Affairs Scrutiny Panel - Telecoms Privatisation Sub-Panel):

On 30th January 2007, I advised the States that the Economic Affairs Scrutiny Panel would be unable to present a report to the Assembly before February of this year on the privatisation of Jersey Telecom. This was because of a series of highly relevant reports, including those produced by the Jersey Competition Regulatory Authority and by the Economic Adviser, had been delayed. Members may wish to know that the last of the outstanding reports - being that of the States of Jersey Economic Adviser - was finally made available to Scrutiny on 1st February, 2 days after my last statement. On 20th February, the Minister for Treasury and Resources lodged his proposal to privatise Jersey Telecom by way of a full sale of the States' shareholding. In doing so, he declined to wait for Scrutiny to publish its own report, thereby indicating a lack of respect for the Scrutiny process and preventing the possibility of Scrutiny adding value to his own developing policy. Members will note that the Minister considers it necessary to include both the J.C.R.A. report and the Economic Adviser's report in annexes 2 and 3 of his proposition, thereby demonstrating that both reports are indeed worthy of detailed consideration. By selecting a lodging date of 20th

February, the Minister effectively made it impossible for Scrutiny to influence the content of his own proposition. The Draft Code of Practice for Scrutiny Panels and the Public Accounts Committee states that Scrutiny should aim to give witnesses 5 working days to consider and comment on those sections of a draft Scrutiny report in which their evidence appears. It also states that the Minister should be given the final report in sufficient time as to be able to prepare an informed comment on findings and recommendations. What this means, in practice, is that the Minister's timescale would have required the Panel to produce a full draft report for circulation to individual witnesses within one or 2 days of receiving the Economic Adviser's report. This was clearly an unreasonable demand. Once again, the imposition of such an unreasonable timescale reflects badly on the Minister's attitude to the Scrutiny process and the flexibility of his approach to this decision vital to the strategic interests of the Island and its people. The Panel wishes to advise the Assembly that the report prepared by the Sub-Panel will go to print by the end of this week and will be in Members' hands by Monday, 5th March.

6.1.1 Deputy R.G. Le Hérisier:

Would the Scrutiny Chair confirm that, in his negotiations or discussions with the Minister, the Minister is adamant that the debate will proceed on, I think, 17th April?

Deputy G.P. Southern:

I have yet to discuss the date for the proposed debate on the Minister's proposition but, if the Member wishes, I will do so, post haste.

PUBLIC BUSINESS

7. Draft Police (Honorary Police Complaints and Discipline Procedure) (Amendment) (Jersey) Regulations 200- (P.2/2007)

The Bailiff:

Very well. We come then to public business and the first item of public business is the Draft Police (Honorary Police Complaints and Discipline Procedure) (Amendment) (Jersey) Regulations 200- in the name of the Minister for Home Affairs and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Police (Honorary Police Complaints and Discipline Procedure) (Amendment) (Jersey) Regulations 200-. The States, in pursuance of Article 28 of the Police Complaints and Discipline (Jersey) Law 1999, have made the following Regulations.

7.1 Senator W. Kinnard (The Minister for H:

The States are asked today to approve the amended Police (Honorary Police Complaints and Discipline Procedure). The amendment to the Regulations is necessary as a consequence of changes to the Police Complaints and Discipline Law and also to clarify the provision of use of force by honorary police officers. The amendments will bring these Regulations in line with those already amended in the States of Jersey Police Force Order, which was approved on 12th April 2006. Both sets of Regulations now contain the defence of reasonableness in the context of the use of force, which is an objective test, rather than depending on the state of knowledge of the officer. The proposal has the support of the Comité des Connétables. There are no financial or manpower implications and the Regulations will come into force 7 days after they are made. Sir, I propose the Regulations.

The Bailiff:

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

7.2 The Deputy of St. Martin:

Could I say that I support what is being proposed, however I would like to draw attention to an omission in the report, which I would ask that all Ministers would take note of in the future. The Minister, in her speech, said that what is being proposed is in line with that of the States Police. Had that been in the report it might have saved quite a considerable amount of time because, as far as our Panel was concerned, we did look at this and we looked to see whether in fact it was compatible with what was elsewhere. We found that it came through as an R and O last year and so it probably would have - for want of a better word - slipped through unnoticed. We are just asking that maybe in future, when reports do come, they could be a little bit fuller than what they are. It would save a lot of unnecessary work but, at the same time, we do support what is being suggested. Also, if we could ask why this is not coming through on an R and O if the other one did?

Deputy G.C.L. Baudains:

Yes. Whilst I support the Articles - they are entirely sensible - I am somewhat concerned about the report. We are told that what is reasonable should not depend on the state of knowledge of the honorary police officer but rather be an objective test. It does seem to me, Sir, that an honorary police officer, in carrying out his actions, can only rely on his state of knowledge at that time. I really am confused about it.

Connétable K.P. Vibert of St. Ouen:

Yes, Sir. The Connétables are happy to support this proposition. They have discussed the matter with the Chefs de Police and are content that this brings them in line with their professional colleagues.

The Bailiff:

I call upon the Minister to reply.

Senator W. Kinnard:

I take on board the comments of the Deputy of St. Martin as to making a fuller report and I will endeavour to do so in future. As to the question as to why has this not come forward as an R and O and they come forward as Regulations, it is just that the way in which the substantive law is drafted, for some reason, Sir, that the changes to affect States of Jersey Police can be made under an Order, whereas the Law specifies that the changes in respect of the honorary police in fact have to be made under Regulations. It is just one of those things. As to the question of reasonableness, this is a test that the courts are very much used to dealing with and the considered view of the advice that I have received is that the reasonableness test is the appropriate one, rather than whether or not an officer at the time could have known whether or not his force was inappropriate. The test of reasonableness is really a defence to an accusation that the force was unreasonable in the context. Thank you, Sir.

The Bailiff:

I put the principles of the draft. Those Members in favour of adopting them, kindly show. Those against. The principles are adopted. Deputy of St. Martin, do you wish to scrutinise.

The Deputy of St. Martin (Chairman of the Education and Home Affairs Scrutiny Panel):

We do not wish to scrutinise.

The Bailiff:

Very well. Minister, do you wish to propose the Regulations *en bloc*?

Senator W. Kinnard:

I do, Sir. Thank you.

The Bailiff:

They are proposed and seconded. **[Seconded]** Does any Member wish to speak on the Regulations? I put the Regulations. Those Members in favour of adopting them, kindly show. Those against. The Regulations are adopted in Second Reading. Do you propose the Regulations in Third Reading?

Senator W. Kinnard:

I do.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the Regulations in Third Reading? I put the Regulations. Those Members in favour of adopting them, kindly show. Those against. The Regulations are adopted in Third Reading.

8. Field 512 La Route des Camps St. Brelade: proposed deed of arrangement (P.3/2007)

The Bailiff:

We come next to Projet 3 -Field 512 La Route des Camps, St. Brelade: proposed deed of arrangement in the name of the Minister for Treasury and Resources and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) to agree that a deed of arrangement should be passed between the public as the owner of the northern part of Field 512 St. Brelade and Mr. Paul Graham Thorne and Mrs. Tanya Harrison (née Thorne) as the joint owners of the southern part of Field 512 to provide that (1) the public's existing right of way from Le Route des Camps to the northern part of Field 512 across the centre of the southern part of Field 512 will be cancelled, which right of way was established in a contract passed on 19th November 1993 between the public and Mr. Graham Douglas Thorne; (2) the public will be granted a new right of way from La Route des Camps to the northern part of Field 512 across the western side of the southern part of Field 512 as shown on drawing 19/2/12 P1; (b) to agree that the public should contribute £750 towards the legal fees incurred by Mr. Paul Graham Thorne and Mrs. Tanya Harrison (née Thorne) in connection with passing the said Deed of Arrangement before the Royal Court to be sourced from Vote 02320/1XP008/120280 Acquisition of Land - Major Reserve; (c) to authorise the Attorney General and the Greffier of the States to pass the necessary contract on behalf of the public.

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

Members may recall that in the early part of last year concern was expressed about the closure of an informal footpath across some private land which children from an estate at Mont ès Croix, St. Brelade's were using to walk to La Moye Primary School. On investigation by Property Holdings it was found that the public had acquired the northern part of the relevant field back in 1993 and it has since been incorporated into Les Creux Country Park. The landowner had retained ownership of the southern part of the field, however he had also granted a right of way across the centre of his land to the public but the public had never formally exercised their right to use that access. This matter has now been resolved, I think to the benefit of all parties, and it has been agreed, effectively, to move the right of way from the centre of the field to the side of the field and to create a proper path, which will allow safe access to the school children of La Moye. This type of

agreement has to be recorded by deed of arrangement passed by the Royal Court and the Standing Orders require me to bring this to the House for approval. The proposed path has been the subject of a planning application and received planning consent on 30th November 2006. I am sure this proposition will be welcomed by the Minister of Education, Sport and Culture, the residents of St. Brelade and, in fact, all Members who will see this as a sensible solution to the matter and I propose the deed of arrangement.

The Bailiff:

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

8.2 Senator M.E. Vibert:

If I could say, Sir, I am pleased that we have finally come to a sensible solution over this issue. It will benefit pupils not only going to La Moye School but also going to Les Quennevais School who will be able to link-up to the railway walk in safety from the Mont ès Croix area. People had made an informal path at the side of the field and I regret that informal path was closed off. I am pleased that we have now been able to regularise the position and I am hoping and we are doing all we can to ensure that the path is in situ for the start of the summer term, hopefully a bit before if we can, and, once again, there will be a safe route to school for pupils of Les Quennevais and La Moye from that area.

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

Yes, I would also like to comment on the proposition. There are a considerable number of children in the housing developments adjacent to La Route des Camps who attend La Moye School. None of the roads leading from La Route des Camps have pavements and therefore children are at considerable peril from the large amount of traffic using La Rue de la Sergente and La Route Orange and this has been compounded by the building developments that have taken place at Leonard's Garage and the proposed ones on Fields 190 and 192. It just seems eminently sensible that the pathway taking a more direct route - and I would say that children have a natural propensity to walk as the crow flies - will take them away from the dangers of traffic and off the main road to the school. So I would urge Members to support the proposition. Thank you, Sir.

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

I am not going to make any great further comment to that apart from the fact that obviously residents of the La Moye and Les Quennevais district have been very concerned about this. I echo the comments of the Constable and of Senator Vibert. We are all very pleased that this has happened and it is a great success for the community. Thank you.

8.5 Deputy R.G. Le Hérisier:

It may be our fault but I wonder, Sir, if the Minister could explain why this was not put through on the normal property transaction procedure of 15 days' lapsing period? Thank you, Sir.

The Bailiff:

I call upon the Minister to reply.

8.6 Senator T.A. Le Sueur:

I thank those Members who have spoken in favour of this very sensible deed of arrangement. To Deputy Le Hérisier, yes, I wish it could have been done that way as well but Standing Orders seem to have catered for the majority of property transactions but sadly not for these odd ones. It may well be that in revisions to Standing Orders we will pick this sort of thing up so that it does not need to recur in the future. Meanwhile, I maintain the proposition.

The Bailiff:

I put the proposition. Those Members in favour of adopting it, kindly show. Those against. The proposition is adopted.

9. Draft Criminal Offences (Jersey) Law 200- (P.7/2007)

The Bailiff:

We come next to Projet 7 - Draft Criminal Offences (Jersey) Law 200- and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Criminal Offences (Jersey) Law 200-. A Law to codify and reform the law relating to statutory offences. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

As the report accompanying this proposition states, this Projet de Loi is of a rather technical nature but I can reassure Members that it is in fact reasonably simple to understand. It establishes as a standalone offence in law the accomplice and inchoate offences. Accomplice offences are those of aiding and abetting and counselling and procuring the commission of a criminal offence. Inchoate offences are those of conspiracy, attempt and incitement to commit a criminal offence. This new Law will have the effect of these offences being available in every case without such offences having to be written into every individual new law. It would also mean that there would be less law drafting time required in the preparation of new legislation. In the second part of the Law, similar effect is made for the offences under Company Law whereby individuals responsible for the commission of a statutory offence by a body corporate or limited liability partnership can be dealt with, without the need for inclusion of such offence in the primary legislation. If this Law is accepted, this provision will no longer need to be written into new laws. I therefore propose the preamble, Sir.

The Bailiff:

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

9.2 Deputy R.G. Le Hérisier:

The Assistant Minister kindly said which offences were inchoate but he never defined the term "inchoate" and I wonder if he would be so kind as to do that?

