

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 4th APRIL 2006

PETITIONS:	5
1. Charing Cross vacant site - petition (P.38/2006).	5
1.1 Connétable A.S. Crowcroft of St. Helier:	5
1.2 The Deputy Bailiff:	5
1.3 Senator P.F.C. Ozouf (The Minister for Economic Development):	5
The Deputy Bailiff:	5
QUESTIONS	5
2. Written Questions:	5
2.1 The Chief Minister tabled an answer to a question asked by Deputy J.A. Martin of St. Helier regarding the establishment of the Legislation Advisory Panel.	5
2.2 The Minister for Housing tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding proposals for a new structure of banding rents for social housing.	6
2.3 The Minister for Housing tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding matters relating to Housing Trusts.	7
2.4 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the release of a report concerning benchmarking for Housing Trusts.	8
2.5 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the freezing income tax exemptions.	8
2.6 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the impact of financial service sector growth.	9
2.7 The Chief Minister tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding various statistics relating to the finance sector and the application of GVA.	9
3. Oral Questions	10
3.1 Deputy D.W. Mezbourian of St. Lawrence of the Chief Minister regarding succession planning for senior management positions:	10
Senator F.H. Walker (The Chief Minister):	11
3.2 Deputy G.C.L. Baudains of St. Clement of the Chief Minister regarding instructions given to Waterfront Enterprise Board (WEB):	11
Senator F.H. Walker (The Chief Minister):	11
3.2.1 Deputy G.C.L. Baudains:	11
3.2.2 Deputy G.C.L. Baudains:	11
3.3 Deputy P. Southern of St. Helier of the Minister for Social Security regarding refurbishment at Oakfield Industries:	12
Senator P.F. Routier (The Minister for Social Security):	12
3.3.1 Deputy G.P. Southern:	12
3.4 Deputy D.W. Mezbourian of the Minister for Treasury Resources regarding placing of States funds in ethical investments:	12
Senator T.A. Le Sueur (The Minister for Treasury Resources):	12
The Deputy Bailiff:	12
3.5 Senator B.E. Shenton of the Chief Minister regarding calculation of area of land transferred to Les Pas Holdings Limited:	12
Senator F.H. Walker (The Chief Minister):	13
3.5.1 Senator B.E. Shenton:	13

3.5.2	Senator B.E. Shenton:.....	13
3.5.3	Deputy P.V.F. Le Claire of St. Helier:	13
3.5.4	Deputy R.C. Duhamel of St. Saviour:	13
3.5.5	Deputy J.A. Martin of St. Helier:	14
3.6	Deputy G.C.L. Baudains of the Minister for Economic Development regarding review of off-Island transport links:.....	14
	Senator P.F.C. Ozouf (Minister for Economic Development):	14
3.6.1	Deputy G.C.L. Baudains:.....	14
3.6.2	Deputy G.C.L. Baudains:.....	15
3.6.3	Deputy S.C. Ferguson of St. Brelade:.....	15
3.6.4	Deputy A.D. Lewis of St. John:.....	15
3.6.5	The Deputy of St. John:.....	16
3.6.6	Deputy G.C.L. Baudains:.....	16
3.6.7	Deputy G.C.L. Baudains:.....	16
3.7	Deputy G. P. Southern of the Minister for Treasury and Resources regarding tax reforms:.....	17
	Senator T.A. Le Sueur (The Minister for Treasury and Resources):.....	17
3.7.1	Deputy G.P. Southern:	17
3.7.2	Deputy G.P. Southern:	17
3.7.3	Deputy G.P. Southern:	17
3.8	Deputy J.G. Reed of St. Ouen of the Minister for Home Affairs regarding budget reprioritisation:.....	18
	The Deputy Bailiff:	18
	The Deputy of St. John (Assistant Minister for Home Affairs):.....	18
3.8.1	The Deputy of St. Ouen:.....	18
3.8.2	The Deputy of St. Ouen:.....	19
3.8.3	Deputy F.J. Hill of St. Martin:	19
3.8.4	Deputy S.C. Ferguson:.....	19
3.8.5	Deputy G.C.L. Baudains:.....	19
3.8.6	Deputy J.J. Huet of St. Helier:	19
3.8.7	Senator J.L. Perchard:.....	20
3.8.8	The Deputy of St. Ouen:.....	20
3.8.9	Deputy G.C.L. Baudains:.....	20
3.8.10	Deputy P.V.F. Le Claire:.....	20
3.8.11	Deputy J.B. Fox of St. Helier:.....	21
3.8.12	The Deputy of St. Ouen:.....	21
	Senator S. Syvret:	22
3.8.13	Deputy J.A. Martin:.....	22
3.8.14	Deputy F.J. Hill of St. Martin:	22
3.8.15	Deputy S.C. Ferguson:	22
3.8.16	Deputy S.C. Ferguson:	22
3.8.17	Deputy S.C. Ferguson:	23
3.9	The Deputy of St. Ouen of the Minister for Home Affairs regarding the review of the Firearms (Jersey) Law 2000:.....	23
	The Deputy of St. John (Assistant Minister for Home Affairs):.....	23
3.9.1	The Deputy of St. Ouen:.....	24
	The Deputy Bailiff:	24
3.9.2	The Deputy of St. Martin:.....	24
3.9.3	The Deputy of St. Ouen:.....	25
3.9.4	Senator L. Norman:	25
3.9.5	Connétable K.P. Vibert of St. Ouen:	25
3.9.6	Deputy S.C. Ferguson:.....	25
3.9.7	Deputy J.B. Fox:.....	26
3.9.8	Senator J.L. Perchard:.....	26
3.9.9	Deputy G.C.L. Baudains:.....	26
3.9.10	The Deputy of St. Ouen:.....	27
3.9.11	Deputy J.A.N. Le Fondré of St. Lawrence:.....	27

3.9.12	Senator S. Syvret:	28
3.9.13	The Deputy of St. Ouen:	28
	The Deputy Bailiff:	29
4.	Questions to Ministers without notice - The Minister for Economic Development	29
4.1	Connétable A.S. Crowcroft of St. Helier:.....	29
	Senator P.F.C. Ozouf (The Minister for Economic Development):	29
4.2	Deputy J.A. Martin:.....	29
4.3	Deputy K.C. Lewis of St. Saviour:.....	30
4.4	Senator L. Norman:	30
4.5	Senator J.L. Perchard:.....	30
4.6	Senator B.E. Shenton:.....	31
4.7	Deputy P.V.F. Le Claire:.....	31
4.8	Deputy J.A. Martin:.....	31
4.9	Deputy G.P. Southern:	32
4.10	Deputy G.P. Southern:	32
4.11	Connétable of St. Helier:	32
4.12	Deputy P.V.F. Le Claire:.....	33
	The Deputy Bailiff:	33
5.	Questions to Ministers without Notice - the Chief Minister	33
5.1	The Deputy of St. Martin:.....	33
	Senator F.H. Walker (the Chief Minister):	33
5.2	Deputy S. Pitman of St. Helier:	33
5.3	Deputy S. Pitman:	34
5.4	The Deputy of St. John:.....	34
5.5	The Deputy of St. Ouen:.....	34
5.6	Deputy J.A. Martin:.....	35
5.7	Deputy P.V.F. Le Claire:.....	35
5.8	The Deputy of St. Martin:.....	35
5.9	The Deputy of St. Ouen:.....	35
5.10	Deputy G.P. Southern:	36
5.11	Deputy J.A. Martin:.....	36
5.12	Deputy G.P. Southern:	36
5.13	Deputy G.P. Southern:	37
	The Deputy Bailiff:	37
	PUBLIC BUSINESS.....	37
6.1	Composting facilities at La Collette II: approval by States Assembly (P.31/2006).....	37
	The Deputy Bailiff:	37
6.1.1	The Deputy Bailiff:	37
6.1.2	Deputy P.V.F. Le Claire:.....	38
	The Connétable of St. Helier:.....	38
6.1.3	Deputy G.W.J. de Faye of St. Helier:.....	38
6.1.4	The Connétable of St. Helier:	38
6.1.5	Senator J.L. Perchard:.....	39
6.1.6	Senator P.F.C. Ozouf:	39
6.1.7	Deputy J.A. Martin:.....	39
6.1.8	Deputy G.P. Southern:	40
6.1.9	Deputy J.B. Fox:.....	40
6.1.10	Connétable T.J. du Feu of St. Peter:.....	40
6.1.11	Senator S. Syvret:	40
6.1.12	Senator F.H. Walker:	41
6.1.13	Deputy P.V.F. Le Claire:.....	41
6.1.14	Senator B.E. Shenton:.....	41
6.1.15	Deputy K.C. Lewis:	42
6.1.16	Deputy G.W.J. de Faye:	42
6.1.17	Deputy J.J. Huet:.....	43
6.1.18	The Connétable of St. Helier:.....	43
	The Deputy Bailiff:	45

6.2	Draft States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, PAC and PPC) (Jersey) Regulations 200- (P.15/2006).	45
6.2.1	Connétable D.F. Gray of St. Clement:	45
	The Deputy Bailiff:	46
6.2.2	Senator P.F.C. Ozouf:	46
6.2.3	Deputy R.C. Duhamel:	46
6.2.4	The Connétable of St. Clement:	46
6.2.5	Miss S.C. Nicolle, Q.C. (H.M. Solicitor General):	46
6.2.6	Senator P.F.C. Ozouf:	47
6.2.7	The Deputy Bailiff:	47
6.2.8	Deputy P.J.D. Ryan, Chairman of the Corporate Scrutiny Panel:	47
	The Deputy Bailiff:	47
6.2.9	The Connétable of St. Clement:	47
6.2.10	The Deputy Bailiff:	47
6.2.11	The Connétable of St. Clement:	48
6.2.12	Senator P.F.C. Ozouf:	48
6.2.13	Miss S.C. Nicolle, Q.C. (H.M. Solicitor General)	48
6.2.13	Senator S. Syvret:	48
6.2.14	Miss S.C. Nicolle, Q.C. (H.M. Solicitor General)	49
6.2.15	The Connétable of St. Clement:	49
6.2.16	The Deputy Bailiff:	49
6.2.17	The Connétable of St. Clement:	49
6.2.18	The Deputy Bailiff:	50
6.3	Legislation Advisory Panel: appointment of members (P.32/2006)	50
6.3.1	Senator F.H. Walker:	50
6.3.2	Deputy J.A. Martin:	51
6.3.3	Senator F.H. Walker:	51
6.3.4	The Deputy Bailiff:	52
	WITHDRAWAL OF LODGED PROPOSITIONS	53
7.	Draft Restriction on Smoking (Amendment No. 2) (Jersey) Law 200- (P. /2006)	53
7.1	Senator S. Syvret:	53
7.2	The Deputy Bailiff:	53
	Deputy P.N. Troy of St. Brelade:	53
	The Deputy Bailiff:	53
	ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS	53
8.	The Deputy Bailiff:	53
8.1	The Connétable of St. Clement:	53
8.2	The Deputy Bailiff:	53
8.3	The Connétable of St. Clement:	53
8.4	Deputy G.P. Southern:	53
8.5	The Connétable of St. Helier:	54
8.6	Senator F.H. Walker:	54
8.7	The Deputy Bailiff:	54
	ADJOURNMENT	54
	The Deputy Bailiff:	54

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

PETITIONS:

1. Charing Cross vacant site - petition (P.38/2006).

The Deputy Bailiff:

Under H Petitions the Connétable of St. Helier has a petition to present in relation to 'Charing Cross vacant site - petition' (P.38/2006).

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

It gives me great pleasure to hand up what I think will probably be the last petition presented to His Excellency Lieutenant Governor. It concerns the vacant site at Charing Cross currently full of Technical and Transport Services building contractors but a site that the traders of the area hope will be preserved as open space, and 24 of them have signed this petition which I hand up to you, Sir.

1.2 The Deputy Bailiff:

Very well. Under Standing Orders that should be referred to the Minister for Planning and Environment and that therefore will take place.

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

Sir, should it be referred to the Minister of Treasury and Resources as I understand that is a States property issue which it is in that Ministry now that has the responsibility for property?

The Deputy Bailiff:

Can I refer to as well? Very well. [Laughter]

QUESTIONS

2. Written Questions

2.1 The Chief Minister tabled an answer to a question asked by Deputy J.A. Martin of St. Helier regarding the establishment of the Legislation Advisory Panel.

Question

1. Did any consultation take place regarding the arrangements for the functions of the former Legislation Committee in the Ministerial system and, if so, who was involved, were any supporting papers produced and, if so, can these be made available to members?
2. Who approached the States Members who have been asked to sit on the Legislation Advisory Panel?
3. Will the Panel have a budget and, if so, where will it come from, how is the provision of a Committee Clerk to be funded, has it been confirmed with both H.M. Attorney General and the Law Draftsman that they have time to attend Panel meetings and, if not, will there be a need to employ more staff?

Answer

1. Yes, consultation took place between the former Policy and Resources Committee and the Legislation Committee on this matter, together with H.M. Attorney General, and I would be willing to make the relevant minutes and supporting papers available to Members.
2. The proposed members of the Legislation Advisory Panel were approached by the Chairman of the Panel, the Connétable of St. Ouen, and these nominations have my full support.
3. Yes, the Panel will have a budget and this will come from the budget for the Chief Minister's Department. In addition, the States Greffe will provide a Committee Clerk to support the Panel, and provision has been made for this in the Greffe's budget. H.M. Attorney General and the Law Draftsman will be invited to attend all meetings of the Advisory Panel, and will have time to do so as and when necessary. For the avoidance of doubt, I can confirm that it will not be necessary to employ additional staff.

2.2 The Minister for Housing tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding proposals for a new structure of banding rents for social housing.

Question

- (a) Further to his reply to my question on the banding of rents on 28th February 2006, will the Minister inform members what progress, if any, has been made on modelling the new structure of social housing rents especially with regard to the impact upon tenants?
- (b) Despite his statement that "*These proposals ... merely move rents within existing parameters*" what percentage, if any, of tenants on maximum social housing rents are estimated to see a rent rise as a result of the banding of rent?
- (c) Would the Minister inform Members whether the rent charged on properties which are refurbished and improved will move through the banding structure and increase and, if so, how does this affect the normal policy of a landlord's responsibility for structural or external repairs?
- (d) What impact, if any, will the banding of rents have on private sector rent levels and trends and how does this support the percentage increase in social rents outlined in (b) above?

Answer

- (a) Some progress has been made. With some 4,600 tenants, all with varying means, the impact of changing the rent structure will take some time to model with accuracy. No new rent structure will be introduced without careful modelling and consultation with States Tenants. The task is therefore on-going.
- (b) Modelling has not yet been completed and therefore it is not possible at this stage to indicate how many tenants may be affected.
- (c) It is presumed and intended that properties in band d will be those which require the most urgent refurbishment work and that as and when they receive significant refurbishment they will move to one of the higher rent bands. Which band the property moves to will be dependant upon the level of that refurbishment work. This should not affect our

responsibility as a landlord to undertake structural or any other running repairs as and when they are required. Such running repairs would not affect a property's banding.

- (d) As it is not proposed that the Department's fair or maximum rents for any particular category of property will be increased as a result of the new rents structure, there should be no obvious or direct impact on private sector rents.

2.3 The Minister for Housing tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding matters relating to Housing Trusts.

Question

1. Will the Minister release to Members the draft legislation on the regulation of Housing Trusts currently under his consideration, along with any associated reports, background papers and consultation submissions?
2. Will the Minister liaise with the Minister for Treasury and Resources regarding the report entitled "Benchmarking against U.K. Housing Association Performance Indicators", referred to in the 9th Annual Report of the Jersey Homes Trust (JHT) dated January 2005, with a view to releasing this to Members and, if not, the reasons why?
3. Extracts from the Benchmarking Report mentioned in (2) above reveal the following 2003 JHT figures:

Gross rentals	£3,500,805
Property expenses	£264,678
Operating expenses	£322,325

Do the total costs of £587,003 (16.7 per cent) conform to any agreements in place Minister regarding the level of such costs in view of States subsidies on housing trust schemes and rent abatement payment?

4. In the Annual Report of January 2005, the JHT Chairman states: "*It (the JHT) is fully accountable to the Housing and Finance and Economics Committees and operates transparently under well understood safeguards and protocols*". Will the Minister release to Members details of these safeguards and protocols, and if not, the reasons why?

Further, the Report states: "*The work of the Trust is out-sourced under a strict code of conduct. This code specifically permits the awarding of contracts for remunerated services to firms having a connection with a Trustee*". Has the Minister been provided with this code of conduct and, if so, would he agree to provide it to Members?

Answer

1. Yes. Any member requiring a copy of this information should contact the Housing Department.
2. The report for the year ending 2004, referred to in the question, and the equivalent report for 2005 have been circulated to Members by e-mail.

3. Yes. Individual scheme models tend to have 18-20 per cent rental income offset for management, maintenance and voids over the loan repayment period. The models don't represent an agreement, rather a basis for establishing affordability. The letters of comfort are reviewable quinquennially and the level of financial support can be amended if there were a significant departure from the model assumptions. Should the Trust make profits above that necessary for the long term maintenance of its stock or future development, the Trust's constitution requires that such funds are repaid to the States.
4. The safeguards are embodied in the formal Royal Court Contract between the JHT, and the States, as well as the Constitution of the JHT, (which was approved by the former Finance and Economics and Housing Committees and the Law Officers' Department and registered in the Royal Court). The Regulations attached to the constitution govern the negotiation and conduct of contracts entered into by the trust, including related party contracts. The safeguards include, for example, the appointment of Trustees being subject to approval by the Housing Minister, making trust properties only available for social rental purposes and not for sale, there being no remuneration of Trustees, the submission of annual accounts, 80 per cent nomination rights by the Housing Department on all new developments in receipt of States subsidy, and rentals that must not exceed Housing Department fair rents. Any Member who would like a full copy of the code of conduct should approach the Housing Department.

