

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 20th NOVEMBER 2007

CONTENTS

QUESTIONS.....	7
1. Written Questions	7
1.1 TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY DEPUTY S.S.P.A. POWER OF ST. BRELADE REGARDING MRI SCANS:	7
1.2 TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES BY DEPUTY P.V.F. LE CLAIRE OF ST. HELIER REGARDING COMPOSTING COSTS:	7
1.3 TO THE MINISTER FOR SOCIAL SECURITY BY DEPUTY J.A. MARTIN OF ST. HELIER REGARDING COST OF DOCTORS' VISITS AND PRESCRIPTIONS:.....	8
1.4 TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY P.V.F. LE CLAIRE OF ST. HELIER REGARDING THE STRATEGIC RESERVE:.....	9
2. Oral Questions.....	9
2.1 Deputy R.G. Le Hérisier of St. Saviour of the Minister for Planning and Environment regarding the structures and processes in place to ensure that the Minister and the Planning Department operated at arm's length from developers promoting the development of sites on the Waterfront:.....	9
Senator F.E. Cohen (The Minister for Planning and Environment):.....	9
2.1.1 Deputy R.G. Le Hérisier:	9
2.1.2 Deputy J.G. Reed of St. Ouen:	10
2.1.3 Deputy R.G. Le Hérisier:	10
2.1.4 Deputy P.V.F. Le Claire of St. Helier:	10
2.1.5 Deputy R.G. Le Hérisier:	10
2.2 Deputy J.A. Martin of St. Helier of the Minister for Social Security regarding the Ministers' Guide to Income Support circulated to members on 25th September 2007: ..	11
Senator P.F. Routier (The Minister for Social Security):	11
2.2.1 Deputy J.A. Martin:	11
2.2.2 Deputy G.P. Southern of St. Helier:	11
2.2.3 Deputy G.P. Southern:	11
2.2.4 Deputy J.A. Martin:	12
2.2.5 Deputy G.P. Southern:	12
2.2.6 Deputy G.P. Southern:	12
2.2.7 Deputy J.A. Martin:	12
2.3 Deputy P.V.F. Le Claire of the Minister for Economic Development regarding what measures, if any, were being taken by Economic Development to improve the employment prospects of the unemployed in Jersey:	13
Senator P.F.C. Ozouf (The Minister for Economic Development):.....	13
2.3.1 Deputy S.C. Ferguson of St. Brelade:	13

2.3.2 Deputy R.G. Le Hérisier:	14
2.3.3 Deputy K.C. Lewis of St. Saviour:.....	14
2.3.4 Deputy P.V.F. Le Claire:	14
2.4 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding the number of staff required to support the Director to the Civil Aviation Authority and the annual overall staffing and administration costs:	15
Senator W. Kinnard (The Minister for Home Affairs):.....	15
2.4.1 The Deputy of St. Martin:.....	15
2.4.2 Deputy R.G. Le Hérisier:	16
2.4.3 Deputy S.C. Ferguson:.....	16
2.5 Deputy G.C.L. Baudains of St. Clement of the Minister for Health and Social Services as to whether any concerned parent had contacted him alleging gross professional misconduct by the Children’s Service:	16
Senator B.E. Shenton (The Minister for Health and Social Services):.....	16
Senator J.L. Perchard (Assistant Minister for Health and Social Services - rapporteur):	16
2.5.1 Deputy G.C.L. Baudains:.....	16
2.5.2 Deputy P.V.F. Le Claire:	17
2.5.3 The Deputy of St. Martin:.....	17
2.5.4 Deputy R.G. Le Hérisier:	18
2.5.5 Senator S. Syvret:.....	18
2.5.6 Deputy G.C.L. Baudains:.....	18
2.6 Deputy K.C. Lewis of the Minister for Economic Development regarding the potential relaxation of the Regulation and Undertakings Law to enable small local businesses to take on more staff:	19
Senator P.F.C. Ozouf (The Minister for Economic Development):.....	19
2.6.1 Deputy K.C. Lewis:	19
2.6.2 Deputy G.P. Southern:	20
2.6.3 Deputy G.P. Southern:.....	20
2.7 Deputy S. Power of St. Brelade of the Minister for Economic Development regarding the tendering process for the stevedoring contract at the Port of St. Helier:.....	20
Deputy A.J.H. Maclean of St. Helier (Assistant Minister for Economic Development - rapporteur):.....	20
2.7.1 Deputy S. Power:.....	21
2.8 Deputy S.C. Ferguson of the Minister for Planning and Environment regarding arrangements for disabled parking at the Weighbridge when the area was redeveloped: 21	
Senator F.E. Cohen (The Minister for Planning and Environment):.....	21
2.8.1 Deputy S.C. Ferguson:.....	21
2.9 Deputy R.C. Duhamel of St. Saviour of the Minister for Transport and Technical Services regarding the progress in finding alternative composting sites and the potential investigation of kitchen waste recycling systems:	21
Deputy G.W.J. de Faye (The Minister for Transport and Technical Services):	22
2.9.1 Deputy R.C. Duhamel:	22
2.9.2 Deputy R.C. Duhamel:	22
2.9.3 Deputy R.C. Duhamel:	22
2.10 Deputy R.C. Duhamel of the Minister for Treasury and Resources regarding advertising for further expressions of interest in the development of the Jersey College for Girls site:	23
Senator T.A. Le Sueur (The Minister for Treasury and Resources):	23
2.11 Deputy S. Power of the Minister for Economic Development regarding revisions to the Harbour and Light Dues (Jersey) Law 1947, as amended:	23
Deputy A.J.H. Maclean (Assistant Minister for Economic Development - rapporteur):	23
2.11.1 Deputy S. Power:	24

2.11.2	Deputy S. Power:	24
2.11.3	Deputy S. Power:	24
2.12	Deputy R.G. Le Hérissier of the Minister for Home Affairs regarding succession planning for the post of Police Chief:	24
	Senator W. Kinnard (The Minister for Home Affairs):	24
2.12.1	Deputy R.G. Le Hérissier:	24
2.12.2	Deputy J.B. Fox of St. Helier:	25
2.12.3	Senator S. Syvret:	26
2.12.4	Deputy I.J. Gorst of St. St. Clement:	26
2.12.5	Deputy J.B. Fox:	26
2.12.6	Deputy J.B. Fox:	26
2.13	Deputy G.C.L. Baudains of The Chief Minister regarding the route by which representations to the person chairing the enquiry into child protection in Jersey could be made:	26
	Senator F.H. Walker (The Chief Minister):	27
2.13.1	Deputy G.C.L. Baudains:	27
2.14	Deputy G.P. Southern of the Minister for Transport and Technical Services regarding the progress made in commencing the Millennium Town Park project:	27
	Deputy G.W.J. de Faye (The Minister for Transport and Technical Services):	27
2.14.1	Deputy G.P. Southern:	27
2.14.2	Deputy G.P. Southern:	28
2.14.3	Deputy G.P. Southern:	28
2.14.4	Deputy J.A. Hilton of St. Helier:	28
2.14.5	Deputy J.A. Hilton:	28
2.15	Deputy G.P. Southern of The Chief Minister regarding the 150 year leases to be granted on the new proposed Waterfront/Jardins de la Mer project:	28
	Senator F.H. Walker (The Chief Minister):	28
2.15.1	Deputy C.J. Scott Warren of St. Saviour:	29
2.15.2	Deputy G.P. Southern:	29
2.16	Senator S. Syvret of the Chief Minister regarding the enquiry being undertaken by Mr Andrew Williamson:	29
	Senator F.H. Walker (The Chief Minister):	29
2.16.1	Senator S. Syvret:	30
2.16.2	Senator S. Syvret:	30
2.17	The Deputy of St. Martin of the Minister for Home Affairs regarding the recent police investigation into the activities of the Customs Service:	30
	Deputy A.D. Lewis of St. John (Assistant Minister for Home Affairs - rapporteur):	30
2.17.1	The Deputy of St. Martin:	31
2.17.2	The Deputy of St. Martin:	31
2.17.3	Deputy R.G. Le Hérissier:	31
2.17.4	Deputy S.C. Ferguson:	32
2.17.5	Deputy S.C. Ferguson:	32
2.17.6	Deputy C.H. Egré of St. Peter:	32
2.17.7	Deputy R.G. Le Hérissier:	32
2.17.8	The Deputy of St. Martin:	33
3.	Questions to Minister without Notice - The Minister for Education Sport and Culture:	33
	33
3.1	Deputy I.J. Gorst:	33
	Senator M.E. Vibert (The Minister for Education, Sport and Culture):	33
3.2	Deputy J.A. Martin:	33
3.3	Deputy R.G. Le Hérissier:	34

3.3.1 Deputy R.G. Le Hérissier:	34
3.4 The Very Reverend R.F. Key, B.A., The Dean of Jersey:.....	34
3.5 Deputy G.P. Southern:.....	35
3.6 Connétable J.L.S. Gallichan of Trinity:.....	35
3.7 Deputy I.J. Gorst:	35
3.8 Deputy G.P. Southern:.....	35
3.8.1 Deputy G.P. Southern:.....	36
3.8.2 Deputy G.P. Southern:.....	36
3.9 Deputy R.G. Le Hérissier:	36
3.10 Deputy A.J.H. Maclean:	36

4. Questions to Minister without Notice - The Minister for Planning and Environment: **37**

4.1 The Deputy of St. Martin:.....	37
Senator F.E. Cohen (The Minister for Planning and Environment):.....	37
4.2 Deputy R.G. Le Hérissier:	37
4.3 Deputy G.P. Southern:.....	37
4.3.1 Deputy G.P. Southern:.....	37
4.4 Deputy J.B. Fox:.....	38
4.5 The Deputy of St. Martin:.....	38
4.6 Deputy R.C. Duhamel:	38
4.7 Deputy G.P. Southern:.....	38
4.8 Deputy J.A. Martin:.....	39
4.9 Deputy P.V.F. Le Claire:	39
4.10 Connétable G.F. Butcher of St. John:.....	39
4.11 Connétable M.K. Jackson of St. Brelade:.....	40
4.12 Deputy K.C. Lewis:.....	40

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY..... **40**

5. Statement by the Chief Minister regarding a partnership agreement with Ille et Vilaine..... **40**

5.1 Senator F.H. Walker (The Chief Minister):	40
5.1.1 Deputy I.J. Gorst:	41

PUBLIC BUSINESS..... **41**

6. Draft Income Tax (Amendment No. 29) (Jersey) Law 200- (P.156/2007)..... **41**

6.1 Senator T.A. Le Sueur (The Minister for Treasury and Resources):	41
6.1.1 Deputy P.J.D. Ryan of St. Helier:	43
6.1.2 Deputy G.P. Southern:.....	44
6.1.3 Senator J.L. Perchard:.....	45
Mr. W.J. Bailhache Q.C., The Attorney General:	46
Mr. W.J. Bailhache Q.C., The Attorney General:	46
6.1.4 Senator T.A. Le Sueur:	46
The Bailiff:.....	47
6.2 Senator T.A. Le Sueur:.....	49
The Bailiff:	49
6.3 Senator T.A. Le Sueur:	49
The Bailiff:.....	49
6.4 Senator T.A. Le Sueur:	49
The Bailiff:.....	50
6.5 Senator T.A. Le Sueur:	50

The Bailiff:.....	50
6.6 Senator T.A. Le Sueur:.....	50
The Bailiff:.....	50
6.7 Senator T.A. Le Sueur:.....	50
6.7.1 Deputy P.V.F. Le Claire:.....	51
6.7.2 Senator T.A. Le Sueur:.....	51
The Bailiff:.....	51
6.8 Senator T.A. Le Sueur:.....	51
6.8.1 Deputy P.J.D. Ryan:.....	52
The Bailiff:.....	52
6.9 Senator T.A. Le Sueur:.....	52
The Bailiff:.....	52
6.10 Senator T.A. Le Sueur:.....	52
The Bailiff:.....	52
6.11 Senator T.A. Le Sueur:.....	52
The Bailiff:.....	53
6.12 Senator T.A. Le Sueur:.....	53
6.12.1 Deputy P.V.F. Le Claire:.....	53
6.12.2 Deputy P.N. Troy of St. Brelade:.....	54
6.12.3 Senator T.A. Le Sueur:.....	54
The Bailiff:.....	54
7. Draft Income Tax (Deemed Dividends) (Jersey) Regulations (P.157/2007).....	56
7.1 Senator T.A. Le Sueur (The Minister for Treasury and Resources):.....	56
The Bailiff:.....	56
LUNCHEON ADJOURNMENT PROPOSED.....	57
The Bailiff:.....	57
LUNCHEON ADJOURNMENT.....	57
The Greffier of the States (in the Chair):.....	57
PUBLIC BUSINESS.....	57
8. Criminal Justice Policy: audit of the need for a prosecution service (P.161/2007)....	57
8.1 The Deputy of St. Martin:.....	57
8.1.1 Senator W. Kinnard:.....	61
8.1.2 Connétable K.P. Vibert of St. Ouen:.....	63
8.1.3 Deputy S.C. Ferguson:.....	65
8.1.4 Deputy J.B. Fox:.....	66
8.1.5 Deputy G.C.L. Baudains:.....	66
8.1.6 Senator S. Syvret:.....	66
8.1.7 The Connétable of St. Brelade:.....	67
8.1.8 Deputy D.W. Mezbourian of St. Lawrence:.....	68
8.1.9 Deputy J.A. Martin:.....	68
8.1.10 Senator F.E. Cohen:.....	69
8.1.11 Deputy R.G. Le Hérisier:.....	69
The Attorney General:.....	70
Deputy R.G. Le Hérisier:.....	70
8.1.12 Deputy S. Power:.....	71
8.1.13 Senator P.F.C. Ozouf:.....	72
8.1.14 The Attorney General:.....	72

8.1.15 The Deputy of St. Martin:	73
The Greffier of the States (in the Chair):	74
9. Criminal Justice Policy (P.118/20007).....	76
9.1 Senator W. Kinnard (The Minister for Home Affairs):.....	77
The Greffier of the States (in the Chair):.....	86
9.2 The Deputy of St. Martin:.....	86
9.2.1 Deputy R.G. Le Hérisier:	88
9.2.2 Senator W. Kinnard:.....	88
9.2.3 Deputy D.W. Mezbourian:.....	89
9.2.4 The Deputy of St. Martin:.....	89
The Greffier of the States (in the Chair):.....	90
9.3 Senator M.E. Vibert:.....	91
9.3.1 Deputy S.C. Ferguson:.....	92
9.3.2 Deputy J.B. Fox:.....	92
9.3.3 The Connétable of St. Ouen:.....	94
9.3.4 Deputy J.A. Hilton:.....	94
ADJOURNMENT PROPOSED.....	95
The Greffier of the States (in the Chair):	95
ADJOURNMENT.....	95

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

QUESTIONS

1. Written Questions

1.1 TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY DEPUTY S.S.P.A. POWER OF ST. BRELADE REGARDING MRI SCANS:

Would the Minister advise the Assembly -

- (a) the average cost to the public of an MRI scan charged to the Health and Social Services Department compared to a scan charged to a private health scheme?
- (b) whether the MRI scanner paid for by public donations has become obsolete after some 36,000 scans, how many of the scans were paid for privately or by private health insurance and what financial advantage did the public gain from such agreement?
- (c) will the Minister advise whether a new MRI scanner will be provided by the taxpayer and if so, will it continue to be used by individuals who provide a scanning service for private healthcare or private health insurance patients, and if that is the case, what arrangements are being made to make these private concerns pay an appropriate fee for this service?

Answer

- (a) The current cost to Health and Social Services of providing one MRI scan is approximately £176.00. Public patients are charged £21.00 for this service. Private patients are charged £650.00 per examination. This may be higher if more than one examination is requested and is in line with the fee structure negotiated with private health insurance companies.
- (b) The scanner, paid for by public donations, was installed in 1999. It has now become obsolete and is no longer serviceable or sufficiently reliable for the work required by Health and Social Services. During the eight years of operation, 8,332 scans were undertaken privately. This is approximately 23% of the total number of scans which has produced a profit of £1.6 m for reinvestment in the Department.
- (c) The new scanner has been secured in part exchange for the old one with the balance paid for by the taxpayer. It will continue to provide a comprehensive service for all, with the patient / insurance companies paying a fee to the hospital and the radiologists for private scans.

The profit gained will continue to be reinvested to support of the Department's overall provision.

1.2 TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES BY DEPUTY P.V.F. LE CLAIRE OF ST. HELIER REGARDING COMPOSTING COSTS:

Question

Further to his written answers on 23rd of May 2006 to a question raised by Senator Perchard regarding green waste composting costs, would the Minister update those answers for the comparable cost in 2006, and so far in 2007, and advise of any other costs incurred that were not evident in the original scheme?

Answer

To enable direct comparison between the years is difficult as the chart of accounts for recycling was re-developed in 2006 and 2007 to better reflect the many areas of recycling now covered by the Department. A new green waste shredder was purchased from a minor capital vote in 2007, the costs for this 'one off' purchase are shown separately.

The costs for to the green waste composting in 2005, 2006 and 2007 (end of October) are as follows -

Year	2005	2006	2007 (as at 31/10/07)
Staff	£187,731	£195,000	£192,292
Non-Staff			
Supplies & Services	£319,552	£321,043	£309,071
Administrative Costs	£ 26,486	£ 17,718	£ 9,390
Premises and Maintenance Expenses	£ 99,616	£ 83,967	£ 83,826
Total Non- Staff	£445,654	£422,728	£402,287
Income	(£52,255)	(£63,157)	(£45,804)
Net Expenditure	£581,130**	£554,571	£548,975

**Direct comparison to the answer given on 23rd May 2006, requires the depreciation amount to be added on to give £594,825 as shown on the original answer.

The staff expenditure covers three manual workers which includes weekend reception facilities which are paid at overtime rates, plus management time and departmental overheads.

The plant and equipment costs now form part of supplies and services, and are inclusive of depreciation and maintenance.

The cost of the new Green Waste Shredder was £230,000 which was funded from a minor capital allocation.

The capital cost for the concrete slab and leachate collection system was £456,000. This work was completed in August 2003.

The income from the sale of compost in 2006 was £63,157. The majority of this income was for fully matured PAS100 soil improver. In 2007, there were process problems at the beginning of the year due to frequent breakdown of the old shredder. This resulted in more compost being delivered to agricultural land and less being further processed to manufacture the high quality PAS 100 approved material that is sold in the garden centres.

1.3 TO THE MINISTER FOR SOCIAL SECURITY BY DEPUTY J.A. MARTIN OF ST. HELIER REGARDING COST OF DOCTORS' VISITS AND PRESCRIPTIONS:

Question

Would the Minister advise the Assembly how many doctors' visits were covered by Health Insurance scheme payments by the Social Security Department in 2006, and how many prescriptions were similarly funded in that same period?

Answer

In 2006 there were approximately 401,502 GP visits covered by the Health Insurance scheme.

The number of prescriptions for 2006 was 1,419,790.

1.4 TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY P.V.F. LE CLAIRE OF ST. HELIER REGARDING THE STRATEGIC RESERVE:

Question

Would the Minister advise members of the current value of the Strategic Reserve, given that it was valued at £391.8 million in June 2003?

Answer

The Strategic Reserve was valued at £516,043,000 as at 30th September 2007.

2. Oral Questions

2.1 Deputy R.G. Le Hérissier of St. Saviour of the Minister for Planning and Environment regarding the structures and processes in place to ensure that the Minister and the Planning Department operated at arm's length from developers promoting the development of sites on the Waterfront:

What structures and processes are in place to ensure that the Minister and the Planning Department operate at arm's length from developers promoting the development of sites on the waterfront?

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

I can assure the House that we are keeping a constant watch on the process to ensure that appropriate controls are in place at all times to be certain that the developers do not inappropriately influence the planning process. The master plan needs first to be debated by the States. If any planning application does not conform with the strict terms of the master plan, the application will be rejected. This includes maintaining the quality of design, quality of construction and environmental credentials. It is important to stress that the quantum of development and the mix of uses has been set by the Planning Department in association with other States' departments and the developers have not influenced this area. The master plan will be supplemented by strict design codes. These are being developed by the department in consultation with my newly-formed Waterfront Design Group. This group is comprised of a number of well-known local history and architectural experts. In addition to these measures, any application will be subject to a full public inquiry and extensive public consultation. I am determined to deliver a scheme of the highest architectural, environmental and construction standards of which Islanders can at long last be justly proud. The control measures will ensure that there will be no opportunity for anyone, including the developers, to dumb down the scheme.

2.1.1 Deputy R.G. Le Hérissier:

Could the Minister tell the House whether he meets in any respect, together or as an individual or with other Members - for example, of the Planning Department - with developers? Could he tell the House what is the general understanding when these meetings take place? Could he tell the House, Sir, how does he separate these meetings from the final decisions that are taken by his department about the waterfront?

Senator F.E. Cohen:

From my best recollection, the meetings that I have held with the developers, which have been with officers present, have always been about peripheral issues. For example, we had a meeting the other day where a number of politicians were present, a representative of the developer in relation to the Move On Café. I am particularly careful not to get involved in any areas where the developer could try and exert influence, particularly in relation to quantum or uses of development. I am particularly aware that as the final decision maker I have a responsibility in this area to ensure I am extremely cautious in any dealings with the developer.

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

Could the Minister confirm how many developers are involved?

Senator F.E. Cohen:

This gives me an opportunity to explain that I am not the deal maker with the developer; the deal making is done by the Waterfront Enterprise Board. I have never seen the deal or the contract that is being signed between the Waterfront Enterprise Board and the developer. There is, as I understand it, one developer. Everything that I know, Members know, because it is in the master plan document.

2.1.3 Deputy R.G. Le Hérissier:

Can the Minister therefore assure us that except for so-called peripheral issues, he never meets with developers, there are never any promises made or reached or whatever at these meetings, and that he, at all times, keeps an arm's-length relationship with these particular organisations?

Senator F.E. Cohen:

The number of meetings I have had with the developers of the waterfront are very small indeed. I am always extremely careful at such meetings. I certainly never give any undertakings in relation to what will or will not be approved. I accept that in my position as Minister, Members would naturally expect me to be cautious and I am.

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

Being that there is one developer and being that the Minister has now said that he is not responsible for the negotiations, there are questions about the size of the development for the new quarter and the bond, et cetera, and the spread of risk and also the opportunity for other developers to tender for this type of a development. Who should these questions be put to within the States of Jersey in the mind of the Minister, please?

Senator F.E. Cohen:

To reiterate, and I am glad to have the opportunity of reiterating, I have nothing whatsoever to do with the deal making. Any questions relating to the deal making should be addressed to the Waterfront Enterprise Board or the Chief Minister.

2.1.5 Deputy R.G. Le Hérissier:

Could the Minister confirm that because of his eminently sensible approach to produce a coherent plan there is a danger that the whole project could rely, as indeed the former questioner alluded to, on the presence of only one developer? Would he agree that planning may be driving towards that situation?

Senator F.E. Cohen:

No. The present position is from the planning perspective we are dealing with a master plan. A master plan will create a canvas. It is up to this Assembly to decide whether or not it believes that the master plan I have unveiled last week is something that they believe is in the interests of the Island and at this stage we are not dealing with a planning application.