9.3 Senator S. Syvret:

I think "inchoate" means partial, does it not, being part of a component of an action, an offence in this case?

The Bailiff:

I call upon the Assistant Minister to reply.

9.4 The Connétable of St. Ouen:

I would like to thank Senator Syvret for having answered the question for me and so I maintain the proposition.

The Bailiff:

I put the principles of the draft. Those Members in favour of adopting them, kindly show. Those against. The principles are adopted. Deputy Ryan, does the Scrutiny Panel wish to scrutinise?

Deputy P.J.D. Ryan of St. Helier (Chairman of the Corporate Services Scrutiny Panel):
No, thank you, Sir.

The Bailiff:

Assistant Minister, do you propose the 3 Articles of the Bill *en bloc*?

The Connétable of St. Ouen:

En bloc, Sir. Yes, please.

The Bailiff:

They are seconded? **[Seconded]** Does any Member wish to speak on the Articles of the Bill? Well I put the Articles. Those Members in favour of adopting them, kindly show. Those against. The Articles are adopted and do you move the Bill in Third Reading? Seconded? **[Seconded]** Does any Minister wish to speak on the Bill in Third Reading? I put the bill. Those Members in favour of adopting it, kindly show. Those against. The Bill is adopted in Third Reading.

10. Draft Corruption (Jersey) Law 200- (Appointed Day) Act 200- (P.16/2007)

The Bailiff:

We come to Projet 16 - the Draft Corruption (Jersey) Law 2006 (Appointed Day) Act, and I ask the Greffier to read the long title.

The Greffier of the States:

Draft Corruption (Jersey) Law 2006 (Appointed Day) Act 200-. The States, in pursuance of Article 17 of the Corruption (Jersey) Law 2006, have made the following Act.

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

I am sorry that I got my Chief Minister out of breath trying to retrieve me from the coffee room. The last item went rather quicker, I think, than any of us expected. Anyway, hopefully this will go quite quickly as well. This is an Appointed Day Act, which will bring into force the Corruption Law 2006 which was adopted by the States on 25th October 2005. The Law received Royal Assent and was registered in the Royal Court in 2006. The Corruption Law introduces comprehensive measures to combat bribery and corruption domestically and internationally. The growing globalised nature of the problem has prompted many jurisdictions to revise their anti-corruption legislation. The bringing into force of this Law will abolish the customary law offence of bribery and it is intended to be the basis for the extension to Jersey of the United Kingdom's ratification of 2 important international conventions, the Criminal Law Convention on Corruption of the Council of Europe and the Convention on Combating Bribery of Foreign Public Officials in International Transactions of the O.E.C.D. (Organisation for Economic Co-operation and Development). Members will be aware from the report that correspondence with the Department of Constitutional Affairs has indicated that some minor technical amendments to the Law probably need to be made before ratification can be extended to Jersey. These are identified in the penultimate paragraph of the report and, as these amendments could be made by way of Regulations under the Law, it has been concluded that it is now the appropriate time to bring the Law into force. So I propose the Act.

The Bailiff:

Is the draft Act seconded? **[Seconded]** Does any Member wish to speak on the draft Act? I put the proposition. Those Members in favour of adopting it, kindly show. Those against. The draft Act is adopted.

11. Deep Groundwater: La Rocque and St. Catherine boreholes (P.22/2007)

The Bailiff:

We come next to Projet 22 - Deep Groundwater: La Rocque and St. Catherine boreholes and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Planning and Environment (a) to take the necessary steps for boreholes recently drilled at St. Catherine and La Rocque for deep groundwater testing purposes to be re-drilled using alternative testing methods; and (b) to withdraw the conclusions recently published regarding the water samples from the current boreholes until further research has been carried out.

11.1 Deputy G.C.L. Baudains:

Well, we have all seen the statements, I presume: "Test bores completed successfully" were the headlines and another one: "A previous test bore at La Rocque was successfully completed last week." I have to say, Sir, that if those tests were indeed a success, I would like to know how the department would describe a failure. We have just received comments in the last few days, issued in the name of the Minister for Planning and Environment, telling us, under paragraph 4 on page 2, that the investigation was meticulously undertaken. Yes. The reality is, as I shall demonstrate this morning, Sir, the exercise was a total disaster to the extent that there is no option other than to do the sampling again, this time using more appropriate methods, and to withdraw the conclusions until such time as accurate information becomes available. I realise that water is an emotive issue, Sir, in fact I cannot remember ever having quite so many telephone calls from the general public on it. But Members may not be familiar with underground water, or the recent testing in particular, so I have tried to make my arguments easy to understand, Sir, avoiding technical explanations wherever possible. But to further assist Members, I thought I might address my proposition in reverse order, taking part (b) first followed by part (a). I think it will make it easier to understand. The first point I want to make - to make it absolutely clear because the accusation has been made that this is a rearguard action by water diviners and engineers simply because they do not agree with the results - that, Sir, is not true. Alarm about the process was voiced long before the results came out. The fact is everybody on the working party - that is the water diviners, the B.G.S. (British Geological Survey), Entech and officers from the department, the drillers, diviners, everybody, Deputy Ferguson and I believe Deputy Duhamel - all signed-up to abide by the results when they came out but unfortunately the diviners and drillers were not to know what a shambles these important tests would turn out to be and, Sir, just what a shambles Members will shortly see. I believe the working party members had a right to expect the tests to be carried out fairly and competently. They were not, Sir, and, as a result, at least one member of the group refuses to be bound by the agreement. Vital research was not done and unsubstantiated theory accepted as fact. Unfortunately, and this has existed for some time now, the evidence threshold was not the same for both parties. When a geologist or other academic says something it appears to be taken for granted. No proof has been necessary, yet when a water diviner or driller speaks it is assumed he is wrong unless he can prove otherwise, or so it seems. I believe that when somebody has drilled possibly around 1,000 boreholes, they probably know more about Jersey water and the geology that they have drilled through than those who have only read books. When people suggest, Sir, that water may come to us from France, quite often they are ridiculed; but when geologists say it is impossible, it seems they are believed without any evidence to back up that statement. Again, Sir, it has been said by the academics that if water did come from France it would take 57,000 to 59,000 years to get here. That is, 50 miles in 57,000 years, which is about 16 inches a year or two-

thousandths of an inch an hour, slightly slower I believe than the speed of rising damp. Their evidence for this? Well, I do not know of any. To the best of my knowledge, Sir, no testing has ever been done to determine the speed of flow through the rock fissures through which the water flows. It would be easy to do, Sir, but it has not been done and knowing the speed of underground flow is hugely important. Well, Sir, we are told that if water does come from France it would take I cannot remember if it is 57,000 or 59,000 years, I do not support there is much difference, and therefore this theory is then extrapolated and it is suggested that any water less than thousands of years old automatically has to have fallen as rain on Jersey. Theory, Sir, conjured into fact. Again, relying on this theory, carbon dating was chosen as one of the tests. I am not an expert on carbon dating but I am advised that it is practically useless for anything less than 1,000 years old. But, hey, water from France takes 57,000 years so it must be an ideal test. Really? As far as I am concerned, this unscientific position is arrived at simply because people have believed theory as fact. But what if water flowed at, say, one mile an hour, not terribly fast, that means that water would get from France to Jersey in less than one day. Well, Sir, by virtue of the 57,000 year - I think it is 57,000, I may be incorrect, it could be 59 - assumption, that water would automatically be deemed as impossible to have come from France, with no supporting evidence. Falls into the category, Sir, in my book, of junk science. Simple research not done, theories accepted as fact, but we should not be surprised, Sir. This sort of thing has been going on for a number of years. I have spoken of carbon dating. The other test chosen, Sir, was isotopes of oxygen and hydrogen. Put simply, rain falling on a coast will give a different signature compared with rain falling further inland. For example, rain falling on Cornwall will have a different property from rain reaching Somerset which in turn will be different from rain over London and so on, or nearer home, rain at Carteret will have a different isotopic signature from rain falling perhaps 100 miles further inland. However, because Jersey is itself a coast, the isotopic signature for Jersey will be the same as the nearby French coast. So the test cannot prove whether or not our water comes from France. Great. So what do we have? A test for the age of water on the assumption that any water reaching Jersey must be thousands of years old, but no evidence to back that, and another test to determine origin but one which cannot differentiate between Jersey and the nearby French coast, or even a few miles inland. It is my understanding, Sir, and Members may be interested to know, that the diviners and drillers were not aware or were not made aware of this test's unsuitability until the exercise had started. Then I believe only as a result of questions being asked after a tip-off. Consequently, Sir, the goal posts were moved. When it was realised the test could not differentiate between Jersey and France it was decided to differentiate between water from the top and water from the bottom of the bores instead. This is despite the fact, Sir, as seen on page 3 paragraph 13 of the Minister's comments that the diviners were not asked to divine locations where there was a distinct separation between the deeper and the shallower water, but instead they were asked to find appropriate places to detect streams flowing from outside the Island. The exact words were: "Streams flowing from outside the Island would be present." Sir, had they been asked to choose locations where a vertical separation was evident, I am sure they would have chosen different sites. So immediately there is a conflict. Drillers and diviners were asked to choose sites where water from outside the Island would be present, but the tests were to differentiate between shallow and deep water, an entirely different experiment. Notwithstanding that, Sir, both tests are clearly inappropriate for the exercise and in my view cannot be used to justify the statement released to the press. Statements such as: "Water myth killed off by survey" and: "There are no underground streams carrying water to Jersey from Mainland Europe." If one analyses the facts honestly in fact those tests proved the exact opposite. The isotopic signature of Jersey's water is the same as, for example, Granville. So that would support the belief the water comes from France. The carbon dating has proven that there are 2 types of water in the bores, young and old. Rain from last month, and rain from 5,000 years ago. On an island as small as Jersey? I do not think so. The deeper water at La Rocque has a different chemistry compared with the upper layer, as seen again on page 13 of the Minister's comments. Unlikely if the bore was supplied solely by rain. The isotopic signature does vary between La Rocque and St. Catherine bores, by a measurable amount. Also between the top and the bottom of

the La Rocque bore. Sir, I mentioned Granville just a few moments ago. It was deliberate, because as a water diviner myself I did a little research myself last year. I followed an underground stream, that is water flowing through rock fissures, and by the way, water diviners cannot detect stationary water. I traced it backwards from Grouville Bay to Point d'Argent, 10 miles north of Granville. It would be quite easy to locate a borehole in Jersey and with assistance with from the French one on this stream in France, because they are both connected by the same underground stream. Surely that would be a more logical way of testing for water flow between us and France. Another fact which disproves the rain theory which we are told is the only means of water arriving in Jersey boreholes, the recharge theory. Talk about water pressure, Sir. There are thousands of wells and boreholes in Jersey. I do not know of one - not one - which, when drilled, or in the case of a well, dug, water did not rise up the shaft. We all know the Fort Regent well blasted down through 235 feet of solid rock and when they hit the spring water it suddenly rose by 70 feet. I know a borehole at La Moye where the water suddenly rose 200 feet, indicating a water pressure in the spring below in excess of 150 pounds per square inch. Were these supplies simply rain soaked into the ground, Sir, there would be no pressure. Water would not rise up the shaft, you would drill down and find the water: it would stay there. So the tests carried out for this exercise are fatally flawed. In no way do they prove water here does not come from France. That is why I am asking that the statement made to that effect should be withdrawn until more appropriate research is carried out. Hopefully that deals with the testing and why it should not be relied on to determine where Jersey's water originates. If that is not bad enough, Sir, the sites used for obtaining those samples were equally problematic; in fact if the subject was not so serious one might be forgiven for assuming the exercise was a Peter Sellers or John Cleese production. I will move on to the boreholes themselves, Sir, as addressed in part A of my proposition. There are 2, as Members will be aware, at St. Catherine and at La Rocque. The La Rocque bore, Sir, was done first, exactly where the diviners specified. The design called for a large bore to be sunk to 40 metres, then fitted with an inner liner, the gap between plugged with grout; once hardened, the bore was to be drilled down through the inner liner and down on further to 50 metres, enabling samples of water below that plug at 40 metres to be taken. So that plug sealed off the deeper water from the upper layer. That was the theory, Sir, and the criteria against which the drillers were asked to make their tender. Unfortunately in the case of the La Rocque bore, instead of using a thick plastic pipe supported to keep it central in the outer steel casing, or using another steel liner inside the outer one, the driller used a thin plastic pipe, the sort that we might see as a rainwater downpipe. It was unsupported, meaning the pipe as it comes down the bore will have snaked on the way down and will also have crushed with the pressure of cement at the bottom. Sir, a drill bit that can smash its way through solid granite to create a borehole will not be constrained by a thin plastic pipe. Accordingly, when the drill went down it wandered in and out of the plastic pipe, smashing it up as it went. As a result, the bore has bits of plastic sticking out of cement all the way down. Clearly this presented the department with a problem. How do you get samples from the bottom of a bore or do pumping tests when the bore is blocked with bits of broken pipe anchored in the cement lining? Clearly the problem is serious, Sir, because a couple of days after completion they brought the drill rig back on to the site to re-drill the bore. Unheard of in well drilling. Interestingly, the Minister apparently was unaware of the second drilling until I told him. His officers had neglected to inform him. It gets worse, Sir. The water diviners and well drillers were concerned that the cement plug set at 40 metres had not been left long enough to harden. Their concern was that if it had not hardened fully the pressure of drilling would force that cement out into the rock fissures and partially seal-off the flow of deeper water. So in order to check this out, Sir, Deputy Ferguson arranged for a camera, the type used to inspect drains, to go down the bore and to inspect exactly what was down there. They wanted to inspect to see whether the rock below the plug was contaminated with cement or not. Only they could not, Sir. I have seen the film and in fact I have a copy. What it clearly demonstrates is that the bore is a mechanical failure. All the way down bits of plastic are sticking out from the cement. At 36 metres down the bore is almost completely blocked. The camera operator - in my view - took a hell of a chance forcing his camera past that obstruction as he could