2.4 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the release of a report concerning benchmarking for Housing Trusts.

Question

Will the Minister liaise with the Minister for Housing regarding the report entitled "Benchmarking against U.K. Housing Association Performance Indicators", prepared for the former Finance and Economics Committee and referred to in the 9th Annual Report of the Jersey Homes Trust (JHT) dated January 2005, with a view to releasing this to Members and, if not, the reasons why?

Answer

The report referred to in the question has now been circulated to Members by e-mail.

2.5 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the freezing income tax exemptions.

Question

What consideration, if any, has the Minister given to changing the policy of freezing income tax exemptions and allowances whereby increased numbers of people are brought into tax, or see their tax bills raised through the process known as "fiscal drag"? In particular, what priority will he be giving to the results of the household expenditure survey in relation to Strategic Aim 3.6, reducing the numbers of children/pensioners living in relatively low income households?

Answer

The levels of Income Tax exemptions, like other parameters, are reviewed annually in the light of up-to-date information and will be the subject of debate in the Budget in December.

The results of the Household Expenditure Survey will be available in the summer, in plenty of time to inform any ongoing implications for the Budget. The data will be one of the many sources used to help develop social policy in the Island and to address the issue of those living on low incomes.

2.6 The Minister for Treasury and Resources tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the impact of financial service sector growth.

Question

The financial service sector reports strong growth in 2005, with bank deposits up 16.8 per cent to £184.6 billion, and the net asset value of funds under administration rising by 32 per cent to £134.7 billion. Will the Minister inform Members what impact, if any, such increases will have on –

- a) employment; and,
- b) tax revenues in the financial services sector, in both real and percentage terms?

Answer

Growth in bank deposits and net asset value of funds are indicators of a strong performance in the financial services sector, but do not necessarily translate into higher profits, tax revenues or employment.

There is no direct link to growth in employment because growth in volumes could simply reflect higher productivity in the sector. There might be some broadly beneficial impacts on employment if increases in volumes are greater than expected and soak up what spare capacity remains in the industry. We can not be sure of the immediate impact on employment in 2005 until the Labour Market Statistics are released on 5th April 2006, and it may well be that any beneficial impacts are not apparent for some time after that. That said, the trend in the first six months of 2005 was for broad stability in banking employment (with some growth in the other sectors) and it is unlikely that this picture will have altered dramatically in the last six months of the year on the basis of these figures.

In terms of the impact on tax revenues, bank deposit interest is largely received by non residents and is not, therefore, taxed and similarly the net value of assets under management is not taxed but rather the fees received by the managers in Jersey who look after the funds. However, there is likely to be a mildly positive impact on revenues in a year or two when the assessments of 2005 profits are done because the net interest margin on a higher volume base should be good for banks and fees on higher assets under management should also rise. It is extremely difficult to say exactly what this means for growth in tax revenues in real or percentage terms.

2.7 The Chief Minister tabled an answer to a question asked by Deputy G.P. Southern of St. Helier regarding various statistics relating to the finance sector and the application of GVA.

Question

The recent Value Chain Survey produced by the Statistics Unit has attempted to improve our understanding and the contribution of different sectors to the economy.

- (a) What reasons explain the discrepancy in finance sector figures revealed by this survey (£775 million, 55 per cent imported) and that produced by the Survey of Financial Institutions (£370 million, 42 per cent imported), and what changes, if any, will be put in place to refine the methodology used?
- (b) Will the Minister further explain why the contribution to GVA (Gross Value Added) of the public sector is not included and whether this impacts on the independence of the report from political bias? and,
- (c) Will the Minister undertake to change the report to include the GVA of the public sector in future surveys?

Answer

The Value chain survey was undertaken in 2004 and published in February 2005 in order to gain a better understanding of intermediate purchases made by businesses in Jersey and thus the interaction of businesses in the Island. It was a one-off survey to inform the work on the Fiscal Strategy and there are currently no plans to repeat it.

- (a) The States of Jersey Statistics Unit made clear in the report that as this was the first time such a survey had been undertaken in Jersey the results were provisional and it openly asked for feedback on the results. Specifically the Statistics Unit highlighted the difference between the findings of this survey and the survey of financial institutions. The most likely cause of the difference is due to intra-company trading, which is not reported in the survey of financial institutions, and different accounting practices used by individual companies. The Statistics Unit works closely with the finance sector to ensure that surveys properly reflect the finance sector and if a value chain survey were to be run again the recoding of intra-company trades would be re-examined.
- (b) The contribution to GVA of the public sector was not included in the report, because it was not a report on value added and, therefore, the value added of no sector was published. The report looked at purchases. The Gross Value Added of the public sector (along with all other sectors) is published by the Statistics Unit on its website; in its annual report *Jersey Gross Value Added (GVA) and Gross National Income (GNI)*; in the *Jersey Economic Digest* and in *Jersey in Figures*.
- (c) The purpose of the value chain survey and report was to understand purchases. It is not a report that looks at value added. Gross Value Added is published by the Statistics Unit on its website and in the documents referred to in the answer to question (b).

3. Oral Questions

3.1 Deputy D.W. Mezbourian of St. Lawrence of the Chief Minister regarding succession planning for senior management positions:

Would the Chief Minister advise the House what succession planning policies and procedures are in place, if any, in order to ensure that all appointments to senior management positions, including that of Chief Officer of a Department, are made from within the public sector?

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

All appointments to the public sector in Jersey are governed by a code of practice established by the Jersey Appointments Commission. The code states that: "Recruitment by fair and open competition and appointment on merit should always be pursued wherever possible to test the market for the best person for the job and to demonstrate that the appointment is above patronage and partiality. This means that the most senior posts are normally advertised both in Jersey and more widely in the UK to ensure the widest possible opportunity of getting the most able candidates for the Jersey public service. Ideally though it would be our aim to ensure that there are candidates already working within the public service who will have been trained and developed to a level that enables them to compete on an equal footing with any external candidates. It is our intention to develop a new management and leadership programme designed to take those within the public service deemed to have the most potential and prepare them to be in a strong position to compete to become the next generation of chief officers and senior managers. It is expected that this new programme will commence later this year. The key issue though is that appointees for all jobs with the States should be the best candidates available, be they internal or external.

3.2 Deputy G.C.L. Baudains of St. Clement of the Chief Minister regarding instructions given to Waterfront Enterprise Board (WEB):

Would the Chief Minister advise Members what instructions, if any, he has given to the Waterfront Enterprise Board Limited with regard to its involvement in developing the St. Helier waterfront, apart from the recently published advice regarding public statements?

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

No, I have not given the Waterfront Enterprise Board any instructions with regard to its development of the St. Helier waterfront. With regard to the recently published advice regarding public statements, this took the form of a memorandum of understanding that was mutually agreed by myself and the chairman of WEB (Waterfront Enterprise Board). I have made it clear to WEB that they should deliver on the objectives for the waterfront that were set by the Policy and Resources Committee and which are drawn from the States Strategic Plan 2005-2010 which was approved by the States on 29th June 2004.

3.2.1 Deputy G.C.L. Baudains:

The Chief Minister refers to the Strategic Plan in 2004. If I could take him back to the P.156 of 1995, Sir, the Waterfront was supposed to be designed in consultation with the Planning Committee. Would he not agree that it is high time that the Waterfront Enterprise Board came back to the States Assembly with a new plan? Because we have had the plan agreed under MAP number 392; we have had the 2000 Plan. It seems to me things have moved so far from those agreed designs that it is time it came back to the Assembly for approval.

Senator F.H. Walker:

The Waterfront Enterprise Board is currently awaiting of course decisions from the Planning Minister on secondary planning guidance, which is the matter of considerable public consultation and debate. And the Waterfront Enterprise Board have made numerous presentations and held numerous fora, to which States Members have been invited and which many have attended, outlining their schemes for the future. I believe the overall scheme for the waterfront is well known, although of course there are many decisions yet to be taken on individual schemes which have not yet either been the subject of planning application or of course planning approval.

3.2.2 Deputy G.C.L. Baudains:

Coming back to my previous question, Sir, does the Chief Minister not believe that a debate in this House over a new plan, seeing it has moved from the 1992 Plan to the 2000 Plan to, well, I am

certainly not quite sure where we are now, would help in clearing the air and enabling people to understand precisely what is proposed for that area.

Senator F.H. Walker:

That may well be the case and I will agree to discuss that with the Council of Ministers and in particular the Planning Minister.

Deputy G.C.L. Baudains:

I thank the Minister for his reply.

3.3 Deputy P. Southern of St. Helier of the Minister for Social Security regarding refurbishment at Oakfield Industries:

Will the Minister inform Members whether the £600,000 spent on refurbishment at Oakfield Industries referred to in his answer last week will produce an increase in the number of places for training at Oakfield?

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

Yes, Sir.

3.3.1 Deputy G.P. Southern:

[Laughter] Could the Minister elucidate? Would he care to say how many more places?

Senator P.F. Routier:

Sir, the development of Oakfield will actually quadruple the capacity of the training that is currently on offer which will enable approximately about 60 people to access training in a given week. Previously it was 15 people.

Deputy G.P. Southern:

The Minister is to be congratulated.

3.4 Deputy D.W. Mezbourian of the Minister for Treasury Resources regarding placing of States funds in ethical investments:

What discussions, if any, has the Minister had concerning the matter of the States placing funds into ethical investments and what was the outcome of those discussions?

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

At the present time I have only had informal initial discussions with the Treasurer of the States, but of course I am obliged under the new Public Finance (Jersey) Law to bring forward investment policy in my business plans in due course. That business plan was not really intended to cover ethical investments and that is quite a large subject in itself so I cannot give a timescale as to when that might happen.

The Deputy Bailiff:

Very well. Now, the next question is a question which Senator Shenton will ask of the Chief Minister. It relates to Les Pas. Although it is many years since I had any involvement as a private sector Advocate with this matter, I have always traditionally not presided nor had any involvement in this matter, so I think I will hand over the chair to the Greffier for that question.

3.5 Senator B.E. Shenton of the Chief Minister regarding calculation of area of land transferred to Les Pas Holdings Limited:

Waterfront land funded at £10 million was transferred to Les Pas Holdings Limited in final settlement of a legal action. Was a method of calculation used to assess the area of land required to

cover the claim and, if so, what was that method and was it related to any height restrictions imposed in the planning permission granted for the development of the land?

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

The area of land was professionally valued by an independent surveyor under contract to the States. Their valuation was based on the number and quality of apartments and not on the height of the building which would contain them. It should be noted, and I think there are a number of important notes here: (1) the land is no longer in the ownership of Les Pas Holdings and was sold beneath the £10 million valuation to Dandara; (2) Dandara have agreed a joint venture with WEB for an integrated development on the Castle Quay site. The terms agreed for the joint venture mean that any additional development profit arising as a result of any increased development yield on the former Les Pas land would be shared 50/50 with the public; (3) no planning permission has yet been granted for this land; and (4) none of the schemes submitted to date have included tall buildings on the Les Pas land.

3.5.1 Senator B.E. Shenton:

The Chief Minister mentions that the land was sold for below £10 million. Can he categorically confirm that there was no profit arrangement whereby further monies would be transferred to Les Pas Holdings from the development of the land?

Senator F.H. Walker:

I cannot. That was of course a private arrangement between Les Pas and Dandara, but I can reconfirm that any additional development profit or any additional profit arising from increased development yield, half of it will be to the benefit of the public and I very much hope that the Jersey Evening Post, who gave, quite rightly, considerable prominence to Senator Shenton's question and the points he made on the back of it will give equal prominence to that fact because it is a very important matter for the public to understand.

3.5.2 Senator B.E. Shenton:

Will the Chief Minister concede that if towers are allowed on the Les Pas land, the land will be worth considerably more than £10 million?

Senator F.H. Walker:

That may well be the case, but the point is that if that turns out to be the outcome then the public will benefit, as I have already said, by 50 per cent, one half, of any additional development profit.

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

May I ask the Chief Minister how the yield will be calculated, at what stage will the public start to benefit from any additional yield held? How is that yield calculated? Is it calculated after building costs and write offs et cetera? Obviously a bit of a complex question, perhaps. I wonder if he could return the answer to the Assembly at a later date.

Senator F.H. Walker:

The Deputy is quite right, I cannot give a precise answer right now. What I can say is that the return to the public will be calculated on profit and although I have not seen the agreement myself, I do understand that the criteria for that is clearly laid out in the joint venture partnership agreement.

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

Can the Chief Minister advise the House, following on from his reply, how many apartments were previously agreed to?

Senator F.H. Walker:

Is this the 100 apartments? The original valuation was based upon an assumed development of 136 apartments, but that specification was subsequently revised to 100 apartments. Of course it does follow that if that was changed and additional apartments were allowed on the site, and I emphasise again that none of the schemes submitted so far have called for tall buildings on the site, but should that happen, I think that is unlikely but should it happen, the public will get half again on the development of any additional apartments.

Deputy P.V.F. Le Claire:

I just wonder if the Chief Minister would agree to circulate that information on the yield that he spoke of earlier to States Members.

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

Surely would the Minister not agree that any profit to the public can only be achieved after reaching the £10 million point that we have already given away?

Senator F.H. Walker:

That may well be the case, but the States took a decision by 26 votes to 16 that to give the land valued then at £10 million to Les Pas was an infinitely better way forward than to risk losing a legal action with potential loss to the public of some £70 or £80 million, so we are advised. That was a States decision, in my view it was the right decision; obviously in the view of the majority of States Members it was the right decision.

3.6 Deputy G.C.L. Baudains of the Minister for Economic Development regarding review of off-Island transport links:

Would the Minister inform Members whether he is reviewing off-Island transport links with regard to their ease of use, availability and reliability and, if so, will he be publishing a paper on his findings?

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

Off-Island transport is something that I regard as constantly under review. Last week this Assembly debated at some length Deputy Fox's proposition concerning our sea links. This was an important debate which we certainly found useful. We are shortly to set up with the Consumer Council a user group. In parallel the Economics Unit are commissioning work on freight markets. As far as air links are concerned we continue to administer the air permits law on the basis of open skies. The new airport director is in post and I am looking forward to my assistant minister doing all they can to ensure that our air links are maintained and enhanced. I will keep the House informed of any developments in this area.

3.6.1 Deputy G.C.L. Baudains:

We currently have a situation, Sir, where the operator on the northern route is allegedly not complying with the service level agreement. I refer to the lack of printed timetables. Does the Minister not agree this is not only unhelpful but likely to have an adverse effect on both local travel and especially tourism? What is he going to do about it?

Senator P.F.C. Ozouf:

The Deputy will be aware that the service level agreement does require timetables and that is something that we have taken up. I have to say I was not aware that timetables were not available on the northern route. I thought that the issue of timetables was lack of availability on the southern route because of the uncertainty in relation to the alternative carrier. As far as the general issue of the service level agreement is concerned, we keep that matter under review. Moreover, a new

service level agreement is currently being negotiated with Condor for the period until 1st January 2009. If he has any points to make on that we would be willing to take them up with Condor.

3.6.2 Deputy G.C.L. Baudains:

If I could turn to the southern route now, does the Minister agree with OXERA's analysis which was printed a couple of years ago now that more than one operator on the route would lead to disaster, which surely is borne out by recent events. With the current lack of apparent communication with our sister Island, Sir, would the Minister seek a single operator for the southern route with appropriate service level agreement in order to get some confidence back for the travelling public?

Senator P.F.C. Ozouf:

I do not believe, Sir, that the OXERA report said that there should be a one single licence monopoly. I think they identified an innovative suggestion in relation to a one-monopoly operator during the non-peak period. And so I would encourage the Deputy to re-read that report and carefully review their conclusions. In relation, this Assembly had a good debate last week on southern route services. We appended to our comments our revised policy which had been discussed by the Council of Ministers and I thought that that was a useful debate which we agreed with many of the points that Deputy Fox made. As far as communication with our sister Island is concerned, we are in communication and good communication. We have already had a meeting between their air and sea transport policy group in Jersey and I look forward to continuing to work with Guernsey, to arrive at a situation where a common situation for all Island network routes is put in place from the beginning of 2009. So, communication may be difficult in some areas, but it is certainly not in this area.

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

To revert to the timetable question, Sir, is the Minister aware that it is quite possible to get hold of a timetable for the northern route if you live in the U.K. but impossible if you live in Jersey?

Senator P.F.C. Ozouf:

It may well be that it is impossible to get a written timetable available to pick up and I am aware that there are issues with the timetable availability. I did not know that one was available in the U.K. I will take those questions on board and I will communicate those concerns to Condor directly. I have to say that at all times when we have raised issues with Condor about issues they have exceeded my expectations in certainly turning their attention to it immediately and I am sure that they will, if there a problem, deal with that issue instantaneously.

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

A few years ago when the Minister was at a conference in Guernsey, he suggested the idea or the concept of forming a Channel Islands commission. In the light of some of the things that the Chief Minister was quoted as saying in the press this week and in light of his comments today about the relationship with Guernsey, does he think that it is perhaps high time that we seriously considered some kind of Channel Islands commission to resolve a number of issues between the Islands rather than just specific *ad hoc* ones such as the one he has just described?