2.2 Deputy J.A. Martin of St. Helier of the Minister for Social Security regarding the Ministers' Guide to Income Support circulated to members on 25th September 2007:

Given that the section 12.2 of the Minister's Guide to Income Support, circulated to Members on 25th September 2007, offers direct payments for G.P.s' (General Practitioners') costs and social housing rentals and states that the claimants can choose direct payments, would the Minister explain why the voluntary nature of this offer has been changed in letters sent to claimants on 6th November to: "We will have the power to provide direct payment to the Housing Department"?

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

The guide to income support quoted by the Deputy is clearly marked a draft document. It was issued to provide Members with a general overview of the income support system. The revised draft is due to be issued before Christmas. During the Scrutiny process, Deputy Martin's sub-panel raised concerns regarding direct payments and as a result of their comments, detailed legal advice was obtained on this issue. I can assure Members that the wording of the letter quoted by the Deputy fulfils the requirements of the law.

2.2.1 Deputy J.A. Martin:

In the same bundle of letters there is a form of rental payments for housing and it goes back to: "Because you are currently paying a reduced rental to housing, it is suggested your income support benefit is used to pay your rental." It is a totally mixed message. Is the Minister saying they do have the power, which is not our understanding of the legal? It should be each case -- obviously, Sir, if there are some difficulties, pay the rent direct, but the claimant should be offered the choice.

Senator P.F. Routier:

The law is written so that the determining officer has the final decision. If someone is not happy with that decision they have the ability to appeal to the independent tribunal. I have to say that I am a little concerned about this line of questioning because even in the last week or so we have sent out 2,000 letters to people and we have only had 2 requests for people to pay their rent themselves. Everybody else seems to be entirely satisfied with the approach we are taking.

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

Will the Minister release to Members the guidelines that are issued and are in place for determining the officers when making this decision? Will he guarantee to this House that in providing these guidelines he is not unfairly fettering the discriminatory powers of the determining officer?

Senator P.F. Routier:

I am not sure that Members want the 900 pages of guidelines that are required that the determining officers work to. I am certainly happy to provide it to the Scrutiny Panel for information. With regard to fettering the mechanism for the determining officers, in fact, we are advised that if we were to go any further than what the line the Deputy is suggesting that we would be fettering the determining officers. What we are doing is enabling -- the law requires the determining officer to have the final say. As I said previously, that decision can be appealed against via a tribunal.

2.2.3 Deputy G.P. Southern:

I thank him for his offer to reveal the 900 pages to the Scrutiny Panel. Can I ask him when? Furthermore, is the Minister aware that under the Income Support Law, income support is regarded as single unified payment no matter how the components are made up and that to divert a fraction of that single unified payment, which is the right of the recipient to receive, in diverting some of that otherwise, that constitutes -- has he sought legal advice whether that in itself is illegal?

Senator P.F. Routier:

I can assure the Deputy that the mechanism we have in place with regard to paying third parties is within the law and we have obviously taken advice on that matter. I do not think I can add anything more to that.

2.2.4 Deputy J.A. Martin:

Is it not a fact that it is again discretionary -- it is picking out tenants from the Housing Department? Is it not a fact through you, Sir, that it has already been agreed between the 2 departments, so it is much simpler to pay the rents direct from Social Security to Housing by BACS payment weekly? This is the understanding of Housing. Third parties, again, to G.P.'s, but not third-party rents to private landlords. People on private rents are being given their rent to pass on to their landlord. This is not offered. This is discretionary against States' tenants.

Senator P.F. Routier:

The arrangements we have with regard to paying third parties have to be workable. The mechanism that, I have to say, has been welcomed by most people who are on income support, that they -- in fact, I have had people contact me to say that they are pleased they can still have their rent paid directly by the Social Security Department, which is counter to what the Deputy is implying. With regard to there being a different mechanism for private landlords, unfortunately, because of the desperate nature of all the private landlords, we are unable to set up BACS payments directly at this present time. Certainly, if a tenant was wanting that, we could certainly look at that.

2.2.5 Deputy G.P. Southern:

The Minister still has not told me when I am going to receive the 900 pages or we are going to receive the 900 pages. Could he further say what he expects as the results of his guidelines to the determining officers will be that the overall percentage of payments direct to the housing authorities?

Senator P.F. Routier:

With regard to access to the 900 pages, when they are completed we will obviously get them to the Deputy. He does not seem satisfied with that; I cannot do it any sooner. The second part of the question, I am sorry I -- because of the Deputy's shrugging of shoulders and faces, I lost track of the question. [Laughter]

Deputy G.P. Southern:

What a sensitive soul the Minister is. The question was what percentage overall of payments does he expect to be made direct to the housing authorities?

Senator P.F. Routier:

As I said in the answer to the previous question, of the 2,000 letters we sent out last week, 2 have requested not to have their rents paid directly. I am sure the Deputy is a better mathematician than I am; he can work out what that percentage is.

2.2.6 Deputy G.P. Southern:

With something like 100 per cent payment direct to the housing authority, is that not de facto a limitation of the determining officers' discriminatory powers? An unfair fettering of his discrimination?

Senator P.F. Routier:

No.

2.2.7 Deputy J.A. Martin:

I think the Minister has totally misunderstood. I am talking about choice and it depends on which letter the claimant has read to suggest why they have not chosen to not pay their rent direct. Does

this not take a responsibility out of people's hands and go directly against the new social strategy for Jersey and income support where the Minister wants people to work, stand on their own 2 feet and manage their money? This is directly taking responsibility for their rent out of their hands and only because it suits the 2 Ministers concerned, not the clients involved, Sir.

Senator P.F. Routier:

The whole purpose of enabling people to have their rent paid directly to their landlord is to help the landlord. **[Laughter]** Sorry, I do apologise. To help both. I mean, there is no getting away from that. It helps both the tenants and the landlord. Certainly, what the determining officer, the way he makes the decision, it is in the best interest of the claimant. That is if it is felt in the best interest of the claimant, that is how he makes his decision.

2.3 Deputy P.V.F. Le Claire of the Minister for Economic Development regarding what measures, if any, were being taken by Economic Development to improve the employment prospects of the unemployed in Jersey:

May I ask the Minister what measures, if any, are being taken by Economic Development to improve the employment prospects of the unemployed in Jersey?

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

I have published a number of strategies to help the employment opportunities for local people. Firstly, the Jersey Apprenticeship Scheme, which provides structured employment opportunities and supports the employer's costs of recruiting and employing trainees. Over 150 local young people are employed on the scheme. Secondly, the Jersey Undergraduate Scheme in 2007, providing 97 local undergraduates with jobs through their university summer periods. Thirdly, the building of a skills' centre at La Moye Prison to provide enhanced training facilities for inmates to help them in secure employment following their release. Fourthly, the funding and delivery of the Jersey Cadet Nursing Scheme, with Health and Social Services, a 2-year training scheme. There are currently 15 cadet nurses enrolled on the scheme. We recognise that we need to do more. That means that we are working now in partnership with Education, Sport and Culture and Social Security to the development of a Skills Executive with the purpose of achieving a better alignment between the skills needs of businesses and the requirement of businesses in Jersey. Once formed, this employer-led body - the details will be announced next week - will bring together the resources of the 3 departments with 3 key objectives: demand capture, careers information and advice, and the further and higher education training provision.

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

Given that these are all programmes designed for the young and given that Highlands does not provide any retraining for adults sort of 30-plus wishing to re-skill or change their skills, would the Minister describe the efforts he is making in this area and how he will be working with Education, Sport and Culture to provide for this retraining?

Senator P.F.C. Ozouf:

I am not sure that it is entirely true to say that Highlands only provides opportunities for the young. I think Highlands provides opportunities for training and retraining at whatever stage of life people find themselves. The fact is the Deputy makes an important point and the importance is that we are going to be joining together the initiatives for skills and employment opportunities between the 3 departments of Social Security; Education, Sport and Culture; and Economic Development. That is why we are announcing the formation of the Skills Executive to do exactly what she says. The future prosperity of Jersey depends upon a highly skilled workforce, a mobile workforce and job opportunities for all.

Deputy S.C. Ferguson:

Will the Minister confirm that he will give his attention to this very much neglected and totally overlooked area?

Senator P.F.C. Ozouf:

I have said in this Assembly, not for the first time, that I regard the skills issue as being the number one issue for Economic Development and that is why I will be chairing the Skills Executive with my colleagues of the Minister for Social Security and Education. Skills are top of the Economic Development agenda and it is vital that we raise the productivities and skills for everybody in Jersey as high as we can.

2.3.2 Deputy R.G. Le Hérissier:

Faced with pressure from a sector to import skilled labour, will it be the Minister's policy, or that of the bigger group, to order that sector to put its training in order before it allows more skilled migrants to come in?

Senator P.F.C. Ozouf:

I think the Deputy knows the answer to that question because he was good enough to come and spend some time with the Minister of Housing and Deputy Gorst and myself and receive a briefing on how we deal with Reg. of Uns. He will know and he will have heard that every application for non-qualified labour is rigorously researched by the department. Every time there is an application for more non-qualified labour, the first call is made to Highlands and other education providers to see whether or not there are local people that are available to work in that. We are difficult to convince on non-locally qualified labour and I hope the Deputy will have been convinced that we are doing enough. That is why we have seen job opportunities for local people rise by 1,200 in the last 12 months.

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

Further to that, Sir, as the Minister is no doubt aware, there is future anti-discrimination legislation in the pipeline that would make it illegal, punishable by a fine of up to £10,000, to discriminate against anybody on the grounds of race or ethnic origin, which, on the face of it, is very good news. How does the Minister reconcile that with the fact that since the beginning of time Jersey businesses have always been encouraged to take on local applicants?

Senator P.F.C. Ozouf:

I see no conflict. The fact is we do discriminate to some extent between resident people and non-resident people. That has nothing to do with their gender, their race, their sexual orientation or anything at all. The fact is we do discriminate and we are allowed to discriminate between those people who are here. My job is to ensure that there are opportunities and good opportunities for local people. Only when we are convinced that all of the local applicants are found in work then we will allow non-qualified. I see no conflict between the general issues of discrimination and the policies that we must ensure to secure the Island.

2.3.4 Deputy P.V.F. Le Claire:

While I am delighted with the answers that have been given this morning, I would like to pick up on a point that was made by Deputy Ferguson in relation to re-skilling and ask the Minister if he would undertake to look into public/private partnership initiatives for re-skilling adult people who wish to re-skill, such as is being done at the moment in Enfield in the United Kingdom with the Skills Club. Will the Minister undertake to look into that and, if necessary, contact me for those details?

Senator P.F.C. Ozouf:

I have said that we are doing a lot, but we need to do more. That is why we have decided to create, the Council of Ministers endorsed last week, the Skills Executive. That will be a triumph of its Ministers with responsibility for skills, but underneath that it will be employer-led with an independent chairman Skills Executive to do the things that I have said. So, yes, there are good examples of where local authorities and other countries have put in place re-skilling opportunities for people later on in life and that is what we will be focusing on. Members will be hearing a lot more about that in the coming days.

2.4 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding the number of staff required to support the Director to the Civil Aviation Authority and the annual overall staffing and administration costs:

Following the appointment of a liaison director to the Civil Aviation Authority, will the Minister advise Members of the number of staff that will be required to support the director and the annual overall staffing and administration costs?

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

An existing States' employee previously employed at Jersey Airport has been transferred to a new post of Director of Civil Aviation in a designate capacity. Legislation is required to separate out the safety regulatory functions of the airport director's post, which will then become the responsibility of the Director of Civil Aviation, or D.C.A. The D.C.A. will remain in a designate capacity until the legislation is enacted. The current staffing level is one person. During the coming months and until the legislation is in place, work is continuing to refine the precise requirements of the safety regulator and the resources that will be required to deliver the required separation of the safety regulator, D.C.A., from the service provider, Jersey Airport.

The Deputy of St. Martin:

I had a little difficulty hearing, but I asked the question how many members and how much would the costs be? I did not hear the answer. Maybe the answer was given? I did not hear it. If it was given, could I hear it again, please?

Senator W. Kinnard:

I did not realise my voice was so quiet. One person, Sir.

The Deputy of St. Martin:

The costs, please?

Senator W. Kinnard:

I did explain that there is work going on over the coming months as the law is being developed to work out exactly what the requirements will be in terms of separating the regulatory functions from the service provider functions at Jersey Airport.

2.4.1 The Deputy of St. Martin:

Could I ask the Minister what would the consequences be for the Island if indeed this appointment is not made?

Senator W. Kinnard:

The United Kingdom was audited by the Civil Aviation organisation in the year 2000 for its adherence to internationally agreed safety standards. Although, Sir, there is nothing to suggest or imply that there is any currently unsafe practice at Jersey Airport, the fact of the matter is that the U.K. was found wanting in terms of its overseas territories, which of course includes Jersey. It was found wanting in the sense that it did not have the separations, Sir, between service provider and

regulator. The overseas territories have subsequently established D.C.A.s. The next audit of the U.K. is programmed for early 2009, Sir. The Isle of Man has appointed already a D.C.A. more than 12 months ago and Guernsey has advertised the vacancy a few months ago, so we are falling into line with the other overseas territories, Sir.

2.4.2 Deputy R.G. Le Hérissier:

I wanted to say, could the Minister tell us at what cost it is to other jurisdictions like the Isle of Man and Guernsey for the whole function to be established? What costs are they telling her are entailed?

Senator W. Kinnard:

I do not have that information before me. This is something that I would have to go into discussions in with Economic Development to provide the further information and I am happy to do so.

2.4.3 Deputy S.C. Ferguson:

There was talk of combining the 2 areas, Jersey and Guernsey, together and having one officer. What happened to that?

Senator W. Kinnard:

I believe the Chief Minister may have answered that last week. I think there was an attempt to do so but it failed.

2.5 Deputy G.C.L. Baudains of St. Clement of the Minister for Health and Social Services as to whether any concerned parent had contacted him alleging gross professional misconduct by the Children's Service:

Would the Minister advise whether any concerned parent has contacted him alleging gross professional misconduct by the Children's Service, and if so, would he outline how he intends protecting the children involved during the period until Mr. Williamson's work is completed?

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

Senator Perchard has delegated responsibility for this area and I wish for him to act as rapporteur.

Senator J.L. Perchard (Assistant Minister for Health and Social Services - rapporteur):

Over the last weekend I was, for the first time, contacted by a concerned parent alleging gross professional misconduct by the Children's Service. The Deputy's question, however, appears to imply that either the Minister for Health and Social Services or myself are aware of allegations of gross misconduct against the Children's Service staff that such special measures are in some way required to protect the children involved. I can confirm that I am not aware of any such allegations. If the Deputy, however, is aware of allegations to the contrary, I urge him to make contact with the Public Protection Unit of the States of Jersey Police immediately, furnishing any evidence so that allegations can be properly investigated and that the children involved can be properly protected. However, if the Deputy is referring to unsubstantiated allegations by a disgruntled parent who does not wish the Children's Service to carry out its duties in the way the law requires, then I urge him to encourage those parents to use the appropriate legal channels available to them. This is very important. I wish to assure this Assembly that any case against a member of staff where evidence is produced of gross professional misconduct, such that the children involved need to be protected, will be rigorously pursued by myself according to the appropriate States' procedures.

2.5.1 Deputy G.C.L. Baudains:

I take it from the Assistant Minister's answer that he is going to do nothing. It is a pity, Sir, that the Assistant Minister has been given the job of answering the question because my question following the supplementary is to the Minister himself. What I want to know, Sir, is why it is that the Minister has failed to respond to a parent with grave concerns about his family? I have a document here dated 7th November, Sir, where he says: "It is now 6 weeks since I verbally asked for a meeting. It is now 4 weeks since I requested a meeting in writing. Has it been arranged? What date? What time?" That letter was written a couple of weeks ago. Why has there been a delay, Sir? Considering the fact that that letter contained information from a lawyer stating that the Children's Service showed a gross level of bias and none of the tactic employed by them would stand up to public scrutiny. What is going on, Sir?

Senator J.L. Perchard:

It would be inappropriate to discuss the details of a specific case other than I am aware of the case and the Deputy is ill informed. The case is subject to a live police and Children's Service investigation and therefore I will say no more. Since my appointment I have met with senior officers of the department and senior social care professionals many, many times. In fact, I have spent much of my time with them. I am a frequent visitor to our residential homes. I am completely satisfied that the children in our care are being appropriately managed and are safely managed. I assure Members that the service will continue to be robustly managed with all staff being supported and encouraged through what is a very difficult and sensitive time for us all.

2.5.2 Deputy P.V.F. Le Claire:

May we take some of the personal emotion out of this issue and look at the actual state of procedures themselves. In his question to the Minister, the Assistant Minister's responsibility -- the questioner put the point that he wanted to know how the Minister intended protecting the children involved. I did not hear anything of that in the answer that was given; I heard answers to the effect that States' procedures would be followed and staff would be supported. What I would like to ask is, because it has been unclear to me, given that there is evidently a particular report to that that is in the affirmative, what procedures are in place or taking place under the States' procedures to protect that child or those children? What procedures are in place to protect the children? That is part of the question.

Senator J.L. Perchard:

This is completely inappropriate and I am surprised that you are encouraging the Assembly to go down this channel. I refuse to discuss the details of the case other than to assure the Deputy and the House that the children involved - as a subject of the question just put by Deputy Baudains - are perfectly safe.

The Bailiff:

In fairness to Deputy Le Claire, the question he was putting, as I understood it, is what were the procedures? What were the States' procedures?

Deputy P.V.F. Le Claire:

That is exactly what I did, Sir. I did avoid the personal issue when I put it to the Assistant Minister. I thank you, Sir, for that intervention. What are the States' procedures; not what are the particulars.

Senator J.L. Perchard:

The children are subject to an inquiry by the Children's Service and they are not in the care of the Children's Service but are being monitored by the Children's Service.

2.5.3 The Deputy of St. Martin:

Given the sensitivity around the Children's Service at the moment, and I have every sympathy for them, can we have an assurance that both the Minister and the Assistant Minister have

arrangements whereby they are to be kept up to speed and informed of any allegation as it may be made to the contrary to the actions about the Children's Service?

Senator J.L. Perchard:

Absolutely, Sir. As a result of the sensitivities that are surrounding the Children's Service at the moment, I am very much hands on.

2.5.4 Deputy R.G. Le Hérisssier:

Can the Assistant Minister assure us that the recent report compiled by the Chief Officer, in the very best of faith, which exonerated the staff and indeed quite rightly in some respects praised them, can he assure us that he and the Minister have checked this report and that this report fully complies with the conditions one would expect from a rigorous, independent and objective report?

Senator J.L. Perchard:

The report that Deputy Le Hérisssier makes reference to is a report on historical practices within the department. Mr. Andrew Williamson is conducting a review of services historically. I am perfectly satisfied that the services being provided to date by the Children's Services are some of the best possible services that we could provide.

Deputy R.G. Le Hérisssier:

Sorry, Sir, point not answered. Can the Assistant Minister reassure the House if that report was produced on the basis of the conditions he would see it as being essential to a full rigorous independent report?

Senator J.L. Perchard:

I have spent little time looking at the historical aspects of the Service. I am hands-on looking at the current service. I will endeavour to study the document, but I am looking at the service today and ensuring that the children in their care are being appropriately looked after.

2.5.5 Senator S. Syvret:

Would the Assistant Minister agree with me that given that the Minister and himself are very new to this job, they may well not be au fait with all of the precise details of various procedures, quite understandably? Could the Assistant Minister give me and the Assembly an assurance that should any flaws and deficiencies in the existing policies and approaches be revealed that they will take swift action to change them?

Senator J.L. Perchard:

Absolutely, Sir, and I think that I will be in a position to do that because I am aware of the practices that are taking place currently within the service.

2.5.6 Deputy G.C.L. Baudains:

I do not recall yet having had an answer as to why the Minister has not responded to a communication from residents that need his assistance. It is now 8 weeks since this particular person approached him, Sir, and I want to know why that is. Secondly, Sir, will the Assistant Minister agree to look into this case again, the one he thinks I refer to? Because it is clear from his comments that he is misinformed about the case. I am obviously not going to go into details here, Sir, but the comments he has made lead me to believe he has not got a clue what he is talking about.

Senator J.L. Perchard:

I resent that absolutely. My position is that I will not discuss a live police and childcare case in this Chamber. However, I have spoken to both the parents - unlike Deputy Baudains - and the Children's Service regarding this case. Deputy Baudains has spoken to one of those 3 parties. If we are just suggesting who has knowledge of this case, I suggest it is not Deputy Baudains.

Deputy G.C.L. Baudains:

I presume, Sir, he refuses to answer my question?

The Bailiff:

I am sorry, Deputy; the Minister has what?

Deputy G.C.L. Baudains:

It is twice now, Sir, I have asked why it is that it takes 8 weeks for somebody to get a reply from the Minister and they still do not have one.

The Bailiff:

I thought the Minister had answered that.

Senator J.L. Perchard:

I also thought I had answered that, Sir. The case that Deputy Baudains is representing is a live police and childcare investigation. I have communicated with Deputy Baudains' clients by email, by telephone, and I will not discuss it in any further detail as it is the subject of a live police and child allegation.

2.6 Deputy K.C. Lewis of the Minister for Economic Development regarding the potential relaxation of the Regulation and Undertakings Law to enable small local businesses to take on more staff:

When Zero/Ten is implemented, will the Minister consider relaxing the Regulation of Undertakings Law to enable small local businesses to take on more staff, and if not, why not?

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

When deciding how many staff a business can employ, the Regulation of Undertakings Law considers the contribution of a business to the Island, including its financial contribution. It follows that if a locally-owned business is contributing more tax then they will be more favourably treated. In reality, locally-owned businesses employing locally qualified staff in the domestic economy generally gets a green light. The Regulation of Undertakings Law is already applied with the objective of supporting small businesses and the implementation of Zero/Ten for decisions continues to be something that we are considering on an ongoing basis.

2.6.1 Deputy K.C. Lewis:

I thank the Minister for his reply, Sir. That is excellent news. I am sure the Minister is aware that since the downturn in tourism, with high rates and inflation, small local businesses are suffering badly. With G.S.T. (Goods and Services Tax), some are hanging by a thread and they need to expand slightly in order to survive. I am sure the Minister is aware of the perception that local businesses are of the opinion that the finance industry can have as many people as they like while their business are being stifled. I am glad the Minister assures us that that may relax in the future. Would the Minister not agree with that?

Senator P.F.C. Ozouf:

The Minister does not agree emphatically at all. High rates of inflation? This Assembly is learning of inflation rates at a historically low level because of the policies that we have been putting in place. I am acutely aware of the dilemma of businesses and particularly with red tape, and I would suggest respectfully to the Deputy in relation to G.S.T. we need to continue to have a simple form of G.S.T. and not burden business with a complicated system which will require every single good put with a different form of tax code in future. That is the way of encouraging an enterprising small sector of the economy. We have 4,000 small businesses employing less than 5 people in the

Island and my job is to ensure that we have the right environment for them to prosper, and many of them are.