have lost his camera. At 38 metres the bore is completely blocked. The camera could go no further, so it was unable to inspect the plug at 40 metres. This means several things, Sir. Not only is it impossible to verify the integrity of the cement plug, or whether indeed uncured cement has been forced into the rock fissures below, one has to ask how the department managed to take samples from the bottom. The bore is 55 metres deep, but it is blocked at 38 metres, meaning the last 17 metres, a vital part from which the samples were to be taken, is inaccessible. How did they get samples? How did they get a pump test? I do not believe they did. The camera shows a length of electric cable from a borehole pump at about 36 metres, so it would not surprise me if there is a pump stuck at the bottom of that borehole. The department's statement, Sir, that the bore was okay until re-drilling damaged the top 13 metres of plastic, is as ridiculous as it is untrue. Why re-drill a borehole unless it is blocked? You do not re-drill it just for the fun of it. The camera shows the plastic is damaged for the top 38 metres, all the way down, not just the top 13 metres. Yet the Minister, obviously acting on his officers' advice, calls this a success. Could it be, perhaps, that it had to be a success to enable the department to have its water resources law without which, of course, the water resources section would have no work to justify its existence? But referring to the Minister's comments again, the investigation was meticulously undertaken and on his comments on page 8, paragraph 47: "All associated pipe work and electrical cables successfully moved from the borehole." No, they were not. Hardly meticulous, the electrical cable is still there. When we move to paragraph 48, Sir, there are more untruths - for which I do not blame the Minister, he only takes advice from his officers - and it states: "Although there is now a reported blockage halfway down the borehole, at the time of the investigation the borehole was not blocked." So why did they have to bring the drill rig back to drill the bore a second time if it was not blocked? Are we seriously to believe that the bore mysteriously blocked itself by sticking bits of plastic into its cement lining just after the department had finished its work? It is beyond fantasy. Sir, the comments really are unworthy of the departmental officers. Why did they not tell the Minister, for instance, that they had to re-drill the bore again some days later? It seems to me they were hoping nobody would find out. But unfortunately for them, I have contacts and alerted Deputy Ferguson and the Minister as to what was going on. Also, Sir, I am totally amazed to hear that we paid for this bore. In the private sector, the contractor would have been required to do the job again, or not get paid. I do not know who authorised the payment. The driller who would have done the bore, but had to pull out because of illness, thinks the States need their head read for paying the bill. I suppose, Sir, it is par for the course in the public sector. I recall some years ago being invited by the Chief Officer of Fort Regent to do some water divining up there and he asked me to take special note of one area. I found nothing and asked him why he was so particular. He said: "You have just walked over 2 boreholes." I said: "Well, in that case, they must be dry." He said: "Yes they are, but the States paid for them." So it does not seem that the public sector is quite as careful with its money as the private sector. I suggest, Sir, that given the mess the La Rocque bore is in, the States would be entirely justified in asking the contractor to do another one nearby at no charge. The St. Catherine bore, Sir. The contractor clearly learnt from the previous mistake; he used steel instead of plastic to line the second bore. Steel stays straight, holds the drill bit on course. No problem here with the construction at all. But a problem of a different kind. There is virtually no water. Now that is a first for the water diviner concerned and well drillers do not normally drill dry bores and stay in business for long because it costs money to drill a bore and you do not get paid if you do not supply the water. So one has to ask why that bore is dry. The reason, Sir, is not hard to find, because the bore is not where the diviners originally wanted it, but further down the slope, to save money as drilling charges are related directly to depth. Some may say, though, that the diviner was unwise to agree to a change of location, I believe he was, but he did tell me that he believed that if he did not agree the drilling would not proceed and the experiment would be abandoned. How one can take reliable samples from a bore with virtually no water, Sir, defeats me. In this case, the case of St. Catherine's bore, I believe the department is to blame and the re-drilling at the original site should be borne by the department. Sir, I know some of the comments have been made before but because this whole exercise was overseen by B.G.S. and Entech and I know that some people are in awe of

B.G.S and make the suggestion: “Well, you know, how could you possibly argue with this organisation? They are so expert.” Well, Sir, it is rather like the lawyer that has a weak case. When you find the facts slightly awkward, you question the expertise instead. Well, Sir, I have to say that B.G.S. are not quite as expert as some would like us to believe. I know some people are in awe of them, I am not. There are many examples that I could use to prove that, Sir, but I will just use a couple. When they came to Jersey about 14 years ago to start analysing Jersey’s water supplies they had to ask the local drillers how to operate their measuring equipment. At the La Rocque borehole - it was B.G.S. who oversaw the drilling at the bores - contrary to a publication I saw which stated they were enormously experienced in this type of work, I have to tell Members that the La Rocque bore was the first one they had done. As for the pressure applied by the department, Sir, I recall the Ecrehous drilling question, and an officer saying the equipment could not be transported by helicopter, it was too heavy and weighed 20 tons. Well, that is as maybe, except it is completely untrue. The drill rig that would have been used weighs less than one ton. Apparently there was a quote of a quarter of a million pounds to drill the hole. No. I do not know what the fee would be now, I would suggest about one-tenth but of course when we were looking at this 14 years ago the drillers had offered to do it free of charge, except the department found every obstacle it could to prevent it. I wonder why. Sir, as you know, I have been on Scrutiny until recently and so I tried to distance myself from this recent drilling and testing. I did not think it would be appropriate if I was involved. But I did become increasingly concerned by the misinformation given; the way theory was taken as fact and, I have to say, the general incompetence of the whole experiment. I am not alone, Sir, because others have broached the subject with me, in getting the feeling that the whole research was being pushed in a certain direction. So, Sir, the boreholes from which the samples were taken are compromised; the St. Catherine one is in the wrong place, the La Rocque one is an engineering failure. The 2 tests chosen to determine whether underground water comes from France are incapable of proving the case. The isotope of oxygen test cannot differentiate between water in Jersey and water from nearby France. The carbon dating is only valid provided the water flow is so slow it takes over a thousand years to make the 50 mile journey, which is preposterous. In my opinion, Sir, the tests were designed to come to a particular conclusion before work started. Because after all the people who have been driving the Water Resources Law - despite, I have to say, the Scrutiny Panel looking into it finding that the case was not proven - were the ones running this experiment. Sir, I urge Members to require the bores to be drilled properly and the conclusions reached from the present shambles to be withdrawn until more reliable testing can be done, because otherwise people - if those conclusions are allowed to stand - will believe they are true. I make the proposition, Sir.

The Bailiff:

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

11.2 Deputy S.C. Ferguson:

I am glad we were all listening. I think perhaps I need to backtrack slightly on this. Why did I originally get interested in the water question? Perhaps I can mention the philosophy of engineers which I think probably Deputy Baudains subscribes to. Engineers will happily use a phenomenon or process and the scientists will explain how it worked years later. Nobody really understood electricity when Faraday started but lots of devices were invented and the explanations came very much later. I have the greatest sympathy for Wegener. For those who do not know who he is, he is the man who came up with the theory that continents drift and South America once fitted neatly into South Africa. When he published his book in 1915, the comments went as follows: “Utter damned rot”, the president of the prestigious American Philosophical Society. “If we are to believe this hypothesis, we must forget everything we have learned in the last 70 years and start all over

again”, an American scientist. “Anyone who valued his reputation for scientific sanity would never dare support such a theory”, said a British geologist. Sound familiar? Wegener published his theory in 1915. He died in 1931, and the theory did not gain universal acceptance until the late 1950s. As I have said before - I am not sure whether I have said this in the House - and I will not repeat the story in full - but the London Electricity Board used water diviners after the blitz to find the buried cables and pipes, and there was a snippet on the B.B.C (British Broadcasting Corporation) news web page recently commenting that Southwest Water, I think it was, was using diviners to find leaks in their pipes. So, as far as I was concerned, there was a water resource on the Island and very little was known about the amount or the sustainability of it. In my pieces of research I came across a publication by U.N.E.S.C.O (United Nations Educational, Scientific and Cultural Organisation) which is a report on hydrology and water resources of small islands. It said some small islands are associated with continents or much larger islands. They are on the continental shelf and are generally either erosional remains of the mainland, buried former reliefs with the highest elevation emerging, or recent deposits near the coastline. In some cases they may share deep confined aquifers with the continent or main Island. There is also documentary evidence from Walter Klüpfel; he was a hydrologist with the Wehrmacht in Jersey in 1941 and he says in his notebooks - I do not pretend to understand this, but this is what a hydrologist says: “The conglomerate in the Brioverian Jersey shale formation corresponds with the Granville conglomerate.” Given the selection from the evidence, you can understand why I was fascinated by the whole water story. I would ask Members to note I am not maintaining that we have water flowing from France, but I am maintaining that the Island is so close to Normandy that it must share many of the characteristics of the Norman geology. The 100,000 people on the Cotentin Peninsula are supplied by 2 or 3 750 foot bores. I have been in contact with the French hydrogeologists responsible for the Normandy area. They say to me the geological basements of La Manche Department in Jersey are very similar and I would like to quote from them: “There are good and voluminous water resources. We can consider that there are 2 underground layers. There had been in La Manche many drinkable water problems until we discovered the presence of good and voluminous water resources in recent tertiary and quarternary ages sedimentary basins. These basins are very small and often located along tectonic faults, generally orientated northwest southeast. The thickness of the aquifer can exceed 100 metres and the water production may be very important. A few of these basins feed and water the population living from Carteret to Coutances, more than 100,000 inhabitants. There must be such basins near Jersey, possibly under the sea.” But they do also say: “There is evidence that the rock strata in which the water is located in Normandy may extend to Jersey,” but they at the moment have no evidence of a relationship between Jersey and French underground waters. So, we have done the drilling and we have reached some results. I can understand why Deputy Baudains is frustrated. We have a firm of experts who have to rely on our local drillers to tell them how to perform the operation. We have one bore which needs a major operation for it to be of any use, we have results which we are assured would tell us that all water in Jersey falls as rainfall in Jersey, albeit some of it fell 5,000 years ago. Well obviously all water falls as rainfall in some part of the cycle, nobody has ever denied that. As Deputy Baudains says, I did also have cause to point out that drilling on the aquifer would not cost £250,000 as the military would be only too happy to help as they did with the Mont Orgueil and the Cannon. Yes, I did arrange for the video of the La Rocque borehole because I am a basic engineer and I do like to see the things. As I have said, the bore at La Rocque will be unusable and as far as I can see, it needs drilling again. Sadly our local driller was *hors de combat* and was unable to perform the drilling, which is why we are here today. There are criticisms of the supervision and undertaking of this project. I do know, however, that the project leader was continually calling Jersey to ask how the drilling should be done since this was a new type of project for him, he had never done anything like this. At my very first lecture at university, back in the Dark Ages, the Dean of the Engineering School pointed out that oil and water were finite resources and we would need to come up with smarter engineering solutions. I was therefore brainwashed into environmentalism of this type at a very early age. In fact, as I am fond of saying,