Senator P.F.C. Ozouf:

I would not want to take away anything from any comments that the Chief Minister may have in relation to joint Channel Islands co-operation, but certainly following that I.O.D. (Institute of Directors) debate I did circulate a draft report and proposition - in fact I think it was just the proposition, not the report - on issues of Channel Islands co-operation, and I do still hold the view that we should set up some sort of super body across the islands to deal with pan-Channel Islands issues. I agree with that; that has been my position for a long time. The issue that remains is one of

fishing and we need to resolve the fishing issue. There are issues there which must be resolved and I am working with the Council of Ministers just to consider the fishing issue in the next few days and I am hopeful to start negotiations to deal with this issue once and for all. Moving on from there, yes, a Channel Islands licensing authority for sea links, given responsibility by both the States of Jersey and Guernsey for that decision, is the way forward; as is telecoms regulation a pan-Channel Islands issue; as is a competition regulatory authority a pan-Channel Islands issue.

3.6.5 The Deputy of St. John:

Would the Minister give some assurance that he will suggest that this becomes an agenda item in a future Council of Ministers meeting?

Senator P.F.C. Ozouf:

I am sure that the Chief Minister will want to consider that issue. Certainly there are some lessons to be learnt about relations with Guernsey that we have learnt over the last few months. I do not think it is fair to say - and I do not think the Chief Minister did actually say: I think it was a headline writer in the JEP that said relations had deteriorated. He will speak for himself, no doubt, in questions without notice. But certainly from a number of Ministers' point of view I know the Minister for Housing was in Guernsey yesterday, I am in regular communication with them, I have to be on issues such as fulfilment et cetera, but I agree that a formal body may well be of some use.

3.6.6 Deputy G.C.L. Baudains:

I am glad the Minister has read the OXERA report, although I am afraid we are probably going to have to differ over its outcome and that our relationship with Guernsey is still in good working order. Hopefully he can assure us that the resolution of the ferry links will be forthcoming soon because the travelling public are both concerned and confused and I do not believe it is doing our tourism industry any good.

The Deputy Bailiff:

What is your question, Deputy?

Deputy G.C.L. Baudains:

I wanted assurance that the Minister was going to resolve the ferry links soon.

Senator P.F.C. Ozouf:

I am surprised that the Deputy is saying these things. I thought we had a good debate last week. I think this Assembly considered, rightfully, the policy of my department in relation to sea links. It clearly set out the action points in relation to service level agreements this year, service level agreements northern and southern routes for the period 2008 and the position on post-2009. I think we clearly set out that. If the Deputy has any further ideas of what we should be doing, I am delighted to hear them. In relation to Emeraude and the continuing uncertainty, I agree with him and even today I do not understand and I am not certain that Emeraude are going to be back on the route and that is a shame. Perhaps he wants to ask me questions in the without notice session on it.

3.6.7 Deputy G.C.L. Baudains:

I am glad that the Minister finally got around to suggesting that he admits there are problems. I do not believe we resolved the issue at the last debate, Sir. Moving onto the Airport, Sir, could the Minister seek to make the Airport more user-friendly? It seems to be being altered almost on a daily basis to make it impossible to use.

Senator P.F.C. Ozouf:

Sir, I do not know where Deputy Baudains comes from sometimes. **[Laughter]** I think we had... **[Interruption]** I have not admitted there are problems in relation to our policy. I think that this

department, with my Assistant Minister, has actually set out a clear path to resolve some long-standing issues about our sea links. I thought we had a good debate last week and I will re-check my notes to see whether the Deputy had any pearls of wisdom in relation to solving these issues. If he has ideas please let him communicate them to us. We are listening and we are determined to deal with the issue of sea transport. In relation to the Airport, all I will say... a new Director is now in post, the Assistant Minister has responsibility for this area and I am looking forward to great things happening at the Airport.

Deputy G.C.L. Baudains:

So am I, Sir.

3.7 Deputy G. P. Southern of the Minister for Treasury and Resources regarding tax reforms:

Will the Minister give further details of the combination of attribution and distribution-only methods referred to in his answer of 28th March 2006, to enable "look-through" provisions without loss of revenue?

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

Yes, Sir, I will, but not today. As I made clear in my answer to the Deputy's question of 28th March, a consultation paper will be published later this month setting out in detail the proposed arrangements. I am not prepared to issue any details until I am satisfied that the proposals are feasible and that I have signed them off. Once I have satisfied myself, all States Members, including the Deputy, will be notified of them.

3.7.1 Deputy G.P. Southern:

On the question of feasibility, in last week's answers the Minister spoke of the ability of his methods to meet the European Code on Business Taxation. He made no reference to the second part of that question, which suggested that it may breach either Company Law or Human Rights Law. Is he prepared to say whether the method he has chosen for attribution will not be open to challenge on Human Rights and Company Law?

Senator T.A. Le Sueur:

As I said in my answer, Sir, I have not yet finally resolved the final details, but I am satisfied that whatever is proposed will in my view be human rights compliant and will meet whatever requirements are necessary.

3.7.2 Deputy G.P. Southern:

Has the Minister consulted further on the significant reservations expressed by PricewaterhouseCoopers on the Guernsey method for attribution?

Senator T.A. Le Sueur:

I have taken those matters into account, Sir, and I am satisfied that my proposals, when finalised, will deal with the issues that the Deputy raises.

3.7.3 Deputy G.P. Southern:

On a fresh subject, has the Minister examined the details of capping corporate tax liabilities produced by the Isle of Man income tax department and does he accept that this is a further step on the downward spiral that he has joined in with the Isle of Man and Guernsey, which if pursued will actually end up with the ruination of this Island's economy?

The Deputy Bailiff:

Deputy, I know that we now give very wide interpretation to follow-up questions, but I think that is going too far, so it does not arise.

3.8 Deputy J.G. Reed of St. Ouen of the Minister for Home Affairs regarding budget re-prioritisation:

Would the Minister inform Members whether consideration has been given in recent years to reallocate funds within the Home Affairs budget between the different services as priorities have changed, to address, in particular, the lack of funding at the Prison and, if not, would she explain why?

The Deputy Bailiff:

Deputy, I understand you are filling in for the Minister today?

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

That is correct, Sir. In the absence of the Minister, who apologises for not being with us today: she has had some minor surgery and she had so much fun last week she really is missing today, so she sends her apologies. In answer to the Deputy's question, in each of the last 3 years the Home Affairs Department has been required to review the allocation of funds to its different services, as have all States departments, in order to play a proper part in the Fundamental Spending Review (FSR) process. It was generally accepted during the last FSR process in 2004 that the prison requires substantial growth funding: £1.1 million was awarded, mainly to defray costs of sending prisoners to prisons in the U.K. and prison officer overtime. The fact that the prison required an additional £1.7 million from the General Reserve in 2004 substantiated the case for revenue growth funding. Against this background, the stance was taken in recent years as being that it would be unrealistic to expect that such large budgetary shortfalls should be met by removing funds from, say, the police, customs or fire services without seriously impairing those operational services to the point where they could no longer carry out their statutory duties. I can see that this would be a realistic approach where much smaller shortfalls are concerned but the fact remains that the prison budget in recent years has been totally inadequate for the task it has to carry out and it did not seem to be sensible to adopt a strategy which could decimate other operational services in order to solve prison problems. Whilst the previous Finance and Economics Committee always sought to assure themselves that Home Affairs would scrutinise its own budget heads of service, the fact that vital support from the General Reserve was given indicates that this point was generally accepted.

3.8.1 The Deputy of St. Ouen:

Could the Assistant Minister confirm that it is in fact the Minister's responsibility to prioritise capital and revenue expenditure allocated to her department, which is the Home Affairs Department? And if it is, could the Assistant Minister explain why it is only recently that we are informed that monies allocated to providing a new police station are now being used to improve facilities at the prison?

The Deputy of St. John:

In answer to the Deputy's question, can I just correct him on the re-allocation of funds. The situation with the police station: it will not affect the way that that project is proceeding in terms of timescales. We are simply using the budgets that have been allocated in terms of capital to move forward a project at the prison quicker that is highly necessary to do so. We already have contractors on site, the project is halfway completed at the moment. It makes absolute sense to bring some of that budget across to the prison project. The timescales for the development of the police station will not be affected by this particular re-allocation of funds. As far as allocation of funds and keeping to budgets are concerned, I would concede - as I have already stated - that we are of the belief that the budget set for the prison has never actually been correct. I am all for working within budget, as is the Minister, but the budget was never actually correctly set.

3.8.2 The Deputy of St. Ouen:

In a letter to the editor of the Jersey Evening Post, the Minister comments on appalling conditions at the prison and chronic under-resourcing and yet we hear, and we have just been informed, that the Minister, who was President of the then Home Affairs Committee, chose to prioritise capital expenditure in providing a new police station rather than directing funds and deferring the development of the new police station to ensure that the capital expenditure for the prison could be met. I would ask the Assistant Minister why this was the case?

The Deputy of St. John:

Sir, the issues that the Deputy is referring to are issues of revenue expenditure, not capital expenditure. The capital programme was approved and is being spent at the moment. The project is ongoing. The issues that we have at the prison at the moment are very much to do with revenue expenditure. We have been under-funding the major costs we have, of which 80 per cent is staff-related. We cannot perform many of the functions adequately at the prison - which has a great deal of bearing on current conditions - without sufficient staff, and that is the issue there: the revenue budget has never been quite at the rate that it should have been. The capital programme, however, has been widely debated and we are satisfied that the capital allocated currently is sufficient.

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

It has been recently reported that the States Police have purchased a high-tech police car at the cost of £70,000-plus to detect speeding motorists. Given that the Connétables now have all got radar equipment et cetera. to carry out that process, would the Assistant Minister not agree that that money could have been better spent at the prison?

The Deputy of St. John:

No, Sir, the car that the Deputy refers to is far more than just a vehicle required to catch speeding motorists. It is a surveillance vehicle. Most police forces have them. It is highly useful in catching criminals such as drug traffickers, which we would dearly like to keep out of our prison.

3.8.4 Deputy S.C. Ferguson:

Is the Assistant Minister aware that every member of the youth in the Island with a mobile phone has got the description of the new car plus registration number already? **[Laughter]**

The Deputy of St. John:

I could not possibly comment on that, Sir. It is probably a matter of security, Sir. **[Laughter]**

3.8.5 Deputy G.C.L. Baudains:

Would the Assistant Minister confirm that there could actually be a problem with this new vehicle? If it is as effective as he thinks it is, it could actually end up filling the prison more.

The Deputy of St. John:

He may well be right, Sir, but needless to say, I think all in this House would agree that catching such criminals is a high priority and we need to have every bit of equipment available to us to do the best possible job, Sir.

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

Is the Assistant Minister aware that not only do the youths of the Island know what this car is like, so do - from what I gather - all the criminals know what it is like as well, because I have already been told what it is like **[Laughter]**. I will re-word that slightly, Sir. They have informed me what it is like. So, I am actually asking, is this car going to be much use to us at all?

The Deputy of St. John:

If anybody else would like to have a look at this vehicle, perhaps have a ride in it, I am sure I could arrange it with the Police Chief and they can make their own judgment. There is a huge amount of equipment on board, I think it is going to be of great use to the Police Service in Jersey, and like I say, most other forces around the country have them. We are slightly different here in that we have a very small, closed community and perhaps it will be observed by more than it would be in a larger area, a larger jurisdiction. However, I do believe it is of great value to the Police Service and in terms of the actual cost of it and what it will actually return in terms of increased service levels and the ability to catch criminals in all sorts of ways, I think it more than justifies the cost.

3.8.7 Senator J.L. Perchard:

Would the Assistant Minister agree with me that, whilst amusing, these are trivial asides and the real issue is the prison report and the 140 deficiencies found at Her Majesty's Prison, La Moye. Can he then accept that we must focus on correcting these wrongs and give the House a timescale, or a plan, in which the points raised in the report will be corrected and put right?

The Deputy of St. John:

Yes, Sir, I can. We have just commissioned a performance improvement plan which will be provided to us all very shortly and in that it will clearly state as to what the timescale for implementation of improvements is. We have been very fortunate in getting 2 top officers from the U.K. service to review this and provide the performance improvement plan, and that will be made available to Members shortly.

3.8.8 The Deputy of St. Ouen:

I would like to ask the Assistant Minister to explain why the Minister knowingly commissioned another report on La Moye Prison whilst being fully aware that there were many issues that had not been addressed in the 2001 report.

The Deputy of St. John:

Sir, that was precisely the reason why she commissioned it, because it highlighted the fact that, partly due to funding, we were unable to meet some of the demands of the previous report. It was an independent report; we asked them to come here and do that report, they did not come uninvited. It was a needed exercise in order to highlight the issues that we have at the prison currently. Incidentally you may be interested to know, although it has not been published so widely as the Jersey report, that Guernsey had a very similar report done on their prison quite recently. It illustrated exactly the same types of issues, which are quite common in small jurisdictions whereby a prison such as ours has to perform so many different functions in one relatively small prison, which causes all sorts of resources issues, and these are highlighted in the report. I think the second report was highly necessary to bring the attention of this House, if nothing else, to the budgetary issues that remain at the prison and the operational conditions we have to operate as a result.

3.8.9 Deputy G.C.L. Baudains:

Could the Assistant Minister give us an assurance, Sir, that whilst all these new items such as this fancy new car may seem attractive, that resources will not be diverted from crime prevention towards crime detection.

The Deputy of St. John:

No, Sir, there is no suggestion that those resources will be reallocated. Each of the areas of Home Affairs has produced business plans which are publicly available and those plans will be adhered to.

3.8.10 Deputy P.V.F. Le Claire:

Is the Minister aware that reports are now surfacing in the U.K. media that prisons in the United Kingdom are likely to face a maximisation by summer of this year and they are looking to close some of their doors, estimated population going up to 74,000. With the U.K. now identifying the fact that their prisons are going to be full this year by summer, has the Minister taken this into account and are we prepared for this eventuality?

The Deputy of St. John:

We certainly will be once the development programme is completed. You may be interested to know that in recent times, mainly due to budgetary constraints, we have been sending less and less prisoners to the U.K. It is a misnomer here that a crime committed in Jersey by somebody that is not from the Island they should be sent back to the U.K. or perhaps where they came from to serve their sentence at no cost to us. The fact is that if we send those prisoners back against their will we have to pay for their incarceration in the U.K., so we have been trying to minimise that aspect and we have quite successfully done that by more than halving the number of prisoners that we currently pay for in the U.K. That is a process that we are continuing to do to save funds and also with the new wing coming on line it is less likely that we will have to take up places in the U.K.

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

Would the Assistant Minister agree that by utilising targeting and detection work that it might be prudent therefore, budgetary-wise, if our criminals and drug pushers and couriers coming to Jersey are intercepted before they arrive on our shores and therefore would reduce our costs in maintaining them until they are subsequently released. Do you think, Assistant Minister, that this would be a better way of targeting than what currently exists at this time?

The Deputy of St. John:

I would agree with the Deputy and that is exactly what we occasionally do. I was only in a meeting yesterday with Customs discussing this very issue. That is what we endeavour to do on most occasions. However, in joint operations with Customs and the Police, it is often necessary to follow the drug traffickers all the way to the point of delivery in order to take out the entire chain, in other words from supply right through to delivery. On that occasion they are then arrested in Jersey, and the Deputy is quite right, we have to incarcerate them in Jersey. Wherever possible, when it is not in the interests of other Police activity to detect, like I say, the whole chain of the gang, then, yes, we do take them out - so to speak - in this case normally in France.

3.8.12 The Deputy of St. Ouen:

I am rather amazed at the response that the Assistant Minister gave regarding the commissioning of another report and the reasons behind it. Could the Assistant Minister confirm that in fact it would have been far more prudent for the Home Affairs Minister in her role as responsible for Home Affairs and the prison to bring a proposition to this House for extra funding, if that in fact is what is required?

The Deputy of St. John:

Not being quite so familiar with protocol as perhaps the Deputy is, I cannot disagree that perhaps that is what should have happened, but hindsight is a wonderful thing, Sir, that obviously did not occur. However, the Minister made it perfectly clear, through media reporting, through other debates in this House, that she regarded the prison as under-funded. We are now looking at a process whereby we are funded perhaps by the number of prisoners that we actually incarcerate. If we have a school, for example, that school is funded by the number of pupils that it has in the school, per head per pupil. Likewise the number of beds in a hospital are funded by the number of beds that we have, the number of beds that we require. We do not that at the prison. We have a certain number of prisoners there and there are fixed costs, obviously, we have to adhere to; but we do not fund the prison by the number of prisoners we actually have, in other words a price per head

per prisoner. That is something which we are looking at with Treasury and Resources and reviewing the budget process so we actually have a correct budget for the prison.

Senator S. Syvret:

Point of Order; the Deputy was not in fact accurate when he said that the hospital is funded on the basis of the number of beds it has; that is not the funding formula used for Health and Social Services.

3.8.13 Deputy J.A. Martin:

The Assistant Minister has stated that the Minister invited Her Majesty's Inspector of Prisons to do another report. Is it not fair to say, through you, Sir, that if this second report was not commissioned by the Home Affairs Committee that Her Majesty's Inspector of Prisons would have come back anyway within a certain amount of time to see that their recommendations from 2001 had not been carried out?

The Deputy of St. John:

No, they would not be, Deputy. They are invited to do the inspection, they would only do a follow-up if they were invited to do so and in effect the second report was in somewhat a follow-up to that. We are under no obligation to the U.K. government to comply to an H.M.I. report. We actually commissioned them as an independent body to review the prison. We are not obligated legislatively to abide by the recommendations of the report, albeit they are the experts and we agree with pretty much everything they put in the report.

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

Could the Assistant Minister give the House some idea of the costs to the States for carrying out this second report by the H.M.I? What did it cost the Home Office or the Home Affairs Committee?