2.6.2 Deputy G.P. Southern:

Following his policies for economic growth will he assure the House that he will make it equally possible for small businesses and new start-up entrepreneurial businesses to take on non-locally qualified staff where they need to as well as the major operators in the banking sector?

Senator P.F.C. Ozouf:

As I said in an answer a few moments ago, the job opportunities for local people expanded by 1,200 jobs in the year up to June 2006. Only a small proportion of them were in financial services. Many of the others were in the domestic economy. I look at small businesses every day and hear the calls of small businesses and their requirements to employ more staff. I am proud of the track record that we have in turning round Regulation of Undertakings applications and I am not aware of any small business that currently has a difficulty that we have not been alert to or we have not solved in relation to the job of recruitment. But, the Deputy will be the first to say that if we allow more non-locally qualified people in the Island that is going to breach our population limits.

2.6.3 Deputy G.P. Southern:

Notwithstanding that answer, does the Minister accept that according to the O.X.E.R.A. (Oxford Economic Research Associates) report of 2002 growing the finance sector was going to reduce the low-skill, low-pay sector; tourism and agriculture in particular? What is he going to do about this?

Senator P.F.C. Ozouf:

I am confused by the Deputy's position. Financial services has one of the lowest percentages of non-qualified labour of all of our industries. The industries which he seeks to protect, and I care about too in terms of tourism and agriculture, have one of the highest levels of non-qualified, so he cannot have it both ways. So, the reality is that I want to support all sectors of the economy and I would remind him of the track record on tourism. Tourism bed-nights up 2 per cent this year, passenger arrivals up by 4 per cent. That is growth in the tourism industry and I would hope that he would be applauding it.

The Bailiff:

Deputy Ferguson has withdrawn her question number 7 and we come to a question by Deputy Power of the Minister for Economic Development.

2.7 Deputy S. Power of St. Brelade of the Minister for Economic Development regarding the tendering process for the stevedoring contract at the Port of St. Helier:

Would the Minister advise the Assembly how many companies tendered for the stevedoring contract for the Port of St. Helier; if any of those companies had an existing commercial presence in the port; whether a contract has now been issued and if so to which company?

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

I will be asking, if I may, my Assistant Minister to answer questions 8 and 13 as he has responsibility for them.

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

The stevedore contract has not been awarded and is currently the subject of ongoing negotiation. As such the information requested by the Deputy is currently of a commercially sensitive nature,

which I am sure that Members will appreciate. However, once negotiations are complete and the contract is awarded all the information requested will be published.

2.7.1 Deputy S. Power:

I wonder could I ask the Assistant Minister to clarify for the Assembly how much longer he thinks this process will take and can he give an indication as to how long it has taken?

Deputy A.J.H. Maclean:

It is very difficult, Sir, to be absolutely precise with the time. We are hoping that within the next couple of weeks we will have a resolution to this and certainly by the end of the year. What I can say to the Deputy is that the process has taken far too long as far as I am concerned and indeed I have a great deal of sympathy for the incumbent's employees who have had to suffer with the uncertainty over an extended period. So, we are very keen to move for a quick resolution to this matter.

2.8 Deputy S.C. Ferguson of the Minister for Planning and Environment regarding arrangements for disabled parking at the Weighbridge when the area was redeveloped:

Given that there is currently only one disabled parking space near the Jersey Museum would the Minister advise Members what the arrangements for disabled parking will be at the Weighbridge when the area is redeveloped and how many spaces will be provided?

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

As stated by the Deputy currently there is only one disabled car parking space available in Caledonia Place. The drawings for the new Weighbridge Square do not as yet show the location of replacement disabled parking. However, in conjunction with the Waterfront Enterprise Board and the Minister for Transport and Technical Services we are currently looking at proposals to incorporate 2 disabled spaces in Weighbridge Place. I hope the Deputy will accept an invitation to join these discussions to ensure that disabled parking facilities are appropriate.

2.8.1 Deputy S.C. Ferguson:

I thank the Minister. However, there is currently a proposal to increase the size of pavements at the top of Don Street beyond Beresford Street and this proposal will extinguish the current disabled parking there. Will the Minister review the location and availability of disabled spaces in town to ensure that the number is not unduly reduced?

Senator F.E. Cohen:

I think the supplementary question is more for the Minister for Transport and Technical Services. I for my part will do whatever I can to review disabled car parking spaces and I extend again the invitation to the Deputy to assist me in this process.

The Bailiff:

I have notice that Deputy Martin has withdrawn question number 10, so we come to question 11 from Deputy Duhamel of the Minister for Transport and Technical Services.

2.9 Deputy R.C. Duhamel of St. Saviour of the Minister for Transport and Technical Services regarding the progress in finding alternative composting sites and the potential investigation of kitchen waste recycling systems:

Would the Minister advise the Assembly of the progress, if any, in finding alternative composting sites and will he also undertake to investigate kitchen waste recycling systems such as those being established in the U.K. and to report his findings to the Assembly in the New Year?

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

I am pleased to confirm that the site selection process for a suitable site for replacing the current windrow composting facility at La Collette has been completed, subject only to a confirmation of the validity of the exercise to be undertaken by officers in the Planning and Environment and Public Health Departments this week. The outcomes of the exercises are as follows: of the 18 private sites and 11 state-owned sites evaluated, 11 sites were passed for consideration for more detailed assessment. In relation to the compost treatment facility or facilities required the evaluation process identified that the current industrial location at La Collette was, by a considerable distance, the most suitable location for the proposed replacement enclosed composting facility. In addition the process identified that there were no suitable private sites which offered advantages in terms of developing multiple locations for carrying out composting. With regards, Sir, to the Deputy's question about kitchen waste recycling systems I do not believe that further work is required on this matter as it has been thoroughly reviewed both by my department as well as a working party set up to review composting in 2006 chaired by Deputy Le Claire.

2.9.1 Deputy R.C. Duhamel:

Can the Minister confirm that his department, in looking at alternative systems, agreed with the consultants in that the alternative kitchen waste recycling systems were not looked at in detail because they did not form a complete solution to the Island's waste management?

Deputy G.W.J. de Faye:

The Deputy is well aware of the problems with kitchen waste composting and it is simply down to the fact that the residue is a compost composed primarily of kitchen waste and regrettably a comprehensive letter detailing the issues of disposal of kitchen waste compost in the Island was missed out of the report submitted to this House by Deputy Le Claire and himself. But the straightforward issue, as has been debated by the House in the Solid Waste Strategy, is that there are real problems with supermarket protocols in respect of using agricultural land for disposal of certain composts.

2.9.2 Deputy R.C. Duhamel:

Will the Minister in that case forward to the Environment Scrutiny Panel these pieces of evidence which he has told the House would suggest that there are difficulties with supermarket protocols? Because the evidence that the Scrutiny Panel has otherwise is to the alternative.

Deputy G.W.J. de Faye:

The evidence I have is exactly the same letter as was sent to the review panel looking into composting of which the Deputy was a Member. I am very surprised that he does not have a copy of it but I am willing to give him a copy of mine if I still retain it.

2.9.3 Deputy R.C. Duhamel:

Will the Minister confirm that kitchen waste recycling represents at present a significant proportion of the materials that are attempted to be burnt at the current incinerator facility of the order of 25 per cent and material is generally wet?

Deputy G.W.J. de Faye:

Kitchen waste does constitute a significant part of our waste disposal problem. It is what Members might regard more colloquially as black bag waste. The issues are obvious. It is mixed waste, it can be tins, it can be plastic, almost all of it contaminated one way or another by food. That makes problems difficult which is why the Transport and Technical Services Department, through the

waste strategy, is seeking I think the best way forward in terms of recycling which will be run out progressively through the parishes. This is to enlist the aid of local people to take certain elements out of that waste stream, most notably glass, certain numbers of plastic and tin cans for example, where we do ask people to please clean them before they are collected separately. That is the way forward for recycling. It is to keep things clean and separated as from the start of the disposal system.

Deputy P.V.C. Le Claire:

Sir, may I ask one question? I did not realise it was going to be the final supplementary.

The Bailiff:

I am sorry, Deputy, no. That question has now been closed. We come to the next question, which is Deputy Duhamel of the Minister for Treasury and Resources.

2.10 Deputy R.C. Duhamel of the Minister for Treasury and Resources regarding advertising for further expressions of interest in the development of the Jersey College for Girls site:

Has the Minister advertised for further expressions of interest in the development of Jersey College for Girls' site and if so on what date? If the Minister has not yet advertised will he inform the Assembly of the date he intends to do so and the reasons for delay?

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

I am happy to update Members on this subject. Four reputable companies with appropriate international commercial property marketing experience, 2 local ones, were invited to put forward a proposal for the marketing and sale by tender of the former Jersey College for Girls' premises. From those I selected the local firm of C.B. Richard Ellis to proceed with the preparation of advertising material for both local and U.K. circulation. I am anxious to resolve this matter as soon as possible and that company is also ready to proceed and is currently awaiting my instructions to go ahead with advertising and marketing and tendering. The reason for my holding back is I have been put on notice of a potential claim by Grange Developments Limited and Axis Mason Limited for a substantial sum of damages based on alleged infringement of copyrights in the development plans and alleged misuse of confidential financial information relating to the proposed development. If such an action is brought and if it is successful the damages and legal costs will almost inevitably wipe out any profit from the development of the site and might even leave the States out of pocket. In the circumstances it would be highly imprudent to proceed with the invitation to tender until I can be confident the issue of the potential claim has been resolved. Sir, I do not wish to say anything further at this stage as to do so might prejudice the position of the States in respect of that potential claim.

2.11 Deputy S. Power of the Minister for Economic Development regarding revisions to the Harbour and Light Dues (Jersey) Law 1947, as amended:

Does the Minister consider that the Harbour and Light Dues (Jersey) Law 1947 as amended contravenes fair trade and competition and if so will he advise Members whether he intends revising the law in order to cease bringing price increases in the form of amendments?

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

No, Sir, the Harbour and Light Dues Law does not contravene fair trade and competition. With regard to revising the Law there are no plans to do so as the intention is to repeal it. A replacement law is planned which would end the annual States debate on harbour charges. The intention under

this new law would be to set tariffs after due consultation by Order, as has been done for a number of years at the airport. This would reduce the political management of harbour charges and allow the port to operate in a more sensible and appropriate commercial manner.

2.11.1 Deputy S. Power:

If I might be allowed to ask a supplementary. The Assistant Minister will be aware that this is the 32nd amendment to the tariff of Harbour and Light Dues (Jersey) Law 1947. The Minister will also be aware that the States approved P.129 in 2002. This directed the then Harbours and Airport Committee to bring forward a draft harbour charges law that would repeal and replace the existing law. Can the Assistant Minister explain to the Assembly why this has not happened?

Deputy A.J.H. Maclean:

This is a law that we are looking to work on at the moment. It is in draft form and it is intended by 2008, during the course of next year, that the new draft law with regard to this matter, the Harbour and Light Dues, will in fact be brought before this Assembly.

2.11.2 Deputy S. Power:

Is the Assistant Minister aware that the current law is defective and is open to challenge? Is he also aware that trade between the Island and Members of the E.U. (European Union) can challenge this law and it is in this respect that the absolute requirement of the law is to pay a due on all goods is what the issue is? Does the Minister not agree with this?

Deputy A.J.H. Maclean:

The Deputy I think is referring to, in particular, freight charges which for some years have been excluded from the annual Harbour and Light Dues Tariff Amendments. This was brought to the attention of the Assembly and the department by the Attorney General who advised that automatic increase in such charges was likely to be in contravention of E.U. law. For that matter and that matter alone, Sir, these matters have been dealt with outside of the Harbour and Light Dues Law Amendments each year. They have been dealt with by the Harbour Department in direct consultation with port users.

2.11.3 Deputy S. Power:

Can the Assistant Minister confirm whether the commercial port users have voiced their opposition to changing the system and that they would prefer to keep the existing charges based on freight tonnage? Can the Minister confirm whether that is a reason why this law has not been changed?

Deputy A.J.H. Maclean:

My understanding is that port users do like the tonnage arrangements and are opposed to a change, but this in no way has any reflection as to why it has not been changed and, in fact, a draft law is at this moment being prepared. We hope to bring it to this Assembly during the course of 2008 to address this issue.

2.12 Deputy R.G. Le Hérissier of the Minister for Home Affairs regarding succession planning for the post of Police Chief:

Would the Minister advise whether the stated major objective of extending the Police Chief's contract, namely to enable the development of a senior succession plan, will be achieved before the current post holder's departure?

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

Yes, Sir, there is no reason to believe that the succession arrangements approved by the States Employment Board will not be achieved before the current chief retires in 2010.

2.12.1 Deputy R.G. Le Hérissier:

Thank you. Would the Minister confirm that part of this policy of course is to enable suitably qualified local people to move into the post, and given that the chief has now been many years in position and has had that extended to further this particular objective, would she confirm that it is very likely that a local person will, following his departure, succeed him?

Senator W. Kinnard:

Yes, we certainly hope that will be the case and we are anticipating that at least 2 candidates will be in a position to apply for the position of the Deputy Chief Officer.

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

To continue on from that question, the Minister finally gave me eventually a succession planning for 2 local candidates in the preliminary stages for the senior command course, which was Bramshill, or this succession planning and they were also able to go for qualifications for the supported degree courses. But I understand, and this is what I would seek clarification, that before anybody can take up a Chief Officer's post in Jersey they have to serve for 5 years on the U.K. mainland at an A.C.P.O. (Association of Chief Police Officers) rank which would then in effect make it virtually impossible for a local candidate, unless they wished to spend 5 years in the U.K., from becoming a candidate for local Chief Officer of Police. Can the Minister comment on this or confirm this please?

Senator W. Kinnard:

Can I explain? I meant to go on to say, and then there will be an opportunity to potentially apply for the role of Chief Officer. If I can explain to Members, Sir, there are 2 potential options that were open to Home Affairs and the States. The problem is that the 3 most senior ranking officers of the States of Jersey Police are all due to leave the force within a period of 22 months. The Superintendent has already left in August 2007 and the Deputy Chief is due to leave in August 2008. Therefore, Sir, as I say, there are 2 options. One option was to advertise for a Chief Officer to succeed the current Chief Officer at the end of his original term, but the problem with that, Sir, would have meant that it would have been a candidate most certainly from outside the Island and it would have meant also then that quite quickly the post would shortly afterwards be advertised for Deputy Chief Officer, and it would be unlikely that a local candidate at that point would be ready at that point in time. So, the preferred option 2 was to extend the contract of the present Chief Officer for a maximum period of 3 years and to advertise the post of the Deputy Chief and the advert itself, Sir, would stipulate the criteria required for the rank of the Chief Officer so that there would be a strong inference in the advert that the successful candidate would be well placed to accede to the rank of Chief Officer. The idea, Sir, is that would allow the encouragement of local candidates to develop themselves and be in a position, Sir, to take up career opportunities as time moves on. The recommendation of option 2, Sir, as the planned way forward was agreed with the States Employment Board and that is the way that we are proceeding. The answer to Deputy Fox in terms of his training, we do still send officers to Bramshill, Sir, and the recommendations as to the qualifications for a person applying to be a Chief Officer of Police are as set out originally in the *Clothier Report* and also agreed by the Home Affairs Committee at the time that it accepted those recommendations and therefore those became part of the requirements. Individual officers are trained --

Senator S. Syvret:

Sir, this is beginning to look like filibustering the question time period.

Senator W. Kinnard:

I am trying to answer, Sir.

The Bailiff:

You must be succinct, Minister. Have you come to a close?

Senator W. Kinnard:

Yes, Sir, except all I am trying to say is that we take every opportunity to train our local officers so that they will be in a position to compete for the top jobs.

2.12.3 Senator S. Syvret:

Would the Minister for Home Affairs agree with me that sometimes very senior posts such as Chief of Police, Deputy Chief of Police, are better filled by people from outside of the Island and would she agree with me that in fact this Chief Officer and his Deputy, Mr. Harper, unbeknownst to perhaps many members of the public have done stalwart work in law enforcement terms behind the scenes, often in very difficult, very taxing circumstances.

Senator W. Kinnard:

I am surprised by the comment but most gratified by it, and I would agree with him that the Police Chief and his Deputy have done some absolutely stalwart work on behalf of the community. It is the case, Sir, that in the U.K. in a local community a Chief Officer is not taken from within that local community but I think in an island such as ours we have to ensure that an individual is properly trained but they also have the opportunities open to them. But I do accept that there are circumstances when it might be appropriate for an outside officer to take the position.

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

Notwithstanding the last question and the Minister's answer to it, I just wonder if she could clarify something for me. I am not sure if it is early in the morning, I am not really getting it, but I just want her to confirm that the situation is that she expects to have 2 local people that will be in a position on a level playing field to apply for the position of Deputy Chief who will then, when the current Chief's extended term of office comes to an end, will be able to apply on the level playing field and have every expectation to be considered in the rounds for that position.

Senator W. Kinnard:

Yes, Sir.

2.12.5 Deputy J.B. Fox:

Can the Minister confirm that any such local candidate will be required to have spent 5 years at an A.C.P.O. rank in the United Kingdom before they can be eligible to apply and become Chief of Police in Jersey?

Senator W. Kinnard:

That would be ordinarily an expectation but it is just an expectation. It will not be, I believe, necessarily a requirement. It will be a matter for the States Employment Board at the time in its decision as to who would be appropriate.

2.12.6 Deputy J.B. Fox:

Can the Minister ensure that these points are clarified with the Human Resources and with the Police Association and the Police Service as well, because this is not the understanding that I have at this moment in time?

Senator W. Kinnard:

Yes, I will be happy to do so.

2.13 Deputy G.C.L. Baudains of The Chief Minister regarding the route by which representations to the person chairing the enquiry into child protection in Jersey could be made:

Would the Minister explain to Members the route by which representations to the person chairing the inquiry into child protection in Jersey can be made?

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

Mr. Andrew Williamson, who of course is conducting the inquiry, can be contacted by email on a.williamson2@gov.je or by telephone. Messages may be left for him on 440444 which as I announced when the review was set up is an extension of facilities provided for him within my department. These are the most direct methods and he responds to all messages. However, if anyone wishes to contact him via the States Greffe they should phone 441013 or email m.delahaye@gov.je. This week advertisements are being placed by Mr. Williamson in the *Jersey Evening Post*, the first one was of course last night, inviting anyone who wishes to contact him to do so and he will meet anyone who wishes to see him. A copy of the advertisement has been placed in every States Member's desk.

2.13.1 Deputy G.C.L. Baudains:

I thank the Chief Minister for his reply, Sir. I wonder if I could just ask him that any person that may have made submissions to Mr. Williamson so far, can they rely upon the fact that they will have had a communication acknowledging their submission?

Senator F.H. Walker:

I do not know whether Mr. Williamson has acknowledged every submission or not. What I do know is that every attempt, every request to contact him has indeed been passed on to him and he issued a statement on 16th November which said: "I am in daily contact and all emails and telephone messages are passed on without delay. In addition Senators [and I assume by this he meant States Members] telephone me on my home phone number and have my home email address. I have responded to every request for contact."

2.14 Deputy G.P. Southern of the Minister for Transport and Technical Services regarding the progress made in commencing the Millennium Town Park project:

What progress, if any, has the Minister made on the commencement of the Millennium Town Park project and securing appropriate levels of funding and will he update Members on the current state of the car park trading fund and advise the Assembly whether any funds remain earmarked for the Town Park?

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

In June this year a cross-departmental officer group chaired by Transport and Technical Services was set up to consider the options available for delivering the Town Park. An interim progress report will be considered by the Council of Ministers on 29th November. The report will include details of budgets and timescales for relocation of the current car parking, remediation of the contaminated ground at present on the site and the construction of a new Town Park. However, may I emphasise, Sir, that the car park trading fund will be funding the new Ann Court car park but will not fund the Town Park. Also note that the trading fund has not and never has had a sum of money allocated to the Town Park project. With reference to the Deputy's question about the current state of the car park trading fund I can advise him that it is robust and details of the accounts are available if he requests them.

2.14.1 Deputy G.P. Southern:

Will the Minister further advise Members in what form he will be seeking funding for progressing the Millennium Town Park as soon as possible and when his target date is for starting on that work?

Deputy G.W.J. de Faye:

Control of the Town Park project has gone in different directions. I believe starting with the former Environment Planning Public Services Committee more recently it has been under the ambience of the Chief Minister's Department and has only recently come under my auspices. At this point I am not in a position to make an accurate response to the Deputy's request.

2.14.2 Deputy G.P. Southern:

When will the Minister return to the House with some form of accurate, or inaccurate, response to my questions?

Deputy G.W.J. de Faye:

I do not know, Sir.

2.14.3 Deputy G.P. Southern:

I find that most unsatisfactory since there is a report, in the Minister's words, going to the Council of Ministers on 29th November and yet he cannot suggest when he might be coming to this House to comment on progress and funding, in particular, and start dates for a Millennium Town Park since the Millennium is already 7 years past.

Deputy G.W.J. de Faye:

I am very well aware of this year's timescale and dateline. The fact is that I like to progress on the basis of solid facts and I do not like to indulge in speculation.

2.14.4 Deputy J.A. Hilton of St. Helier:

Would it be fair to say that the Town Park Project is on track, subject to funding, and should be delivered in 2010/2011 as indicated in the strategic plan?

Deputy G.W.J. de Faye:

Yes, it might be fair to say that, Sir, but clearly the Millennium Town Park project is not on track. It is already 7 years out of date.

2.14.5 Deputy J.A. Hilton:

That may well be, Sir, but will the Minister confirm that subject to the additional funding, which hopefully will be confirmed by the Council of Ministers, that the Town Park will be delivered as laid out in the Strategic Plan?

Deputy G.W.J. de Faye:

I am not prepared to make a commitment, Sir, on the delivery of the Town Park, to a set date at this time.

2.15 Deputy G.P. Southern of The Chief Minister regarding the 150 year leases to be granted on the new proposed Waterfront/Jardins de la Mer project:

Will the Minister advise Members of the overall figures relating to the lifetime profits accruing to the developer on the 150-year lease to be granted on a new proposed waterfront Jardins de la Mer project in order that proposed payments of up to £120 million to the States can be put into some context?

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

This transaction, as with all such transactions, is subject to a confidentiality agreement between the proposed developer and the Waterfront Enterprise Board. However, I can advise Deputy Southern and the House that even though the developer is accepting all of the risks of construction of the infrastructure and buildings and the market risks of letting and selling the space their expected total

returns are materially less than the return to the Waterfront Enterprise Board and thereby to the States of Jersey. Furthermore, the land payments to W.E.B. (Waterfront Enterprise Board) are guaranteed, whereas the returns to the developer are not as their return will be dependant on the costs and end values of the scheme, which will fluctuate over time and which are subject to significant risks.

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

Can the Chief Minister assure the House that we, and obviously our descendants, will be getting good value for money over the 150-year period of the lease?