water is the blue oil of the next few hundred years. I am therefore as keen as anyone to know what our resources are and what their sustainability is. This piece of work, flawed as it is, must be only the beginning. As far as I am concerned, a number of issues come out of this work. There is a lot of work still to be done. I do not know - and Deputy Baudains has already commented on this - of any work locally on the speed with which water travels through the Jersey rocks. The report states that the water at La Rocque is less than 1,000 years old and that at St. Catherine's is 4,000 to 5,000 years old. If I remember rightly, according to the geologists, the water would take something like 57,000 years to travel 15 to 20 miles. Well, I get a bit confused at this stage because at that speed the water in St. Catherine's may have travelled nearly 7,000 feet, but it is only at the bottom of a 250 foot hole. Or else it fell 5,000 years ago and trickled down and just sat there. But the well was dry for 36 metres. So where was this water 5,000 years ago, if it could not trickle down from the surface? You see what I mean when I say that the report does raise more questions than it answers. What this experiment has not proved, and what I think is the most important fact, is the sustainability and the quantity of the water under the Island. This is still wide open. The French, with similar rocks, had to drill down 750 feet to find quantities of water. This experiment was the first real attempt at research being done by the States. It is bound not to be perfect, obviously. There is an undercurrent **[Laughter]** - perhaps we need a consultation on how to do the next one. You know, there is a constant undercurrent of 'let us bring in the law and then we can charge' which is somewhat of a U.K. approach; it is not the Jersey approach. Yes, the flow from bores has been tested previously, but it is rather perfunctory and it is very superficial. Nobody has looked underneath ground level properly. Real research may need some more boreholes, but it also means geophysical non-intrusive testing which is really quite cheap. Members may remember the overhead photos taken by the Americans which showed the underground rivers in the Egyptian desert. This shows the effectiveness of using more imagination in our testing procedures. But since much of this work has already been done by the French, why are we not talking to them and using their work? They have already undertaken geophysical surveys between Jersey and the La Manche Coast. Since we are part of the same continental shelf as the Normandy authorities and since they have done a considerable amount of practical and imaginative work, I asked the Minister to consider seriously some co-operation with our French neighbours. I must pay tribute to the Minister, however, who has supported this water project through thick and thin and has coped with a variety of widely differing opinions and personalities. I am as anxious as Deputy Baudains for further work to be done for the water project, but I am waiting to hear what the Minister has to say before I decide on my vote.

11.3 Senator M.E. Vibert:

I will try to remember that I am not a Welsh Assembly and refer to Members by their first name, which Deputy Ferguson fell into. I think it is good that we keep to some certain formality and can I say that I have every respect for Deputy Baudains' firmly held beliefs. I just do not happen to share them. But I would like to congratulate the Deputy, Sir, in that his beliefs and what has been going on has given the Island publicity in *Private Eye* and in the *Oldie* magazine. Perhaps I can pass this on to the Deputy later because there is a rather nice cartoon from the *Oldie* magazine of a water diviner on a boat, trying to douse their way to France. I do not think it is particularly good publicity for the Island. I think that what we need to realise is that people have certain beliefs and hold them very strongly. I listened to both the speakers very carefully. People have beliefs about many things and beliefs are very difficult things to change or to shift. There are a number of people who still believe, absolutely fervently that man has never landed on the Moon, that it was all a set up by N.A.S.A. (National Aeronautics and Space Administration). There are other people - and I feel some sympathy with them - who are members of a flat earth society. I say that because scientists tell me - and I know we are on a globe, a very large globe spinning at thousands of miles an hour through space - as I am standing here it does not seem possible, but I know it is. I believe that that is the fact, but some people do not, they believe alternative ideas. I think that we have to accept that people have very strong beliefs and I think it has been shown in this case in particular

that they will never agree and change those beliefs, whatever evidence they are presented with. In this case we had a situation where people publicly and openly signed-up to stand by the results of work that was done. I for one, am afraid, never believed that they would if it came against them and my belief was proved true because this is not a belief based on facts, this is a belief based on faith. I do not believe that if any other drilling or any other experiment took place that if they came out against what certain people believe that they would accept them any more than they accepted the last one, they would find some reason not to accept it. I do not believe that any case has been made to reconduct this drilling, I do not believe any case has been made to withdraw the conclusions, I do not believe any case has been made to waste any more public money trying to prove something that people will not accept because they believe differently. If people who believe differently wish to pursue their beliefs through boreholes or whatever, they are free to do so. My concern is that agreeing to this would involve further public expense. I do not believe a case has been made, I believe we must accept that some people have beliefs and that they will stick to those beliefs, but I believe that as a States body we have a duty to accept the evidence that is in front of us and not to allow any more public expense trying to disprove a belief to someone who will not change their mind because it is an article of faith. Sir, I urge Members not to go along with this proposition.

11.4 Deputy R.C. Duhamel:

I was asked on to the D.G.A.G. (Deep Groundwater Advisory Group) at a late stage in order to see if we could broker an agreement between the disagreeing parties to see if we could come up with some kind of formula to test the issue and to do some serious science which would, as far as possible, settle the issue once and for all. I would just like to recount to the House a couple of my concerns as being a member of that group. Very early on we were told that it was possible to define a statistical experiment whereby by measuring the isotopic signatures of the waters drilled in any particular borehole in Jersey and comparing those isotopic signatures with waters from the Petite Suisse area - which was originally the suggestion of where the waters were coming from, although no work had been done in that area, so it was supposition - that it would then be able to define a clear-cut scientific test which would settle the issue once and for all. We were asked to dutifully sign-up to this particular agreement and I expressed my concerns at the time that the Petite Suisse area, being quite a long way away from France, did not really strike me as a sensible proposition in terms of the test. I was more interested in answering or getting the question to be asked as to whether or not there was a water connection between mainland France and the Island, and that was the question to be asked. I did not sign the first agreement. The agreement was subsequently changed after some discussions with Mr. Langlois and Mr. de la Haye to suggest that perhaps the better way forward was to conduct an experiment to test that particular assumption. In some parts of the world it is all very well for people to have their particular points of view as to whether or not water divining is a sensible operation or not, or a scientifically explainable phenomenon, but there are parts of the world where you do get water migrating from land masses underneath the seabed as part of the continental rocks and freshwater vents coming out in saltwater areas. There are a number of examples, the Caribbean being one of them. In that context, Sir, everybody knows that the Island was connected - and some might say is still connected - to mainland France as part of the continental shelf. So in my mind I think, or I did think at that time and I still do, that it is a reasonable assumption to think that there might well be deepwater connections between mainland France and Jersey. But the key word in this particular argument, Sir, is deepwater connections. In order to get water to migrate from one part of the planet to another you have to have a gradient - it has to run from high to low - and that means that if we are on the low side in Jersey and France is on the high side or an equal level, you have to go down effectively deep enough in Jersey in order to maintain a gradient. With that in mind, Sir, the agreement was changed to suggest that it was possible to check the isotopic signature from waters drilled in Jersey to waters drilled in France and that indeed was what we were going to do. Further discussions came back before that agreement was signed-off and it was then stated that the test

would not be to test French waters against Jersey waters, it would be to test waters drilled from the top of a borehole to waters sampled at the bottom. I did not particularly like that, Sir, and I did not sign immediately because my reservations were this; that if you were going to conduct the same test you would have to ensure that you were going deep enough and, indeed, as part of the negotiations it was stated that the well drillers would be entitled to drill down to some 750 feet, at their whim. This did not happen, Sir, and when water was struck at a suggested deep water level of some 50 metres the well was not drilled any further. We have heard from Deputy Baudains that the drill rig and the drilling methods leave the method of the drilling in some element of suspicion in terms of the sampling that had to take place between top waters and bottom waters. On signing eventually I agreed to go along with the tests providing the wells would be drilled deep enough. What has happened, Sir, is that I consider, particularly for the La Rocque borehole, that that particular well has not been drilled deep enough and has been drilled in a fashion that gives rise to some suspicion, as I said before, to the results. I do not think the conclusions as mentioned in the Planning Minister's report, P.22 comments, can be derived from the test. I would advocate, along with Deputy Baudains, that we should take the necessary steps to re-drill the wells, to carry out the science in a properly conducted scientific fashion so that the conclusions can be put beyond doubt as to whether or not water does flow in some capacity from mainland France to Jersey, as it does in other places. There are, within the comments expressed by the Minister, elements of contradiction. In particular on page 6 under an answer to part of Deputy Baudains' report under paragraph 28 it was stated that during the presentation, that is to the D.G.A Group or Messrs. Langlois and de la Haye on 22nd May, that there was sufficient difference in isotopic signature for waters originating in the Petite Suisse and Jersey to allow a definitive distinction to be made between the 2 sources. It also goes on, Sir, to state that it was also stated - and I do not recollect this - that isotopic signatures for the Island and the adjacent coastal areas of France were likely to be too small to allow such a distinction to be made. So in that particular paragraph, Sir, it is stating that water falling on coastal areas of France would have a similar isotopic signature to waters falling on Jersey. In paragraph 30, Sir, it goes on to state: "The quantity of isotope data from Normandy and Brittany is very limited." Indeed, Sir, I asked for isotopic maps to be drawn, or to be procured, from our French neighbours so that we could see, because we were never shown, the isotopic signatures of water on coastal parts of France, or indeed further inland. But those maps were not forthcoming at the time of being asked to make a decision to sign the agreement or not. In paragraph 30, Sir, it goes on to say that the quantity of isotope data from Normandy and Brittany is very limited - and we have subsequently have had that confirmed - none being available for coastal areas adjacent to Jersey, and it goes on to conclude: "Since no reliable isotope values exist for nearby France it is never been alleged that values were the same as those from Jersey." That is contradiction to 28 where it is saying that the signatures would be not different enough in order to allow such a distinction to be made that they were different. So in essence, the paragraph above says that there is no difference because they have made up their minds - or minds have been made up - that you cannot tell the difference and then, lower down, it is saying something else. I think, Sir, there should not be any acrimony with this particular experiment, I think science can be taken and done in a good fashion and a bad fashion. I think in essence what the Deputy of St. Clement is asking for is to do the work in a sense that satisfies all parties, not that the conclusions are to be drawn-up to satisfy all parties, but that the science be undertaken in a fashion that is deemed to be reasonable. Sir, in my professional experience I consider that there have been mistakes made both with the setting-up of the tests and with the drilling. I think that the conclusions that come out of the limited science that has been done do show that there is water at depth. I think the Island would be in a better state of knowledge should those wells be re-drilled, and drilled to a deeper fashion and, indeed, I think there is perhaps a suggestion that the planning Minister is going to tell us about that might indicate that this scientific work would be done into the future. If it is to be done in the future, Sir, I suggest that it be done now, rather than waiting, and with those comments, Sir, would wholeheartedly agree with the Deputy of St. Clement's proposition.

Deputy G.W.J. de Faye:

Can I raise a point of information, Sir? I regret because I was behind him, I could not catch Deputy Duhamel's eye, but I was interested to hear that he said he had professional experience relating to this subject, which I have to say I was not aware of. I think it would be helpful to myself and the Chamber if Deputy could enlighten us.

Deputy R.C. Duhamel:

Certainly, Sir, I have degrees in mathematics and statistics and for early parts of my career I worked for Total Oil Marine and the oil environment.