The Deputy of St. John:

I am unaware of those costs, Sir, I will have to obtain them and let the Deputy know. My understanding is that it is mainly a subsistence cost and not a huge cost regarding the report but I will investigate further and get back to the Deputy, Sir.

3.8.15 Deputy S.C. Ferguson:

I would just ask the Assistant Minister, in the written answer last week, the Minister included a summary of the prison budget which is running in deficit for the past four years. Why did the Minister not enlist the aid of the various Treasury consultants to review the value for money of the running of the Prison and thereby obtain financial evidence to justify her requests for more funding?

The Deputy of St. John:

My understanding, Sir, is that is exactly what has been going on. One of the largest costs that we incurred, as I said before, is staff, 80 per cent of the budget is staff. We had an extremely high overtime bill because of lack of staff: some £700,000 was spent on overtime last year. That has been now resolved, partly, by recruiting more staff. We had a problem before that, I understand, where we had a cap on taking-on more public sector staff. At the time perhaps rightly so, but the prison was one of the departments that suffered from that capping, and that involved us having to employ a lot more budget in terms of overtime and that is one of the major reasons why the prison was running over budget.

3.8.16 Deputy S.C. Ferguson:

I would be interested to see... I wonder if the Assistant Minister could make available these reports that he says have been done? Because certainly, and during the time of operation of the Shadow Public Accounts Committee, we have not seen any of them.

The Deputy of St. John:

Certainly I will talk to the Prison Governor and I understand he carries management budgetary accounts, and if the Public Accounts Committee wish to view them they can be a matter of public record.

3.8.17 Deputy S.C. Ferguson:

Sorry, Sir, just a final one. My question talked about originally getting the people in from the Treasury, the Internal Audit Department and so on. Would the Minister confirm that he is actually talking about internal accountants as opposed to accountants from somewhere else within the States organisation?

The Deputy of St. John:

I understand that all departments are subject to auditing of some kind and it is something which I will discuss with the Treasury and Resources Minister and establish exactly what the procedure is. I am not aware of what the procedure is - no doubt there is some, if there is not there should be - and I will make sure that that information is made available to the Deputy by talking to Treasury Resources and the Prison Governor.

3.9 The Deputy of St. Ouen of the Minister for Home Affairs regarding the review of the Firearms (Jersey) Law 2000:

Following the Minister's indication that a review of the Firearms (Jersey) Law 2000 was initiated in January 2006, would the Assistant Minister indicate why States Members and other interested parties were not notified and included in this process at the time and would he also state what plans, if any, have been made to address this situation?

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

Following the raising of concerns at a routine meeting between the States of Jersey Police and the Minister on 25th January about the presence of a specific firearm in the Island, a number of actions were initiated. These include the instigation of a States of Jersey Police report on the issue, together with an internal States of Jersey Police force inspectorate review on local compliance with the Cullen recommendations, which was established following the Dunblane massacre. Contact was also made at this time with the Education, Sport and Culture Department who consequently commissioned a U.K. expert to inspect their shooting facilities and to report back on various issues. This report has yet to be completed. At around the same time, albeit not initiated by such specific concerns, the Comité des Connétables had requested guidance from the Attorney-General on the implementation of the Firearms (Jersey) Law 2000. The Committee is also awaiting the response of the Attorney General. A great deal of work was either already underway or initiated at the end of the January owing to the seriousness of the concerns that had been raised. At the time of the initial reports in the media not all this work was completed. The Minister was not in a position to bring the findings and recommendations before the States and did not want to present the House with incomplete information. It would have been premature to release incomplete and inconclusive information on this important matter. At the time of the recent media interest in firearms a number of States Members questioned as to why they had not been informed of these developments in advance of the media comments, to which I responded with a similar answer to that given to the Deputy of St. Ouen, which was circulated to all Members on 20th March. When all the reports I have mentioned have been completed and presented to the Minister and myself, a paper will be produced for circulation to all Members containing all relevant information and recommendations

as to the most appropriate manner in which to proceed in the best interests of open government, public safety and global best practice.

3.9.1 The Deputy of St. Ouen:

Again, I am rather confused at the way that the Assistant Minister has suggested that the Minister has chosen to handle this subject. Obviously, I presume and I would like confirmation, that the Minister was indeed aware of the comments in the article that was written in the *Evening Post* and I am also aware that equally it raised a number of issues and concerns relating to the general public. As such, surely the Assistant Minister must be aware that it would have been far more appropriate to inform both States Members and the general public that indeed these reviews were being undertaken. Furthermore could he also explain when he speaks about the review looking at local compliance, who was involved?

The Deputy Bailiff:

One question at a time, Deputy, you have asked your first question.

The Deputy of St. John:

There were several questions then, I must admit I have forgotten some of them already. The fact is that we were not going to bring anything into the public domain until a number of questions had been asked and answered and that is why the review had begun. Since then I have met with the Comité des Connétables, I have met with Customs on the issue of importation of firearms, I have spoken to Education about using the ranges; a lot of work has been going on, as I said in my answer. It would be inappropriate to bring an incomplete report to the House or to discuss it in the media before discussing it here. I do accept, however, though, that in a perfect world the issue of the Police Chief or Deputy Police Chief issuing statements to the media of this nature was unsatisfactory. The Minister stated that last time, last Tuesday, and I agree with that. It is an unfortunate situation. Having said that, she did also state that she was not prepared and would at all times avoid interfering with operational matters and it was a bit of a blur here as to what was operational and what was policy. With hindsight I would have much preferred this was not released in the public domain until we have fully completed the review and had all the information at our fingertips.

3.9.2 The Deputy of St. Martin:

The Assistant Minister has mentioned himself a number of times; could I just ask him through you who is conducting the review and how is it being conducted?

The Deputy of St. John:

I thought I had already answered that. I was asked to chair the Firearms Liaison Group back in January. Before taking on such a role I was determined to find out as much as I could about firearms policy, procedure and legislation. That was only right and proper. I did that by asking the police to do a review of certain issues concerning firearms. I was then going to move on to the Connétables - which we have now done - to ask their views as well. Likewise we would then ask the existing members of the Priority Liaison Group, which I was asked to chair, and included in that we also were discussing the ranges with the Education Committee. It was at my request that this information was beginning to be collated because I was not prepared to chair a Committee that I knew nothing about. When the review began I started realising there were a few issues that needed to be looked at and we had every intention of bringing some kind of paper to the States at an appropriate juncture. That process has been somewhat interrupted by media interest but that process is very much underway and you will be presented with some kind of paper very shortly with full consultation with the Comité des Connétable, Firearms Liaison Group (i.e. gun user groups) and the police, both Honorary and States Police.

3.9.3 The Deputy of St. Ouen:

In a briefing note sent to all elected Members it claims that the Minister, Assistant Minister and the Chief Officer of the States of Jersey Police expressed concern that certain high velocity firearms had been licensed and they, the Police, were unable to act. Could the Assistant Minister confirm that all licence applications are in fact made known to the States of Jersey Police prior to a licence being issued?

The Deputy of St. John:

That is correct. But the power of the actual issue of the licence lies with the Connétables and the weapons you are particularly referring to were licensed perfectly legally by the Connétables. Having said that, the Chief of Police expressed concern at the velocity of those weapons and asked for further research to be done by ballistics experts to ascertain as to whether they were appropriate to be licensed in Jersey. There are very few, if any, Connétables that have a huge degree of knowledge of ballistics. That is an expertise which I am sure many of them would prefer to avoid. Having said that, in certain instances it is probably very useful to have a bit more knowledge and that is something which we are looking at as to how we can provide that to make it easier for the Connétables when issuing licences to fully understand what it actually is they are licensing.

3.9.4 Senator L. Norman:

Last week Senator Perchard asked that the exchange of emails between the Deputy Chief of Police and the *Jersey Evening Post* be made available to States Members. Could the Assistant Minister say when these emails will be made available to States Members?

The Deputy of St. John:

The Minister alluded that wished to check with all parties concerned with the exchange of those emails. What we did not want to do was issue copies of emails with a one-sided conversation. We were perfectly happy to issue the emails that the Deputy Chief of Police had sent to the press but we had to refer to the press to ensure that they were happy that their side of the conversation was also released. I understand that has been done and that information will be released very shortly. If you want a copy of it today I have it with me. You are very welcome to see it today.

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

Would the Assistant Minister agree that the firearm which has raised the whole issue was, as he said, quite legally registered and at the time of registration no comment was made by the Firearms Unit at Police Headquarters as to whether that firearm caused a problem or not?

The Deputy of St. John:

I think as the Deputy Chief of Police has alluded already, a lot of comment was made about that particular weapon and it was brought to the Connétable's attention by the Minister which is why we started dialogue with the Connétables very shortly after the media release. So it was discussed with the Connétable, but I am not so sure that was done in the correct order, and that is something which we are looking into so that that does not happen again, that we have an opportunity to discuss such an issue with the Connétable before it has ended up being debated in the media.

3.9.6 Deputy S.C. Ferguson:

The Assistant Minister talked of not interfering in operational matters, which raises the question of where the accountability of the police is. Home Affairs are responsible for budgets and that side of things; where are the police responsible, where is their accountability in operational matters?

The Deputy of St. John:

As far as operational matters are concerned, the Minister is responsible for the Police. There is no doubt about that. Perhaps there was some confusing comment made last Tuesday, but the Chief of

Police is ultimately answerable to the Minister for Home Affairs. That is perfectly clear and that covers all matters, whether it be operational or policy. The issue that you are talking about here is issues of releasing information to the media and there is a blurred line which we are trying to make a little less blurred perhaps, and that is an issue relating to what media releases should be issued concerning policy and what should be operational. What the Minister does not want to do is start having every single press release from the Police run past her first. That would be inappropriate and time wasting and the Police need to get on and do their job. But when it comes to policy that is something which we would dearly prefer - and indeed may make statutory - that the Chief of Police should run past the Minister before sending it to the media.

3.9.7 Deputy J.B. Fox:

Could I ask the Assistant Minister to make a clarification? I always understand that any firearm application was processed through the States of Jersey Police and a subsequent recommendation was passed on to the appropriate Constable of the Parish before any such licence was considered and issued. Is there some dissent that I am recognising when his comment this morning was: "But the States of Jersey Police do not have the power in relation to this application, it is the Constable." May I remind the Assistant Minister the States of Jersey Police do not have the power of charge but it has been working very well all the time that I served with the States of Jersey Police. Could he just clarify the point whether this latest inquiry et cetera with the States of Jersey Police querying that in fact... or I am querying the fact that in fact everything is processed through the States of Jersey Police first and that they make recommendations to the Honorary Police as to a suitable way forward.

The Deputy of St. John:

I have reiterate once again that the licensing authority is the Parishes, it is the Connétable that signs the licence certificate, it is the Connétable's responsibility to ensure that that person is right and proper to have a certificate for owning a firearm. All the Police do is interrogate their own records to ensure that that person has no criminal record of any kind that would be a detriment to the application and those records are made available to the Connétable. It is then up to the Connétable as to what he chooses to do with that information, but the licensing authority is the Parishes and the signatory is the Connétable, not the States of Jersey Police Force.

3.9.8 Senator J.L. Perchard:

Does the Assistant Minister think that the sensational coverage in the *Jersey Evening Post* about 2 weeks ago regarding firearm use and ownership in Jersey, which came about as a result of a media release from the States of Jersey Police, does he believe, Sir, that this sensational coverage will assist in a measured and informed review of the Jersey Gun Law?

The Deputy of St. John:

I am not so sure it helped terribly much at all. It created hysteria from all quarters and it has been very unhelpful and we have had discussions with the Deputy Police Chief and the Chief so that this sort of thing can be avoided in the future. We do not want to discuss these things in the media first; we want to have informed debate in this House as and when necessary, not through the media. I was very disappointed that that occurred and so was the Minister. We have taken steps to avoid that sort of thing occurring again.

3.9.9 Deputy G.C.L. Baudains:

The Assistant Minister has referred on several occasions to the velocity. Would he confirm that the velocity of the firearm which seemed to cause the States of Jersey Police and the Minister so much concern is in fact lower than that of the full bore rifles currently used at Crabbé and in competition elsewhere?

The Deputy of St. John:

The Deputy is correct, Sir, and it was not just the velocity that was a concern here, it was the ammunition being used in it. We were shown film clips of ammunition exploding on impact with catastrophic effects at considerable range and this was the concern of the Police Chief, not necessarily just the calibre, Sir.

3.9.10 The Deputy of St. Ouen:

Just so as we avoid any doubt at all, would the Assistant Minister confirm once and for all that all licence applications are made known to the States of Jersey Police prior to licences being issued? Furthermore would the Minister advise us as to whether there is any evidence at all as to whether the Constables have ignored the advice provided by the States Police and, if so, would that evidence be provided in written form to all States Members?

The Deputy of St. John:

On your final point there, Sir - the Deputy's point about providing that information - only yesterday I was in conversation with various parties including the Connétables and the same question was raised. I will be asking the Chief of Police to provide evidence of the accusations that have been made through the media that certain Connétables have issued licences inappropriately and if that is the case the Chairman of the Comité of Connétables assures me that action will be taken to make sure that this does not occur in the future. And I wonder if the Deputy can remind me of the first part of his question?

The Deputy of St. Ouen:

The first question was just to ensure that every Member in this House is in no doubt that actually the Police do view all applications prior to licences being issued.

The Deputy of St. John:

Yes, they do view them. The process that is in dispute at the moment is the returning of the completed forms after the licence has actually been issued. We had occasions whereby 4, possibly 5, Parishes had not completely returned all the documentation. This is an administrative error; it is by no means that the Connétables should be necessarily held to... what is the expression, Sir, dragged over the coals over it. I think the media interest in this and the way that the Constables were covered in the media as the bad guys, for want of a better word, is incorrect, inaccurate and inappropriate. The Constables and the Parishes do an excellent job in policing the current method of issuing firearms. There have been some administrative errors that have been detected, which are now being resolved in full co-operation with the Chairman and his Comité and I am very confident that the process of issuing licences through the Parishes will be far more streamlined in future and the documentation that was missing, that was referred to in the press, has all now been given to the States of Jersey Police and in future I am assured that the Parishes are now fully aware of what the process needs and will be adhering to it, Sir.

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

Reference has been made to a video clip, both today and last week. I was wondering equally, in the same context as the emails that have been exchanged, would it be possible for Members at some point to have sight of this video clip, because it has been referred to a couple of times - it would be interesting for Members to assess it themselves?

The Deputy of St. John:

Yes, Sir, I have no reason why that should not be. The Chairman of the Comité des Connétables has seen it, I have seen it, the Chief of Police has seen it and so has the Minister. I see no reason why that cannot be circulated further, providing you have fast enough computers to receive it, Sir, because it is quite a large file.

3.9.12 Senator S. Syvret:

Could the Assistant Minister also undertake to put on a showing of the film *Bowling for Columbine* for all States Members to watch?

The Deputy Bailiff:

That is obviously a very subtle question which only those in the know will necessarily understand.

The Deputy of St. John:

I am sorry, Sir, I still did not hear that.

Senator S. Syvret:

There is a film by the film-maker Michael Moore called *Bowling for Columbine* which deals with gun culture and things of that nature in the United States of America - a very educational film - and I think at some stage Members would benefit from watching it.

The Deputy of St. John:

I am not aware of the film, Sir, but it sounds like an interesting concept. I would like to add something briefly in connection to that. There has been a lot of furore about this whole issue and some corners claiming that there should be no controls at all. Now, I would just like to draw attention to a brief fact. In the United States where by and large they have fairly relaxed gun controls there are 150 times more incidents involving firearms than there are in the U.K., so there is rather a sober thought there, Sir. Regulation is necessary, but I do agree that there is no reason why we cannot have a light touch to certain aspects of it.

Deputy J.J. Huet:

Sir, that last remark I find unbelievable. The population between the United Kingdom and the United States is millions of people.

The Deputy of St. John:

Sir, I am talking proportionately.

The Deputy Bailiff:

Final question.

3.9.13 The Deputy of St. Ouen:

Final question. We have heard about why the reviews have been undertaken and so on and so forth, and the Assistant Minister has mentioned about concerns raised. Who in fact raised the concerns?

The Deputy of St. John:

The States of Jersey Police raised the concerns initially and I followed up those concerns because I was asked to review... Well, I requested to review all aspects to do with gun law and legislation policy and procedure, because I was not prepared to take on the chairmanship of the Liaison Group without knowing more about it. When I started to look into this I realised there were some elements that were not, as I saw them, quite as they should be. I was also given a copy of the Cullen Report - of which I have a copy here - and there are numerous aspects of the Cullen report that we have not complied with in Jersey. There are also aspects of the Cullen report that have not been complied with in the U.K. either, but I was quite intrigued by that and wanted to discuss this with the Honorary Police, with the States Police and with other bodies to ensure these aspects, whether they should be adhered to or not. I think it is highly appropriate that if I was going to take on the chairmanship of such a committee that I knew something about it. That threw up a few

issues, I have been asking questions about it. In the middle of that review or that process the media got hold of the story and that is why we are where we are.

The Deputy Bailiff:

Very well, there we are. That completes question time on notice. So we now move to questions without notice and the first period is to the Minister for Economic Development.

4. Questions to Ministers without notice - The Minister for Economic Development

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

While welcoming the recent news of further investment in the Battle of Flowers by the Minister, could he explain his policy with regard to investing in activities which do not necessarily lead to new people coming into the Island? I am thinking particularly of the activities for example of the Band of the Island of Jersey: that group has seen a cut in its budget. Will he be reviewing that? Other important parts of our industry such as the Orchid Farm, the Jersey Old Motor Car Club and of course the Durrell Zoo, will he be investing equally in operations like this?