Senator F.H. Walker:

Yes, I can. The States have, through the Waterfront Enterprise Board, negotiated a very good agreement indeed here, which is absolutely to the benefit of the public. I would remind Members that it was not so many months ago that it was anticipated that if the Island was to go ahead with the sinking of the road and the creation of the new tunnel that it was expected that the public would be footing the bill. Here we now have an arrangement where not only is the tunnel paid for by the developer but there is a very substantial financial return to the public on top of it. It is a very good deal indeed.

2.15.2 Deputy G.P. Southern:

Will the Minister reveal to Members the terms on which this 150-year lease is being engaged and indicate to the public what sort of returns are to be made before his Planning Minister returns to the House to finalise the development plans?

Senator F.H. Walker:

That is exactly the same as the Deputy's original question reworded.

2.16 Senator S. Syvret of the Chief Minister regarding the enquiry being undertaken by Mr Andrew Williamson:

Will the Chief Minister inform the Assembly whether his office is conflicted from any administrative involvement in the inquiry being undertaken by Mr. Andrew Williamson? Whether all communications from members of the public intended for Mr. Williamson going via the Chief Minister's Department are passed to Mr. Williamson and whether he is aware of any potential witnesses who have not received a response from Mr. Williamson?

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

This is very similar of course to Deputy Baudains' question. Mr. Williamson is provided with an office and a personal assistant on the fifth floor of Cyril Le Marquand House. He also has an email address on the States email system. He is in daily contact with the office and all correspondence, whether email or telephone messages, are passed on without delay. Visitors are sent from reception direct to his office, or if they wish to meet elsewhere appropriate arrangements are made. Any meetings are arranged by Mr. Williamson. Neither I nor the Chief Executive nor our staff, other than Mr. Williamson's personal assistant, are aware of when appointments are made nor when people come to see him. He has also given a small number of States Members, including Senator Syvret, his personal home email and telephone numbers. Mr. Williamson has confirmed that he keeps a thorough record of all contacts and discussions. He keeps all of his files and notes at his home and they are confidential to him. Mr. Williamson has also confirmed that all contacts are passed on to him and that he follows up on each of them. There are currently 2 people who he is still trying to reach after their initial contact. In both cases he will see or talk to them if they agree. In both cases he has confirmed that he has returned calls but has not yet made personal contact. As I already stated in my answer to Deputy Baudains' question, Sir, Mr. Williamson placed an

advertisement yesterday in the *Jersey Evening Post* inviting anyone who wants to contact him to do so and other advertisements will be appearing. Anyone wishing to contact him will also be able to use his direct work contacts or to go via the Greffier of the States if they wish to do so.

2.16.1 Senator S. Syvret:

Does the Chief Minister really believe that it is appropriate for his department to be the contact point for Mr. Williamson's inquiry? Should Mr. Williamson's inquiry not be completely independent of any States executive department?

Senator F.H. Walker:

The point is, do all inquiries reach Mr. Williamson independently and does he deal with them independently, and the answer confirmed by Mr. Williamson himself is a most emphatic yes.

2.16.2 Senator S. Syvret:

That was not an answer to the question that I posed. I repeat the question, which was in fact in my original question, will the Chief Minister inform the Assembly whether his office is conflicted from any administrative involvement in the inquiry being undertaken by Mr. Andrew Williamson? Will the Chief Minister please consider whether there is an appearance of conflict not only for his department but for any executive department of the States?

Senator F.H. Walker:

No, I do not. As I have already said, Mr. Williamson acknowledges that all inquiries are passed on to him. Anyone has the means of contacting him directly through email or if they want to through the Greffe. There is no conflict here. The administrative arrangements are working entirely to Mr. Williamson's satisfaction and, so far as I am aware, entirely to the satisfaction of all those who have sought to contact him.

2.17 The Deputy of St. Martin of the Minister for Home Affairs regarding the recent police investigation into the activities of the Customs Service:

As there will be no criminal proceedings following the police investigation into the activities of a number of customs officers will the Minister advise Members whether the officers concerned have received written notification of the decision, with a suitable apology, and explain why it was considered necessary for the matter to be the subject of an internal inquiry by the head of the Customs Service?

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

Sir, with your permission my Assistant Minister is dealing with this matter.

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

In answer to the Deputy's question, Sir, on the evening of 5th November the Head of Customs and Immigration Service received an email from the Solicitor General in which he said that advice to the police has been that there is no evidence for court proceedings against any named customs officers for any criminal proceedings. The Head of Service made arrangements for the officers who were under investigation to be immediately notified of this. The usual police procedure in criminal investigations is to ensure that persons are notified when they are no longer under investigation. The police judged this as having been done in this case because the Solicitor General notified the Head of the Customs and Immigration Service and he informed his officers. It would not be appropriate for an apology to be made in respect of criminal investigations into matters that fully warranted such investigations. The head of the Customs and Immigration Service is to conduct an internal inquiry. The Head of Service has a duty to establish whether any customs and immigration procedures have not been followed either deliberately or through negligence. The

only way he can do this is to ensure that he is apprised of all the facts relating to the allegations and subsequent investigation. At the end of the internal inquiry the Head of Service will decide if any further action is necessary and submit a report to myself and the Minister. No further comments can, should or will be made on the internal inquiry until it is completed and the report is received from the Head of Service. To do otherwise or to discuss any future decisions relating to the report can be nothing more than speculation and would be in nobody's interests.

2.17.1 The Deputy of St. Martin:

I would like to press the Assistant Minister, if I could, on the question of apologies. I understand that no charge has been made against these officers. Their families and themselves have been put through a lot of distress and yet no apology has been rendered. Can I ask the Assistant Minister why does he not think such an apology is warranted on this occasion?

The Deputy of St. John:

The States of Jersey Police have no reason to apologise for the actions which they have undertaken as part of their normal policing duties. When presented with certain evidence or suspicions the police are duty bound to investigate. I did however question as to whether in this instance a criminal investigation was proportionate as it had been suggested that an internal inquiry would have sufficed. I am however assured by the Attorney General that such actions were entirely appropriate and indeed necessary if a subsequent internal inquiry was to be instigated.

2.17.2 The Deputy of St. Martin:

I have to press this again with the Assistant Minister. There has been no evidence to substantiate any claim. These families have been put through a tremendous amount of distress. Why cannot an apology be given?

The Deputy of St. John:

I think I have answered that question. The police were undertaking their normal duties to investigate some evidence and suspicions that had been given to them. Just because they are public servants in the capacity of customs officers does not exonerate them from investigation if suspicions and evidence is presented. That is precisely what the police undertook, in as sympathetic a manner as possible. I admit and accept that these were difficult circumstances and that families were put under undue strain, as indeed anybody would if they were investigated about anything. I know it is unfortunate and I would have preferred another way of doing it, Sir, but I am assured by the legal authorities that that was the correct and proper way to deal with this and it is the only way that we could have dealt with it, Sir. Had we not we could have severely ended up with egg on our face should it have been a criminal investigation that was not conducted in such a way. We would have had to do all the investigations again before going on with an internal inquiry, Sir.

2.17.3 Deputy R.G. Le Hérissier:

Will the Assistant Minister concede upon mature reflection that given the operational links between the 2 bodies and all the issues that emanate from that it might have been better had an independent body, e.g. an outside force, investigated the matter from the very beginning?

The Deputy of St. John:

The police were perfectly within their remit to investigate this case. However, I do accept what the Deputy is suggesting and because it has been made public that there are certain strains between those 2 departments at the moment, and that evidence has come to light in recent discussions with the 2 departments, that perhaps in a perfect world an independent police force should have investigated those particular accusations. However, those accusations that were made about the relationship issues did not come to light fully until the investigation was well under way.

2.17.4 Deputy S.C. Ferguson:

Given the history of over-reacting and suspensions with the police force, does the Assistant Minister not think that there was considerable over-reaction in this case and that as already mentioned it would have been a great deal better to have had an internal co-operative approach to this rather than this heavy-handed approach that they have taken? How much has it cost for a start?

The Deputy of St. John:

The cost of the inquiry was undertaken within normal police resources, part of the normal policing process. There was no additional cost to the public. I say again, when we are presented with evidence and suspicions it is absolutely essential that they are investigated. I have already said, Sir, that yes, an internal inquiry would have been desirable, but we were advised by the law officers that that is not the way to conduct such an investigation, Sir. It has to be that way first in order to make way for an internal inquiry. I regret that the families and those concerned have been upset by this. Anybody would be when they are investigated about anything, Sir. It is regrettable but entirely necessary.

2.17.5 Deputy S.C. Ferguson:

Is it not better for the Chief of Police to have spoken to the Chief of Customs and done it in a civilised manner?

The Bailiff:

I do not think that is parliamentary language, Deputy.

Deputy S.C. Ferguson:

Sorry, Sir. Would a more co-operative, co-ordinated approach between the heads of the 2 services involved been more efficient?

The Deputy of St. John:

There was full co-operation between the heads of service of both divisions of Home Affairs, absolutely, there had to be in order for the inquiry to be conducted, so there was full co-operation between both. What the Deputy is suggesting is that this should have been an internal inquiry and yes, that would have been wonderful to have an internal inquiry. It would have been perhaps a lot easier for both divisions of Home Affairs. However, the advice we received from the Solicitor General, and subsequently from the Attorney General, was that was not the way to proceed. Thank you, Sir.

2.17.6 Deputy C.H. Egré of St. Peter:

Would the Assistant Minister agree that the fact that it would appear it was the police that released the press statement to say that there was an investigation going on by the police into the customs, that that press release was released without the knowledge of the Assistant Minister or the Chief Minister, and that in itself caused major problems from the start?

The Deputy of St. John:

Not at all, Sir. The Minister and myself were well aware of the press release, in fact we helped draft it. What we were not aware of was the exact moment that it was going to be released. The instructions given to both services was should there be media inquiries about this particular incident this is the press release to be released as and when an inquiry was received from the media. The Minister and I were perfectly aware of the content of the press release and in fact endorsed it.

2.17.7 Deputy R.G. Le Hérisier:

Am I to infer from the Assistant Minister's answer to my question that he and his Minister had no real knowledge of the rivalry and therefore they were not able to put this matter into its proper context?

The Deputy of St. John:

No, Sir, we were aware of some difficulties between the 2 departments. No workplace is perfect and there were certain tensions as a result of various investigations going on that they were jointly working on. That happens in all areas of work whether it be public or private, Sir. It does not compromise the professionalism of our officers in either division and indeed it has not, Sir. What has been compromised for a short period is the full capability of the Joint Intelligence Bureau which is being rectified, but during this whole period lots of other evidence and investigation has been going on through other channels and the Island's borders and reputation has not been at risk.

2.17.8 The Deputy of St. Martin:

Would the Minister agree that given that the Head of the Customs Service is the officers' boss and ultimately is responsible for their actions, that he is conflicted? Therefore if the inquiry is deemed necessary it would be best carried out by the head of another department.

The Deputy of St. John:

That may well be a conclusion that the Minister comes to when the internal inquiry initially is conducted, but at this stage the internal inquiry is in order to establish whether any procedures currently adopted by the customs officers are indeed being followed and are appropriate and proportionate. That investigation will be done by the Head of Service. However, the Minister and I have agreed with the Chief Officer of Customs and Immigration that as indeed the police are inspected every so often by Her Majesty's Inspectorate that we do something very similar with customs, which we are not obliged to do currently. However, various elements of their activities such as those relating to R.I.P.L. (Regulation of Investigatory Powers (Jersey) Law 2005) and to the Joint Intelligence Bureau are investigated and reported on by Her Majesty's Inspectorate. We are however looking (and incidentally they have come out glowing as a result, both police and Customs) we are looking at a possibility of an independent review of Customs as indeed in the way currently the prison service and the police are periodically inspected. Thank you, Sir.

3. Questions to Minister without Notice - The Minister for Education Sport and Culture:

3.1 Deputy I.J. Gorst:

Can the Minister confirm what progress, if any, has been made towards the creation or conversion of a French-speaking primary school? Has a feasibility study been undertaken and if not why not?

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

The suggestion of a French-speaking primary school was made at a meeting of the Alliance Française. I said at the time, if anybody listened, I thought it was a complete non-starter and always was going to be unless it was a private initiative. What has been looked at instead is a private French-speaking nursery class. I have been in correspondence with the Alliance, as other people have. The reason a primary school if one thinks it through would be very, very difficult - in my view impossible - to establish at present, would be (1) we do not have an empty school to do it with and (2) we have space in our schools and people want to go to their local schools and not have to go somewhere else because that local school is only French-speaking. I think that the way ahead would be that if there is sufficient interest perhaps a nursery class to start with. I have visited such classes - Gaelic-speaking - in Ireland when I was attending the British-Irish Council and also in Wales they have such classes and it is a grounding for the children. Then you can see if it wishes to continue, but there is no intention at present to convert one of our state primary schools into a French-speaking only primary school.

3.2 Deputy J.A. Martin:

Would the Minister please give the House an update, I did mention this to him a few months ago? There is a new Olympic-style competition called the United Kingdom School Games. It was

covered by Channel 4, Sir, over a period of 2 hours one Sunday and another 2 hours. It is a mini sort of Olympics and there are medal ceremonies, and I think it would be worthwhile for our Education Minister to at least investigate and just give an update to the House where we are on this. It seems an excellent event where our children can compete against 15 to 17 year olds.

Senator M.E. Vibert:

Yes, Sir, and can I thank the pupils of J.C.G. (Jersey College for Girls) who have womanfully sat through nearly 2 hours of the States, and I hope it has not put them off too much, but I thank them and it shows a part of our initiative to increase knowledge of the States and citizenship in general is working well. But, to return to Deputy Martin's question, yes, I have asked my Assistant Director Sports to look into this and report back. At present we take part in the Jeux des Iles which is a very high-quality competition and is very good value for the Island because we pay a joining fee one-off and then can send as many people as we want and only have to pay for the travel, and we are comparing the U.K. school games against such other competitions as we are in. If it proves to be something that we should be taking part in I will endeavour to ensure that we give our children the opportunity to do so.

3.3 Deputy R.G. Le Hérissier:

Would the Minister comment on the continual turnover of principals at the Jersey College for Girls?

Senator M.E. Vibert:

It is very, very unfortunate that there has been a turnover of principals. There have been very good and usually personal reasons for the turnover and I would hope that we will have better luck next time. We will be advertising early in the New Year for another principal and we hope that the new principal appointed, whoever that person happens to be, will be there for certainly some time because we feel it is unfortunate there have been so many in so short a time.

3.3.1 Deputy R.G. Le Hérissier:

Would the Minister tell the House whether upon investigation he feels his recruitment procedures may be remiss in this regard and that something has gone fundamentally wrong? Because there have been too many of these occasions.

Senator M.E. Vibert:

We run a very, very rigorous recruitment procedure and the procedure I believe, and it has been checked by H.R. (Human Resources) and the States Employment Board, is very good and has resulted in some excellent appointments. Unfortunately although I think all the appointments to J.C.G. have been very good, unfortunately they have not lasted long enough and for personal reasons the people concerned have decided in general to move back to the U.K. That is unfortunate but I do not think it reflects on the recruitment procedure.

3.4 The Very Reverend R.F. Key, B.A., The Dean of Jersey:

Would the Minister agree that he and I both share the need to bring quality people from the professions to the Island and it is of first importance, and I am sure his department does this, but I would be grateful for the assurance, that as well as assuring that the candidate has all the appropriate professional qualifications and vision and drive, that although it may be outside normal Human Relations policy it is important that they realise the personal delights and also challenges of living the other side of that 100 miles of water?

Senator M.E. Vibert:

Yes, Sir, and we cover this in our recruitment procedure and we spend some time explaining life in Jersey and the differences and we also explore it in the recruitment procedure in interview with the candidates.

3.5 Deputy G.P. Southern:

Will the Minister confirm to Members that the 16 to 18 year-olds recently enfranchised cannot yet sign on to the electoral register until the law returns from the U.K., but that when it does he will make arrangements to ensure that take-up of signing on to the electoral register by under-18s is maximised in every school?

Senator M.E. Vibert:

We will be explaining to all 16 to 18 year-olds once it is possible for them to sign up, and what we will also be ensuring is that during the lead-up to the election there can be no political bias applied in the schools from any particular candidate. So, it is something we are working on and we will be issuing guidelines to head teachers and others to ensure that we try to get 18 year-olds interested in registering to vote but that they do not have undue pressure put on them in relation to political bias.

3.6 Connétable J.L.S. Gallichan of Trinity:

Just as a point of information for the Senator and Deputy Martin, I am delighted she did see the school games because my grandson was picked, could I just say, he swam for the south-west of England, but the times are such that the standard is all national swimming times and you have to be really of a very high standard to be picked. I am delighted he was picked, I think they came third, the south-west, but it is just for your information to put a team from Jersey the times required to take part in this, which is a mini-Olympics as you say, all the teams that take part are very, very strenuous indeed, Sir, but just for information, Sir.

The Bailiff:

Constable, you must ask questions at question time.

The Connétable of Trinity:

Would you agree? [Laughter]

Senator M.E. Vibert:

I agree, Sir. We do support them and my answer to Deputy Martin, when we were looking at it, we have to look to see if we did take part, realistically how many young people from Jersey would make the qualifying times as to whether we should be part of the south-west team or send our own Jersey team.

3.7 Deputy I.J. Gorst:

Notwithstanding that the Minister and I disagree on the creation or conversion of a French-speaking primary school, his earlier answer seemed mostly to be based upon his personal opinion. Would he not agree that the only way to prove which of us is correct is by undertaking a feasibility study? Will he therefore agree for such a study to prove me wrong?

Senator M.E. Vibert:

There has been some considerable work done on this. The Alliance Française did a survey and while the majority of the people replying to the survey said yes, they would be in favour of this, it was a very small number of responses. We have also discussed this with teachers and with my curriculum council and others and it is not just a personal opinion, and if the Deputy wishes, I will not have time here to go into all the details that make it a very, very difficult proposition, I am quite happy to host him at my department and he can meet the officers and understand the difficulties in doing this, which is why I favour a nursery class to start with.

3.8 Deputy G.P. Southern:

Will the Minister inform Members whether discussions are taking place with teachers' representatives over changes to sickness leave and pension arrangements for teachers' conditions of service.

Senator M.E. Vibert:

Yes, Sir.

3.8.1 Deputy G.P. Southern:

Also, if I may, Sir, the bit I did not ask: what those changes are?

Senator M.E. Vibert:

As we are in negotiations, it would be wrong for me to go through where we are, but we are listening to what the union representatives are saying to us. I am also a member of the States Employment Board, and what we are trying to do is to ensure that teachers have exactly the same conditions of service as all members of the public sector and, in some cases, there are variations.

3.8.2 Deputy G.P. Southern:

Supplementary, if I may, Sir? The Minister appears to be saying that they are talking about a level playing field, but they are levelling down the playing field. It seems to me that he is talking about taking away current conditions and reducing them to another level.

Senator M.E. Vibert:

No, Sir. There are some where teachers' conditions are slightly in advance of the general ones, and there are some where they are below. What we are trying to do is to achieve consistency throughout.

3.9 Deputy R.G. Le Hérisier:

Building on Deputy Gorst's question, would the Minister not acknowledge that the Canadian method of French immersion has been proven through lengthy research to lead to competence equally in both the French and the English languages, and it is not an exclusive system which locks children into one particular of the 2 languages?

Senator M.E. Vibert:

The Canadian system - I presume by this Deputy Le Hérisier means the Quebec system? Well, Quebec have a slightly different system to the rest of Canada, so I was not sure which we were referring to. But, yes, immersion has proved to be a very successful method of any language teaching, French or otherwise. One of the difficulties is whether parents wish to have this, and whether they would like to have a primary school near them where they would have no choice but to have this. These are some of the difficult situations. I certainly am a very, very keen advocate of improving the quality of our language learning, and to see more and more young people being able to take an interest in and speak other languages, particularly French. We are encouraging that throughout our schools. As I said, in the first instance for immersion, I would like to see - thank you, Deputy Hill - I would like to see a nursery class a possibility to see the take-up of it, and if it is successful, we would look at that experiment.

3.10 Deputy A.J.H. Maclean:

Would the Minister advise the Assembly whether he shares the recently publicised views of the Minister for Transport and Technical Services regarding his policy of zero tolerance on school buses following reports of poor behaviour? Could he also advise the Assembly whether or not there has been an increase in vandalism and poor behaviour in our schools in recent times, and if so, what steps he is taking to remedy the situation?

Senator M.E. Vibert:

I heard the Minister for Transport and Technical Services... sorry he is not in the Chamber. It is a nice phrase. I have no idea what zero tolerance means. But, does it mean if somebody shouts out a word, is that not acceptable? What is acceptable? What is not? What is totally unacceptable is unacceptable behaviour, and I am all for trying to ensure it does not occur. In fact, that is why as

soon as I was made aware of the issue by the Minister for Transport and Technical Services, I undertook straightaway that all our schools' head teachers were contacted and asked to send out a very clear message in their assemblies that we will not accept such behaviour on buses, and that has been done this week. I agree with the Transport and Technical Services men that children identified as behaving in this way will find themselves subject to vigorous sanctions. It is a privilege to be able to travel on a school bus at a highly subsidised rate, and young people must recognise that and behave accordingly.

4. Questions to Minister without Notice - The Minister for Planning and Environment:

4.1 The Deputy of St. Martin:

Will the Minister give an update on the Trinity infill application? Has the compensation issue been resolved and, if so, will the Minister inform Members of the cost of the compensation settlement?

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

I am afraid that is one of the areas I cannot go into. All I can say is that nothing has been agreed as yet.

4.2 Deputy R.G. Le Hérisier:

Would the Minister confirm, despite and in the light of his very well intended project on public art - would he confirm that the appointment of the Public Art Advisor is entirely coming from the levy which he will be placing upon certain planning applications, or whether indeed it will result in additional staffing costs for his department?

Senator F.E. Cohen:

The appointment of a Public Art Advisor will be funded from top-slicing the Centre for Art contributions. So, in other words, if the contribution is assessed at £10,000, £1,000 of that will be available to pay the Public Art Advisor. There is not an intention to be committed in the long-term to the Public Art Advisor, and it would be on a commission by commission basis.

4.3 Deputy G.P. Southern:

Notwithstanding the Minister's previous answers about the relatively low carbon impact of the Island because it uses nuclear electricity, what measures does the Minister have in place to set targets for further reducing our carbon imprint?

Senator F.E. Cohen:

If I remember correctly, we have plans to reduce our carbon footprint by a further 16 per cent. But very clearly, we need to do significantly more work as an Island and as States departments. We are proposing in that context to implement over a period of time a process of environmental audits of States departments. We will also be implementing a new system shortly in conjunction with the Minister for Economic Development to encourage local businesses to take their carbon footprints more seriously through an accreditation system called EcoActive Corporate. The further reduction will be achieved through a whole host of measures. There is not a magic measure. The magic measure was the move to the purchase of nuclear electricity. That has very significantly reduced our carbon outputs by about 34 per cent. There is not another magic one. The other 16 per cent will have to be made up out of small measures.

4.3.1 Deputy G.P. Southern:

While the Minister is, as usual, wonderfully vague, would he care to suggest one, or the top 3, of these measures and say when this magical 16 per cent might be achieved by? When are you aiming at?