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

I have great respect for Deputy Baudains and for the water diviners. He holds his views very sincerely, as do they, and he honestly believes that there are underground water streams from France and his views are held by many others. Diviners are taken seriously in many places, particularly in places where water is scarce. In South Africa, for example, divining is a standard part of drilling many boreholes. Indeed, I am told by a friend who is a driller that a good diviner in South Africa can expect an 80 per cent success rate, and that is in areas of very scarce water. But Jersey is somewhat different in that there is water at various depths in most places. Indeed, my friend who is a driller - who coincidentally also taught me to water divine - does not even bother divining most times in Jersey. He asks his client where they would like their borehole and he simply drills it. He tells me that he offers a money-back guarantee - and that this is quite unique to Jersey, and he is unaware of it in any other area - where if he does not find adequate water you get 100 per cent of your money back. I believe that other drillers offer the same. He also tells me that despite the fact he does not bother divining and will drill wherever the client wants, he has only had 2 failures in all his years of drilling; one where the quantity of water was insufficient and another where the water was contaminated by salt. Now dealing with the tests and their history. I think it is important to realise that these experiments were not supervised by the Deep Groundwater Group, they were supervised by the British Geological Survey and Entech who firstly began by supervising the methodology that was going to be used. They then supervised the testing and the supervisor in question was a man called Mr. Jeff Davies who is a British Geological Survey senior scientific officer. He has supervised over 1,000 boreholes and he has managed significant projects in Bangladesh, Fiji, Botswana and Nigeria. He has a BSc in geology, an MSc in hydrogeology, he is a Fellow of the Geological Society, and he has written 29 scientific papers on hydrogeology. He has co-authored a leading work on developing groundwater. So I do not think that there can be any doubt about his qualifications, his experience and his ability to supervise the drilling. The British Geological Survey have therefore supervised every element of this experiment and they have prepared extensive reports which you have all had access to, including summary reports, full reports, isotopic testing reports, water aging reports, methodology, *et cetera*. The fees for this work have been in the region of £40,000 and the work has been double-checked- at the request of some of those who were on the group - by Entech at a cost of a further £20,000. So since my appointment, we have spent a net sum - public money - of £65,000 on these water tests. That is after taking into account the £20,000 provided by Jersey Water as a contribution to the tests. There were questions raised about the drilling and indeed some have argued that the drilling was not perfect. I will come on to that later. However, the British Geological Survey were requested to prepare a specific report on whether the La Rocque borehole was sufficiently and adequately drilled in order to provide a satisfactory result. They have confirmed that they are absolutely 100 per cent certain that a proper seal was achieved to block out the top layers of water to enable testing to take place of the water that was found at depth. It is important to understand quite what we are talking about when references are made to the plastic liner. As I understand it, the way these tests are carried out is that you drill a bore to a specific depth which is above the area that you wish to sample the water from. You then place within the bore a guide - which, in the case of the La Rocque bore was a plastic liner, and in the case of the St. Catherine's bore a steel liner - from the

bottom to the top. You then fill the bore with cement or grout and you wait until the grout has dried. When the grout has sufficiently dried you then re-drill the bore using the liner as a guide. It is perfectly clear that the plastic liner at La Rocque was damaged. Whether it is by good fortune or something else, however it did not permeate through the grout and that is proven with 100 per cent certainty by the British Geological Survey's tests because when they got to the bottom of the bore when they had drilled out the grout, there was absolutely no water permeating through the grout to the bottom. So they were prepared to say that they had a 100 per cent perfect seal. Had we used a steel liner on the La Rocque bore as was used on the St. Catherine's bore then we would not be arguing about whether the plastic liner was damaged or whether the plastic liner was not damaged, but that is a side issue, providing you are prepared to accept the British Geological Survey's unequivocal report that there was a 100 per cent seal. Now, the Deep Groundwater Advisory Group signed-up to an agreement dated 7th June 2006. This specifically says: "If the joint consultants, British Geological Survey and Entech, show that there is not a significant difference in the isotopic signature between the sampled water and the water from the surface then all parties will drop all claims to the underground water connection between Jersey and the European Mainland." It is as clear as that. The definitive test - and I will go on to some of the subordinate tests later - was the isotopic signature test. British Geological Survey were 100 per cent satisfied that we have an unequivocal result. The result is that the water at the bottom of the bores in isotopic signature terms is very similar to the water at the top of the bore. Therefore, we have satisfied the condition agreed with the Deep Groundwater Advisory Group's agreement dated 7th June 2006. So I will repeat that: that the isotopic signature is not significantly different between the surface and the deepwater water that was extracted. What we do know, and it does not affect this result, is that the water at the bottom of the St. Catherine's borehole is 4,000 to 5,000 years old and the water at the bottom of the La Rocque borehole is a few hundred years old. We need to now move forward. This issue needs to be closed. This matter needs to be closed. We need to move forward with a Water Resources Law to protect our scarce water resources. The new Law that I have put forward is significantly different from the one I inherited and I wish to make it clear that this Law will be proposing that there is no licensing for domestic bores, there is no metering for domestic bores, no charges for domestic bores, and all domestic users will have to do is to register their bores so we can make a rough assessment of the total amount of water being abstracted in each area. Deputy Baudains and others would like to do more drilling. The only way we can consider any more drilling is through the income generated from the Water Resources Law, through charges that are levied on commercial users, and most of the revenue comes from Jersey Water. I am prepared to commit to continuing the Deep Groundwater Advisory Group in broadly its present structure and if the group is prepared to support further drilling funded by revenues from the Water Resources Law, I am prepared to consider this. There is much to learn about our underground resources and drilling further could undoubtedly play a part in our understanding of these resources, but I wish to make it absolutely clear that there can be no question of drilling for the purpose of finding water connections from France or anywhere else in mainland Europe. We have for generations heard that there was a suspected underground connection with France, particularly Petite Suisse, from the Pyrenees, from the Alps and from various other areas. These tests have shown that based on the sites chosen by the diviners - and they had absolutely free choice in choosing their sites where they were convinced that water came in from France - there is absolutely no case whatsoever for this historic claim. I would like now to deal with a couple of issues that have been raised. The bores drilled at La Rocque and St. Catherine were hydraulically tested and this gives estimates of the porosity and transmissibility of the groundwater to assess whether there is any possibility of water flowing. Even these tests indicate that there is little likelihood of significant water flowing. A key test has always been the isotopic signature test and the result is unequivocal. British Geological Survey and Entech have always stated that the isotopic values in coastal France would be very similar to Jersey, so there is not a question of anyone having changed their view on this; this was always the case. The borehole at La Rocque was not re-drilled, as I understand it, and Deputy Baudains is correct that he was the first to inform me of this. The bore

was cleared of plastic, but a pump was successfully installed to a depth of 42 metres and the test was satisfactory. We did not go down to 750 feet because the diviners did not want us to. They chose the depth. In fact, on the La Rocque borehole we drilled an extra 3 metres because I asked them to carry on drilling after the diviners had said that they were satisfied. So in summary, and with great respect to the diviners and to Deputy Baudains, I believe we have to accept now that water does not come from France and we must move on. I urge Members to reject the proposition.

The Bailiff:

If Members agree, we will adjourn now and reconvene at 2.15 p.m.

LUNCHEON ADJOURNMENT

The Bailiff:

I saw the Deputy of St. John just before the adjournment, if he wishes to address the Assembly.

11.6 The Deputy of St. John:

It seemed so long ago. As it happens the Minister for Planning and Environment has reassured me somewhat, anyway, over this particular issue. However, I understand that the real public concern about this is about water charging and I was quite relieved to hear the Minister, once again, iterate the fact that that policy has been completely re-looked at. So, when summing-up, I hope that Deputy Baudains will be able to put aside his passion for the subject and assure us that he has the best interests of the public at heart and he is not just in pursuit of his own holy grail. But, clearly, if water supply is coming from a much larger supply in France there would not be a need for charges but I think it has been proven, hopefully without doubt, that that is not the case. This whole issue, though, is about water conservation and it is clear that some boreholes in Jersey do dry up in particularly dry conditions. Therefore, I fully support the Minister for Planning and Environment's attempt to conserve this very important resource. I am, however, concerned that there are accusations that the quality of the recent survey was below par but I think the Minister for Planning and Environment has given us some reassurance today that that certainly is not the case and I would like to believe that and there has been a lot of documentary evidence that that is the case. If the results are proved wrong perhaps the Treasury Minister can assure us that he might consider speeding up the process of a double tax treaty with France so that any tax on the water, if it is discovered to be French, can be resolved in that manner. But I am quite confident now, from what the Minister for Planning and Environment has said, that we should put this issue behind us and simply move on. I do hope that when we vote on this, if that is the case, that people will move on, put this behind us and also be assured by the Minister for Planning and Environment that the charging issue that the public are most concerned about has also been put aside for now. I hope that that is put aside for some time because my parishioners, in particular when I was canvassing in 2005, were very concerned about that. Many of my parishioners are on borehole water and were concerned so I thank the Minister for his reassurance on that and I would like to suggest to Deputy Baudains that he really has few concerns. The report is as accurate as it is going to get and I hope the public are reassured by it. Thank you, Sir.

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

I have never been a particular devotee of the theory of streams from France. There has not been a definition of flowing streams and I think it rather bizarre that there might be streams that you could sail a paper boat along arriving in Jersey some days or weeks later. However, the laws of physics would convince me that there would be a hydraulic connection. The laws of physics work anywhere in the world, anywhere in the universe. The fact if you have got a pressure gradient of water - ground water - at distance from another level of ground water, which was lower, there will

be a pressure gradient. Whether that pressure gradient results in hydrodynamic flow or whether it is virtually hydrostatic is another matter and the interesting thing would be to find out what would be the rate of flow from a borehole or boreholes and could it be exhausted from the deep ground water because then you could decide whether it is, in fact, a viable source of supply. The resulting report from Deputy Baudains of St. Clement and comments of the Minister for Planning and Environment are so far apart - so diametrically opposed - that I find that each cancels out the credibility of the other. This is not a very good situation to have to decide on. I have not really decided how to vote but I do not feel that the tests have been satisfactorily proven one way or the other. With regard to the situation, Item A: "Take steps for the borehole recently drilled to be re-drilled", I do not support. "To withdraw the conclusions recently published regarding the water samples from the current boreholes until further research has been carried out" I might support. I do not think we should spend any more money on this project. It is going to be one of these things that is never going to be resolved. I think the question of whether the water supply from France is viable is probably a situation we will have to continue to ponder upon. Thank you.

11.8 Deputy C.J. Scott Warren:

Some years ago, Sir, I was on the Public Services Committee with Deputy Baudains and I know that he has, for a long time, held strong beliefs regarding the Island's water resources. So, I respect his views and his desire to bring this issue to the Assembly again today. It seems to me that there is a good compromise that could be made. The Minister for Planning and Environment has said that once the new Water Resources Law is introduced he would be willing for these tests to be done and it is a question of the revenues. So, I would like to ask the Minister as he spoke... it would need, Sir, to be the Assistant Minister, some questions. What is the cost of introducing this Law? **[Laughter]** What are the expected revenues per annum? Is there a way that at least one more test could be done now prior to the draft Law being debated in May? The cost of one further test can, obviously, still be recouped from the revenues if the next result is similar and the need for the new Water Resources Law is confirmed. At the same time, the very real concerns expressed by Deputy Baudains on behalf of the water diviners will have been further investigated and, one way or another, should have been satisfied. I therefore urge the Minister for Planning and Environment to look at adopting this pragmatic approach. Thank you, Sir.

11.9 Deputy J. Gallichan of St. Mary:

Several times during this debate, Sir, I have heard water diviners used as a collective term. In the words of the late, but immortal, Max Bygraves: "I want to tell you a story." **[Laughter]** I grew up with divining and well drilling. It is in my blood. My father, my grandfather, my brother: all drillers. I also was - and still am of course - a dutiful daughter and I listened to my father and I believed what he said. Our family home, when I was growing up, was supplied from a well, 23 feet deep, with about 6 inches of water in the bottom; it never dried, the water was always cool and very, very pleasant to taste and I can remember, after tasting mains water at other people's houses, asking my father why ours was so much nicer to drink and he said: "Ah, well ours comes from a lovely mountain stream in the Pyrenees. **[Laughter]** It is mountain water" and I never forgot that. Many years passed - that is why I can remember Max Bygraves - and the talks of the deep-water tests came. Now, I was quite excited because that would give my father a chance to vindicate his theory and me to shut up all my friends that I had told that my house had lovely Pyrenees water and they had laughed at me. So, I said to my father: "This is going to be good news for you." and he said, "Do not be so stupid, I was pulling your leg, girl. The only water that comes here from France comes here via the clouds." Now, that is his opinion and he is a water diviner. It is not necessarily the truth, it is not necessarily fact, but I just wanted to point out that there are different ways of looking at things. Now it seems to me that we have gone away from the real issue here because we have been concentrating on the wrong thing and this is something, really, that I am hoping to bring out when we debate the Water Resources Law and that is the time for it, but very briefly, the real question, as has been stated earlier, is what are the limits on our water supply? How scarce is this

resource? Do we need to safeguard it? What evidence is there that our supplies are under threat? The Deputy of St. John said that boreholes, from time to time, go dry. Well, I have checked my father's records and it happens so seldom as to be almost negligible. The only reason you could really dry a borehole, normally, is by digging a deeper one alongside it. So, there are lots of things that need to be looked into, in other words, we need more research and I believe that is what the Planning for Environment Minister has left the door open to with what he said before. The real question here today, as I can see it, is, simply, did we get value for money from the boreholes that were drilled for this ground water experiment? If not, the Minister, of course, should seek the proper redress because he is, ultimately, responsible and accountable. So, really, I do not feel I can support the proposition but I do fully respect its sentiments and if, as the accountable person, the Minister considers that the boreholes were justified and that they were properly drilled I think, really, the matter rests with him. Thank you, Sir.