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

Last year the Tourism Department invested some £356,000 in event-led tourism, £95,000 for the Battle of Flowers, £50,000 for Battle for Britain, £80,000 for the jazz festival and a whole series of other events. The previous Committee made a reduction in the budget down to £238,000 and there were casualties. The Battle of Flowers budget was maintained but clearly there were a number of issues that arose because of standstill funding and reduced funding. I have reviewed that policy and sought to effectively reverse some of those aspects, of which the first announcement is the Battle of Flowers. I have done so, I should say, in consultation with a number of Ministerial colleagues, including the Chief Minister, and I would say that my preliminary conclusions are that we need to focus on 3 important touchstone events through the calendar: Liberation Day, Battle of Flowers and Battle of Britain. Now, that is not to the exclusion of other events, but certainly those 3 events need our support and they need to have our financial support. Now, of course it is not only an issue of tourism, as the Connétable rightly says. There is a joint responsibility with the Education, Sport and Culture Department and that is why I am building very close relationships with the Deputy of Grouville. I am hopeful to get some money from Education, Sport and Culture and also if the Constable wants to event in our exciting cultural programme he is very welcome.

4.2 Deputy J.A. Martin:

Will the Minister explain the difference between a fulfilment company which is administered in Jersey by a third-party service provider and a tax-exempt company which is administered in Jersey by a financial service provider, both of whom occupy no floor space in Jersey and both of whom have no employees in Jersey, but one needs a licence to trade and the other does not. Surely does the Minister not agree that both should be exempt under 1(1)(b) of the Regulation of Undertakings and Development (Jersey) Law and I can quote the paragraph if the Minister needs any assistance.

Senator P.F.C. Ozouf:

I am obviously going to be examined at great length on this issue of Scrutiny tomorrow in the Scrutiny hearing. It is difficult to go into a great level of detail here on the question that the Deputy asks. Suffice it to say that I have required, upon legal advice, licences for undertakings that have not got staff and a footprint in Jersey. I am happy to develop the arguments of the second example that she gave, which I will need to examine closely because I am not immediately familiar with exactly what she is talking about in terms of that particular structure. But the guiding principle is Regulation of Undertakings requires a licence to trade, and that is why we have asked all the undertakings in the fulfilment industry to give a licence and we have made decisions upon that, some of which are not very popular, I am afraid.

4.3 Deputy K.C. Lewis of St. Saviour:

I am delighted that the Minister for Economic Development is making progress with sea routes and bringing visitors to Jersey, but would he also undertake to give his full efforts in making sure that the people of Jersey get a fair deal when it comes to ferry ticket prices to France and the United Kingdom?

Senator P.F.C. Ozouf:

I am pleased the Deputy thinks we have been trying in relation to dealing with the issue of sea routes, because we have - it has been at the top of our agenda since having taken office. I fully recognise the importance of sea links, affordability, reliability, quality of service for Island residents quite outside the issue of the requirement for bolstering tourism. There is an emerging picture, I think, evolving in our thinking concerning the licensing of sea routes and I think it is very important if we are - and I say if we are - to end up with effectively one operator; then we need to strengthen the controls in place on price regulation. I said in the debate last week that competition has a proxy if you do not have competition in the form of price regulation. We have set up an expert body to deal with price regulation, the JCRA (Jersey Competition Regulatory Authority), and I am going to start discussions immediately with the JCRA to see what they can do if we do emerge with the situation of having effectively one single operator. And I look forward to engaging with Members in that debate. If we do give the JCRA specific powers, it will be inevitably something that this Assembly will have to decide on and I welcome the Deputy's and the Economic Affairs Scrutiny Panel's views on that matter.

The Deputy Bailiff:

I think the question was about Jersey residents.

Senator P.F.C. Ozouf:

Well, it is actually, Sir. At the heart of it, it is price regulation for residents - if I did not make myself clear. The issue of prices if you are in the U.K., you are dealing with a competitive market. U.K. residents can go to France, Guernsey, all over the place in relation to sea routes. It is the domestic market which my comments were particularly appertaining to.

4.4 Senator L. Norman:

Following the question I asked in January, would the Minister say what action he has taken since then to implement the fishing agreement made between the States of Jersey and Guernsey in August 2004.

Senator P.F.C. Ozouf:

Since answering that question I have had 3 briefings from officials in my own department and the Law Officers - most recently last week - on the fishing agreement. That has culminated in a paper which is going to be considered by the Council of Ministers at its next meeting. The Attorney-General is to also join us for that discussion for input in that and I expect to commence formal negotiations with Guernsey on this matter certainly within the next few weeks. I think the Senator would agree with me - or I hope he would - that it is absolutely vital that I am absolutely fully briefed on the subject before going into bat for Jersey, and I have been attempting to do that in the last few weeks.

4.5 Senator J.L. Perchard:

Did the Minister make a submission to the Shepley review guidelines report which is currently being drafted outlining the economic case for development on the Waterfront and will he make his submission available to Members?

Senator P.F.C. Ozouf:

I probably should tell the Senator that in the absence of Senator Cohen the Chief Minister has designated me as Acting Planning and Environment Minister as well for the week that Senator Cohen is away. I have to say that I did not personally, or my Department make personally, a submission to Mr. Shepley on the economic impact because the Council of Ministers has commissioned its own report on the economic aspects of the waterfront, and that of course is part and parcel, I imagine, of Mr. Shepley's consideration of all representations in his drafting of the planning supplementary guidance. So, because that report, commissioned and also reviewed by our own economic adviser, has been made, I think that Mr. Shepley is well acquainted with all of the economic issues.

4.6 Senator B.E. Shenton:

Would the Economic Development Minister like to comment on the Education Minister's policy of trying to put all the private nurseries out of business?

Senator P.F.C. Ozouf:

I am always interested to try and answer questions on another Minister's portfolio, but the issue of... I am slightly lost for words, it is not really my area. But if he is particularly alluding... I think his question is alluding to the question of perhaps unfair competition in that there is, effectively, a public subsidy of some private nursery places and indeed there are private operators who are struggling to deal with that issue of public subsidy. I have to say that that is a common issue. I declare an interest, I am Vice-Chairman of the Alliance Française, an organisation trying to compete against education, against skills. I have got to have good discussions with the Minister for Education about education and skills and I look forward to taking them with him. I understand the Senator's point, there is an issue. How do you compete; how do private sector organisations compete in a non-subsidised world when effectively they are getting subsidised by the state? Not a criticism, but it is an issue for us to be alert to.

4.7 Deputy P.V.F. Le Claire:

Would the Minister for Economic Development just briefly outline what the key issues in relation to the Economic Development and France are for the next twelve months?

Senator P.F.C. Ozouf:

The issue of France is one that is commanding much attention within the Department and indeed with the Chief Minister's Department as well. I think that we all share a view that we want to see some real action in relation to increasing trade with France. There are working groups set up with both the regional assemblies of Normandy and Brittany; there are working groups going on; there are officers that have been on a number of visits, reciprocated with visits here in relation to building trade links with France. Quite apart from that my own Department has commissioned work from the Economic Adviser's office on the whole issue of sea freight issues to France so that we are properly informed in relation to sea links to France. I would say that if the Island is going to go down a path of looking more to the south for its freight requirements - for its import requirements - then it is up to us to engage the operators, to tell them that that is what we want to do, and those are discussions I am starting to have with Condor. Currently we have 2 boats a day coming down from the U.K. and we have one from France. If we want as an Island to focus our imports on France then we must engage with the operators in order to establish those priorities. I certainly want to continue the war on inflation; competitive markets, yes, France has opportunities.

4.8 Deputy J.A. Martin:

I thank the Minister for his previous reply, but I really must insist - I understand he is really reluctant to comment on fulfilment - but is the Minister really telling this House that he does not know that tax-exempt companies that are administered in Jersey through financial service providers

do not need a licence to trade under the Regulation of Undertakings, and in fact 1(1)(b) of the Regulation of Undertakings was introduced to exempt and facilitate these particular companies so they did not need a licence to trade in Jersey.

Senator P.F.C. Ozouf:

I am very happy to answer questions on fulfilment of course. The issue that the Deputy raises is important, because I think she will know that there was a situation where there were entities in Jersey without a footprint and without staff that were trading in the Island without a licence. We have taken very firm steps upon legal advice to require them to have licences. Now, if she is going to be highlighting a further area - which I have to say I am not immediately aware of - that we are talking about a tax-exempt company which does not require a licence, I would need to examine the particular cases that she is talking about and I will take advice from the Regulation of Undertakings Office for a requirement for a licence. The default position is they probably need a licence, but I am happy to listen to the Deputy's comments if she knows something that I do not.

4.9 Deputy G.P. Southern:

Very simple question on fulfilment; how many licences have been issued under the new regulation for 12 months - 12 months' trading is all that is...

Senator P.F.C. Ozouf:

I have not got that figure, but I am happy to give it to... If the Deputy thinks that I am coming equipped here to answer a very detailed question... The answer is a lot; it is probably over 20 licences, and we still do not know whether or not we have all the licences covered. I make a policy decision and I expect the Regulation of Undertakings to administer that. A number of them passed my desk, a number of licences have been given with the 12-month sunset clause. He will be aware of that and I am looking forward to developing these issues at great length with him and his Panel tomorrow, because it is a complicated issue, but certainly it is in excess of 20.

4.10 Deputy G.P. Southern:

Does the Minister accept that it would in fact have been very useful to have known this before the live meeting tomorrow?

Senator P.F.C. Ozouf:

Quite clearly I have a lot of work to do before the meeting tomorrow and I will be coming with my team to answer all of his questions. The Deputy will be aware that my department has taken important and - some would say - courageous steps in dealing with the issue of fulfilment and we have required for the first time licences because we are convinced that licences are required for fulfilment companies operating in the Island. And I would have thought that he would have been welcoming this front-foot approach in dealing with fulfilment.

4.11 Connétable of St. Helier:

The Tourism Department has traditionally looked to the United Kingdom for the bulk of its incoming tourists and has committed most of its marketing budget there; could the Minister confirm that we have a much bigger market in our doorstep in the shape of Europe, will he be reviewing the marketing spend on the U.K. and indeed the type of image that the marketing campaign is presenting of Jersey and giving it a radical overhaul with his eyes set on the European market?

Senator P.F.C. Ozouf:

I agree with the Constable that the French market is absolutely vital. I am just looking at some figures here which I do have, and I would draw the attention of the Constable that in as far as the U.K., last year, I am told... The figures by the way are going to be confirmed, we hope, by the end

of the week in terms of actual passenger numbers, but we had something of the order of 650,000 arrivals by air from the U.K., and that is in contrast to sea arrivals from France of approximately 258,000, so he is right to say that there is work to be done in France. As far as I am concerned, and as far as the Chief Officer is concerned, the tourism strategy is going to be reviewed, and that means that we are going to have a root and branch review of the whole of the way that tourism operates. I am engaging with the industry to understand exactly what their requirements and their observations and their hopes for tourism health are in the future, and I am looking forward over the next few months to having a constructive dialogue with all parties for a revised tourism strategy. And, yes, he will know that I am as keen on developing links with France as he is and that will inevitably mean, if we are serious about France... then we need to make an investment.

4.12 Deputy P.V.F. Le Claire:

I was going to... Not having any prior knowledge of the issues that have been raised in relation to tax-exempt companies, it just struck me that surely tax-exempt companies operate through lawyers and accountancy practices. They must be regulated under licences, and surely that... it just strikes me as a bit strange that this is a very large sector of our economy, but it does seem on the surface of things if they are operating out of a lawyer's office - not operating in Jersey but from that location - then the lawyers and the accountants would have the necessary licensing.

Senator P.F.C. Ozouf:

I refer the Deputy to the answer I gave to Deputy Martin. I will look at this issue concerning this particular tax-exempt vehicle in fulfilment. We have a lot of entities, which is very clear that we have a lot of entities operating in the fulfilment industry. That has been a concern to us because we have not exactly known who was operating. We have sought steps to require licences; I will examine the issue of tax-exempt vehicles, and I will no doubt report to the Scrutiny Panel tomorrow.

The Deputy Bailiff:

Very well, time has expired in relation to questions to the Minister. We turn next to questions to the Chief Minister.

5. Questions to Ministers without Notice - the Chief Minister

5.1 The Deputy of St. Martin:

At a Corporate Affairs Scrutiny Panel meeting last week the Chief Minister is reported as saying that while he was generally pleased with the way Scrutiny Panels have begun their work, there were concerns about one or 2 Panels and it was vital that Scrutiny acts as a crucial frame rather than pseudo opposition. Would the Chief Minister identify the one or 2 Panels, what area of work is causing concerns and what steps have been taken, not only to inform those 2 Panels but also to get the 2 Panels doing what he thinks they should be doing?

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

Sir, I expressed a general concern. I am not going to this morning name the Panels that do give me concern, but it is an issue that I expect to be discussing with the Chairmen's Committee on Thursday.

5.2 Deputy S. Pitman of St. Helier:

The minutes of the 9th meeting of the Council of Ministers state that, according to the States of Jersey Law, Scrutiny is not defined as "government." Would the Chief Minister clarify for the House and constituents who voted-in Scrutiny Members whether this is a view he holds? And furthermore, currently members of Scrutiny can only access those 'Part B' minutes that relate to a Scrutiny review. Access to Livelink is restricted to public items and we do not have access to the

same legal advice as Ministers. The Chief Minister has publicly stated that he hopes that the Council of Ministers and Scrutiny will work together towards an open and transparent government. How does he relate this current situation to an open and transparent government?

Senator F.H. Walker :

I am sorry, I missed the first part of the Deputy's question so I will answer the second part and if, with your permission, she wishes to restate the first part I will take it in. So far as access to 'Part B' minutes are concerned, this is enshrined in the States of Jersey Law. This is not a decision of the Council of Ministers. This is the decision of the States taken when we established Ministerial government and the role of Scrutiny in it. I think the Deputy would also be aware that the question of legal advice is not a problem, so far as the Council of Ministers is concerned. There has been considerable debate with the Attorney General and the Solicitor General and I think we are all - Scrutiny and Ministers alike - awaiting a very early outcome to that position because I had made it clear - the Council of Ministers had made it clear - that we do absolutely agree that Scrutiny should have full access to legal advice, but there are issues yet to be resolved with the Law Officers. So far as working together is concerned, I think that probably lies behind the concerns I expressed at Scrutiny last week. I believe there is much yet to be done to establish Scrutiny in the form in which the States agreed it should be established, both in terms of the protocol - which I accept is awaiting the outcome of legal advice - and, indeed, in terms of agreeing the programme that Scrutiny will operate to throughout the year. That was very clearly agreed when Scrutiny was established and we have not yet got to that stage, and the earlier we do the better from my perspective.

5.3 Deputy S. Pitman:

The minutes of the 9th meeting of the Council of Ministers states that according to the States of Jersey Law Scrutiny is not defined as the "government." Would the Chief Minister clarify for the House and constituents who voted-in Scrutiny members whether this is a view he holds himself?

Senator F.H. Walker:

I think actually that Scrutiny is a part of government and I made that statement on more than one occasion. I believe it is a part of government that we have the Executive role of government and we have the Scrutiny role of government, and what I want to see is the 2 working together sensibly in the best interests of the public to come to the best decisions to the benefit of Jersey. I am not satisfied that that is yet the case and I hope that all parties will be working towards achieving it at the earliest possible opportunity.

5.4 The Deputy of St. John:

I just wonder if the Chief Minister could answer a question I also posed to the Minister for Economic Development concerning the establishment of a Channel Islands Commission so that we have perhaps better relationships with our sister island, Guernsey? Could he assure us that this is an agenda item that he would consider putting at a Council of Ministers' meeting in the near future?

Senator F.H. Walker:

Yes, I can.

5.5 The Deputy of St. Ouen:

During a Corporate Affairs Scrutiny Panel hearing which I attended relating to the draft amendment to the Sexual Offences Law, it was claimed that other issues outside of the Panel's remit which are, however, inextricably linked to the Law are being reviewed by certain departments. Could the Chief Minister confirm that these issues are currently being reviewed by Health and Social Services and Education, Sport and Culture and when will consultation take place?

Senator F.H. Walker:

I cannot give an answer to that question this morning but I will provide the Deputy with an answer very shortly.

5.6 Deputy J.A. Martin:

Accompanied with the Strategic Plan the Minister said that we may make amendments if we require or need to, and on 23rd March the Council of Ministers discussed the States' Property Plan which is supposed to support the Strategic Plan by providing approximately about £20 million. Will the Minister be able to give all States Members the proposed Property Plan - the maybe Property Plan - and the now confirmed Property Plan? Because if I want to bring an amendment I need to know the research behind every piece of property that is thought to being sold off or maybe have been sold off, and maybe I or others may find that there is one suitable more than the other.

Senator F.H. Walker:

I am quite surprised the Deputy is asking the question because I have replied to a question she put to me by e-mail a couple of days ago, and I am quite surprised she has not seen the answer. But that notwithstanding, the Council of Ministers is obliged to put before the States all major property transactions to give States Members a minimum of 15 days to comment or lodge amendments to propositions in their own right. That is enshrined: I think it is in the States of Jersey Law, maybe under Standing Orders, or certainly it was agreed when the Property Division proposals were accepted by the House last year. So we are obliged to meet the Deputy's requirements.

5.7 Deputy P.V.F. Le Claire:

I had 2 but I will stick to my original. Given that Mont Orgueil was recently reopened on the weekend will the Chief Minister outline the events for the rest of the year. I know on Friday we are meeting to say goodbye to the Lieutenant Governor, but I am sure he will join with me in congratulating him and his wife, Lady Cheshire, in the role they have played so far. But will he also comment on the reopening of Mont Orgueil Castle this week?