Senator F.E. Cohen:

Firstly, I hope that we will exceed 16 per cent. Secondly, in relation to specific measures, I have already given some. EcoActive Corporate will ensure that corporates are encouraged to reduce their carbon footprints, and if they wish to achieve accreditation they will have to demonstrate they are doing so. EcoActive is aimed at a personal level, and environmental audits are aimed at a government level. So, I think we are attacking all 3 areas of the economy at the same time. But I am afraid it is going to be softly, softly.

4.4 Deputy J.B. Fox:

I wonder if the Minister would advise us what the current state of play is in regard to the mineral strategy? Has it been resurrected? Is it going to be resurrected, if it is not? Is there any process at the moment that is being considered for importation of such minerals in relation to any future developments? Sir, we heard from the discussion yesterday on the ageing population, and also in relation to the major incidents, that if we lost both our harbour and our airport, what are alternatives, and would this involve requiring making new facilities?

Senator F.E. Cohen:

The mineral strategy is still under review. I am not aware that there have been any recent developments. The main issue as far as our strategy is concerned is obviously connected with areas such as the disposal of the waste that will be dug out of the waterfront and placed at La Collette. There are other significant areas which we are hoping to resolve, such as the disposal of hazardous waste, where we are very close to a solution. The mineral strategy in general is still under review.

4.5 The Deputy of St. Martin:

Given that the Island is happy to make cuts and savings by introducing G.S.T., how can the Minister justify appointing a Public Art Advisor?

Senator F.E. Cohen:

The Public Art Advisor, as I have already explained, will be paid for by top-slicing public art contributions. If you want to have high quality art you have to have a competent art advisor. I have been most insistent that whoever we do appoint demonstrates they have experience of commissioning art at an international level. So, I am afraid it is going to come out of the percentage for art contributions. It is a top slice, Sir, of those contributions. There is no additional burden on the public purse. I think it is an entirely appropriate way to deliver public art which, remember, is not just a matter of putting sculptures outside buildings. It incorporates a wide variety, from pavement art to light art, to materials that are incorporated in the buildings themselves, to the quality of design of buildings, to superb architecture, et cetera.

4.6 Deputy R.C. Duhamel:

What level of population would the Minister consider to be sustainable for the Island?

Senator F.E. Cohen:

I am afraid I do not know the answer to the question. There is ongoing work by the population group. I believe that the States as a whole will have the opportunity of debating that very question. It will be for the States to answer the question and set the appropriate level. I do not believe it is for me to do so.

4.7 Deputy G.P. Southern:

Does the Minister believe that coming forward with a consultation document on the Esplanade site, which has all the i's dotted and the t's crossed, and with a single design proposal, is appropriate consultation? For example, does he not consider that alternatives might be suggested, such as if we are going to dig a great big tunnel, could that not be for pedestrian access, rather than moving the entire road? Does he believe that this consultation will be any more meaningful than others

because we have only got one option in front of us? While we might tinker with it, nobody can suggest alternatives. What alternatives were viewed?

Senator F.E. Cohen:

The primary consultation that led to what is now termed the Hopkins master plan, was a consultation process I implemented immediately on my appointment as Minister for Planning and Environment. That included extensive opportunities to engage with the public at various different levels, and I had many people who booked appointments to come and see me and tell me what they thought was the best for the waterfront. We also had a seminar at the airport which, as best as I remember, over 200 people attended. That set some very key principles: that superb architecture was a requirement of the Island, that collectivity was a requirement of the Island. Those 2 principles led eventually to the Hopkins master plan. You cannot pick bits out of the canvas that has been presented and throw them up in the air and reassemble them in a different way. The whole principle relies upon lowering the road, building above the road, and the area above the road pays the cost of lowering the road and gives the Island a significant additional sum. That does not mean that we cannot make variations to the scheme, and that is the purpose of the consultation process. But the principles of the consultation process are not: "Do we want to tinker significantly with the principles behind it?" It is a genuine consultation process, but it is based on a canvas presented by Hopkins. Of course, it will be up to the States. If the States do not like it, they can throw it out.

4.8 Deputy J.A. Martin:

It is sort of a supplementary, really, although I was going to ask it before Deputy Southern. The Minister says on his appointment to the Ministry he immediately employed Hopkins to oversee the waterfront master plan. As we know, there are many other developments - indeed, I think all major developments - that Hopkins have to overview. Could the Minister give us the price that Hopkins have cost the States so far to date?

Senator F.E. Cohen:

I cannot give the total price, but what I can do is give an indication. The master plan has cost, as best as I am aware at the moment, around £220,000, which I consider to be extremely good value, bearing in mind the enormous sums that the Island potentially can benefit from out of this scheme, should the States approve it. Of course, if the States do not approve it, the money is effectively wasted. As far as Hopkins' other work, it is really related to areas around the waterfront, such as the Weighbridge, and giving me some design advice on elements that were approved before my term. I think that is entirely appropriate. We need to have one exceptional architect taking a holistic view of all of the waterfront design. So, I am very happy with the appointment. Very happy with their involvement. I think they are doing a first-class job.

4.9 Deputy P.V.F. Le Claire:

Would the Minister please update us in relation to environmental taxes?

Senator F.E. Cohen:

Environmental taxes are a key to our driving forward the benefits that Deputy Southern alluded to earlier. The money to encourage Islanders through grants through education, et cetera, will largely come through environmental taxes, but it was felt that one new tax at a time was probably the best way forward. I will be bringing back to the Council of Ministers, and hopefully after that to the States, in the first quarter of next year, proposals for environmental taxes. But to be very clear, they must be hypothecated, and that means that they must be separate and applied to environmental benefits. The first environmental benefits I would like to see are home insulation and environmental education.

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

Could the Minister advise me and the House as to whether there have been any further meetings regarding the proposed bypass at St. Johns?

Senator F.E. Cohen:

Most certainly there have not, and I am not anticipating any further meetings.

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

While on a slightly different level from the Hopkins master plan, Members will have heard in the media this morning of considerable disquiet from berth-holders in the Elizabeth Marina regarding the fact that it is impossible to stop them unloading their cars and equipment subsequent to their fencing off an area that was previously used for this purpose and administered by W.E.B. and now has been lost. Can the Minister confirm or advise Members whether he will give consideration to dealing with this situation in conjunction with W.E.B. and Jersey Harbours, as there appears to be an element of shared responsibility in this matter?

Senator F.E. Cohen:

Until the Connétable's comments, I am afraid I was not aware of the problem. I will discuss the matter with him later, and assure him that I will do whatever I can to resolve any problems in relation to any development on the waterfront.

4.12 Deputy K.C. Lewis:

Further to the Hopkins plan, Sir, can the Minister give Members a start date for the sinking of the underpass? Much has been made about the master plan for the new Hopkins development down there, which the Minister says is going to be first class. When is the Minister going to turn his attention to alleged errors of the past on the waterfront?

Senator F.E. Cohen:

I cannot tell you when the hole will start to be dug. That depends on this House. I expect to lodge a proposition to this House early in the New Year, and it will depend on this House when and if that is approved. As far as turning my attention to the errors of the past, I think I have done that by appointing one of the world's leading firms of architects, by setting in place principles that require local relevance, excellence of architecture and contextual relevance to be paramount in the design. I can assure the House that if I remain Minister for Planning and Environment that is precisely what I will deliver: first-class buildings of which the Island will be proud.

The Bailiff:

That concludes the second question period, and there being no personal statements, I invite the Chief Minister to make the statement he wishes to make.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

5. Statement by the Chief Minister regarding a partnership agreement with Ille et Vilaine

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

This statement relates to a partnership agreement on co-operation between the Department of Ille et Vilaine and the States of Jersey. Over the last 2 years some States Members and officials from Jersey have been working with their counterparts from the Department of Ille et Vilaine in Brittany on a wide range of topics that are of mutual interest. The collaboration has been organised within working groups relating to commerce and infrastructure, culture and education, and tourism. The work has been most productive, and as a result, a number of initiatives have been progressed, including closer liaison between our harbours and airports' operators to improve transport links, collaboration on tourism promotions, particularly with regard to the T.G.V. (train à grande vitesse) high speed train link to Paris, possible training opportunities for employees in the hospitality

industry, and educational links between schools, colleges and the business school in Rennes. Just a few weeks ago we had the opportunity to hear musicians with an international reputation visiting Jersey as part of the Breton Festival du Grand Soufflet. All these projects have significant economic, cultural and educational benefits for Jersey. To underpin this important and growing relationship between Jersey and Ille et Vilaine, it is proposed that a partnership agreement should be concluded which sets out our desire to further develop the collaboration. It states that we intend to strengthen the co-operation between our administrations with particular priority on the current work programme, but with a view to broader co-operation and partnership in future. Any costs that may be involved are to be shared on an agreed basis, although there are no significant financial implications at present. The proposed agreement has been endorsed by the Conseil Général in Rennes, and I feel it is also appropriate to bring it to the attention of the States Assembly. I have attached a copy of the text of the statement for the information of Members. In accordance with my responsibilities for Jersey's external relations, I intend to sign the agreement, together with President Tourenne of the Conseil Général at the next meeting of the Brittany working groups, which is to take place in Rennes on Monday, 26th November.

5.1.1 Deputy I.J. Gorst:

While I greatly welcome that statement, perhaps the Chief Minister would agree that he, like I, would have benefited innumerable from a French-speaking primary school?

Senator F.H. Walker:

From a private school? A primary school. Oh, a French-speaking primary school. Well, Sir, yes, Sir, I think I would benefit from a French-speaking course in the first instance. A French-speaking primary school has indeed been raised, and I have taken the matter up with the Education Minister, but there are significant logistical difficulties in establishing it. His view, which I have to say I share, is that we are better off focussing more attention on the teaching of French in our current school structure.

PUBLIC BUSINESS

6. Draft Income Tax (Amendment No. 29) (Jersey) Law 200- (P.156/2007)

The Bailiff:

Now we now come to Public Business, and the first item of Public Business is the Draft Income Tax (Amendment No.29) (Jersey) Law 200- , and I invite the Greffier to read the long title.

The Greffier of the States:

Draft Income Tax (Amendment No.29) (Jersey) Law 200-: a Law to amend further the Income Tax (Jersey) Law 1961. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

The States agreed the core principles of the Zero/Ten package earlier this year. As Members will know, this was an essential step to maintaining good international relations, but primarily, it was to remain commercially competitive. There was a time, many years ago, when the Income Tax Law was a slim volume of legislation. Nowadays, I am afraid it is getting larger and larger. This amendment which is the shareholder taxation part of the Zero/Ten package will make it larger still. Sir, I am not going to speak at length about the fiscal strategy - we have debated that many times already. What we have got before us now is really the final piece in the jigsaw of the Zero/Ten package. This is the legislation for the shareholder tax provisions. These provisions are necessary to charge the tax as a personal measure to Jersey resident shareholders in respect of dividends that they will receive from zero rate companies. I must apologise in advance that this is quite long and technical legislation, and it has taken a long time to draft and agree. I am grateful for the assistance

of the law draftsman in being able to provide and her patience and understanding. But before I talk about the details of this draft law, I think I ought to mention that I will be bringing forward legislation in next year's budget proposing a deemed rental charge on those non-finance non-Jersey-owned zero rate companies, such as those seen on King Street, along the lines of the Blampied proposals. It is likely that these proposals will, to a certain degree, mirror the legislation that the Income Tax Law used to contain some 25 years ago. They will come with complexities and difficulties of their own, but I shall leave them for another day. I know, Sir, this has been a subject of keen interest of Members, and all I would say is, at this stage, they will resolve the inequity issue which has been brought to my attention in relation to those foreign-owned companies which, under the Zero/Ten legislation, would otherwise not have contributed towards tax revenues. These proposals next year will ensure that they continue to do so. They will have effect in tax years 2009 and beyond, hence the reason for them appearing in next year's budget. At the same time, I will also be looking at a possible revision to Article 115 of the Income Tax (Jersey) Law to see whether I should remove the current tax exemption for U.K. superannuation funds which invest in Jersey property. They, at the moment, could otherwise find a solution to this remedy that I have. So, I am proposing this for reasons of equity, for I do not see why they should be allowed a tax-free ride in Jersey when nobody else is having a tax-free ride. But - and I make this point clearly so as not to cause any alarm - when those U.K. superannuation funds invest in new - I stress the word "new" - enterprise or business development areas anywhere in Jersey in the future, I will be looking forward to carrying on those tax exemptions specifically for those areas. When I say "new", I mean new from 2007 onwards. So, the law before us today has been the subject of intense and detailed consultation of interested parties, including the Corporate Affairs Scrutiny Panel. I would like to formally thank all those involved in this process for their help and assistance. The Panel have published a report, S.R.20, and I am grateful for their comments and, indeed, their suggested amendments. I think, if I were to paraphrase the summary, and I hate to paraphrase Corporate Affairs, of course, in case I get it wrong - but I think it would be fair to say that, on balance, they think they are going the right way. I can also say to the Assembly at this point that I accept the 2 amendments from the Panel - the proposals contained in their recommendations and contained in their amendments. When we come to the detailed articles in due course, I shall propose the articles as amended by them. So, I think this shows that Ministers and Scrutiny can get together constructively, even on legislation as complex as this. But no doubt the chairman of that Panel, Deputy Ryan, will wish to add his own comments later in this debate. What Members have before them today are, in my view, personal tax measures which fall outside the remit of the E.U. Code Group, which I am quietly confident will be acceptable to all who review them. If I turn now to the proposition and the detail of this law, it contains 60 pages, of which 45 pages contain the law, and another dozen or so in explanations. The fact that it takes 12 pages to explain the law is perhaps an indication of the complexity of this piece of work. The process has taken time, but I am confident we now have all the details right. I should also perhaps mention the matter of timing. In comparison with Guernsey and the Isle of Man, we are the last to come forward with these shareholder provisions. The Isle of Man was first; indeed they already have Zero/Ten up and running. However, although their law received Privy Council approval, parts of it were not acceptable to the E.U. authorities. As a result of this, they have had to go back to the drawing board, and as Members may be aware, they are now coming up to the same solution as we have. The only difference is that we are going for a 60 per cent rate and they are probably going to go for a 55 per cent rate because their tax standard rate is 18 per cent. Guernsey has also drafted its shareholder regulations, the main difference there being they are only proposing to tax distributions made. Although that may be a simpler solution, it would involve a loss in tax revenue. Our rate of deemed distribution of 60 per cent is enacted in the next proposition that I will be bringing once we have debated this one. If Members care to look at that next proposition, they will see that the rate of 60 per cent could easily be changed to zero, which would then mirror the Guernsey situation. It would mean, however, that the size of our black hole, the size of fiscal deficit, would increase. I see no point in increasing that deficit if we do not have to. Indeed, Sir, in my comments to this law,

I state that there are no additional financial or manpower implications, on the basis that the implications were spelt out when we said we had to have this shared legislation as part of Zero/Ten. If we did amend that 60 per cent rate, there would be financial implications. But, Sir, that is not before us today, and I hope it will not be before us at all. Sir, I believe this law does what it says, it does enable us to tax shareholders in their personal names, Sir, and I propose the principles of this amendment.

The Bailiff:

Are the principles of the bill seconded? **[Seconded]** The principles are open to debate. Does any Member wish to address the Assembly?

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

The E.U. Code of Conduct on business taxation is a political process. It is a code. It is not a process based on international law. Therefore, to some degree, this is a negotiation, and like all negotiations, there has to be something in it for both sides. The Treasury Minister has therefore had to take a view on what might or might not be acceptable to stakeholders on both sides of the negotiating table. Not an easy task. His range of options specifically on this issue of the taxation of local and non-local shareholders of companies, on the profits of those companies, falls into 3 basic categories, as he said, and the risks associated with the choice of which category to choose for Jersey have ranged across the 3 Crown dependencies, with the Isle of Man previously at the risky end, Jersey in the middle, and Guernsey at the safer end. The choices may be termed as full or partial attribution of profits, regardless of actual distribution through dividends which, in the case of the Isle of Man, the company is also acting as agent for its shareholders. The second one is partial deemed distribution, the Jersey position, and actual distribution, the Guernsey distribution, at the very low end of risk. So, why not go for the Guernsey position? That position is when you only tax a shareholder when he receives a dividend and not before. Well, as the Treasury Minister has said, this would certainly make the black hole bigger, certainly in the short term, and maybe also in the longer term as well if the delayed tax take, or even a proportion of it, ends up being permanent. In our view, there is likely to be a permanent loss of revenue as well as a timing delay were we to go that route. However, there is a further complication and a sort of wider issue here, in that Jersey's finance industry has very successfully moved its marketing stance over the last few years away from tax-based services to much more of an international centre of excellence for all types of services' expertise. We are becoming genuinely less of a tax haven, to use the buzz words. We all know how successful this appears to have been, and long may it continue. This is the future for the Jersey finance industry. This stance, though, is highly dependent on Jersey's international reputation as a good and responsible neighbour, a member of the international community, and we continue to develop that reputation through tax information exchange agreements and co-operation with other countries, and vigilance over the funding of terrorism and crime. In our view, therefore, the bigger risk lies in the damage to our international reputation and the consequent negative impact on the progress that the finance industry has made in the last 5 years. In that context, we are more relaxed though, after discussing this with the Minister and in the knowledge that Jersey can move to actual distribution if we needed to, very quickly through a relatively small and simple change in regulations. The Isle of Man position was rejected by the E.U. on 26th October, and so they too are now proposing a system similar in many ways to Jersey's. But there are still risks with deemed distribution. Are they worth taking? Well, as I have already said, the alternative to deemed distribution is actual distribution, but because of the likely permanent loss of revenue, our view at Corporate Services is that just about - on balance - we do support the Minister's choice. Now, let us talk about some of the other risks and effects of Zero/Ten shareholder legislation. What about the locally based risks of increased tax avoidance and tax evasion? There are many points made and scenarios described in our report. Whether or not they become an increasing problem remains to be seen. But certainly, there will be much work for accountants in the future. Will the Comptroller's efforts to control this leakage result in a much more adversarial climate in the

taxman to taxpayer relationship, a relationship felt to be an advantage of doing business in Jersey in the past? Well, we shall see. Overall, however, we remain concerned at the effect that Zero/Ten might have on the longer term ownership structures of traditional local companies. There will still be a significant advantage gained by non-local shareholders in that they can retain profits tax free within the companies they own in Jersey, and then use those untaxed profits for reinvestment. This will provide for a level of investment distortion that unfortunately may indeed be unavoidable. At least I can say one thing though, and that is that I am delighted to note that the Minister has accepted our work, and that particularly of Jurat Blampied on at least going some way towards fixing some of the inequity of the treatment under Zero/Ten of local and non-local shareholders of companies through the return to Schedule A taxation of the benefiting kind of owner/occupiers of commercial property. It will not cure the problem entirely, but at least it demonstrates in a practical way, an acceptance that the problem exists, and that in itself is important to the relationship between government and local businesses. I hope the Minister, though, will continue in the search for equity as far as possible through other means at his disposal. Of course, the Guernsey model of actual distribution would cure this, because both local and non-local shareholders would be treated the same. Sir, we have proposed small modifications to the detail of the proposals. These are aimed at reducing the risk of some of the leakages to revenue, but I will not talk about them too much now. I will leave those to the appropriate moment to explain if Members want more information at the point when they come up. Sir, I would like to thank my Panel members, including past Panel members, including Senator Perchard and also Senator Shenton. I would like to thank our officers; as always, they worked extremely hard and diligently on our reports; and finally, I would like to thank our advisor, Mr. Richard Teather, for keeping us on the straight and narrow. Thank you to Richard. However, we will probably have to reconstitute the panel at some stage in the future. I am talking now about further work that we might need to do on the Blampied-type proposals that the Minister will bring forward in due course. So, we will need to reconvene then, I am sure. So, there you have it, Sir. Risks, rewards, advantages, disadvantages in just about any of the choices available to the Minister. So, Sir, I repeat, on balance, we concur with his judgment and the design he has settled upon as being, at this point anyway, and on the balance of the information and evidence we have available, in the best interests of Jersey.

Deputy R.G. Le Hérissier:

I wonder if, on a point of clarification, I could ask the highly esteemed chairman, he said: “Just about on balance.” That does not amount to much enthusiasm. I wonder if he could define what he means by: “Just about on balance”?

Deputy P.J.D. Ryan:

It means: “Just about on balance”, Sir.

6.1.2 Deputy G.P. Southern:

Perhaps I ought to follow that up. Really, I suppose, I want to address 2 points, either of which may be addressed by either the chair of the Scrutiny Panel or by the Minister himself. They both refer to acceptance of the measures we have been talking about before us; whether that is acceptance of deemed distribution, or acceptance of a Blampied proposal which may or may not be deemed rent, in reality or not. It is a wonderful word, this word “deemed”. It seemed to be very prevalent in Jersey’s peculiar income tax law. We can deem anything as we wish, it seems. Unfortunately, the same ready use of the word “deem” and the action of deeming, is not quite as current elsewhere. So, the first question is, what engagement has there been with the Treasury Ministry in the U.K. over the acceptability of the Blampied proposals, whether they are deemed rentals or actual rentals, in terms of double taxation conditions, which mean that this Schedule A, Blampied type arrangement will be acceptable to the U.K. Treasury, because that is vital if we are to proceed forward? Certainly, as I understand it from my time on the panel a long time ago, a different planet it seems, I thought deemed rental would be unacceptable completely, and that a real

rental required the setting up of some artificial company which is going to catch the eye of Treasury officials in the U.K. who are going to suggest that this is just a way round their particular regulations of double taxation, and may not be acceptable to them on this particular condition. Worse still, the fundamental question needs still to be asked about deemed distribution, because the process by which E.C.O.F.I.N. (The Council of Economics and Finance Ministers of the European Union) examines these proposals are rigorous, yes; but are multifaceted. It is not just a straight fiscal or economic analysis that is performed. Does this fill, apparently, what we are supposed to be doing? It is a political process. Just simply deeming that what was company tax or business taxation is now personal tax is unlikely to satisfy some of the hawks in Europe, and I think perhaps of Italy and Germany, in particular, who just love catching the U.K. out on particular things politically. They may well take a look at deemed distribution and say: "Come, come. This is merely ring-fencing or side-stepping our regulations on business taxation by labelling this personal taxation, and there is such involvement of companies in this process that it does not wash." A very political process deemed to get around, and not comply with, the rules. That is the critical question. That question I believe has not been put, and it has not been answered. We are, when we talk about "mildly supported on balance" is that the phrase? "Just about supported on balance", we are talking directly about that risk. The fact is that while this House may or may not accept the way forward proposed by the Treasury and Resources Minister, and I would put it more strongly than the chair of the Scrutiny Panel, there is a real risk that after we have done all these contortions, E.C.O.F.I.N. will simply knock it on the head and say: "You are not getting away with this." The question is when will that happen? Can we hear a little more about the likely process which we still have to go through in order to achieve that acceptance or not?

Deputy P.J.D. Ryan:

Excuse me, Sir. I made an omission when I spoke. I should have thanked Deputy Southern also for his time on our Panel. I knew that might cause a little stir, but, no, it was a genuine omission, and I do genuinely thank him for his time on the Panel as well. Thank you, Sir.