11.10 Senator S. Syvret:

I listened with interest to some of the remarks made by Deputy Baudains in his introductory speech and he said that the claims that there was no ground water coming under the seas from France to Jersey was "an unsubstantiated theory," I quote. Well, I think, by the basis of any scientific rationality the arguments of him and the water diviners are much, much more qualified as an unsubstantiated theory than that which is as suggested by the geologists and experts in the field. He again claimed that there was no evidence for the geologists' assertion that such springs were coming from France. He described such claims as junk science. Well, it is at least science which is more than can be said for the notion of water divining and how we reach these conclusions is on the basis of the scientific methodology that has been proven and accepted throughout human history, certainly over the last 2,000 years or so. Science depends upon evidence, predictable results, things that are demonstrable and repeatable and from science you are able to extrapolate and you are able to make inferences on the basis of the evidence available to you. Now, using those scientific techniques you can look at the evidence which is pretty robust, in connection with the nature of the rocks in our region - both below Jersey and France - and see that it is broadly impervious granite with some fracture zones but, basically, impervious granite, unlike limestone regions not noted for having caverns and flowing rivers filled with water underneath it. On that basis you would have to say that the argument that these streams do come from France has it all to do, really. The ball is in the court of those who would have us accept that theory. The evidence is against them and they have to prove to us otherwise. They have to demonstrate to us why the basic rational analysis, based upon the geology, should not be accepted and explain why their rather fanciful claim should be accepted. Deputy Baudains went on to make some other claims. He said water is under pressure because it always rises up in a borehole or a well that is dug. The inference, if I may use that word, of course, being that the pressure is there because they are driven by streams, so there must be underground rivers driving this pressure. Now, this simply is not the case. There was a notorious photograph published in the *J.E.P.* recently, of an eruption of water from below a drilling rig and I think it was Bellozanne Valley. What the *J.E.P.* of course, and those who have sighted that photograph, failed to point out was that the actual drill bit itself has pressurised water pumped down around it to cool it and enable it clear of all debris and that was where the resulting pressure was coming from. **[Laughter]** That was not my mobile phone, Sir. **[Laughter]** But the fact is, if you drill a deep borehole to 50, 100, 150 metres into the rock, the fractures zone in the top 30, 40 or 50 metres that will carry water, will fill up the borehole because it will trickle down the borehole from that top fracture zone and fill up the borehole in that manner. That is what happened and that is why, as the Minister for Planning and Environment correctly pointed out, you could at total random take a large drilling machine, drill a borehole anywhere you felt like on the Island and you would get that kind of water response from the drilled hole. That has been shown time and time again. Deputy Ferguson mentioned the theory of plate tectonics and how that was ridiculed when it was first introduced. Yes, the Deputy is absolutely correct and there have been, from time to time, scientific orthodoxies that have been challenged by entirely new theories which were ridiculed -

absolutely dismissed - at the time and have subsequently been proven to be correct. That is certainly true but we have to ask ourselves whether we, as Members of the States of Jersey, can possibly gamble in such a way as to discount accepted orthodoxy and imagine ourselves as some kind of collective scientific genius that can discount accepted physics. I do not believe we can. We have to go with the accepted evidence, internationally, on these kinds of subjects. I would also have to say about the arguments put forward by the water diviners and others that the problem we face is that their arguments are unsatisfiable, or to use the phrase of Karl Popper, the great philosopher of science, they are not falsifiable. Popper propounded the theory of falsifiability by which he meant that in order to be credible science - for a theory in order to be a scientific theory - had to be capable of being tested, had to be capable of being demonstrated to be either be right or wrong and if it was incapable of such demonstration then it did not qualify as science. Such is the argument, I am afraid, that we have put forward by the water diviners. We all know, I think we have discovered throughout this debate over the months and the years and even perhaps longer and even further afield, that the arguments put forward by water diviners, and other spiritualists of that nature, is simply not demonstrable. It is not demonstrable science. It would not fulfil any falsifiability test. It is, simply, an article of faith. We all know that we could, were we so minded, agree today to carry on spending £250,000 of taxpayers money a year for the next 5, 10, 15 or 20 years, drilling for boreholes that fulfil this particular criteria or that particular criteria in this, that or the other way in order to finally settle the argument, so to speak, but we know that no matter what, even if the results were with the accepted science 100 per cent of the time, the water diviners would still never be satisfied. That is the plain fact of the matter. I suggest that we have come to the stage where we do have to put this matter to rest. The Minister for Planning and Environment has, in my opinion, perhaps been too accommodating of some of these arguments and some of these theories. I really believe that the time has come when we have to say: "Enough is enough." After all, it is not our money we are spending in these ventures, it is the taxpayers' money and we have to ask ourselves whether our own personal little hobbyhorses are really sufficient justification to spend vast amounts of taxpayers' money and, indeed, wasting the time of this Assembly on individual notions that may not be compliant with science or even rational thought. In summary, I would say this. Even if the water diviners' arguments were correct - let us imagine that all of science is wrong, let us imagine that the water diviners are correct and there are a number of streams beneath the seabed bringing water from France to Jersey; let us imagine for a moment that that is correct - what difference does it make to the decision we have to confront about properly managing the Island's water resources? Even if there was this unlimited supply of water flowing from France to Jersey, would this mean it was okay for us to continue to be profligate in its use, to abuse the Island's ground water reserves, as we have in the past, imagining: "Oh, well, it is flowing from somebody else's country so it is not our problem. We do not need to worry about it." Of course, it would not be. Throughout the world societies have a responsibility now - I think a pretty clear responsibility - to be conservative in their use of resources and quite regardless as to whether we have rain falling on Jersey that is the sole source of our ground water or whether there are streams flowing from France, quite regardless of those 2 factors, we have to introduce the Water Law and properly regulate and be responsible in our use of the Island's water reserves. So, the argument about divination and underground water flows is simply irrelevant. It is time we started being responsible about what is a finite resource, no matter where it originates.

The Bailiff:

Does any other Member wish to speak on the proposition?

11.11 Deputy K.C. Lewis:

I will be brief. I do have a considerable amount of sympathy for the Minister for Planning and Environment because I think he is damned if he does and damned if he does not and also he has had a good old pasting in the media for this. But I would dearly love to believe in water coming from France. For many years as a young man, I used to drink the Grouville water coming off Grouville

Hill until that was polluted. Yes, I am that old. Can it be clarified that there is money left and allocated for this project in the reserve? It is not? No, okay. Thank you very much. **[Laughter]**

11.12 Deputy G.W.J. de Faye:

It was my understanding that it was the Chinese who had invented water torture but **[Laughter]** clearly we have developed a Channel Islands alternative version. It has been very interesting to listen to the various theories on water and reminds me why I gave up the study of physics late in my academic career. It still remains a puzzle to me as to how old water is. I thought it all arrived at roughly the same time and the only age difference was dependant on what was dissolved into it, but clearly, the subject is much more complicated than that. I think, though, that Senator Syvret was bang on the money. It really does not matter whether we have a huge pool containing the elixir of life remaining from Gondwanaland sited hundreds of metres below our own granite cliff tops because, largely, this entire issue has derived from concerns over the regulation, licensing, registration of boreholes which got everybody terribly upset and then people clearly cast around for what would be the one thing that would head-off this particular legislation. Well, obviously, an unlimited supply of water under Jersey would be an ideal counterpoint to the suggestion that we should be somehow licensing or registering boreholes. I think Senator Syvret was right on this point and the Minister has also clearly confirmed that he has taken a fresh view of the Law that the amounts that people will be able to draw-off will be substantially extended, there will be no ongoing licence fees and so on. So, I think that that really does, largely, answer many of the concerns that the public have had over this particular issue. As to whether we would drill at depth, well, I am sure that, with the greatest respect to those of us who have relatives in the business, if I were in the business where I charged you £1,000 per metre depth that I send my drill, I am sure as eggs is eggs - I think I have that right, Deputy Baudains - I am going to tell you that there is lots of water and it is very, very deep. So, let us go and drill for it. Well, the drilling opportunities have taken place but, in reality, this debate is not about whether the water is there or not, it is not about who is right and who has got it wrong. It is about the priorities that we set, as a States, in how we spend the public's money and we have already spent, as the Minister made very clear, £65,000 on this topic and we have reached a conclusion that has satisfied the Minister and his department. I think it seems to me fairly clear that if the water divining - the drilling story - is to continue, that really is a private matter for water diviners, well drillers and, probably, the Jersey Waterworks Company because it should be the borehole drillers convincing our local waterworks professionals and experts that there is, indeed, a goldmine of water down below our rocks and that would be the proper course to follow. I would be seriously concerned about any further public funds being expended on this particular matter and like Senator Syvret I would urge the Minister to take a fairly hard line on this matter because, as both those Ministers well know - and as I know - all the departments are now having to take a good hard look at their budgets because more money is required to satisfy the demands of this House and all you colleagues in the States for the things that you want to see your government doing. It strikes me that the question you should simply ask yourselves is, given all the priorities that we have already, where exactly do the re-drilling of the boreholes at either St. Catherine's or La Rocque sit alongside all the other various priorities that you have laid down. I would suggest in all sincerity that to put any more public funds into this you are putting funds into something that is a very, very low priority indeed. But do believe me when I say that for every penny that you do put into it, it is going to come from somewhere else and I think, therefore, the issue for us today is not one of who has got this right or who has got this wrong or what is the science or how deep is the water. It is simply, is this a priority to spend taxpayers' money on? I think - if we reflect on that - we will see that it is not.

11.13 Deputy P.N. Troy:

I am going to be very brief and just concentrate on the most important fact that has come out of this whole debate which is that the Minister said that in the Water Law he proposes to only request that people who have boreholes on their own property will merely have to register. They will not be

charged, they will not have to keep records of water consumption and so on from their own boreholes and I think that was a very important point that came out today - especially as Deputy Duhamel and I had amendments to the previous Law - which he has, obviously, considered and come to a very sensible decision that he does not have to regulate the home users who have boreholes to any great extent. Very sensible indeed and I would like to congratulate him on that. I would also like to thank Senator Vibert for pointing out that the world is not flat but we in St. Brelade had worked that out long ago when we travelled up Route de la Haule, of course, which we know is rather difficult to cycle up from St. Helier and also that it did remind me that this had come from the Minister for Education and it reminded me of some exam bloopers, one of which was that Christopher Columbus had circumcised the world. But, essentially, this water debate now, I hope, has reached a conclusion and we can swim our way across from St. Helier back to St. Brelade this afternoon. Thank you.

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

There is no question about it that Deputy Baudains is very sincere in what he believes and the amount of research that he has done but there is no finite conclusion to this debate and I do not suspect there ever will be. But there is one thing that we can be sure of: sat 2 seats further up is a glass of water that, everyone can see in this Chamber. It is a very small sample of what we have on this Island but the time when I was on Overseas Aid, that small glass of water someone would carry for half a day to bring drinking water to where they live and the importance of overseas aid in Jersey of supplying the money necessary to provide that pump to provide the village - or the small town or hamlet or whatever it was - was vital to survival. In my house in town if you drill down about 6 inches in the backyard, you will find a great big concrete tank that, I am told, is about 35 feet deep and it is about 6 feet square, but years ago someone filled it up with rubble and it is totally polluted. But someone, 200 years ago, had the sense to build that tank as part of the development for all the rainwater to be collected and that was the water for my house 200 years ago. Now, Deputy Bridge's previous house in St. Helier also had a water source but it was a well that people, in those days when it was operating, were able to come from adjoining houses, walk straight into a house, collect the water and walk out again. So, there is a lot of water in St. Helier. I would suggest to you that it makes good government and good sense that we, in this environment-increased awareness that we have, use our resources a lot more wisely than what we have been doing up to now. Maybe that the purpose of today was the wake-up call, the wake-up that we have a responsibility to mankind, not just here but everywhere, and we must do our bit and conserving water and bringing in new methods - or reintroducing old methods- to conserve our water and our future supplies is not a bad idea. I cannot support this proposition but I support the principle that we should have a better understanding of what water sources are available in this Island, what alternatives that we can utilise and through our environment taxes, or whatever - and through our planning laws - that we introduce measures to improve the collection and the retention of water than we do at this time. Thank you, Sir.