Senator F.H. Walker:

I will of course warmly endorse the Deputy's comments on the Lieutenant Governor and his wife. Comments will be made more formally in another place at another time but I am sure the whole House will view Sir John and Lady Cheshire's departure from Jersey with considerable sadness because they have brought an entirely new relationship, I think, with the people of Jersey to the office of Lieutenant Governor. The opening of Mont Orgueil was, I think, a momentous day in Jersey's history and Jersey's heritage, and I was delighted to see so many people attending the opening. I think the fact that 5,000 or so Jersey people turned out was a clear indication the people of Jersey will respond, that there is a strong community spirit and the enjoyment of all those I spoke to was obvious. I hope that we will have, and I think we have heard from the Minister for Economic Development that his intention is that we should have major days in the Jersey annual span - if that is the right way of putting it - and I look forward to hearing more of his proposals in the near future. It is something we should encourage and something we should be seeking to improve on at every opportunity.

5.8 The Deputy of St. Martin:

I do want to come back on the Chief Minister in the answer that he gave to me. If the Chief Minister will not identify the Panels that cause him concern, will he identify those Panels that do not cause him concern? **[Laughter]**

Senator F.H. Walker:

In my view you should disallow that question. The answer is still no.

5.9 The Deputy of St. Ouen:

I really do not want to press the Chief Minister, however I thank him for his non-answer and equally I would like to say the first question is: could the Chief Minister inform this House when we will have knowledge of whether or not all issues associated with the Sexual Offences Law are being looked at and by whom, and whether consultation will take place? Will he equally like to comment on a particular hearing where actually it has been suggested by one of the members of the Panel that the Chief Minister actually was going to ensure that this review and consultation process would take place?

Senator F.H. Walker:

I do apologise to the Deputy, I actually misheard his first question which is why he got such a nondescript answer. The Sexual Offences Law was the subject of a major discussion between me, the Minister for Home Affairs and the Assistant Minister for Home Affairs last week, and I have learnt from, and I have agreed with, the Minister that it is of the highest priority and the highest urgency to bring this forward. However, the Deputy is aware that there are other requirements the Scrutiny Panel wish to be involved. The Scrutiny Panel have issued a report which makes recommendations and, of course, the Home Affairs Minister has to take those into account. But I can assure the Deputy and the House that this is at the highest priority and I know it will be coming forward at the earliest possibility opportunity.

5.10 Deputy G.P. Southern:

Is the Chief Minister disappointed at having to draw up a memorandum of understanding with respect to WEB (the Waterfront Enterprise Board)? Does he accept that undue pressure was put on the Planning Minister by the Chairman of WEB and will he be calling for the Chairman's resignation?

Senator F.H. Walker:

I am disappointed that a memorandum of understanding was necessary because it reflected misunderstandings and confusing communication, but that is all it reflected. It most certainly did not reflect or result from any pressure put on the Planning Minister by the Chairman of WEB and the Planning Minister himself would fully endorse that statement. Therefore there is absolutely no call whatsoever for me to request the resignation of the Chairman of WEB.

5.11 Deputy J.A. Martin:

I just wanted to press the Minister on the States' Property Plan. I do know that it can be amended and it has to be presented and we have got 15 days. What I want the Minister to supply to the rest of the House is all the property that was considered by the Council of Ministers to go on the sell-off list because there may be other States Members who feel that there are better suited alternatives on that list that are now not going to be presented to the States for approval, and unless we know what was considered in the Council of Ministers we cannot present an alternative: it will be a *fait accompli*. Will the Minister provide all the properties that were considered by the Council?

Senator F.H. Walker:

Yes, I will. There is absolutely no problem with this whatsoever and, of course, we will - as I have already I think made clear - comply fully with the requirements of the House when they debated the Property Plan last year.

5.12 Deputy G.P. Southern:

The draft Strategic Plan 2006-2011 contains many references to a possible privatisation of public utilities. Is it actually the Chief Minister's intention to sell-off the public utilities in the next 5 years?

Senator F.H. Walker:

Sorry, I cannot say for sure it is my intention or, indeed, the intention of the Council of Ministers. The Strategic Plan makes it clear that it is going to be looked at very seriously indeed and the Treasury and Resources Minister has also made that clear himself. We are looking at whether it better serves the public interest to dispose of the public utilities, or at least part of the public utilities, and reinvest the funds so gained to better effect of the public. That is being looked at but no final decisions have been taken and, of course, could not be taken without full reference to this House.

5.13 Deputy G.P. Southern:

In an unrestrained market is the Chief Minister aware that should he decide to sell-off any one of the public utilities it may well become owned by a foreign company and therefore we shall receive very little taxation from that utility?

Senator F.H. Walker:

All such considerations would, of course, be taken fully into account by the Council of Ministers, particularly the Treasury and Resources Minister, and would, of course, be the subject of full debate in this House. There is no question of selling-off the utilities in any other situation than it is firmly shown to be in the public interest and I would not expect either the Council of Ministers or the States to agree to any proposal which did not clearly meet those criteria.

The Deputy Bailiff:

Any other questions? That concludes questions to the Chief Minister.

PUBLIC BUSINESS

6.1 Composting facilities at La Collette II: approval by States Assembly (P.31/2006).

The Deputy Bailiff:

The first item on the agenda is the resumed matter of the composting facilities at La Collette II: approval by the States Assembly, lodged by the Connétable of St Helier. I think it convenient to re-read the proposition to remind Members.

The Greffier of the States:

“The States are asked to decide whether of the opinion to agree that no steps should be taken by the Minister for Transport and Technical Services to establish permit combusting facilities at La Collette II, St. Helier until the proposed site and technology have been debated and approved by the Assembly.”

6.1.1 The Deputy Bailiff:

Now before calling upon the Connétable who proposed this, I think it might be helpful to say something from the Chair as a result of what happened last week when Members will recall that debate on this proposition was deferred, in order to allow consultation to take place between the Bailiff, the Connétable and the Minister for Transport and Technical Services. In particular there was some uncertainty about the precise meaning of the proposition and this arose from the use of the words “and technology”. The confusion in relation to these words arose in part from the suggestion in the Connétable’s accompanying report that the technology relating to food composting should perhaps be revisited before a new composting site was established. Now following the meeting which has been held, the Bailiff has ruled that that is not possible to achieve through this proposition and the reason for that is as follows. That in seeking to establish a composting site the Minister is acting in accordance with the solid waste strategy, and that was approved by the States on 13th July 2005 and, in particular, said at paragraph 2: “That the Committee be charged to provide a modern composting facility for the recycling of garden and

green waste by 2007.” During that debate the States specifically rejected an amendment of Deputy Duhamel which sought to widen that paragraph to include food composting. So the proposition of the Connétable can only therefore be interpreted to refer to the technology necessary to undertake the composting of green and garden waste in accordance with the existing decision of the States. Now the States are, of course, free to amend or rescind their decision of 13th July on a proposition brought by any Member for that purpose. In addition, the Environment Scrutiny Panel has as one of the terms of reference of its current Waste Management Strategy Review to examine existing technology for the treatment of food waste with the green waste in a composting facility. So to summarise, it is of course if a Member wishes to widen composting to include food composting then he or she may bring a proposition to that effect to amend or rescind the existing decision. Or if no such proposition is brought, when eventually the Minister brings the matter back before the Assembly and if somebody at that stage thinks that it ought to be widened I suppose they could vote against the propositions then brought forward, although that would clearly leave the States at that stage with no composting proposition. But, as I say, the right course is to lodge a standalone proposition at some stage if that is what is required. But this proposition cannot be used as a means of rescinding the existing decision of the States. So technology in the context means simply technology to achieve a resolution which the States have already agreed. So I hope that that clarifies matters.

6.1.2 Deputy P.V.F. Le Claire:

Can I raise a concern that I have in relation to this decision and the air of misunderstanding that might prevail and the position that you are trying to clarify for us now? The Solid Waste Strategy: as you say the decision taken by the States was based upon this Solid Waste Strategy. Within the Solid Waste Strategy it does say: “A green composting site at 7.3 that will take into account the expansion to accommodate food waste in the future would the health conditions be ameliorated.” So it does actually say that within the Strategy. The other point I would like to make, Sir, is that whilst we did reject Deputy Duhamel’s proposition in the last Assembly, Deputy Duhamel’s proposition was actually time-related and he actually set a time in relation to his proposition. It was not necessarily the idea behind the consideration of processing food waste because that is within the Strategy as a possible future consideration, but it was the time level that had been pointed out by Deputy Duhamel that was rejected.

The Deputy Bailiff:

Thank you, Deputy, but the ruling remains the same.

The Connétable of St. Helier:

I believe I was actually *in media res* when the debate was deferred last time. That being the case the Minister has indicated he is willing to accept my proposition, given the definition that you have clarified for us. I am prepared to accept an intervention from the Minister if he wants to make one before continuing.

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

I thank the Connétable for allowing me to make an intervention. Thank you, Sir, for your words today and may I also express my thanks to the Bailiff who last week as president of the Assembly hosted extremely useful negotiations between myself and the Connétable of St. Helier and I believe we both have now a clearer understanding of the scope of the proposition and in the light of the president’s ruling on the narrower interpretation of P.31/2006 I am now happy to accept the proposition of the Connétable of St. Helier.

6.1.4 The Connétable of St. Helier:

That being the case could I finish my proposing and then subject to there being no one who wants to speak at length, Sir, then we may move quickly to a vote? Just to finish off, I want to thank the

Minister very much for accepting the proposition. Of course the key thing he has accepted is that the location of the permanent composting site we brought to the Assembly for a decision, and in the narrower sense having done his work on his preferred technology for green waste composting he will be coming back to the House with his preferred technology. What that means, I believe, Sir, is the States will retain sovereignty over this very important strategic decision which will have an impact, there is no doubt, on the larger issues of what energy for waste plant is selected for the Island, and I look forward to working hopefully with the Minister as he pursues this. We have been reminded this morning that Scrutiny is also going to re-examine the whole issue surrounding waste and I think that is timely and, indeed, necessary the way things are moving very quickly in the industry as a whole. I did say "if" in my report about food composting and I think some Members and certainly perhaps some members of the Minister's department thought that the proposition was requiring food composting to be agreed completely. I also note with pleasure that the Minister last time gave an apology to the Parish of St. Helier for foisting, or not him but a previous Committee, for foisting a composting facility on the residents without so much as a phone call to the Parish. What I would like to say in concluding is that this year at La Collette if there are nuisances that can be traced definitely to the operation of the composting site, however marvellous the product that is being produced is, then I will be certainly taking every step I can to make sure that that site is stopped from operating if it is causing a nuisance because I do not believe it is acceptable that that should have been started in the first place, and I certainly do not believe it should continue this year if it causes nuisance and stress to the residents of St. Helier, and with that I make the proposition.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] In the light of the Minister's intervention does any Member wish to speak on the proposition?

6.1.5 Senator J.L. Perchard:

May I just say something briefly? I wonder if the Minister would agree that this subject is now reaching a point of fever pitch and that there is genuine concern about the location of composting sites, and would he use any time he has between now and the time of the debate to look at alternative sites outside of the Parish of St. Helier for locating a composting site?

6.1.6 Senator P.F.C. Ozouf:

I hesitate to rise just to say one thing because the Constable slipped in, in his opening remarks, a rather astonishing thing and that was the suggestion that he would be attempting to shut down the composting facility at Havre des Pas or on La Collette II if there were smells. Sir, I think that the Constable needs to consider his words carefully and he needs to consider withdrawing that suggestion. Is it not the case, and would he not agree in summing-up, is it not the case that we need to deal with this issue by a new composting facility which deals with this issue once and for all, and promising the residents of Havre des Pas, who are troubled by seaweed smells and the composting facility that is in the area, promising that a magic wand could be waved - just as Deputy Le Claire did in the election campaign and his proposition that lies before the Assembly - is irresponsible. What we all need to do is to unite behind the Transport and Technical Services Minister and solve the problem once and for all. I know that this issue could have been dealt with very quickly but he made some comments in his opening remarks in his, I thought, responsible position that he has taken with the Transport and Technical Services Minister, who had already conceded that he was going to bring this matter to the Assembly for determination on the site, but I am afraid his remarks about promising a shut-down simply are not fair to the people of Havre des Pas or the Minister himself.

6.1.7 Deputy J.A. Martin:

I actually was not really going to speak but I really cannot let that speech from the Senator go without some comment. The Senator has just said that it is not fair on the residents of Havre des

Pas that this facility may be shut down. In his former life as President of Public Services he stood before, Sir, 200 people at the Almorah Hotel and said if it was down to him they would not have both or all of Jersey's waste put at La Collette, yet when it was presented to the Council of Ministers, Sir, the Senator voted for all and everything to go on La Collette. So I really do not think that the residents of Havre des Pas can have any comfort in his words. I would support the Constable. The residents are troubled, and it is not just the smell, there is something down there that is making people very ill. So I am sorry, Sir, I support the Constable. I know that the debate will be held at another day but I had to mention that the Senator really does not have the interest of the residents of Havre des Pas at heart. What he said in the House today is completely different and his vote on the siting of the composting site was completely different as he promised over 200 people in a public meeting at the Almorah, and everybody there who has contacted me remembers his words. He can shake his head as much as he likes and have a memory lapse, I do not care, Sir, I know what he said.

6.1.8 Deputy G.P. Southern:

As a Deputy of St. Helier, I too rise to defend my Constable. He was absolutely and totally justified in saying what he did, that if there is a nuisance from that particular composting site he will act to have it closed down. He would be failing in his statutory duty if he did anything else to look after his parishioners.

6.1.9 Deputy J.B. Fox:

If I supported the Constable would he give assurance to do the same thing for the residents of Bellozanne in relation to sewage plants?

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

The motion has been accepted by the Minister, could we please get on with the vote?

6.1.11 Senator S. Syvret:

Yes, Sir, I do think some of the things that have been said need a response. We have to be quite clear about the scope and powers of the Statutory Nuisance Law. It will not, in fact, I think, empower the Connétable or anybody else to shut-down the composting operation because as long as the operation is adhering to best practice and all reasonable practical steps have been taken to minimise any smell or nuisance then it will comply with the standards required by the Law. So I think it is a forlorn hope to imagine that he will be able to shut the site down. I repeat the view expressed to me by the Health Protection Department and the Medical Officer of Health, there is no evidence of any ill health effects occurring as a result of the smells down at La Collette which do have various contributory causes, not just the composting. There is the seaweed issue as well. I think Members need to bring to mind the consideration of the whole Island community in this matter. It is natural enough of course that the Deputies who represent, perhaps, St. Saviour and St. Helier No. 1 district would fight vigorously against the siting of waste treatment plants down at La Collette, but the fact is we have to also consider the wider concerns of the Island as a whole, and the site that was proposed for the composting at Warwick Farm would, for example, have put this industrial operation a matter of a few metres away from people's homes - literally a few metres. It would have required earth banks, screening and all kinds of other interventions. A variety of homes and properties would have been affected with the composting site going right in amidst a residential area. That is also not to mention the fact that the land in question is Countryside Zone. Now, if the States Assembly itself cannot stick to its own Island Plan then really what authority do we have to actually require third parties to adhere to it? It is highly likely, in fact, that had the Warwick Farm site been pressed ahead by the Minister for Transport and Technical Services that it would not, in fact, have gained planning permission. The fact is the La Collette land reclamation site is an industrial site. It is the Island's heavy industrial zone; it has the fuel farm, the power station, and a whole range of other similar facilities taking place down there. There is no home

within 250 metres of where this plant is going to be sited. It is out of a residential area and it is not close - right up close - to people's homes as the Warwick Farm site would be. So I do hope, Sir, that Members of the Assembly when we have these seemingly unceasing debates about waste disposal will bear in mind the overall concerns of the whole Island and what is best for the whole community. The fact is La Collette, for good or ill, is there now and it is our major industrial site, and that is where industrial operations should go; not on Countryside zoned land, counter to the Island Plan, and not a matter of 3 metres away from a number of people's houses and properties.

6.1.12 Senator F.H. Walker:

Can I follow Senator Syvret and endorse much of what he said? There is, as he said, no evidence of adverse health risk. The health issue is not supported - raised by residents, who I have considerable sympathy with I have to say, but their health concerns are not supported by the evidence, and we do have to take into account, as Senator Syvret has said, the whole Island community. And the question I would simply put to the Constable is what powers - bearing in mind that there is no evidence to support the concerns on health - under what powers would he seek to close the site down? Would he accept the longer this debate goes on the worse it will remain for the residents of Havre des Pas because the new technology which will be considerably different will be delayed in coming in and that is not in any one's best interest. Finally, my question to him will be assuming he could shut it down what alternative proposal would he have to deal with the waste that is currently composted at La Collette, bearing in mind this is an Island-wide issue?