Deputy G.P. Southern:

There was no offence taken. Do not worry.

6.1.3 Senator J.L. Perchard:

May I offer my congratulations also to the Treasury Minister and his team at the Treasury as they bring forward this extremely complex set of shareholder provision, which really does enable the Exchequer to yield possibly up to £20 million more than they would if we had gone for the Guernsey proposal which is an actual distribution only. I think they have taken the tough option in doing so and it is extremely complex. As a result of the complexity, there are a couple of issues that I would like to ask the Minister to clarify when he sums up. Firstly, the point that Jersey businesses that are owned by Jersey people who will be taxed on the profits of those businesses through the deemed distribution principle will evidently be disadvantaged, as the Minister highlighted in his opening speech and Deputy Ryan has spoken about, compared to U.K. businesses operating in a similar capacity but owned outside the Island. That is why I have, from my time on Corporate Services, been persistent in nagging the Minister and his team that we have to find a method to heal this inequity. I am delighted and congratulate him that he is prepared to pick up the baton with the deemed rental proposal and look to extract some contribution from non-Jersey-owned businesses to the running of the Island. I welcome that. Although this proposal is not directly linked to the principles of Zero/Ten, I see them as related and I will be looking for him to come back in short order with the proposals for deemed rental. Can I put Deputy Southern's mind at rest? He said that the deemed rental proposal must, at all costs, be compliant with and exempt from double taxation - that is to say that U.K. companies will not be paying a deemed rent and U.K. tax, and that the deemed rent could be deducted from their tax contribution to the U.K. I do not see that as absolute necessity. Albeit, if they do, of course, they could set up a structure that allowed

them to ensure that they did pay an actual rental, and thereby they would not be subject to double taxation. But I would like, if I may, Sir, just to highlight a problem that may arise with regard to human rights. The Attorney General may wish to comment on a scenario that I will paint now. Just imagine that I owned half of business - 50 per cent of a business - trading in Jersey and I am a Jersey resident. The other 50 per cent of the business is owned by my brother who is a resident in the U.K., in England. Come tax time, the good Minister for Treasury and Resources will ask me to contribute 60 per cent of the dividend that I have received on half of the business. He will not ask my brother who is not a resident of Jersey to contribute anything towards the exchequer locally. I took advice and went to my legal representative and said: "Well, surely I cannot be liable for some of the tax of this business when my brother is not?" I just wondered, is the good Attorney completely satisfied that this legislation is completely human rights compliant, Sir? That, really, wraps up my little contribution. I have enjoyed working immensely with the Treasury and Corporate Services in understanding this incredibly complex Zero/Ten legislation and the shareholder provisions that are accompanying it now, and I thank the Minister for confiding so honestly with our panel, and I will miss the work.

Mr. W.J. Bailhache Q.C., The Attorney General:

Presumably, Sir, the first response is that one should never go into business with one's brother [Laughter].

The Bailiff:

I have always taken that advice [Laughter].

Mr. W.J. Bailhache Q.C., The Attorney General:

I am satisfied that the arrangements are human rights compliant. In the example which is given, it does seem in one sense to be unfair that the U.K. resident brother does not get taxed and the Jersey resident brother does get taxed, but as taxation works on the principle under our income tax law that it targets, if I can put it that way, those who are resident in the Island. Although there are many reasons for living in Jersey, for the example given I suppose the right answer may be that if it really hurts that much, then the Senator would want to go and move to England. That cannot be right. The fact is that under the European Convention, under Article 1 of Protocol 1, the infringement of property rights, which is the main one which is concerned here, there is a wide margin of appreciation given to member states to arrange their affairs, including taxation, in such a way as is assessed by them to be appropriate. In this case, because the residence of the taxpayer is here, and that is there is no discrimination in that sense because all taxpayers are being assessed on the same basis, and because our taxation system works on the residents' basis, it appears to me that it is perfectly within the margin of appreciation of the States to settle this form of taxation. I have no significant concerns about the human rights compatibility of these proposals.

The Bailiff:

If no other Member wishes to speak on principles of the Bill, I invite the Minister to reply.

6.1.4 Senator T.A. Le Sueur:

I will start from the end and thank the Attorney General and agree with him that I also believe that there are no human rights implications. He makes the interesting and important point that we are talking about taxation of shareholders, and shareholders are basically taxed in accordance with their country or place of residence. I think that probably makes answering the questions of Deputy Southern perhaps somewhat easier. Deputy Southern, I think, is putting the other side of the argument quite reasonably, as has been put in email correspondence in the last week or so. But as far as Deputy Southern is concerned, he asks whether our deemed distribution and deemed rentals would be acceptable. I think that has been answered by Deputy Ryan, though I will repeat that it is a matter of balance of risk. If we have an opportunity at the moment to recover £20 million that we would not otherwise get, then it strikes me that if there are no risks either way, I would collect the

extra revenue. If it turns out that that extra revenue for one reason or another proves to be uncollectible, then there are alternative means. But we do not give in at the first stage and throw away £20 million just for the fun of it - at least, I do not. As far as deemed rental is concerned, because that is a different issue - we have not spoken to H.M. Treasury because we have not dotted the law yet - but, in reality, if a rental payment is going to be acceptable from the company's point of view in terms of double tax arrangements, it will need to be an actual rental payment, and I suspect that that will possibly lead businesses to restructure their businesses to get around that one. That is why it is important that I also look at Article 115 as well as the simple Blampied proposals. That I am doing, and that is what I have said. So, I think Deputy Southern regards this as a severe risk. The Corporate Affairs Scrutiny Panel regard it as a medium risk. I regard it as a medium to slight risk. But whatever it is, it is to me something which we can easily resolve because, should both proposals ultimately prove unacceptable, the States simply has to change its rate from 60 per cent to zero, and we then comply again. So, I go back then to the beginning and Deputy Ryan and his detailed comments. I repeat, there has been a good working relationship all the way along with Deputy Ryan and his panel on this law. It has been a complicated matter to resolve, but I think we have done that in a very fair way. The Deputy raises the point about tax avoidance and tax evasion, and that has certainly been in my mind as well. When we come on to the articles within this law, Members will see how the anti-avoidance rules are being tightened in order to deal with the change of circumstances. But I still believe that we have a tax system here which is relatively simple and which is relatively compliant. Examples of non-compliance are still, thankfully, relatively small. I would also point out, by the way, in respect of the so-called Blampied proposals that these would only apply to commercial properties. There is no question here of Schedule A being applied to every single house, residential domestic homeowner in the Island. That would be a totally unfair burden on them. There is a question whether actual distribution would treat local and non-local shareholders equally. Of course, this comes back to the question of shareholder taxation. The shareholders are taxed, basically, where they reside. Finally, Sir, in that respect, the chairman of the panel says we will need to have more discussions on the details of Blampied. Yes, we will, and I am pleased to continue to work with that panel, particularly if we can get the same sort of level of understanding, co-operation and achievement that we have done over the last 12 months. So, with that bit of mutual backslapping, I propose the principles.

The Bailiff:

Can I ask any Member in the precinct who wishes to vote to return to his or her seat? I ask the Greffier to open the voting which is for or against the principles of the Bill.

Members present voted as follows -

POUR: 41	CONTRE: 4	ABSTAIN: 0
Senator L. Norman	Deputy G.C.L. Baudains (C)	
Senator F.H. Walker	Deputy G.P. Southern (H)	
Senator W. Kinnard	Deputy P.V.F. Le Claire (H)	
Senator T.A. Le Sueur	Deputy S. Pitman (H)	
Senator P.F. Routier		
Senator M.E. Vibert		
Senator P.F.C. Ozouf		

Senator J.L. Perchard			
Connétable of St. Ouen			
Connétable of St. Mary			
Connétable of St. Peter			
Connétable of St. Clement			
Connétable of St. Helier			
Connétable of Trinity			
Connétable of St. Lawrence			
Connétable of Grouville			
Connétable of St. Brelade			
Connétable of St. John			
Connétable of St. Saviour			
Deputy R.C. Duhamel (S)			
Deputy A. Breckon (S)			
Deputy of St. Martin			
Deputy C.J. Scott Warren (S)			
Deputy J.B. Fox (H)			
Deputy J.A. Martin (H)			
Deputy S.C. Ferguson (B)			
Deputy of St. Ouen			
Deputy P.J.D. Ryan (H)			
Deputy of Grouville			
Deputy of St. Peter			
Deputy J.A. Hilton (H)			
Deputy G.W.J. de Faye (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy D.W. Mezbourian (L)			

Deputy of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy A.J.D. Maclean (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

The Bailiff:

Now we come to the articles of the Bill and, Minister, how do wish to approach this?

Senator T.A. Le Sueur:

I propose to do it in parts. Of the 9 parts of the law, the amendments proposed by the Corporate Affairs Scrutiny Panel and accepted by me are all in Part 7. So, I think we can take Parts 1 to 6 one at a time first, and then deal with Part 7 when we get to it.

The Bailiff:

Very well. Will you move Part 1, please?

6.2 Senator T.A. Le Sueur:

I move Part 1. Part 1 is just the definition, interpretation clause, Sir. I think it is straightforward. I cannot add very much to those few words. I propose Part 1.

The Bailiff:

Very well. Part 1 is seconded? **[Seconded]** Does any Member wish to speak? I put Part 1, Article 1 of the Bill. Those Members in favour of adopting it, kindly show. Those against. The article is adopted. On to Part 2.

6.3 Senator T.A. Le Sueur:

Part 2 relates to the returns information that must be made to the Comptroller of Income Tax by the taxpayer and others. This will require a taxpayer to inform the Comptroller of details of all sources of income, whether or not any income has arisen from such a source and also details acquisitions and disposals. It also defines when a person is deemed to be the owner of shares. It is relevant for the purpose of determining liability but also relevant in terms of strengthening the anti-avoidance provisions, together with Part 7 which we will come to later. I propose Part 2 of Articles 2 to 5.

The Bailiff:

Articles 2 to 5 are proposed and seconded. **[Seconded]** Does any Member wish to speak on any of these articles? I put the articles. Those Members in favour of adopting them, kindly show. Those against? The articles are adopted. We come to Part 3, Minister.

6.4 Senator T.A. Le Sueur:

Part 3 is likely to be more complicated. This defines when a company is treated as a subsidiary of another which may be relevant for determining group relief. Group relief in simple terms is allowing a company relief against profits in one company for a loss in another company within the same group paying the same rate of tax. This part also contains revised articles relating to

deductions of tax from dividends where a company paying tax at the 10 per cent rate - or it includes the company paying at a 20 per cent rate - is entitled to give a certificate to the shareholder confirming that that amount of tax has been deducted from their profits. That means that the shareholder then can use that against his own personal liability and not get taxed twice. Also included in this part of the provisions is to reduce the possibility of a company's profits being adjusted by losses incurred after a deemed dividend so you could not offset those, otherwise that would cause considerable chaos. Finally, it contains provisions to ensure that a company liable for a 10 per cent rate only becomes liable if it has a permanent establishment here. It also confirms the tax adjusted basis of calculating profits for both 10 per cent and zero per cent companies. So I move Part 3, Articles 6 to 17.

The Bailiff:

Articles 6 to 17 are proposed and seconded. **[Seconded]** Does any Member wish to speak on any of these articles? I put the articles. Those Members in favour of adopting them, kindly show. Those against? The articles are adopted. We come to Part 4, Alternative Basis of Computation for Cases 3 to 6 of Schedule D.

6.5 Senator T.A. Le Sueur:

That is Articles 18 to 21. This really provides the basis of computation for investment holding companies and is supplementary to the general rules. They give arrangements for timing so where you have companies, say, with a financial period ending in June and you have got half in one year and half in the other year, it tells you how to deal with those. It also by inference defines a trading company, although that will be gone through further in Part 7. But if we know what an investment holding company is; if it is not an investment holding company basically it is a trading company. I move Part 4, Articles 18 to 21.

The Bailiff:

Articles 18 to 21 are proposed and seconded. **[Seconded]** Does any Member wish to speak on any of these articles? I put the articles. Those Members in favour of adopting them, kindly show. Those against? They are adopted. We come to Part 5, Corporate Taxation 2009.

6.6 Senator T.A. Le Sueur:

Part 5 is a very simple part. It just amends the year's assessment 2009 onwards which repeats Articles 13 and 14 of the law, which ensures that a financial services company is only taxed if it has a permanent establishment in the Island. I move Part 5.

The Bailiff:

Articles 22 to 24 are proposed and seconded. **[Seconded]** Does any Member wish to speak on any of these articles? I put those articles. Members in favour of adopting them, kindly show. Those against? The articles are adopted. We come to Part 6, Trade of Property Development.

6.7 Senator T.A. Le Sueur:

Part 6 provides for taxation of property development in Jersey. Previously we would have taxed property development either by Schedule D, the ordinary company basis, and if we continue to do so then your future companies trading or dealing in property construction would have paid tax at the zero rate. These proposals ensure that property developers get charged tax at the full 20 per cent rate. I think that is something which should be welcomed by many of us here. So I propose Part 6.

The Bailiff:

Part 6, Articles 25 to 30 are proposed and seconded. **[Seconded]** Does any Member wish to speak on any of these articles?

6.7.1 Deputy P.V.F. Le Claire:

I would like to ask a question. For example, with the development of the waterfront in the financial quarter there might be a non-local company or there might be other local companies and non-local companies involved in developing. What would be the position if the company that is proposed at the moment as trying to build all this make a profit? Will it be paying 20 per cent or will it be treated as a non-resident company? How would that be handled?

The Bailiff:

I call upon the Minister to reply.

6.7.2 Senator T.A. Le Sueur:

The great benefit of trading in property development is it is assessed essentially as it used to be assessed. Now because it has got a building site in Jersey and is quite clearly permanently there - it is a permanent establishment - so we are able to assess that one on an ongoing basis at 20 per cent rate. I maintain Part 6.

The Bailiff:

I put Articles 25 to 30. Those Members in favour of adopting them, kindly show. Those against? They are adopted. We come to Part 7, Deemed Dividends, et cetera. I wonder if in light of the way in which the debate has gone whether Members would be content for the Minister to propose the articles in Part 7 subject to the agreement of the Scrutiny Panel as amended by the Scrutiny Panel so that there is one debate. Are you content with that?

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

I would be content, Sir, depending on how the rest of the House feels obviously.

The Bailiff:

I call upon the Minister to propose Part 7 as amended by the Scrutiny Panel.

6.8 Senator T.A. Le Sueur:

Part 7 is the bit where Members may well need a cold, damp towel because it deals with deemed distributions and the legislation gets quite complex. So I will go through it in a bit more detail, a bit more thoroughly. Firstly, the return of information will need to show the actual dividends and deemed dividends, and also shareholder loans because it would be all too easy to not declare any dividends but simply take money out of a company by calling it a loan. That would be far too simple so we have to get around that with anti-avoidance legislation. It also will assess stock dividends so that if you make a distribution by giving shares in the company rather than cash from it, that is still equally regarded as a distribution. As I say, it deals at the moment with a 60 per cent rate although that could be changed if need be. It deals with charging local shareholders on financial services companies. Although most financial services companies are probably owned by multinational conglomerates, there are some which are partly or wholly Jersey owned. To that extent, the company will pay tax at 10 per cent. The shareholders will then only have to suffer tax on 10 per cent of the balance of that. It allows shareholders of companies to ask the company for a statement of their profits in order that the shareholder can submit a proper tax return. It gives the details of charging them on loans, details of those loans and also what would happen putting it into a trust or other ways which might otherwise be thought of as a way to get around the deemed distribution provisions. Because this is quite a technical area it has taken quite a lot of time to draft and get right. But having spent many hours and months with the law draftsmen and with professionals, I am satisfied that we now have an adequate and proper way of dealing with those potential difficulties. There will also, finally, be consequential amendments in relation to Article 137 dealing with fraud and neglect in providing documents so that there is no excuse that way either. So Part 7 deals with deemed distributions and shareholder loans, Sir. I move that part, Articles 31 to 47.

The Bailiff:

Part 7, Articles 31 to 47 are proposed and seconded. **[Seconded]** Does any Member wish to speak on any of those articles?

6.8.1 Deputy P.J.D. Ryan:

Only that if Members are interested in the detail behind our amendment, it is in the report. I would ask that if they have any questions, by all means ask me afterwards.

The Bailiff:

I put Part 7, Articles 31 to 47. Those Members in favour of adopting them, kindly show. Those against? Those articles are adopted. We come to part 8, Application of Amendments to Principal Law.

6.9 Senator T.A. Le Sueur:

Part 8, thankfully, is getting a bit shorter. Zero/Ten was proposed to come in 5 years after June 2003 which would have meant bringing it in in June 2008. The way that the law has been passed and accepted is that for newly incorporated companies - incorporated on or after 3rd June 2008 - they will be liable under the zero tax regime immediately. Other companies coming in existence will fall into the Zero/Ten regime from 1st January 2009. That means that there is a temporary imbalance between those 2 types of companies. Part 8 deals with how you treat those companies on a transitional basis just for the year 2008. So it is a relatively short term and quirky sort of part which we need to do just to make sure all companies, whether incorporated now or later, are all compliant. I propose Part 8.

The Bailiff:

Part 8, Articles 48 to 52 are proposed and seconded. **[Seconded]** Does any Member wish to speak on any of those articles? I put the articles. Those Members in favour of adopting them, kindly show. Those against? They are adopted. We come to Part 9, Miscellaneous and Closing.

6.10 Senator T.A. Le Sueur:

Relatively straightforward closing provisions. One of them also puts now into legislation what the Comptroller of Income Tax is currently exempting by concession in respect of tax on income for those non-resident in Jersey. It is just really for clarification purposes. Other than that, Sir, the final article is the citation article. So I propose Part 9, Miscellaneous and Closing, Articles 53 to 55.

The Bailiff:

Articles 53 to 55 are proposed. **[Seconded]** Does any Member wish to speak on any of those articles? I put the articles. Those Members in favour of adopting them, kindly show. Those against? The Bill is adopted in second reading. Do you move the Bill in third reading?

Senator T.A. Le Sueur:

Yes please, Sir, if I may.

The Bailiff:

The Bill is proposed in third reading. Seconded. **[Seconded]** Does any Member wish to speak on the Bill in third reading? I put the Bill. Those Members in favour of adopting it, kindly show. Those against? The Bill is adopted in third reading.

6.11 Senator T.A. Le Sueur:

Before I close, Sir, can I just repeat the thanks I mentioned earlier on - but I think is worth repeating - to the law draftsmen and the staff at the Law Draughtsman's Office who have done a tremendous job in trying to get this rather technical activity into legal language. I also have to

thank the Corporate Affairs Scrutiny Panel and a number of professionals in the Islands who have also contributed their thoughts and ideas, both to me and to the panel, and enabled us to come up with what I believe is a first class piece of legislation which deals with the shareholder requirements. I thank all of those people, Sir, most gratefully and also indeed my Assistant Minister and all those who have helped me in this legislation.

The Bailiff:

The Usher is now circulating the Acte Operatoire which will bring the law into immediate force.

Senator T.A. Le Sueur:

I think, Sir, that the Acte Operatoire has been around for many years in relation to budget proposals.

The Bailiff:

I am sorry, Minister. May I just ask the Greffier to read the long title?

Senator T.A. Le Sueur:

My apologies.

The Greffier of the States:

After declaring that the Income Tax Amendment No. 29 (Jersey) Law shall have immediate effect, the States in pursuance of Article 19 of the Public Finances (Jersey) Law 2005 have made the following Act.

The Bailiff:

Yes, Minister.

6.12 Senator T.A. Le Sueur:

My apologies for jumping the gun, Sir. As I was saying, we have become used to Actes Operatoire in the context of the budget where we bring in the Income Tax Law Amendment with immediate effect straightaway. It is now enshrined in the Public Finances Law that income tax legislation can be passed following the third reading and have immediate effect. We do that in the same way as at budget time with the Acte Operatoire. This Act we have today is no more than the standard arrangement to bring the Income Tax Amendment Law into operation. I propose the Act.

The Bailiff:

The Act is proposed and seconded. **[Seconded]** Does any Member wish to speak on the Draft Act?

Deputy G.C.L. Baudains:

Yes, Sir, can we have time to read it? It has just arrived on my desk.

6.12.1 Deputy P.V.F. Le Claire:

I could speak maybe, Sir. I would just like to say that I will be asking for the appel at the end of the brief period when Members have had time to read it as I do not believe that it is going to be acceptable in the long term. I do believe that it is more than a medium risk. Unfortunately, I believe that that is going to attract unwanted attention in our direction. While saying this, I would not want Members to think for a moment that I am standing to criticise or denigrate the very, very hard work that has been taking place on behalf of the Minister and his department or the Scrutiny Panel. They have adopted a position which they believe will be sufficient to carry them forward. I, unfortunately, have not shared that confidence. Unfortunately, I am unable to support this although I do recognise the work that has gone into this and, in particular, the work that the Minister has put into this himself.

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

I would like to ask the Minister why he is requesting that this comes in with immediate effect because I would have thought that it might have been more useful to bring in such changes with the new tax year so that one might really claim that this should be brought in with effect from 1st January rather than with immediate effect. If he could give some reasons as to why he is asking us to do this, Sir, because I do not know if the accountancy profession and others have even had a full chance to review how this will affect them. I think that it might be useful to the community, Sir, to delay this till the beginning of the new tax year.

The Bailiff:

I call upon the Minister to respond.

6.12.3 Senator T.A. Le Sueur:

Members have all had a chance to read the Act now. In response to Deputy Troy, of course this shareholder legislation really comes into place on 1st January 2009. What we are doing here is giving everyone - professionals and all - ample opportunity to digest and understand the law. I think the sooner we give businesses and professionals that certainty, the better pleased they are. I see no point in delaying this until 1st January. I see no point having passed a law in not giving people that absolute certainty which they can expect and to which they are entitled. As far as Deputy Le Claire is concerned, I acknowledge that he has difficulties with the principles behind Zero/Ten and, therefore, he may have an objection to passing the law. I think the time to register that would have been when we had a third reading of the law. I cannot see that it has any effect on the Appointed Day Act, Sir, but if he feels strongly then he is quite entitled to bring the appel. I simply feel, Sir, that I am happy to propose the Act and I do so.

The Bailiff:

May I ask any Member in the precinct who wishes to vote on this appel to return to his or her seat. I ask the Greffier to open the voting which is for or against the Acte Operatoire.

POUR: 42	CONTRE: 4	ABSTAIN: 0
Senator L. Norman	Deputy G.C.L. Baudains (C)	
Senator W. Kinnard	Deputy P.N. Troy (B)	
Senator T.A. Le Sueur	Deputy P.V.F. Le Claire (H)	
Senator P.F. Routier	Deputy S. Pitman (H)	
Senator M.E. Vibert		
Senator P.F.C. Ozouf		
Senator F.E. Cohen		
Senator J.L. Perchard		
Connétable of St. Ouen		
Connétable of St. Mary		
Connétable of St. Peter		

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

Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

7. Draft Income Tax (Deemed Dividends) (Jersey) Regulations (P.157/2007)

Senator T.A. Le Sueur:

Although we could propose the adjournment, the Income Tax Regulations that relate to that should be a matter for me to propose in 30 seconds, Sir. If you wanted to do that and get the whole subject out of the way it might be easier.