11.15 Senator F.H. Walker:

It is not normally my approach to effectively endorse a previous speech but I think, on this occasion, it may be given that there are, fairly, some Members who have not made up their mind on this and I think it might be important for them to do so. So, really, I wish to endorse much, indeed - I think all - of what Senator Syvret said, ably supported by Deputy de Faye. Basically, it is surely time to face facts. No amount of evidence will convince those who have staked their lifetime reputations, virtually, on establishing a water link with France, that it does not exist. No amount of evidence will convince them that that will be the case and I can understand that because if I put my lifetime reputation on such a thing that I would wish to fight it with every means available to me but I think it is time to accept that we - and in particular the Planning and Environment Minister and his team - have done everything possible to meet the requirements of the diviners and given them every possible chance to prove their case. Whether we like it or not, they have failed to do

that. They have failed to prove their case whereas the evidence, the scientific evidence, on the other side of the argument seems to me to be overwhelming. I cannot possibly support a proposition which seeks to invest yet more public funds in what is almost certainly a lost cause. I go back to what Deputy de Faye said: "Where are our priorities?" We have got to allocate our expenditure properly, where does this sit in our list of priorities, given the evidence that almost certainly further investment will be fruitless and a total waste of public money. We simply cannot, given the evidence in front of us, in my view, go there. It is impossible, in my judgment, to justify additional expenditure as required by the proposition. Surely it is now time to move on. To accept the very detailed and very sincere assurances given by the Minister for Planning and Environment; to accept the fact that he has bent over backwards to accommodate the diviners; to accept the fact that he will continue - as he should be - to be motivated by the scientific evidence available to him and he has made it clear he is prepared to move his ground if that evidence changes, but there is no evidence that it will at this point. Surely now is the time to accept his assurances, to reject this proposition and to move on.

11.16 Deputy G.C.L. Baudains:

I thank everyone who has spoken, some more than others. I will be as brief as I can. Just looking through my notes, excuse me. I thank Deputy Ferguson for bringing some light into the subject, some things I was not aware of. In fact when I did some water divining last summer I was quite surprised. I know we water diviners do not know everything. I thought the water flowed between France and Jersey in an east/west direction, it does not, it is a north-west/south-east flow. Apparently according to the Deputy that is the way the rock fissures are from the French geological evidence, so already we have a consensus. A lot of work still to be done: I would agree with that, including determining the speed at which water flows through rock. Again, I covered that in my opening speech. Why are we not talking to the French and benefiting from their geophysical research? Indeed, I have been asking for that for some time. In fact, Senator Walker has just suggested that the water diviners would never be satisfied. That is not so. What one wants is an honest approach to the job and the evidence, when one asks for evidence, it is either not available or inconvenient or botched. Is that any basis for anything? No, I do not think so. Of course the other interesting thing which Deputy Ferguson raised was people seem to be sceptical that there is any deep water in Jersey of any consequence and yet, about 3 miles inland from the coast, is a 750 foot bore hole that has got 3 pumps in it that supplies 100,000 people. That is quite a large supply of water, I would suggest. I would find it quite surprising if it just went as far as a bore hole and then just stopped. Senator Vibert, well, yes, every respect for my beliefs but... I was concerned about his speech because he does appear to have some difficulty differentiating between belief and fact and I find that rather scary for a Minister of Education. It really is slightly worrying. The debate is not about the accuracy of water divining or belief. Some people believe water comes from France, some people believe that men never went to the moon. That is not the issue. The issue is about fact. Are the facts we have given reliable? Is the evidence reliable? No, it is not. How can you get reliable evidence when the wrong tests are taken? How can you get reliable evidence when the boreholes are blocked? It is simply not possible. The tests chosen are incapable of proving the case, so how can you have evidence? It is nothing to do with belief, it is about evidence. I mean, the Fort Regent well which I mentioned in my opening speech: 2 years it took to build that working 24 hours a day with shift work. All on the instructions of the water diviner. Moses was a water diviner, but we will not go into that. Deputy Duhamel, another member of the group, it is curious that people are complaining that the water diviners would never be satisfied, but here we have 2 States Members on that same working party and they are not satisfied either. Neither of them, I believe, are water diviners. I know that Deputy Duhamel does not... he has had my rods now for about 2 years and has not given them back and he still has not **[Laughter]** got it sorted out. But, there you are. But the interesting matter he did raise is the fact that there have been problems from the very beginning. He refused to sign the first agreement because it was flawed. Then, as I mentioned in my opening speech, the goalposts were moved. We are no longer

talking about water from France to Jersey, we are talking about water between the top and the bottom of the hole and all this sort of thing. There have been problems from the very beginning. It is not a case that the tests came out, the water diviners and drillers did not like what they heard so they created a rumpus. It is nothing to do with that at all. I thank him for his support. The Minister, very interesting. I am slightly embarrassed at putting him under pressure because a fellow water diviner, as he mentioned. I have to disagree with one or 2 things he has said. For example, the B.G.S. supervisor he spoke of is alleged to have 1,000 or so boreholes under his belt. I can assure Members that the person who is overseeing these bores had never done a borehole until he did the La Rocque one. The reason I know that is because the particular person was continually contacting one of the water drillers to ask: "How does this work? How does that work? How does that plug work?" The well driller said to the person: "I do not wish to be rude, have you ever done one of these?" He said: "No, I have not." So, obviously it is not the same person. But that was the person involved with the setting-up and sorting out this research. Of course that has no bearing on the boring of the borehole which was the contractor, not him and it probably has no bearing on the tests. I am not arguing with the results of the tests. I am arguing that the tests were the wrong tests. If you want to know how much petrol is in your tank it is not a lot of use checking the tyre pressures. This is the sort of thing that was done. I notice the Minister admits that the plastic liner was damaged and how. Unfortunately, I think, again he is obviously relying on office advice, he confuses the perfect seal of the plug with the suspicion that the rock fissures below were contaminated with grout that had not set properly. As far as I know the integrity of the plug has never been in question. But, of course, we cannot tell anyway because the bore is blocked and you cannot get a camera down to see it. He also mentioned the isotopic signature at the top of the bore was very similar to that of the bottom. Again, it is not denied. What we are saying, rather like the tyre pressure, it is not appropriate. It does not tell us whether water comes from France or Jersey. All it does is tell us that the water at the top and the bottom might or might not be different. So what? It works on an assumption, not evidence. It works on the assumption that the water at the top must be rain that has fallen on Jersey and the water at the bottom must have come from France. If that is the case, or if the water diviners and drillers had been advised of that in the first place, they would probably have chosen different sites where the 2 layers are entirely separate. They did not, they were asked to supply sites where water probably came from France, not where there was a difference between top and bottom. Unfortunately, the Minister also went on to refer to the Water Resources Law and spoke of scarce water resources. I do hope, if has not already done so, he reads the Scrutiny report on the water because he may find that some of the statements made in support of the Water Resources Law lack substance. I will not go on to talk about the Ecrehous. Deputy of St. John: I think that quite a few Members unfortunately strayed into the Water Resources Law debate itself really, this is not about scarce water resources or anything. It is not even about the amount of water we have got. It is about the tests that have been done, should they be allowed to stand? Are they robust? No, they are not. The Connétable of St. Martin referred to pressure and gradient. Obviously I would expect him to know about these things. Of course, almost all - no, seriously - I know, almost all water in Jersey is under pressure as I described in my opening speech. I will come on to that in a moment when I respond to Senator Syvret's comments. The Deputy of St. Mary, water divining runs in her family, that is good. How scarce is the resource? Are our supplies under stress? Again, this is really an issue for the Water Resource Law. But she did say without more research we do not know. Well, that is precisely what I am asking, we want robust research. What has been done is not robust. Senator Syvret called for evidence, science, things that are demonstrable. I could not agree more. The whole purpose of my proposition is to get exactly that. Because at the moment we do not have science, we do not have evidence and we do not have things that are demonstrable. As I have said, we had a borehole that is blocked, we had another borehole in the wrong place and we have tests that are not the right tests. How can anybody call that reliable evidence? The whole purpose is to get that evidence. He then went on to suggest that if you drill a borehole the water runs down from the top into the bore. I have to say or I would invite him to observe boreholes being drilled. I sincerely mean that because I will give him one

example and that is one in public ownership - a borehole. If you drill down through 280 feet of rock then it is dust all the way. Then you hit water which then rises immediately up the bore 200 feet. I do not think that is water trickling down from above. What it is is a fracture zone down below with water in it and in order to hold a head of 200 feet of water that pressure in that underground spring is going to be in the order of 150 pounds per square inch. Do not ask me where the pressure comes from, but that is a fact. If there was no pressure there the water would simply just fall straight down the hole and be at the bottom. Simple science. I do not know whether he did science at school or not. It probably would be helpful if the Senator refrained from talking about things he clearly knows nothing about. **[Laughter]** Deputy Lewis, sympathy from the Minister for Planning, yes? Wanted to know if money was in reserve for this project. Well, of course one of the things I am suggesting is that the Le Rocque bore should be done free of charge. Deputy de Faye and Senator Walker both agreed with Senator Syvret. I presume that is ministerial collective responsibility at work here. He has faith in the Water Resources Law. I recommend also for him the reading of the Scrutiny report on that particular document. It might highlight a few things and surprise him in places. Ask the water drillers to convince us that water exists. Well, it must be about 14 years ago they did just that. The drillers and diviners offered to drill a borehole on the Ecrehous free of charge. It was the... obviously he was not Minister - I do not think he was in the States then - it was his department that basically obstructed it so it never happened. So the offer was made and purely for scientific research, but every obstacle was put in the way. Deputy Troy and Deputy Fox both, I feel, focused mainly on the Water Resources Law. Senator Walker: the only issue I would take with Senator Walker is his belief that no amount of evidence will convince the water diviners. This is absolutely not the case. That is not true. What the water diviners and drillers are asking for is evidence, proper evidence. If there is a case that water does flow from France or water does not flow from France they will accept it. But what they want is honest evidence, not a botched attempt at evidence. Because what we have seen so far is clearly unsatisfactory. I have, hopefully, made it clear this morning that the boreholes themselves are unsatisfactory. I believe that some Members have touched on the expenditure, but I believe we also owe it to our electorate, before we burden them with yet more unnecessary bureaucracy, to get our facts right. To some extent the Water Resources Law probably does hinge on this. If you do not know what is available, how can you regulate it? You cannot get facts right from boreholes that are blocked or drilled in the wrong place. You cannot get correct information from tests that are not appropriate. As I said this morning, Sir, the carbon dating relies on the theory that water reaching us from France must take thousands of years to travel that 15 miles between us. I ask Members to consider if water did travel at only two-thousandths of an inch an hour, as the geologists have suggested - and I would remind Senator Syvret without any evidence to support their theory - then boreholes when you pump them would run dry in seconds because the water flowing through the stream to replenish what you are taking out would only be travelling at two-thousandths of an inch an hour. So, that would not work. Also, using their own theory, when they drilled the La Rocque borehole they were about 30 yards away from another borehole. When they did a pumping test we are told that the pumping immediately affected the other borehole. Well, that is strange because according to their theory it would take 61 and a half years before it affected the other borehole at two-thousandths of an inch an hour. So they do not even practice what they preach. We have learned that the isotopic test cannot tell the difference between water in Jersey and water in nearby France. Yet that was one of the 2 tests chosen and used. I do not believe because of that that the results can be allowed to stand. So that is why I urge Members to request the Minister to withdraw the so-called results by agreeing part (b) of my proposition. With regard to part (a) as Members have addressed, we cannot leave this in limbo for ever. What is being asked for, I think, is not unreasonable, that proper tests are done, honest, accurate tests. That is all. As I have said, there is an anomaly for a start because are we testing for water from France or are we testing between deep and shallow water? It changed during the exercise. If we are testing for water from France then the original bore at St. Catherine and a proper one at La Rocque would suffice. If, however, we are looking to differentiate between deep and shallow water then I am quite sure the water diviners

would select different sites. When it comes to tests we need different tests. The carbon test and the isotopic test of oxygen and hydrogen are not appropriate. I have discovered for my own research that we are connected with a place 10 miles north of Granville, why do we not speak with the French and ask them if we can put a traceable substance - non toxic of course - in a borehole there and see when it comes up in the area of Grouville. It will not take 57,000 years; we will not have to wait quite that long. I would agree with several speakers that there is much research to be done but I would have to say that, with respect, I believe the Minister is misguided if he believes the Water Resources Law will add anything to the knowledge of water locally. Now the Water Resources Law, as we know, is a debate for another day, but I can assure Members from the work I have done on that in Scrutiny in the last year and my own research over the last 14 years, that the only information that Law would provide is already known by the New Waterworks Company or whatever they call themselves these days. So, I ask Members not to be under any illusion, the tests done so far were not a success. They were a disaster. They prove virtually nothing apart from, as I said this morning, the fact that water probably does come from France. If you take an honest view of what the tests show they do not show water does not come from France. What they show is there is a difference between the top and the bottom water. There is a difference between the La Rocque and the St. Catherine boreholes. So this debate is not about, as I said before, beliefs. It is not even really about whether the water flows from France. It is about the tests that have been done being scientifically flawed and surely the only way forward is to request that the bores be redone. For those Members who are concerned about costs, my view certainly is that the La Rocque bore... the contractor really owes us a bore there. I do not believe the States should pay for that. Regarding the St. Catherine one, that is another issue as far as I am concerned. The problem lay with the department, so again that would possibly cost funds. I do not see why the La Rocque one should and I do not see why testing should, because whoever came up with the idea that isotopic testing and carbon dating was appropriate we should have some recourse against them because they are clearly not appropriate. In part (b) I ask for the results to be suspended - or withdrawn, should I say - until such time as reliable information is available simply because if we allow them to stand the people will end up believing that they are true. There is no evidence that suggests they are. I make the proposition, Sir, and I would ask that we take the vote separately, (a) and then (b).