6.1.13 Deputy P.V.F. Le Claire:

I know that we would like to have agreed this but there have been a few kicks in the sides in relation to me speaking out - in particular from Senator Ozouf - about this issue prior to the elections as I was accused of being an electioneering Senator at the time. At the time I went along to meetings that were being held for the public to be apprised of the situations for the future by the Senator who gave - and I will concur with Deputy Martin - the assurances in the consultation that the proposed preferred site was an enclosed facility at Bellozanne. I also went along, not just taking on board the concerns of No. 1 district, I went on to take on board the concerns of the people in the Bellozanne district when I attended their meeting. I spoke out about the concerns I had in regards to the waste sewage facility, and I was shouted-down and ridiculed and brow-beaten as we so often see by Senator Ozouf in a way that was belittling of me, so much so that he came up and apologised for it afterwards in front of the public and told me that it was not the time nor the place to discuss sewage treatment. The issues in relation to the composting site at La Collette are ongoing. The examination of the health impacts are - in my view, when they refer to seaweed causing the contamination - questionable at least considering the Health Department has only just purchased the equipment to monitor and has yet to take that equipment out into the community to test it. I fully support the Constable of St. Helier in his bid to continue to represent the people of St. Helier in trying to seek alternative locations for the treatment of our hazardous and composting waste. In the future those issues may be best treated outside of St. Helier. That does not necessarily negate the fact that we are all trying to do the best for the Island and I wholeheartedly support him.

6.1.14 Senator B.E. Shenton:

I would just like to comment that I was disappointed with the report of the Health and Social Services on the impact of living down at Havre des Pas because it did not cover the psychological impact of waking up in the morning and opening your window and being treated to a foul stench, and I would like the Health Department to look at the psychological impact of living in an area where it is, in the summer months, absolutely unbearable.

Senator S. Syvret:

May I just say I am very happy to do that, but we equally have to take into account the psychological impact on people that would live 5 metres away from the other proposed site.

6.1.15 Deputy K.C. Lewis:

Even though this is basically a St. Helier problem, the smell and odour actually goes as far as St. Clement and St. Saviour. I have got a particular interest in this and I have been researching it. There is not just an odour problem but there is a potential fungal spore problem, I think it is called *aspergillums fumigatus*, with apologies for my dodgy Latin. This can affect people who have an immune deficiency, someone who is a very bad asthmatic or somebody who has had evasive surgery or chemotherapy. There can be a problem with respiratory things there. But unfortunately, like the problem with telephone masts, this hazard is - at the moment - unproven. But I would be very keen to look at this. There is a basic difference between the seaweed smell and the compost smell, and if anyone cannot tell the difference I would be more than happy to take them down and show them.

6.1.16 Deputy G.W.J. de Faye:

I think it appropriate if I do say a few words at this stage. First of all, after thanking all States Members for their contributions so far I would particularly like to pick on one from Deputy Ben Fox, and I think it is apposite and salutary because here we are discussing composting and the fate of La Collette but yet again the poor people of Bellozanne Valley who are stuck living next to our sewage system, the odious stench of which bears no comparison to what is emanating from Havre des Pas and their plight continues, and we do not hear much about that unfortunately. I want to put on record that my sympathy lies primarily with them and I do hope that after we have sorted out everything that may or may not happen on La Collette that States Members will think seriously about sorting out the terrible smells that emanate from the sewage works and then go down a very densely populated residential area. I have to say in response to Senator Perchard's question, as to will I look again at alternative sites, that I have already looked at a substantial number of sites - that is partly why we are having an argument over the last few weeks and today. I will continue to keep an open mind but clearly the Senator must bear in mind now that La Collette is the department's preferred site, but I will be getting information from Scrutiny - my critical friends on Scrutiny - who are looking at composting, and I am sure they may well devote their attention to that matter, and my mind remains open to the undoubtedly helpful advice I will be receiving from them. In respect of shutting down the composting plant I would remind Members of my response to a question from Senator Ben Shenton the other week where I had to say that I was unable to give a personal assurance on being able to shut the plant down. We do need a composting facility in this Island. I am afraid that is a matter of fact. But I do give this assurance, and that is - and I repeat it - the staff who work down there are not just diligent and conscientious but they take their job extremely seriously. So much so that they recently won an award for the product they produce, and they take extreme care that in all circumstances possible they ensure that the work that does produce the odour that the wind is blowing away from any residents of the Island, and it is only in exceptional circumstances that these instances occur. I would add to that, because it is a matter of some embarrassment to me, perpetuated on my political reputation by the local newspapers in writing-up the article relating to Senator Shenton. The headlines actually read: "Minister issues stark warning to residents. If it smells, hard luck." I am sure Members will know already but I wish to make it quite clear that at no time did I issue a stark warning. At no time have I said 'if it smells, hard luck.' I attempted to obtain redress from the local newspaper the next day but they refused to publish either an apology - not that I asked for one - or a correction. And I wish to assure, and perhaps Deputies of the relevant areas of St. Helier would convey to Havre des Pas residents that this is absolutely not my view at all. It is not a case of hard luck to the residents of Havre des Pas. In fact quite the reverse. I am attempting to fulfil promises made by the previous President of Environment and Public Services, Senator Ozouf, who said that he wished and the department wished to fix the problem of the smells down at Havre des Pas by establishing an

enclosed in-vessel composting facility as soon as was practically possible, and I can only say it is a matter of regret to me that for a variety of reasons - some perhaps necessary and some, I have to say, probably unnecessary - that entire process has been delayed. I apologise to Havre des Pas residents because the former President made his promise, I have done my best to try and push things along as fast and efficiently as I have been able, but I am afraid I have been thwarted in that and so be it. But let me make it quite clear, my sympathy lies with the people who suffer from smells and it is not a question of I think it is hard luck, quite the reverse. I do hope that I am the last speech - perhaps not Assistant Minister, very well - but I do hope that we have found a way forward here. I know that the Connétable of St. Helier and I have a much clearer understanding on things and I look forward to progressing these matters as diligently and expeditiously as possible.

6.1.17 Deputy J.J. Huet:

I promise mine will be short, Sir. I am not going to invite everybody home to where I live but I actually live by Bellozanne and I am well aware - I have lived there for quarter of a century, - of the smells and if anybody in this Chamber ever came round First Tower at 7.00 o'clock at night on a summer's evening they would not know what hit them. You do not even open your car windows if you pass through St. Helier at First Tower in an evening. And the only thing I would say, the sympathy does lie with our residents. They have put up with it for years and years and I cannot believe they have actually been as patient. They never ever moan. They must be the best people in the world, and nobody realises by having the sewage up there for the last whatever years - at least 25 - you have all got off very lightly. I would say, Sir, the point is now the Havre des Pas residents have got smells. Now if we had got on with this, which we have been trying to get on with, it would be finished at the beginning of next year. Not now it will not. Why not? Because we have delayed it. And we should be ashamed of ourselves because by delaying it we are making those residents go through exactly what First Tower residents go through every day of their life and for goodness sake let us stop wishy-washing about and get on with it.

The Deputy Bailiff:

I call on the Constable for reply:

6.1.18 The Connétable of St. Helier:

Seems we got our debate after all. I am just going to refer to you a couple of speeches, by no means all. I must of course challenge Senator Ozouf for saying that I was irresponsible in my opening remarks. I chose my words very carefully. I said that if there could be proven that there were harmful effects on residents then I would take action to have the current composting facility closed-down, and I thank the Deputies who spoke straight after to point out that, indeed, of course it would be my responsibility as Constable to do that and I would expect my 11 colleagues on these benches to do the same thing if composting had been visited upon their Parishes with no warning either. Senator Syvret: I want to take issue with some of his statements. First of all he appears to be pre-empting the outcome of his office's research - as Deputy Le Claire later pointed out they have only recently acquired the equipment you need to monitor the odours from the composting site anyway and I suspect this summer will be the first time that equipment is put to use, and I do not think it is right to say that, as he appeared to do, that there is actually nothing that can be done. If the Statutory Nuisance Law cannot protect residents from odours which can be shown to be harmful to our health then that Law needs to be changed. He asked us to focus on the needs of the whole Island community, and I believe that I have made it very clear in the report to my proposition that is exactly what I am doing. Composting and what we decide to do about it will have an impact on the whole waste strategy and that will affect the whole Island community. He opened up the debate about the best location and talked about Warwick Farm. Now I do not want to get into that debate today because that is not what this is about, but he did say, and I quote him: "This plant is going to be sited at La Collette" and I think that is unfortunate because we are agreeing by accepting this proposition that that decision will be brought back to this House, and I know the

Senator believes that the Assembly's decision should be paramount and it should not be pre-empted. Senator Walker reiterated that there is no evidence of harm. If there is no evidence of harmful effects then of course I would not be so foolhardy as to try to close the plant down, but if there is evidence of harm that step must be taken. I thank Deputy Lewis for his dodgy Latin, as he called it. Clearly it is so important if there are fungal spores that are coming off the site and harming the residents then one can only hope that the Environmental Department will take action to stop that happening. Deputy de Faye pointed out the Bellozanne Valley has odours as well, he said his sympathy was primarily with Bellozanne Valley but he later went on to correct that statement by saying that he, of course, would never have said like it or lump it to the residents of Havre des Pas, and I accept his assurances. Finally, Deputy Huet, his Assistant Minister, I think wrongly asserted that the debate we are having has delayed the new composting facility being permanently sited at La Collette. I do not think that is true. I know for a fact that enclosed composting facilities cannot be provided much more quickly than the timescale we are looking at, and in any case we were told at the last Sitting that the date the department are working on is September 2007, so I do not really see that her comments are well made. In any case, I would stand by the decision I have made to support Scrutiny in looking at this because I do believe that it has to be done. I am going to finish, I think, Sir, if you will allow me to, by probably infuriating Senator Ozouf - but that is always worth doing. **[Laughter]** You, Sir, passed on the Bailiff's helpful advice at the beginning of this resumption of the debate about the possibility of a Member bringing a rescindment if he or she felt that the Waste Strategy was not right, and I have to say - I am just going to have an apology here before I infuriate Senator Ozouf - I am going to apologise to a Member whom I ridiculed last July when the States debated the Waste Strategy. I refer to Deputy Duhamel. I likened him to the dreamer in Julius Caesar. Julius Caesar says: "He is a dreamer, let us leave him" and they pass by. If Deputy Duhamel had known his Shakespeare better, or if he had been quicker off the mark, he would have stood up and said, "Yes, Constable, but the soothsayer was right. The Ides of March was a bad day to go to the Senate." And I was, as I say, Sir, accepting that the received wisdom in July that what Deputy Duhamel was proposing was pie in the sky; it was ridiculous - 32 per cent recycling, absolutely fine; food composting completely *verboden*, cannot do that. And since then I have to say I have been away and I have seen a couple of reputable city councils doing some work on composting and it is with some sadness, and I know this will infuriate Senator Ozouf, that I have come to ask myself, is the States really going down the right road in what it is planning to do with the Waste Strategy? Is it right that we are pursuing an extremely expensive incinerator, for that is what an EfW (Energy from Waste) is? Is it right that we are pursuing this course of action? It is going to be very expensive for the taxpayer, we are talking about nearly £80 million. Other authorities are backing away from the brink. Other authorities are looking at the large incinerator the Isle of Man has constructed and which is now having to burn an awful lot of stuff which might be recycled because it is probably too big for a recycling community. I want to ask States Members, what has happened to the Jersey that used to boast of its environmental best practice? When we put in our UV plant in the liquid waste in Bellozanne we had 'Surfers Against Sewage' surfing on our outfall. Do we want to be in the vanguard of environmental developments or do we want to be bringing up the rear? So, Sir, you offered us the possibility of a rescindment if we are not happy, well I believe Scrutiny are looking at the whole Waste Strategy. They are doing valuable work, and certainly I for one, if they come up with clear evidence that the Island in pursuing a 32 per cent recycling target and one which effectively prevents us from looking at any advance composting options, I will certainly support a rescindment motion if I do not bring it myself. Thank you, Sir, and I make the proposition.

Senator P.F.C. Ozouf:

There was an important question the Constable was asked to answer in his summing-up, and we have also been treated to a treat in relation to his views on waste. But actually he was asked what would happen with the compost? What would happen with the waste that went into the compost if

he succeeded in shutting-down the composting facility, the most important issue which he failed to answer?

The Connétable of St. Helier:

What happened to it 100 years ago I would suggest. It seems to me that the question is not of my choosing. If the Minister's department is doing something which is proven to be against the Nuisance Law then it will be up to his department to take steps to resolve the matter.

The Deputy Bailiff:

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

6.2 Draft States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, PAC and PPC) (Jersey) Regulations 200- (P.15/2006).

The Deputy Bailiff:

We come next to the Draft States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, PAC and PPC) (Jersey) Regulations 200- (Projet 15) in the name of the Privileges and Procedures Committee, and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, PAC and PPC) (Jersey) Regulations 200-. The States, in pursuance of Article 48 of the States of Jersey Law 2005, have made the following Regulations.

The Deputy Bailiff:

President, are you proposing this?

6.2.1 Connétable D.F. Gray of St. Clement:

In proposing this projet I would like to start by reminding Members of some words from the Clothier report on the Machinery of Government in Jersey. It said that Scrutiny would be an important function for those Members of a reconstructed States of Jersey who are not in Executive posts. The report went on to recommend the setting up of 3 or 4 Scrutiny Committees to cover between them the whole range of government functions. This was achieved when the Assembly passed the Standing Orders for the States of Jersey which also set up the Privileges and Procedures Committee, the Public Accounts Committee and the 4 Scrutiny Panels. There is just one other quote that is particularly relevant to the proposition in front of Members today. Such Committees - and here the report is referring to Select Committees but I think you can safely assume that the word "Panels" can easily be substituted - such Committees usually have extensive powers to summon Ministers and civil servants. They can call for papers and persons to enable them to conduct a well-informed audit of any area of government action. This proposition gives the various bodies powers to call for any paper that they deem essential to their investigation. Article 49 of the States of Jersey Law 2005 gives the States the power to make Regulations to confer powers on a Committee or Panel established by Standing Orders to require any person to appear before it and give evidence and produce documents to it. It also confers immunity on any person appearing before those bodies established by Standing Order from civil and criminal proceedings the words spoken before or in a written report submitted to the Committee or Panel. In saying this I do not envisage that these powers will be evoked very often. It is there as a safety net for bodies to ensure that they work in the interest in the public, the people we all serve as Members of this Assembly. At this stage I should point out that the States have already agreed the Panels and Committees should have extensive powers to obtain evidence that is relevant to their reviews. It is common practice in parliaments around the world to grant these powers. Members of this Assembly, and by

extension Ministers, are not covered by these Regulations as they are already covered by the Code of Conduct which is part of Standing Orders. Nevertheless Panels should not try to use these Regulations to get behind the Minister by demanding papers from the departmental offices. Panels would be examining the policy of the department which is the responsibility of the Minister and no-one else. The Regulations are aimed to give the Panels the armoury to require outside bodies to produce people and documents to enable the Panel to work effectively. PPC (Privileges and Procedures Committee) have consulted the Chairman's Committee and other Scrutiny Panel Members when formulating these Regulations and are grateful for their comments which have led to the lodging of a small amendment. The drafting of these Regulations have taken longer than originally intended because of the need to seek extensive legal advice and provision. There is a need to carefully balance the need to ensure Panels and the PAC (Public Accounts Committee) can operate effectively whilst not unduly affecting the rights of individuals who are called to give evidence. Thanks must be extended to the Law Officers' Department for all their help in the final draft of the Regulations, and I would like to propose the adoption of the citation of Regulations.

The Deputy Bailiff:

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

6.2.2 Senator P.F.C. Ozouf:

I want to say as a Minister I completely agree with the Regulations that are being proposed and the spirit of them. These are massively important powers given to the Scrutiny Panels. They are powers similar to those powers that have been given to bodies such as the JFSC (Jersey Financial Services Commission) and the JCRA (Jersey Competition Regulatory Authority). They are powerful and I express the hope that Scrutiny will use them carefully and judiciously in the way that they operate them. I do have one question and that is in relation to the powers - and maybe the President would like to comment on this in the Regulations - I understand there is the outstanding issue of legal advice. What about the issue of calling a witness to deliver legal advice out with the decision of the Council of Ministers and further Regulations? I am not sure that I understand whether or not legal advice would be covered by this potentially.

6.2.3 Deputy R.C. Duhamel:

I welcome the set of Regulations. They will endeavour to give the Scrutiny Panels some teeth and in being given teeth - assuming these Regulations go through - we will actually ensure that we do take care when biting people.

The Deputy Bailiff:

I call upon the Connétable to reply.

6.2.4 The Connétable of St. Clement:

I would like to thank Senator Ozouf and Deputy Duhamel for their contributions. I must admit that I would have to ask legal advice whether that is covered or not. Probably the Solicitor General could comment on that.

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

There are 2 sorts of legal advice which the Scrutiny Panel might potentially be looking, and that is the legal advice previously given to the Ministers or the legal advice which the Scrutiny Panel itself wishes to have on the aspects before it. Taking the second one first, so far as giving legal advice to a Scrutiny Panel is concerned on a matter on which the Panel wants evidence, the rules refer to requiring persons to appear to give evidence, and I do not think legal advice is evidence, but I have to say as a Law Officer that the idea that we would ever be in a position of saying we had to be compelled by a summons to appear and give evidence to any manifestation of any part of this

Assembly is one that I find novel and strange. I hope it is not the way the Members see the Law Officers. As regards the matter of advice previously given to the Ministers, the answer is that there is among the various matters covered a reference that evidence or documents are privileged - that is in 6 - which is challenging a summons. One of the manifestations privilege can take is legal privilege so that if there is an issue as to legal privilege it is covered by Regulation 6.

The Connétable of St. Clement:

I would like to thank the Solicitor General for that reply. I must admit I was thinking that the Senator was referring to bringing in legal opinion rather than questioning the Attorney General or the Solicitor General.

The Deputy Bailiff:

So you are asking about legal advice given to private citizens?

6.2.6 Senator P.F.C. Ozouf:

For the avoidance of doubt I was in no way suggesting that the Solicitor General or Attorney General would be summoned under these. It was simply the written legal advice that a Minister had received, and the Solicitor General has helpfully pointed to Regulation 6 so I will sit down and ask a further clarification on that when the time comes.