The Bailiff:

If Members are content deal with that at this stage, I will ask the Greffier to read the principles of the Draft Income Tax (Deemed Dividends) (Jersey) Regulations.

The Greffier of the States:

Draft Income Tax Deemed Dividends (Jersey) Regulations. The States, in pursuance of Article 81(d)(4)(b) of the Income Tax (Jersey) Law, have made the following Regulations.

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

We spent the last half hour talking about deemed dividends and the 60 per cent rate but these regulations propose the 60 per cent rate and they are done outside the law by that regulation so that if we need to change them, they can be changed with relative ease. I propose the principles of regulations.

The Bailiff:

The principles of the regulations are proposed and seconded. **[Seconded]** Does any Member wish to speak on the principles of these regulations? I put the principles. Those Members in favour of adopting them, kindly show. Those against? They are adopted. Do you move Regulations 1 to 3, Minister?

Senator T.A. Le Sueur:

I do, Sir, yes please.

The Bailiff:

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

Senator T.A. Le Sueur:

Yes, Sir.

The Bailiff:

Seconded? **[Seconded]** I put the Regulations in Third Reading. Those Members in favour of adopting them, kindly show. Those against? They are adopted in Third Reading.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

If Members agree, we will adjourn until 2.15 p.m.

LUNCHEON ADJOURNMENT

The Greffier of the States (in the Chair):

I am sure Members will join me in welcoming a second party of girls from the Jersey College for Girls in the public gallery.

PUBLIC BUSINESS

8. Criminal Justice Policy: audit of the need for a prosecution service (P.161/20007)

The Greffier of the States (in the Chair):

The Assembly comes now to P.161 - Criminal Justice Policy: audit of the need for a prosecution service - in the name of the Deputy of St. Martin. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion: (a) to request the Minister for Home Affairs to commission an independent audit of the human rights implications of the decision to reject recommendation 4 of the Review of Criminal Justice Policy in Jersey prepared by Professor Andrew Rutherford in 2002 (the *Rutherford Report*) namely that a public prosecution service should be created under a director responsible to the Attorney General and that the role of the Centenier in the Magistrates Court should cease; and (b) to agree that no consideration by the States of paragraph (b) of the Criminal Justice Policy lodged au Greffe by the Minister on 4th September 2007 should take place until the Minister has presented the findings of the independent audit to the States.

8.1 The Deputy of St. Martin:

I was going to say I am flashing but I do not know if it is an appropriate expression. Sir, last week it became publicly known - for whatever reasons - that the Magistrate's dual role would end. Following that decision, whether the Attorney General shares the view of Mr. Jonathan Cooper, O.B.E., regarding the dual role becomes almost superfluous. The Island is no longer under the threat of being taken to task for failing to give an accused a fair trial. That must be to the benefit of everybody. Members will note that on page 33 of my proposition I have asked a number of questions of the Attorney General as to whether he shared Mr. Cooper's view that 5 aspects of the current operation in the Magistrates Court were not convention compliant. Three of the 5 questions have now been addressed. During my speech, I will address the 2 disputed questions; that of the need of professional prosecutors and the Magistrates Court listing and the running order arrangements. I will begin by addressing the question of the Centeniers' involvement with the running order in the Magistrates Court. The Minister claims that the Centeniers' involvement in the court listing is human right compliant. However, there is clear evidence from transcripts from the scrutiny hearings which do not concur with the Minister's comments. Sir, the Centeniers do organise the court's running order. One of the Centeniers claimed the role to be an onerous responsibility. A Magistrate said that some Centeniers are better at running the list than others. The Scrutiny Panel also received evidence from an advocate regarding the difficulty it had with the Centeniers running the list. At a scrutiny hearing on 5th October last year, Miss Tracy Easton who is now the Chief Crown Prosecutor for Devon and Cornwall and the Isles of Scilly drew the panel's attention to the fact that in the U.K. because of equality of arms under the European Convention neither the prosecution nor the defence should have undue influence over the way the court is listed. Sir, I maintain there should be no difficulty in resolving the problem. The Education and

Home Affairs Scrutiny Panel has recorded the problem as a key finding and has recommended that it be addressed by the Magistrate, the Attorney General and the Comité des Chefs de Police. If those addressing the matter ensure that whoever is organising the running list is not involved with the prosecution or defence, the matter will be resolved and any possible violation of Article 6 - that is the right to a fair trial - will cease. I now turn to the question of whether Home Affairs carried out a human right audit on the implications of rejecting Rutherford's fourth recommendation which was to establish a public prosecution service. The reason for rejection was on the grounds of cost and the loss of the Centeniers' traditional role in the Magistrates Court. In her comments to my proposition, the Minister has claimed that she received human rights advice from the Attorney General when she considered Rutherford's fourth recommendation in March 2003 and before lodging her 2005 and 2007 criminal justice propositions. Sir, I do not want to spend too much time convincing Members that very little or no advice was given or audits conducted. This view is shared by the Education and Home Affairs Scrutiny Panel where they found that Home Affairs had given inadequate examination of human rights implications when it considered Rutherford's fourth recommendation. It is a key finding. There is further evidence to show that no advice was given or audit conducted from the answer the Minister gave to my oral question on 21st September this year. She gave no positive response or details of any audit being conducted. Also following recent oral questions to the Chief Minister and the Attorney General, both have confirmed that no audit was conducted on the laws relevant to the Magistrate and the Centeniers prior to the adoption of the Jersey Human Rights Law last December. It seems ironic that while Home Affairs is claiming to take a holistic view of criminal justice, it has decided against establishing a public prosecution service without giving due consideration to all the human rights issues. It is apparent that the Minister is unaware of the issue of the separation of the investigatory phase and the prosecutorial stage in our criminal justice system. This principle now appears to be the norm throughout the U.K. and more recently adopted in the Isle of Man. This has led to an independent public prosecution service. The Crown Prosecution Service was established in the U.K. over 20 years ago following the Royal Commission on the criminal procedure in the U.K. under the chairmanship of Sir Cyril Phillips. It was the view of the review body that a pre-trial process has 2 distinct but interdependent phases. The police should have primary responsibilities for the investigative side and the Crown prosecution on the prosecution side. There had to be a clear division between the police and the prosecutor. Therefore, the police should no longer act as advocates in the courts. To cater for this eventuality it is recommended that a statutory-based public prosecution service be established. Rutherford's fourth recommendation is in line with the *Phillips Report* and the 1990 *Le Quesne Report* for the working party which was conducted to review our court arrangements. It could be said that the Lecane review was very much in line with that of the U.K. Phillips review. One of the Le Quesne recommendations was to end the Magistrate's dual role. It is good to hear that after 17 years that recommendation has now been addressed. It is worth recalling that in the Isle of Man, following recent human rights concerns, it too is in the process of changing its prosecution system whereby police sergeants currently assisting the legal advisor in the Isle of Man are being replaced by legal advisors. At a sitting of Tynwald in February last year, the Chief Minister asked a question of the Attorney General regarding the Isle of Man's prosecution service which is not too dissimilar from Jersey's, except its honorary police system is in the form of special officers. Nigel Mansell was once one of those special officers. Sir, I will quote from the Isle of Man's *Hansard*: "The Chief Minister asked the Attorney General as to whether in this day and age that the police who in any arrest situation will be an interested party are actually determining whether to prosecute an individual. Are there any implications to this matter under the Human Rights Act which has just been passed by Tinwall?" The Attorney General replied: "Mr. President, I think as a matter of principle it is wrong that the police should be involved both in investigation and prosecution. This is a principle which I think has been endorsed by the Council of Ministers over a long period of time, and also reflected in directions which have come from the European Commission from time to time. I think it is unlikely - I will repeat that - I think it is unlikely that conditions breach the Human Rights Act but not a principle which I am at all comfortable with. I

welcome, Mr. President, the day when the investigation and prosecution process is divided or divorced from the police. I am looking forward also, Mr. President, to the day when Chambers have adequate facilities to accommodate additional prosecution lawyers who will deal with all prosecutions, both summary and indictable so the police will have reserved to them the rights to investigations". I should add, Sir, that during the Attorney General's answer *Hansard* records: "Here, here" from Tynwald members. Sir, the Isle of Man has now found the funds and the new system will come into operation next March. Although the Isle of Man's Attorney General has doubts about the human rights concerns, he was nevertheless that uncomfortable with the existing arrangements and has instigated change. I submit that the Attorney's reply was a guarded one for he did not want to draw the public's attention to a problem before he had time to address it. The speed in finding the funds and changing this system is because of genuine human rights concerns. Sir, it appears that the Attorney Generals are like God. They work in mysterious ways. For it must be recalled that our Attorney General thought that our Magistrate's dual role was unlikely to breach the conditions of Human Rights Law. However, he too must have been uncomfortable with the arrangement and has made suitable arrangements to end the dual role. As the Isle of Man has changed its system because of human rights concerns, one must presume that its Attorney General was sharing Mr. Cooper's view which is not shared by our Attorney General. The Minister and Attorney General have stated there is no need for professional prosecutors and cites the employment of designated or dedicated case workers. That means, in the U.K., it is not essential for professional prosecutors. Sir, designated case workers are professional prosecutors. Ask any one of my Scrutiny Panel or former Scrutiny Panel members who met a number of D.C.W.s (Designated Case Workers) in Southampton. D.C.W.s are or are called dedicated workers. They are highly qualified professionals who are trained to a very high standard and are regularly assessed. They, like our Centeniers, prosecute guilty pleas. However, that is where any similarity ends. The Minister disputes Mr. Cooper's view --

Deputy J.A. Hilton:

Excuse me, Sir, could I ask for a point of clarification? The Deputy of St. Martin referred to these designated case workers as being highly qualified workers. Do they have law degrees?

The Greffier of the States (in the Chair):

The question was whether you knew whether the designated case workers have law degrees, for example?

The Deputy of St. Martin:

They may well have law degrees. [Laughter]

Deputy J.A. Hilton:

That is not answering my question. What I am interested to know is what qualification do these Designated Case Workers hold?

The Deputy of St. Martin:

Can I answer the questions at the appropriate time and let me go through my speech first? It is normal that one asks questions at the end of the speech when one gets up to speak. I will address that later. I will get back here. The Minister disputes Mr. Cooper's view that Centeniers do not have the necessary attributes of a prosecutor and, therefore, do not fill the criteria demanded by the European Consensus as set out by the Council of Europe. Although the Magistrate's dual role has ceased, the Centeniers are still prosecuting cases and involved in the prosecution phase which the Isle of Man has just stopped. In paragraph 91 of his opinion, Mr. Cooper says and I quote: "It would seem self-evident that once the dual function of the Magistrate is removed in all cases, a consequence will be the requirement for professional prosecutors involved in all cases. The question, therefore, is where does this leave the Centenier? Within the constraints of this opinion, it is not possible for me to do justice to this question. However, the notion of civil society oversight

of policing and the prosecutorial service is an essential aspect of human rights policy and protection. My advice would be to retain the position of Centenier but to adapt the function to ensure that its purpose is fully consistent with human rights standards and its objective is to ensure the guarantee of human rights to all within the parish and particularly those who are caught up within the criminal justice system, either as victims or alleged perpetrators of crime. What this would mean in reality, I am afraid, will require another advice.” Sir, I contend that what Mr. Cooper’s comments do is that they lend support to my proposition: we need another advice. It might be helpful to remind Members that Mr. Cooper was engaged to give an opinion on the Magistrate’s dual role not the human rights implications of the Home Affairs decision not to establish a public prosecution service. The States do not have that advice because Home Affairs have not conducted an audit on this issue. That is what my proposition is seeking to address. One issue the Minister has failed to comment upon is the Centeniers’ involvement with the decision to charge which was not considered by Mr. Cooper because that was not part of his brief. The Minister has not commented on this practice so how can she claim to have conducted an audit on the implications of rejecting the establishment of a prosecution service. This debate must be addressed, Sir, before Members are asked to debate part (b) of the Home Affairs proposition. Home Affairs rejection of Rutherford’s recommendation is on cost grounds but has given no indication of the cost in either its proposition or its comments. It also rejects the recommendation because the Centeniers’ traditional role in the Magistrates Court would cease. I remind Members that countries cannot opt out of the human rights responsibilities on cost grounds. This fact was confirmed by the Attorney General in July following an oral question from me. Members will recall that in an answer to my oral question earlier today, the Home Affairs Minister has stated that to meet an international agreement it has been necessary to appoint a Director of Civil Aviation, irrespective of the cost. We were never told this morning what the cost would be. However, what I ask is how can funding be found to meet one international obligation yet not for another? Also safeguarding traditions which are not human rights compliant is not possible. Other police forces with longer traditions have had to comply with human rights conditions. They no longer take part in the prosecution phase. I would draw Members’ attention to the Education and Home Affairs Scrutiny Panel’s comments on the Centeniers’ role in the Magistrates Court. I quote: “In one sense if it transpired that Centeniers lost their role in the Magistrates Court, the Honorary Police in Jersey would be no different from their professional counterparts in England, Wales and the Isle of Man. There, policing and advocacy are now regarded as separate functions that need to be carried out by different people.” They have further added: “We recognise the concerns regarding the potential damage to judiciary and increasing cost were Centeniers to be removed from the court. In terms of tradition, an examination of the previous reviews to which we have referred will show that the system will survive them and indeed was enhanced by them.” Connétables will probably agree that having to undertake court duties is a stumbling block when recruiting Centeniers. Sir, while being honorary and very worthy, Centeniers are nevertheless fully fledged police officers. Honorary police officers can be found in uniform with all the trappings, patrolling in police cars and involved in arresting and summoning people. They do not want to be treated any different from their professional colleagues. The Island owes a great deal of gratitude for the sterling work the Honorary Police has given freely of its time and long may it continue to do so. The Education and Home Affairs Scrutiny Panel has commented on how the Honorary Police have successfully adapted to change to meet the needs of a society it serves. To this end, the Honorary Police needs to know whether some of its traditional roles now meet the requirements of a modern and sophisticated society and human rights obligations. It is abundantly clear that no human rights audit was carried out prior to the Home Affairs decision to reject Rutherford’s fourth recommendations and Mr. Cooper’s brief did not extend to giving an opinion on that matter. I believe that before we debate part (b) of the Home Affairs proposition, an independent audit should be conducted. I believe our Honorary Police deserve to know whether their traditional role is compliant and, just as importantly, States Members need to know if, from a human rights perspective, we can debate part (b) if there is any doubt in our minds. In summary, I believe that

the people organising the running of the Magistrates Courts listing order should ensure that that person neither forms part of the prosecution or the defence. I think that matter can be easily resolved. Regarding the issue of police involvement in prosecuting of guilty cases; although the Isle of Man's Attorney General had doubts about the human rights compatibility, it is about to change its system. This course of action is in line with Mr. Cooper's view which we know is not shared by our Attorney General. Our Attorney General claimed that the Magistrate's dual role was human rights compliant but he has stopped that arrangement. Can we be sure he is correct with his view that there is no need for professional prosecutors when the Isle of Man has changed its system? The Education and Home Affairs Panel record that inadequate attention was given to human rights when the Home Affairs rejected Rutherford's recommendation. The Education and Home Affairs Scrutiny Panel record that a detailed audit of legislation relating to the Magistrates Court did not occur prior to the implementation of Jersey Human Rights Law. I do not believe an audit has been carried out yet. The Education and Home Affairs Scrutiny Panel has recommended the Attorney General and the Home Affairs Minister should give detailed consideration to whether the current system whereby the Centeniers present cases in the Magistrates Court meets human rights requirements. No human rights consideration has been given to the Centeniers' role in the charge process; and I believe the Attorney General is too conflicted to give advice because he has been advising Home Affairs. There is a need for an independent audit. Lastly, the Members will note that the cost of the Cooper opinion was less than £3,000. That included the cost of providing the brief. Surely that must be a small price to pay for such vital information. I ask Members to give me their support and I propose my proposition and ask for it to be seconded.

The Greffier of the States (in the Chair):

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

8.1.1 Senator W. Kinnard:

Members will have been circulated with my full written comments on this matter and also my response to the Education and Home Affairs Scrutiny Panel. Sir, I would like to begin by saying that I am grateful to the Education and Home Affairs Scrutiny Panel under the chairmanship of Deputy Mezbourian for their very balanced and useful report. Sir, to move directly to the question. The report and proposition of the Deputy of St. Martin gives the impression really to anyone without any knowledge of the way in which the Magistrates Court system works, that Centeniers were or have been somehow the sole representatives of the prosecution which of course is not the case. The Deputy makes only fleeting reference to the presence of professional prosecutors in our Magistrates Court which have been in the Island for the last 8 years. Another criticism I would have of P.161 is its total lack of proportionality. The proposition seeks to use a very minor criticism of the procedure in a tiny number of cases - some one per cent of all cases; that is probably 20 defended cases appearing in the Magistrates Court - and to use that tiny number in order to justify sweeping changes to the whole prosecution process which frankly, Sir, would see the end of the Centeniers' involvement in the court process. I for one would be very sad for that. I believe that those men and women do a tremendous job in the criminal justice system. I think that other jurisdictions would envy us our honorary system. Given that the original criticisms made by Mr. Cooper of this one per cent of cases - which can be entirely defensible as the Attorney General has pointed out - and given the fact that professional prosecutors will now in any case prosecute those one per cent of cases where the Magistrate plays a dual role, the sweeping changes that the Deputy proposes are simply not warranted. A full public prosecution service is simply not justified by his arguments. Therefore, I am surprised, Sir, that the Deputy has not sought leave to withdraw his proposition. To put the issue in perspective, we as we have said are focussed on a very small number of total cases - one per cent - appearing in the court. It is worth noting the sorts of cases that are involved. In 2006, the sorts of cases were defective vehicle, drunk and disorderly, breach of the peace, traffic light offences and parking infractions. Put against the minor issue that was raised by Mr. Cooper, I invite also Members to consider the elements of an article which was

published earlier this year in *The Telegraph* on the Crown Prosecution Service. The heading, Sir, is Millions Wasted By Court Bungles. It cites the Common Public Accounts Committee as criticising the C.P.S. (Crown Prosecution Service) for lost files, evidence not presented on time and claimed tens of thousands of cases are being unnecessarily delayed because of errors. Such delays were said to cost the taxpayer in the region of £173 million. Most of the delays were caused by the C.P.S. and were avoidable according to the P.A.C. (Public Accounts Committee) chairman. He went on to say this is not only a waste of taxpayers' money but also an affront to society's expectation and demand that the guilty be swiftly brought to justice. By comparison, Sir, our system including the role of Centeniers in the court is a paragon of efficiency and cost-effectiveness. Furthermore, the Deputy of St. Martin's report went on to refer to overwhelming evidence of a longstanding problem. If there were such overwhelming evidence, Sir, it would be most likely to manifest itself through a string of appeals to the Royal Court against the findings in the Magistrates Court where the Magistrate had exercised his dual role. But, Sir, there are very few successful appeals against criminal convictions in the Magistrates Court at trial anyway. Nobody has as yet sought to raise the issue of the fairness of the trial where a Centenier presented the case. Ultimately, I would argue that this is the acid test and, of course, would be a matter for judicial decision. Having put the report and proposition in perspective, the report goes on to suggest that it is incumbent upon me - indeed the Deputy did in his speech - to satisfy Members why I consider the present arrangements with the slight changes that have been made are human rights compliant or indeed the arrangements that persisted before. In such matters, Sir, just as the Home Affairs Committee did in March 2003 when it decided not to pursue recommendation 4 of the *Rutherford Report* and just as it did prior to lodging our original criminal justice policy in 2005 and again in July this year when P.118/2007 was lodged, advice has been taken from the Attorney General on the human rights compliance implications of the policy proposals. The scrutiny report was referred to by the Deputy. My response to the scrutiny report makes it clear that the draft policy had regular reviews from a human rights perspective throughout its genesis. I am satisfied that the result of the scrutiny process that has taken place has shown there to be no compelling reason why the Island should establish a public prosecution service. The next justification that has been advanced is the assertion that the Centeniers do not have the necessary attributes of a prosecutor and, therefore, do not fulfil the criteria demanded by the European Consensus as set up by the Council of Europe. Mr. Cooper in his opinion gave no authority in terms of case law for the propositions which he makes, other than a reference to the Supreme Court of Zimbabwe which is required, Sir, to operate in rather more challenging circumstances, I feel, than our own. **[Laughter]** This is hardly convincing. Secondly, the Council of Europe recommendations do not go so far as to say that only professional prosecutors can be used or that all cases must be prosecuted by such professional prosecutors. Indeed, Sir, as the Deputy alluded to, the United Kingdom's move to set up the dedicated case worker system would seem to show that it is, at least in the United Kingdom's view, not essential to have a professional prosecutor. It has also been asserted that the right to a fair trial is compromised by what is perceived to be the Centeniers' role in fixing and listing trials. In this respect, Sir, the Centeniers' role has been misinterpreted. The important factor is that the Magistrates Court Greffe remains in charge of this process throughout. The Centenier of course is a vital link in organising how things are brought to trial but it is not the case that the Centenier acts in such a way as to become part of the core function of the court. I will also address some issues I think about the independence perhaps of the role of the Attorney General. I hope he will bear with me if I do so because I do feel that the Deputy has made a number of assertions in his speech about either the lack of the independence of the Attorney General or the lack of his role. I would say, Sir, that perhaps maybe he is picking some of this up from some attention that has been paid in recent times in the United Kingdom to the independence of the Attorney General in the United Kingdom and whether some changes need to be made to his role in order to make it appropriate in terms of independence in the prosecution process. Similarly, Sir, there has been public comment made in Jersey which, again, may have prompted, in part, this focus from the Deputy. In the U.K., Sir, the Crown Prosecution Service reports through its director to the Attorney General who is described as

having a supervisory role. The Attorney General in the United Kingdom is a personal appointment of the Prime Minister. Recent high profile cases such as the cash for honours investigation and his role in giving advice to government on the legality of the war against Iraq may have put the spotlight on the independence of his role. But, Sir, the position of our own Attorney General in Jersey is quite different. He or she - because I am talking about the role - is not appointed by the States, the Chief Minister or the Council of Ministers. They are not involved in that appointment. It is the crown that makes that appointment. Indeed, Sir, in the past the Attorney General has carried out prosecutions, for example, against the former Resources Recovery Board, the Public Services Department, and I believe, Sir, preserved what we can see very much as an independent position. P.161, Sir, I believe does not really address the differences. Certainly in the comments that the Deputy made about the Attorney General and his role vis-à-vis independence, I think do not take account of the very different role our Attorney General plays in the Island. I think it is wholly wrong as a result, therefore, that he is reaching the conclusion about the need for a separate independent audit. The leap in logic, Sir, is frankly unsubstantiated. Sir, there are other considerations. The Deputy referred to and indeed there is a statement in his report and I quote: "It does not follow that if the Centeniers lost their role in the Magistrates Court that they would be held in any less respect than they are now." Sir, I do not believe that this has formed any part of my reasoning for justifying retention of the Centeniers' role or a role in the court for them. Centeniers perform many functions and their most valuable and unique role is connected with the conduct of Parish Hall Inquiries. Again, therefore, the arguments put by the Deputy are flawed. They are often factually incorrect and have no bearing upon the compliance of the present system. In any case, Sir, any improvements that might be required to any of the administrative processes need not, of course, result in a new public prosecution service. There were other wider considerations, Sir, associated with this proposition which have not been thought through I think in the Deputy's proposition but which I think the States must remain cognisant of. The Island is rightly proud of its honorary tradition, and the men and women who give service are both dedicated and diligent in the performance of their duties. Unfortunately, the Deputy of St. Martin has not a sense of perspective as he has made a false connection between questions about the dual role of the Magistrate and the need for a public prosecution service. His proposition is ostensibly about the dual role of the Magistrate but the arguments he uses are then deployed to apply to all prosecutions in the Magistrates Court as a result of the Centeniers' role rather than the tiny number of cases we referred to earlier. The resultant conclusion, Sir, I submit is flawed because the resultant conclusion cannot be maintained that the role of the Centenier should cease and that we should have a public prosecution service. In the present time of cost savings, cash limits and reining in on public expenditure which we cannot ignore, do we really want, Sir, to add the unnecessary cost to the administration of justice. The human rights compliance position of the present system is wholly defensible. My policy has had regular human rights reviews from the Attorney General and the Law Officers and so for the reasons outlined, Sir, I really think the States should consider very carefully whether they wish to change completely a system that works well and is unique to our Island culture. As the Attorney General said in his answer to the Deputy's question on 9th October, Sir, as with many human rights issues, it is possible for lawyers to advance different views and the right place, if there were to be a challenge, would be in the court. The Cooper opinion is just that, Sir, an opinion, and it has not really provided compelling enough or a justifiable case to prompt the audit on my decision to reject Recommendation 4 of the *Rutherford Report*, namely that a Public Prosecution Service should be created and the role of the Centenier in the Magistrates Court should cease. Sir, I reject the Deputy's proposition and I hope Members will do likewise.