Senator L. Norman:

I wonder if I could ask the Deputy to clarify something for me, if you would allow? Twice during his summing-up he has said that the boreholes were drilled in the wrong place and yet his proposition asks that the boreholes be redrilled, the existing ones. What is the point if they are drilled in the wrong place originally?

Deputy G.C.L. Baudains:

I am not sure if the Senator was in the House this morning when I pointed out that the La Rocque bore was drilled in exactly the place that the drillers and diviners wanted, the St. Catherine bore was not. It is not the original position that was chosen. That is why the bore has, in my view, extremely little water in it. The water diviner was persuaded that he should move to another location which would be less expensive to drill. What may be confusing the Senator is what I have just mentioned is depending on what it is we are testing for because the tests have changed halfway through the exercise. If we are testing for water from France then the boreholes we currently have, the La Rocque and the St. Catherine area are the correct ones. Although the one at St. Catherine needs to be moved slightly but not half a mile away. If, however, we are testing between the water at the top and the water at the bottom of a bore, which was in actual fact the testing that was done, then I would suggest that the water diviners might want completely new sites because they were asked to provide a site for a specific test and then the test was changed afterwards.

Senator L. Norman:

I thank the Deputy for that clarification, Sir.

The Bailiff:

The appel, very well. The vote is for or against paragraph (a) of the proposition and I would ask the Greffier to open the voting.

POUR: 11**CONTRE: 38****ABSTAIN: 0**

Connétable of St. Saviour

Senator S. Syvret

Connétable of St. Brelade

Senator L. Norman

Connétable of St. John

Senator F.H. Walker

Deputy R.C. Duhamel (S)

Senator W. Kinnard

Deputy J.J. Huet (H)

Senator T.A. Le Sueur

Deputy of St. Martin

Senator P.F. Routier

Deputy G.C.L. Baudains (C)

Senator M.E. Vibert

Deputy C.J. Scott Warren (S)

Senator T.J. Le Main

Deputy J.A. Martin (H)

Senator B.E. Shenton

Deputy G.P. Southern (H)

Senator F.E. Cohen

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

Connétable of St. Ouen

Connétable of St. Mary

Connétable of St. Peter

Connétable of St. Clement

Connétable of St. Helier

Connétable of Trinity

Connétable of Grouville

Connétable of St. Martin

Deputy A. Breckon (S)

Deputy P.N. Troy (B)

Deputy R.G. Le Hérissier (S)

Deputy J.B. Fox (H)

Deputy S.C. Ferguson (B)

Deputy of St. Ouen

Deputy P.J.D. Ryan (H)
Deputy of Grouville
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy G.W.J. de Faye (H)
Deputy J.A.N. Le Fondré (L)
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy S. 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

The Bailiff:

We now move to a vote on paragraph (b) of the proposition. I ask the Greffier to open the voting.

POUR: 10

Connétable of St. Martin
Connétable of St. John
Deputy R.C. Duhamel (S)
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy C.J. Scott Warren (S)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)

CONTRE: 38

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 B.E. Shenton

ABSTAIN: 0

Deputy of St. Ouen
Deputy of Grouville

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 St. Helier
Connétable of Trinity
Connétable of Grouville
Connétable of St. Brelade
Deputy A. Breckon (S)
Deputy P.N. Troy (B)
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy S.C. Ferguson (B)
Deputy P.J.D. Ryan (H)
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.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy A.J.H. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy I.J. Gorst (C)

The Bailiff:

That completes Public Business, we move to the arrangement of public business for future meetings.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Bailiff:

Mr. Chairman?

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

I would like to propose the arrangements that are listed on the pink sheet with one amendment. That is the Social Housing Property Plan 2007 - 2016, P.6 which is listed on the pink sheets as 17 April 2007 is moved to 19th June 2007.

The Bailiff:

Are Members content with those arrangements? Senator Routier?

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

With regard to next week's sitting, Deputy Southern did ask that his amendments to the Employment Wage propositions be taken before the Regulations which I have proposed. At that time I thought it was probably an appropriate thing to do but having looked at the amendments, I would suggest that it would be technically better that we took the Regulations first. I would like to propose that, Sir: that we take P.14 - the Regulations which I am proposing - and then Deputy Southern's P.23 and P.25.

12.2 Deputy G.P. Southern:

If I may, it has been clearly argued out last time that it was entirely appropriate to take both of these propositions before the draft Employment Minimum Wage in order to get them out of the way so that the Minimum Wage can go through. I see absolutely no justification on technical grounds - and I seek an explanation on technical grounds - why the Minimum Wage Amendment No 2, should go before the other 2. It was clearly agreed between ourselves last time that it was appropriate and I cannot see a single reason why, technical or otherwise, it should be reversed.

Senator P.F. Routier:

If the Deputy would like me to respond to that. Really, if the amendments which Deputy Southern is bringing would not have a proper effect because there would nothing for him to amend in particular to the student rate. What I would suggest to Members would be if they have any sympathy with the Deputy's views with regard to the student rate for instance, that they just vote against the Regulations and that would be a far better way for the debate to be carried out.

Deputy G.P. Southern:

That way round simply means that either or both of my propositions just fall. It is ridiculous. The Minister is arguing from a completely and utterly spurious and illogical position. Debate the

principle first and then move on to his own amendment. That is the appropriate and entirely logical way to proceed with this matter.

The Bailiff:

It does not seem to me, if I may say so, from the Chair, that it makes the slightest bit of difference which order they are taken in the sense that they are all free-standing propositions neither of which amends the other and which are matters which the Assembly will decide upon. If Deputy Southern's propositions are adopted they will involve further action by the Minister or by the States and does not affect the Regulations one way or the other. But, Minister, if you wish to move formally that Projet 14 be taken before Projets 23 and 25 then I think you must make a formal proposition.

Senator P.F. Routier:

I do make that proposition, Sir. My proposition was lodged in the first place and I think the natural order would be to take the others after this one. I make that proposition, Sir.

The Bailiff:

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

12.3 Deputy P.N. Troy:

Yes, can I second that? Can I also say that, as the Minister has just said, P.14 was lodged at the earliest point and Deputy Southern did ask the Minister if he would change the order. The Minister, rather on the hoof, made the decision on that day that he would agree to that, but, I think, on reflection we, at Social Security, feel that we have moved the position on these incorrectly.

The Bailiff:

Very well, do you wish to speak?

Deputy G.P. Southern:

Could I just confirm with the Minister that he will be present on the day and that he has not got a problem with being elsewhere? Because that was certainly a consideration at one stage as to whether he was going to be here to lead the debate.

Senator P.F. Routier:

As if I was not going to be there. I will certainly.

The Bailiff:

Very well, well I put the proposition. Those Members in favour of altering the order of debate so that Projet 14 precedes Projets 23 and 25, kindly show. I think we better have an appel. Perhaps the Greffier would open the voting? The voting is for or against the proposition of Senator Routier that Projet 14 be debated before the other 2.

POUR: 24

CONTRE: 24

ABSTAIN: 0

Senator L. Norman

Senator S. Syvret

Senator F.H. Walker

Senator W. Kinnard

Senator T.A. Le Sueur

Senator B.E. Shenton

Senator P.F. Routier	Connétable of St. Mary
Senator M.E. Vibert	Connétable of St. Clement
Senator T.J. Le Main	Connétable of St. Helier
Senator F.E. Cohen	Connétable of St. Brelade
Connétable of St. Saviour	Deputy A. Breckon (S)
Connétable of St. Peter	Deputy of St. Martin
Connétable of Trinity	Deputy G.C.L. Baudains (C)
Connétable of Grouville	Deputy C.J. Scott Warren (S)
Connétable of St. Martin	Deputy R.G. Le Hérissier (S)
Connétable of St. John	Deputy J.B. Fox (H)
Deputy R.C. Duhamel (S)	Deputy J.A. Martin (H)
Deputy J.J. Huet (H)	Deputy G.P. Southern (H)
Deputy P.N. Troy (B)	Deputy S.C. Ferguson (B)
Deputy J.A. Hilton (H)	Deputy of St. Ouen
Deputy G.W.J. de Faye (H)	Deputy P.J.D. Ryan (H)
Deputy J.A.N. Le Fondre (L)	Deputy of Grouville
Deputy of Trinity	Deputy of St. Peter
Deputy S.S.P.A. Power (B)	Deputy D.W. Mezbourian (L)
Deputy A.J.H. Maclean (H)	Deputy S. Pitman (H)
Deputy of St. John	Deputy K.C. Lewis (S)
Deputy of St. Mary	Deputy I.J. Gorst (C)

The Bailiff:

There is no casting vote and the proposition accordingly falls. The order remains as set out in paragraph M.

Senator M.E. Vibert:

Could I ask whether Projet 29 - which was mentioned before - which is the vote of censure against Deputy de Faye: (1) if it is still being taken forward and (2) if it is going to be first item of business on that day?

The Bailiff:

It is your proposition, Deputy Le Hérisier.

Deputy R.G. Le Hérisier :

I would be keen to hear what Deputy Lewis of St. Saviour has to say.

Deputy K.C. Lewis:

Deputy de Faye has apologised in the House. I am perfectly satisfied. I would like to sincerely thank Deputy Le Hérisier and would ask him to withdraw the proposition of censure. Thank you.

Deputy R.G. Le Hérisier:

Yes, Sir, I withdraw.

The Bailiff:

Very well. That is the answer to that question. Thank you. Deputy Duhamel?

Deputy R.C. Duhamel:

I note and thank P.P.C. (Privileges and Procedures Committee) for putting P.30 on to the agenda for 13th March. Under the existing Standing Orders, I think it is - the 15 days - the clock is ticking at the moment and runs out on 14th March. I spoke to the Treasury Minister earlier and he did agree that should matters take longer than the 13th before we get to this particular proposition, that he would stay his hand until after we have debated.

Senator T.A. Le Sueur:

Yes, I confirm that I have had notice now of this proposition and therefore the 15-day rule has not been implemented. I would thank the Deputy for agreeing to take this at an early date, namely the next meeting.

The Bailiff:

Deputy Breckon?

Deputy A. Breckon of St. Saviour:

Perhaps I would like say by way of explanation to the House the reason for the delay on P.6 of 2007 - the Social Housing Property Plan - the Minister and the Assistant Minister with officers did come to the Sub-Panel chaired by Deputy Power last week and we did have an exchange there, Sir. We put some reasons to the Minister for a timescale that was probably, when proposed, a bit tight. He has acceded to the request, Sir, in the name of - hopefully - a constructive Scrutiny process to that delay and I would like to take this opportunity, Sir, to thank the Minister and the Assistant Minister for agreeing to that.

The Bailiff:

Thank you, Deputy. Very well, well subject to the amendments which Members have now agreed, are Members content to take the arrangements set out in paragraph M?

ADJOURNMENT

The Bailiff:

Very well, the States stands adjourned until 13th March 2007.