6.2.7 The Deputy Bailiff:

All those in favour of adopting the principle of the Regulations kindly show. Those against? The principle is adopted. Now, Chairman, how do you wish to proceed? You are not proceeding, I understand, with Regulation 3, is that right?

The Connétable of St. Clement:

That is correct, Sir.

The Deputy Bailiff:

The Greffier has reminded me to ask whether this is to be referred to Scrutiny or not?

6.2.8 Deputy P.J.D. Ryan, Chairman of the Corporate Scrutiny Panel:

No, thank you, Sir. We are quite happy with it.

The Deputy Bailiff:

Chairman, I understand you are not proposing to proceed with Regulation 3, is that right?

6.2.9 The Connétable of St. Clement:

That is correct. I would like to suggest that Regulations 1 and 2 are taken together. Regulation 1 says that the expression used in Regulations of the same meaning as those defined in the Standing Orders. This means, for example, the PAC as referred to in the Regulations is defined as set out in the Standing Orders. Regulation 2 contains an important restriction, namely that Regulations do not confer powers to some of the States Members. As the work of the PAC and the Panel is a parliamentary function it is only appropriate that Members co-operation with them is enforced, if necessary through parliamentary procedures and not through the Courts which would interfere with the privileges and autonomy of the States, I propose Regulation 1.

6.2.10 The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on either Regulations 1 or 2? All those in favour of adopting those 2 Regulations kindly show. Those against? Regulations 1 and 2 are adopted. Now I think you are not proposing Regulation 3 but there is an amendment by your Committee to Regulation 6, is that right, which is consequential?

The Connétable of St. Clement:

That is quite so, Sir.

The Deputy Bailiff:

May I suggest that you propose Regulations 4 to 11 but it being understood that you are proposing Regulation 6 in its amended form?

6.2.11 The Connétable of St. Clement:

That is correct, Sir. Regulation 4 makes it clear that a voluntary process must be followed before the powers are revoked. Experience in other jurisdictions show that the powers need to be evoked only very rarely, that they merely exist is usually sufficient to ensure compliance with requests. Regulation 5 sets out how a summons is actually served. Regulation 6 sets out the method of challenge; the PPC receive advice that the mechanism of the review of service of summons must be available if human rights compatibility is to be achieved. That is amended by deleting paragraph 6(1)(a). Regulation 7 sets out how PPC will review a challenge. It must do this as soon as practical. PPC have received advice that these words mean exactly what they mean. It is not as soon as the Committee wants to. It must be done as soon as it is practical to do so. PPC will have to give these matters the high priority and meet quickly to start the process. Regulation 8 sets out that a witness can challenge a question during a hearing, the grounds are similar to the grounds for challenging a summons and the review procedure by PPC is identical. Regulation 9 gives important protection to persons appearing before Panels for the PPC. It is effectively protected against any legal action in respect of what they say or in relation to any document produced. This is not dissimilar to the protection given to Members of the States and the Chamber or in a Panel or Committee meeting. Regulation 10, as explained in Regulation 2, Members of the States are protected from legal proceedings in relation to their work on a Panel or the PAC. This Regulation extends the protection to the unelected members of the PAC. These are currently 5 unelected members. Regulation 11 makes it clear that the powers confirmed on Panels through these Regulations can be extended and used by Sub-Panels or by one member of a Panel formally appointed by the main Panel to undertake a particular view although this power, if extended, the summons would need to be issued through the main Panel. I propose the adoption of Regulations 4 to 11, Sir, and Regulation 6 as amended.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on those Regulations?

6.2.12 Senator P.F.C. Ozouf:

Could I just seek some clarification and I offer no... I think these Regulations are absolutely right and the full powers must be given to Scrutiny Panels, et cetera - no hesitation there at all. I just want to ensure that there is clarity in terms of what the powers actually are in relation to legal advice given to a Minister or, indeed, an individual? I would be most grateful if the Solicitor General could comment or confirm or otherwise whether or not legal advice is, as in general course, privileged information? Because if it is not then there may be a problem in my view, if it is then the problem falls away.

6.2.13 Miss S.C. Nicolle, Q.C. (H.M. Solicitor General)

Yes, legal advice is covered by privilege.

The Deputy Bailiff:

Does any other Member wish to speak?

6.2.13 Senator S. Syvret:

I just ask for some clarification concerning Article 9 which says that: “1. A person asked or required to give evidence or produce documents before Scrutiny Panel or the PAC shall be entitled in respect of such evidence and documents to legal professional privilege and privilege against self-incrimination.” If my understanding of that is correct somebody could appear before Scrutiny Panel, effectively confess or have drawn out of them they had committed some kind of possibly quite serious criminal offence but they would then be completely immune from action for that offence. Is that interpretation correct?

The Deputy Bailiff:

Does any other Member wish to speak? Very well, Chairman, do you wish to refer that last point to the Solicitor General?

The Connétable of St. Clement:

That would be the safest procedure, Sir.

6.2.14 Miss S.C. Nicolle, Q.C. (H.M. Solicitor General)

The operation of Regulation 9 insofar as it relates to self-incrimination is that if a witness is asked a question and the answer to that question would, in his opinion, expose him in some way to make it clear that he had committed some criminal act then he could decline to answer it, in the same way as a person who is being interviewed by the police has a right to silence. So similarly he would have a right to silence. Perhaps it might be helpful if I went on to Regulation 10; if somebody inadvertently does go on and given an answer which shows that he has committed a criminal offence he is nevertheless... sorry, it is not 10. There is a provision further on where people are protected from proceedings brought against them by reason of what they have said - sorry, it is paragraph 2 of 9 - that an answer is not admissible in evidence in civil or criminal proceedings so that the witness can either decline to answer the question saying self-incrimination or he can answer it but then he cannot be prosecuted.

The Deputy Bailiff:

Anything else you wish to say in reply?

6.2.15 The Connétable of St. Clement:

No, Sir.

6.2.16 The Deputy Bailiff:

All those in favour of adopting Regulations 4 to 11, including 6 as amended, kindly show. Those against? Regulations 4 to 11 are adopted. Do you wish to then propose the remaining Regulations?

6.2.17 The Connétable of St. Clement:

These Regulations which form part 3 of the Regulations refer to the powers available to PPC when investigating a breach of the Code of Conduct. It is important to note that Regulation 12 makes it clear that the powers are only conferred in this very narrow context. In addition, the States Members are excluded from the scope of these Regulations; the power would only be needed if it was necessary to obtain evidence during an investigation relating to a person who is not a States Member. This could be the case, for example, if a member of the public was a witness to some alleged wrongdoing by a States Member hesitant to co-operate with a Code of Conduct investigation. The operation of this part is largely similar to provisions already agreed to in part 2 so they are probably not necessary to go through in any detail. Regulation 13 refers to the steps to seek voluntary co-operation must be followed. First, Regulation 14 explains how a summons is served. The grounds for challenge in Regulation 15 mirror the provision for Scrutiny Panels and the PAC. As PPC cannot review its own summons, an *ad hoc* Panel of senior Members would be established to review a challenge under Regulation 16, and Regulation 17 mirrors the earlier

provisions on challenging a question asked by the PPC during a hearing relating to the code of conduct investigations. Witnesses appearing before the PPC for these purposes are given immunity under Regulation 18. In addition, the Standing Order allows PPC to use a Panel, one elected member and 2 persons who are not Members of the States, to undertake initial investigation of the Code of Conduct breach, Standing Order 157. There is a provision through Regulation 19 for these unelected people to be given similar immunity to that granted by Regulation 10 to the unelected members of PAC. Similarly the investigation Panel is able to ask PPC to exercise its powers of summons on behalf of the Panel to the operation of Regulation 20. Sir, I propose the adoption of Regulations 12 to 20.

6.2.18 The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak upon any of Regulations 12 to 20? All those in favour of adopting those Regulations kindly show. Those against? Regulations 12 to 20 are adopted. Do you propose the remaining Regulations then? Are they seconded? **[Seconded]** Does any Member wish to speak on any of Regulations 21 to 24? All those in favour of adopting those Regulations kindly show. Those against? The Regulations are adopted. Do you propose the Regulations in Third Reading? Seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting the Regulations in Third Reading kindly show. Those against? The Regulations are adopted in Third Reading.

6.3 Legislation Advisory Panel: appointment of members (P.32/2006)

The Deputy Bailiff:

We come finally to the Legislation Advisory Panel appointment of members, Projet 32, in the name of the Chief Minister and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether of opinion to appoint the following persons as members of the Legislation Advisory Panel - Senator James Leslie Perchard, Senator Ben Edward Shenton, the Connétable of St. Clement and the Deputy of St. John.

6.3.1 Senator F.H. Walker:

The Legislation Advisory Panel has been set-up following obviously the change to Ministerial government and it was agreed that the previous Legislation Committee should remain in place during the transitional period before that came into being and that consultation should take place between that Committee and others on the nature of the Legislation Advisory Panel. That consultation did, indeed, take place and it was agreed that these matters should become the responsibility of the Chief Minister and that the Advisory Panel should be appointed to advise the Chief Minister on these matters. Although there is no requirement to bring the appointment of members to the States I felt that it was an appropriate thing to do and I am pleased to nominate for the panel Senator James Perchard, Senator Ben Shenton, Connétable Derek Gray and the Deputy of St. John, Deputy Andrew Lewis. I am particularly pleased that the Connétable of St. Clement has agreed to be nominated as a Member because he was, of course, the President of the previous Legislation Committee and his experience and knowledge will, I know, be invaluable to other members of the Panel. I am also very pleased and grateful that 3 new Members of the States, Senators Perchard and Shenton together with the Deputy of St. John have allowed their names to go forward for this role. It is proposed that the Advisory Panel will meet on a regular basis to consider matters that were formerly dealt with by the Legislation Committee and these include legislation relating to the Courts and court procedures, probate, wills and succession, and customary law. And it is of course envisaged that any recommendations from the Panel which are forwarded to the Chief Minister will be brought to the States as appropriate. Sir, I nominate the 4 Members in the proposition.

The Deputy Bailiff:

Is that seconded? [Seconded] Does any Member wish to speak?

6.3.2 Deputy J.A. Martin:

Members will probably see that I did put in some written questions. I was surprised to see this proposition coming forward. To me it is going back to basically... It is called a Panel: it is a Committee. My questions have been basically answered but I want to know a regular basis, actually how often will this body meet? What is the budget? I know it is being supplied by the Chief Minister's office. And can this independent Advisory Panel give advice to Scrutiny Panels on legislation or is it just to report to the Chief Minister? It has also been confirmed that both the Attorney General and the Law Draftsman have time to attend Panel meetings regularly and they will not need to employ more staff. I find this very, very hard to accept because even on both of the Scrutiny Panels I serve on we seem to await a very long time for written legal advice and attendance by either the Attorney or Solicitor General, so which will come first, the Legislation Advisory Panel or Scrutiny Panels? Again, the budget is coming from the Chief Minister's. It said that the Members have been nominated by the Assistant Chief Minister, the Connétable of St. Ouen, and that the Chief Minister is happy to endorse him, apparently from non-Executive and Executive. Well 2 names are not - which is very unfortunate, which is not either of the Senators' fault - really either on the Executive or Scrutiny because they do not have a position on either. The Constable of St Clement is on PPC and the other member is an Assistant Minister. Now I really have a problem with Deputy Troy's amendment that keeps the non-executive arm of government in the majority. I find - if this Panel is only to report to the Chief Minister, the budget is completely provided by the Chief Minister and that the Scrutiny Panels do not have any access to the Legislation Advisory Panel - it will put these Members in a very precarious position. They will be reporting to only the Executive side of government, and as I say, Sir, this is why I put these questions in: not for oral answers, but I hope the Chief Minister will answer. As it stands I will not support this Advisory Panel being set up and I hope that the Chief Minister could answer these questions and maybe bring it back revised.

The Deputy Bailiff:

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

6.3.3 Senator F.H. Walker:

I think Deputy Martin is getting completely the wrong end of the stick as far as this Advisory Panel is concerned. It is purely there to advise on matters of law. It is not a Committee, it takes no decisions, it merely offers advice. As I said in my introduction, that advice will be included in propositions put to this House as appropriate. How often will it meet? Yet to be decided. It will meet as it is necessary to meet to advise me on the matters within its remit. Its budget has actually been set, and this is of course already in the public domain, the budget for the Legislation Advisory Panel is £32,571 plus a further £16,829 for the Law Commission, giving a total allocation of £49,400. As I said in my proposition, the Panel is set up to advise me on the matters within its remit. It will not require any additional staff. The Law Officers will attend as appropriate and, of course, there is no question of the Law Officers deciding which comes first, the Advisory Panel or Scrutiny. They will, of course, have to meet the needs of both and we should not be setting one up, if you like, as Deputy Martin seems to be suggesting they are in competition with the other, because they very clearly are not. That is a complete misconception. And, Sir, there is no question therefore of the members of this Panel being in a precarious position as Deputy Martin has referred. So, Sir, in conclusion I did actually omit to mention the Connétable of St. Ouen who has agreed, and I am very grateful to him, to Chair the Advisory Panel and I would like to make good that omission right now. I am very grateful to all members of the Panel, I maintain the proposition.

6.3.4 The Deputy Bailiff:

All those in favour adopting the proposition... Did someone call for the Appel? The Appel is called for. So the matter is pour or contre the proposition of the Chief Minister and the Greffier will open the voting.

POUR: 43		CONTRE: 3		ABSTAIN: 0
Senator S. Syvret		Deputy J.A. Martin (H)		
Senator L. Norman		Deputy G.P. Southern (H)		
Senator F.H. Walker		Deputy S. Pitman (H)		
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator M.E. Vibert				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Saviour				
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. John				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy J.B. Fox (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.P.A. Power (B)				
Deputy A.J.H. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				

Deputy I.J. Gorst (C)				
Deputy of St. Mary				

WITHDRAWAL OF LODGED PROPOSITIONS

7. Draft Restriction on Smoking (Amendment No. 2) (Jersey) Law 200- (P. /2006)

7.1 Senator S. Syvret:

I wonder if I may seek the indulgence of the House. Members will have just had handed around to them a second draft of the Draft Restriction on Smoking (Amendment No. 2) (Jersey) Law. Members will recollect that a copy of this Law was lodged on 28th March. Unfortunately that was an early version that was sent to the printers and as a result that copy has some important text missing from it so I would seek the agreement of the House to withdraw the draft restriction on Smoking (Amendment No. 2) (Jersey) Law that was lodged on 28th March and replace it, Sir, with the new corrected version which is before Members now lodged on 4th April?

7.2 The Deputy Bailiff:

So the earlier draft is withdrawn and the present...

Deputy P.N. Troy of St. Brelade:

Sir, should not the proposition be marked as an amendment to the original or reissue?

The Deputy Bailiff:

I think it is a new projet number. So that is now lodged.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

8. The Deputy Bailiff:

The list has been included on the Order Paper. Chairman, do you wish to speak to it?

8.1 The Connétable of St. Clement:

Just to say that that is the list that is on the consolidated Order Paper that was issued this morning and I propose the adoption of it.

8.2 The Deputy Bailiff:

25th April is the next one, how many days business do you foresee?

8.3 The Connétable of St. Clement:

I was advised, Sir, that as long as it falls within the 3 days I do not need to give any advice on that.

8.4 Deputy G.P. Southern:

May I seek permission from the House to withdraw the Draft Employment Relations (Amendment) (Jersey) Law 200- (P.5/2006) lodged by me? I am in the middle of discussions with the Employment and Social Security Committee Minister to further amend that to give the right to recognition to companies of 21 and over employees. There are some problems, I understand, with drafting that amendment and so they need further time to amend.

The Deputy Bailiff:

Are you seeking to withdraw Projet 5 or to just...

Deputy G.P. Southern:

To postpone it, Sir. A fortnight will do I think.

The Deputy Bailiff:

So you want to move it to the date 2 weeks later?

8.5 The Connétable of St. Helier:

I have a highly controversial amendment to P.20 - the Bailiff's Consultative Panel, and as I will be out of the Island on States business the next sitting I would ask that it is deferred until the following meeting?

The Deputy Bailiff:

You want to move that to the following meeting.

Senator M.E. Vibert:

Sorry, Sir, on that one that is an amendment, I think Privileges and Procedures would have to agree to the deferral?

The Connétable of St. Clement:

I would be quite prepared to agree.

8.6 Senator F.H. Walker:

Sir, can I just query through you with the Assistant Minister of Home Affairs whether in fact P.196 - the Draft Sexual Offences (Jersey) Law 200- will be coming to the States on 25th April?

The Deputy of St. John:

That is still in question and we will inform the House as soon as we possibly can via the Greffier. It is not perfectly clear yet as to whether the Law Trust will be presented at the same time. At the moment it would appear that would not be the case and some Members have requested that that should be the case, therefore we are reviewing as to whether we should present it that day or not, an announcement will be made very, very shortly.

Senator F.H. Walker:

Could I suggest in that case that in fact we take it off the list for 25th April because Members need to know whether it is going to be debated in plenty of time and we provisionally might wish to add it to the list for 16th May?

The Deputy of St. John:

I would suggest that that is a good decision, Chief Minister. I accept that as a proposal.

8.7 The Deputy Bailiff:

So the draft Sexual Offences Law is also moved to 16th May. Any other points? So subject to those amendments, moving those 3 matters, that is Projet 196, Projet 5 and Projet 20 to 16th May the list is approved.

ADJOURNMENT

The Deputy Bailiff:

The States formally stands adjourned until this coming Friday (7th April 2006) at 9.30 a.m.