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

Two weeks ago, Sir, we heard Senator Norman admit that he was seduced by the proposition brought by the Connétable of St. Helier. I can categorically say today that this proposition in no way seduces me. In fact, I can read straight through it and spot immediately the ulterior motive behind it. The Deputy of St. Martin has at the top of his agenda the demolition of the Jersey

Honorary Police system. I see him shaking his head, Sir, but if this were not his intention, why did he not withdraw his proposition following his perceived triumphant victory over the Attorney General last week? I say “perceived” because, in fact, it was a hollow victory, if a victory at all, Sir. The Centeniers have not been presenting not guilty pleas in the Magistrates Court since 1998 when the States adopted the proposition to introduce legal advisors other than for minor offences and parking fines. It is interesting to note, Sir, that when the States accepted the establishment of legal advisors in the Magistrates Court in 1998, the Deputy of St. Martin - the same Deputy as today - was in the States all day and voted on all previous propositions that day but neither took part nor voted in the proposition to establish these legal advisors in the court. He obviously did not regard it as important at that time. His conversion will have come later on, probably on the road to Trinity, Sir. **[Laughter]** The Deputy stated on the radio on Sunday that he was only interested in ensuring that the Magistrates Court and the role of the Magistrates were human rights compliant and that he had every confidence in the Centeniers. Yet there is no mention in the words of the proposition today of the dual role of the Magistrate, merely that a prosecution service should be created and that the role of the Centenier in the Magistrates Court should cease. How can those honourable men and women, who have agreed and been elected by the public to give their time to undertake the very important role of Centenier, have any trust in the integrity of the Deputy of St. Martin? Certainly at the meeting of the Comité des Chefs de Police which I attended last night, there was unanimous condemnation of his actions. Neither the Deputy nor Mr. Cooper appears to have fully understood the role of the Centenier in the Magistrates Court. I take the point that the Deputy raised in his proposition. The fact is that the Centeniers have never acted as advocates in court. The Centenier calls the case and presents any evidence applicable to that case. This, Sir, is the Magistrates Court and, as such, the Magistrate has the last say of what happens in his court. I am, Sir, not going to dwell on the role of the Centenier in the Magistrates Court but ask Members to turn to the Deputy’s report, page 12, paragraph 28, which I believe is the crux of the Deputy’s proposition. Here you will see, Sir, he wishes to introduce a prosecution service similar to that of the Crown Prosecution Service of England and Wales, a prosecution service which, in my view, cannot be held up as a perfect example, considering the amount of press coverage of the deficiencies of that system over the last few years. Yet this is what the Deputy would like us to have. He would like to see the Centeniers lose their role in the Magistrates Court and by virtue of the introduction of an English-style prosecution service, I believe their role in Parish Hall Inquiries. The English prosecution service is responsible for deciding who is prosecuted and who is not. In that, it is interesting to note that within the English court system, guilty pleas are often handled by dedicated caseworkers and not by legally qualified persons. Not so different from the role of the Centenier but obviously far more expensive. Paragraph 28 goes on to say that the Deputy believes that the role of the Centenier can be redefined, that they would continue to carry out core policing activities in their communities. Again, Sir, this demonstrates the ignorance of the present system that the Deputy has where many core policing activities are required by law to be undertaken by the States of Jersey Police. Sir, I suggest that the Deputy is looking to have the Honorary Police as glorified neighbourhood watch. The Parish system, Sir, is very much at the heart of Jersey life and nothing should be allowed to erode it. The Honorary Police system has evolved over centuries and has embraced considerable changes when required to do so, especially, Sir, in the last 20 years. It does not fear any change but is quite prepared to work with any such change. The Island is proud of its honorary tradition and those men and women who are prepared to give back to their community as a mark of thanks to the society that they have chosen to live in. The role played by Centeniers is particularly important and we cannot run the risk of losing it. That does not mean that it will not continue to change but this is this Assembly’s opportunity, not only to show our support of the service which the system gives to the Island, but to show public appreciation of the contribution given by the members of the honorary service to the fabric of our community and Island. Sir, I suggest that the one way that we can achieve that today is by soundly rejecting this proposition.

8.1.3 Deputy S.C. Ferguson:

I will obviously confess to being somewhat biased in this because, as most people know, I was a Centenier before I entered the States. I must say, though, I cannot recognise the role I played in the comments of the Deputy. I cannot see that this is a debate about human rights. I agree with the Constable of St. Ouen, it does appear to be an attempt to convert a tried and true system belonging to Jersey into an ersatz copy of the English system. Why? The Deputy seeks, as you have heard, to change the system into a copy of the Crown Prosecution Service in the U.K. and how does this work? They use lawyers supported by case progressors. They are not called caseworkers any more, that is a term that is well out of date. These case progressors handle the trivial and not guilty cases and who are these case progressors? They are civilian staff attached to the Criminal Prosecution Service. The National Audit Office report on the Crown Prosecution Service, which led to the Public Accounts Committee comments that the Minister quoted, criticised the general turmoil and confusion in the Crown Prosecution Service and pointed out that the caseworkers are, and I quote: “insufficiently trained to deal with the complexities of the law” and this is the system that we are going to be asked to accept. In contrast, we have trivial cases presented by civilians who have undertaken training and have a fair knowledge of the law but they are called Centeniers. One of the most important things is that they have the ability and the knowledge to challenge the States Police evidence, something a case progressor cannot do, and the Centeniers have been known to use this ability. This is an extremely important check and balance in the system. I know of a number of cases where inadequate or faulty evidence provided by the States Police has been questioned by the Centenier handling the case and this has prevented either a waste of the court’s time or even a miscarriage of justice. After discussion, obviously, with the legal advisors, the Magistrate and the Attorney General, cases are sometimes even removed from the court and sent back to the Parish Hall inquiry level. Most of the Members in this House, Sir, have not put in their time in the Honorary Police. Those who have are well aware that no Centenier charges a case which he has investigated. Furthermore, if a guilty plea is to be entered, then the Centenier automatically confers with the legal advisors and will usually pass the case on to the legal advisors. What is more, the Cooper opinion, on which the Deputy places such great reliance, appears to be totally ignorant about the relevance and construction of the Parish Hall inquiry. The Deputy asserted that he asked Mr. Cooper to advise on the Magistrates dual role. I do not see that this requires a human rights specialist so why did he insist on a human rights specialist? He might like to tell us. In fact, I do question the thoroughness and the bias of the briefing which Mr. Cooper was given. He takes it upon himself to comment on the Parish Hall inquiry which is held up as a model of how to do things, copied and applauded internationally. It is not a court. It has never pretended to be one. As anyone who knows anything about the Parish Hall inquiry will tell you, any transgressor is perfectly at liberty to refuse to accept the results of a Parish Hall inquiry and to insist that the case be taken to court. However, when dealing with the young, it must be remembered that the re-offending rate of young offenders dealt with at the Parish Hall is extremely low, at about 16 per cent, and the system avoids the necessity to label young offenders with any sort of court record. This method of dealing with young offenders is recognised internationally as far superior to sending them to court on a first offence, particularly as our Rehabilitation of Offenders (Jersey) Law is really not working properly at the moment. The bulk of the cases in the Magistrates Court are simple offences, parking, speeding, using a mobile phone and so forth. The evidence in these cases is usually pretty clear-cut. Why complicate a system which works? The Deputy wishes to follow the recommendations made by Rutherford 5 or 6 years ago. Life has moved on. If he feels the system should be changed, why is he only looking at the U.K.? Why not America, Canada, New Zealand, Australia, Saudi Arabia? **[Laughter]** I was not sure that you were all still awake. **[Laughter]** The U.K. system is not working. That is obvious from the National Audit Office report. I am, however, mystified that the Deputy should wish to change a system, aspects of which are being copied by other countries, to a system which manifestly, and on the evidence, does not work. Great play has been made of the need to comply with the European Court of Human Rights. Given the fact that the Human Rights Law sits uneasily with English law, I do question whether

something promulgated by the U.K. Foreign Office after the Second World War for the benefit of those countries which did not have the advantage of Magna Carta, 1689 Bill of Rights or the U.S. Constitution is appropriate for Jersey. Certainly the use which is being made of it in this proposition is flawed and is being used to undermine a valuable part of the Jersey system. I think the question facing us here today is not the question of human rights, which appears to be being used as a device to unpick the tried and true system of justice in Jersey. The question is do we have a system which works? We have a system which is unique, which has been developed over hundreds of years to suit our community, and which is effective. I ask Members to reject this ill-thought-out proposition.

8.1.4 Deputy J.B. Fox:

I have no desire to change the current system. I was almost forced to provide a seconder to the Deputy because I think the Deputy would not have been at rest unless he had had his democratic right to discuss this and all the work that he has done within the Chamber today. I hope that everybody gets it out of their system very quickly and that we can put this proposition to bed. I shall not be supporting it even though I seconded it.

8.1.5 Deputy G.C.L. Baudains:

The Constable of St. Ouen, I think, encapsulated practically all that I had intended to say and therefore I will not repeat it except to say that I think, as, indeed, Deputy Ferguson has said, that really we have little to learn from the U.K. prosecution service. It is certainly a system that is, in my mind, a very poor relation to ours. Sir, on that point alone, I am sorry to inform the Deputy of St. Martin that I would not be able to support his proposition. In fact, I would urge him to withdraw his proposition, Sir, because I believe he has misread the mood of this Assembly, Sir, and in keeping with the previous speaker, Sir, I think that we are going to end up with a very small minority supporting it. I wonder if he would consider that.

8.1.6 Senator S. Syvret:

During nearly 18 years in this Assembly, I have heard some pretty inadequate and very unimpressive debate in my time but what we have heard so far today really does, I feel, display the lack of wisdom of the Assembly to quite a great degree. Consider what the proposition is seeking. It is seeking simply a human rights audit. What could possibly be the problem with that? What could possibly be the issue? If our system is human rights compliant or it could be made human rights compliant with a little tweaking, then what do we have to hide? Why should we so vehemently oppose a simple human rights audit unless we were worried that what we are doing is not human rights compliant? Now, on looking around this Assembly, I am quite sure that most of the people seated in it imagine themselves very strongly to be believers in the rule of law and the proper administration of justice. If that is the case, then I invite Members to reflect upon the fact that this Island voluntarily signed up some decades ago to be bound by the European Convention on Human Rights. More recently, we have incorporated it into domestic legislation so that people can contest human rights issues in the local courts rather than having to exhaust every other avenue before they get into Strasbourg. Nevertheless, we have signed a deal. We have agreed a convention. We have agreed that we will be bound by the European Convention on Human Rights. Now, those who oppose what the Deputy of St. Martin is doing today I do not think are being honest. If they do not like the European Convention on Human Rights, if they do not believe we should be bound by it, if they do not think such fundamentals as the paramount right to a fair trial are really that important compared to looking after our "wonderful Honoraries" then bring a proposition to the Assembly to have us withdraw from the European Convention on Human Rights. Let us ask His Excellency to convey that wish to the government in the United Kingdom. If we are going to be signatories to the European Convention on Human Rights, then we have to adhere to it. End of. All the Deputy is asking is that we audit this particular aspect of the report for its human rights compliance and the fact that there is such vehement resistance to something so easy, so basic,

so rudimentary, is, I feel, frankly a very sad and poor reflection on this Assembly. Some people, Deputy Ferguson, for example, in her speech, suggested that this convention was something promulgated by the British Government in the immediate wake of World War Two for the protection of those countries that did not have the great benefit of the Magna Carta, not that the Magna Carta could necessarily be held up as having succeeded over the centuries, but the fact is there is an awful lot more to it than that. During World War Two, Europe and the world and humanity went through the most disgusting, despicable displays of what people can do to other people, people they regard as minorities, lawbreakers, offenders, different races, different religions, whatever. So there was, in fact, a very, very powerful reason for bringing forward such a thing as the European Convention on Human Rights and it is not something that can be so glibly cast aside. It is a key foundation stone of any modern civilised European nation. When Senator Kinnard spoke, she spoke about the differences between the Attorney General here and the Attorney General in the United Kingdom. Yes, there are differences, certainly, but really that is not the point. The point is the Attorney General and the Solicitor General here in Jersey routinely give legal advice and guidance to various arms of the executive. They are routinely involved in advising the political executive of the Island and, indeed, as the Attorney General himself does, he makes frequent political interventions and political comments. The fact that he is unaccountable completely to any authority in this Island does not honestly make a great deal of difference to that criticism and that point. Constable Vibert, the Constable of St. Ouen, accused the Deputy of St. Martin of wanting to destroy the honorary system. Well, I do not believe for one instant that that is a motivation of the Deputy of St. Martin. It certainly is not a motivation of mine. I have always been a strong supporter of the honorary system but times change and evolution is necessary because ultimately if you are unprepared to evolve, especially in respect of something so rudimentary as basic human rights adherence, then ultimately your structures will fall into antiquity and stagnation and be swept away. If you wish to survive, if we want our system to survive, we must be willing and ready to modernise it. It has been said by some people that if the role of the Centeniers was to be diminished as far as their role in the court and the Magistrates Court is concerned, that would be the end of the honorary system because so few people would want to become Centeniers if that were the case. A number of people have said that argument to me. It is an argument I find, to be honest, more than a little disturbing. I would imagine that the motivations to become an Honorary Police Officer are simply to serve your community. If you would reject that simply because you no longer have the opportunity to stand up in court, then I would have to honestly question the motivations of those people and, to be perfectly frank, if people are only interested in becoming Centeniers because they have the opportunity to perform in court, then I think we would probably be better off without them. The fact remains that this Island is legally constitutionally honour-bound to adhere to the European Convention on Human Rights and, indeed, we recently decided to incorporate the European Convention on Human Rights into domestic legislation so we reaffirmed our commitment to that Convention. All that is being sought by the Deputy of St. Martin, Deputy Hill, is that we audit this particular part of the policy for its human rights compliance. If this Assembly cannot even exhibit the wisdom requisite to do that, then I think we may well be in big trouble.

The Greffier of the States (in the Chair):

Does any Member wish to speak?

8.1.7 The Connétable of St. Brelade:

I refer initially to Part (a) of the proposition. I speak in general terms with regard to the role and duty of the Centenier as opposed to the human rights issue which has been adequately covered by others. I have come into this office without the traditional Honorary Police background. My contact with police services, both honorary and uniform, prior to my election to the office of Connétable, was possibly fortuitously limited. My experience, therefore, Sir, is restricted to the last 2 years and I speak as I find. I am currently continually impressed by the professionalism exhibited by not only my own Centeniers, Honorary Police officers, but those throughout the Island who give

freely of their own time for the benefit of the community and what is more, at very little cost. I am proud of the system we have. It has evolved to the needs of the Island over the last 500 years or so and continued to adapt to modern-day requirements. There is absolutely no need to cut and paste the U.K. system such as the poorly functioning Crown Prosecution Service when our own is far more suitable for an island of our size, is less expensive, and works very well. The Deputy's proposition would be a leap in the wrong direction. My perception, Sir, is that the Deputy of St. Martin is like a dog with a bone and will not let go. He has chosen a blinkered path in this matter which may be self-gratifying but, in practice, will achieve nothing other than to demoralise all those that form the backbone of the community in the parishes and, as a consequence, the Island as a whole. The Centenier's role in the parish system is crucial. The ability to charge is fundamental. The Centenier's presence in the Magistrates Court enables him to see the case through from start to finish and thus deal with community policing issues professionally, efficiently and at little cost. We must not change this. I might observe that Mr. Cooper has specialised in advising on human rights issues in countries which have traditionally rather different approval approaches to these matters than we have in Jersey. I really object to the time and money which is having to be spent and effectively wasted on the Deputy's crusade. With regard to Part (b), Sir, the Parish Hall Inquiry system works exceedingly well, having evolved once again over many years, and is the envy of other jurisdictions in the world. It is capable of being enhanced by all means and I would suggest that tampering with it, as the Deputy suggests, we do at our peril. Sir, this evening I am holding a Parish Assembly to elect 2 Centeniers. I expect to receive nominations from parishioners who are more than capable of undertaking the role expected. I shall be giving them 100 per cent support. Sir, I urge Members to take this opportunity to bolster the morale of our many men and women of the Honorary Police Service in Jersey by wholeheartedly rejecting this misguided proposition.

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

Members have spoken eloquently of the benefits that the honorary system brings to our Island and I do not propose to repeat them. Perhaps it may suffice to say that during a recent hearing of the Education and Home Affairs Scrutiny Panel into the policing of events "user pays" proposition, 2 witnesses told us that without the Honorary Police, we would have no events held in Jersey. The Education and Home Affairs Scrutiny Panel stand by S.R.18/2007, our report on the role of the Centenier in the Magistrates Court. In it, we made it quite clear that it is not for the panel to reach a conclusion as to whether or not Centeniers presenting cases in the Magistrates Court is human rights compliant. I would suggest that it is, in fact, not for this House to reach a conclusion on the issue. It is one that may be decided conclusively only within a court of law. I ask Members, then, what would be the point in commissioning an independent audit as asked for today by the Deputy? The Attorney General has told us that he has given detailed consideration to the current system and he is satisfied that it is capable of being defended in court if it were challenged. The court, Sir, will be the ultimate auditor and I therefore urge Members to reject the proposition before us.

8.1.9 Deputy J.A. Martin:

I will be brief. I was not sure whether to speak but I just have to make the comment after listening to Deputy Mezbourian and the Constable of St. Brelade and the Constable of St. Ouen. I do not think that the Deputy of St. Martin is trying to get rid of the honorary system. When the Constable of St. Brelade talks about the honourable men and honourable women, I totally agree. Anybody who is willing to give his or her time for any work in the Island, I wholeheartedly think that is good work. Deputy Mezbourian says that we could not have had Jersey life without the support of the Honorary Police. I totally agree with that. This is talking about a role in a court. Now, I was on the former committee and there have been many changes. When one of the new legal advisors came in 2002 - I have the transcripts here - he was absolutely surprised, his words were, of the honorary system and very shortly after, with encouragement from the Attorney General, there has been a vigorous training programme put in place. Now, that is moving and the Attorney General,

for whatever reason, has now made a decision to take away certain things a Centenier can do in court. He says it is not because of human rights but we have got them to where the Deputy of St. Martin wanted to go probably when the old Education Scrutiny Committee was dissolved. Now, I will listen to the Deputy of St. Martin. I probably will support this on all the reasons that Senator Syvret has said to this House, not about personalising things, but completely keeping this unpersonalised. I would like an audit of the Centenier's role in the Magistrates Court and if it is not okay, what needs to be done has to be done. But then that does protect the rest of our honorary system. We did speak to some Centeniers and many do not really relish the job of presenting cases. They take the Centenier on, a lot of them in smaller parishes, because they absolutely, with one arm up their back, Sir, know that their Constable is going to be fined, but they are out of their depth basically. A lot of them do not want to do it so the legal advisor steps in and represents the case already. Now, there is no formal structure of cases and to say that the dedicated caseworkers are this and that, our own legal advisors have gone on 2 of the trainers' training courses that the C.P.S. advised, and how in the same part of the transcript they say they have been absolutely valuable for them because they were not trainers. They have been trained to be legal advisors but now they are training Centeniers to be legal. Now, is this right? I do not know. Deputy Mezbourian thinks it should be settled in court. Do we want to be in court? Do we want to be in the Human Rights Court because if somebody -- it might not happen this year and it might not happen next year but it is moving and it worries me that it has moved so far that there may be, as they said in the Isle of Man, a question over this. Now, if somebody really sticks their heels in and takes us to the Court of Human Rights and we lose, have we done everything about it? If we have this audited, we can only go that far and see where it goes. I do not think we have anything to be frightened of. It is not personal. We are talking about a job, not the person, and that is why I think I have now talked myself into probably supporting the Deputy of St. Martin.

8.1.10 Senator F.E. Cohen:

I had the honour to serve my Parish as Centenier and Constables Officer for nearly a decade. I learned that it was a great tradition that had evolved as a natural process over 5 centuries. Court work was an essential part of the Centenier's role and it was a role that I thoroughly enjoyed. There were other Centeniers who did not particularly relish the thought of appearing in court and we shared the work out. Those who enjoyed working in court did the court work. Those who did not tended not to do so. In my view, it is best to leave well alone and to allow the honorary system to carry on in its time-honoured traditions. I would also like to make one other comment with regard to the comments made by another speaker in relation to the Attorney General. I know I have not been in politics for very long but I have asked the Attorney General's advice on a number of occasions. I, for one, have never heard him express a political view of any kind and I think that the comments made about him were, to some extent, disrespectful and certainly unwarranted.

8.1.11 Deputy R.G. Le Hérissier:

Before, without prejudice to what I am going to say, I wonder, Sir, if we could ask the Attorney General what he thinks. He might have a few small thoughts on the matter and what intrigues me, particularly about this issue, it is almost one of these sorts of - trying to think of the phrase, I have not quite worked it out - but who, in the Attorney General's mind, is the definitive source of a view on human rights? We have heard that the Scrutiny Panel felt they could not touch the issue because it was ultimately a judicial issue where the court would decide but in a practical sort of day-to-day way, Sir, we have to make decisions and we have to rest on people's advice as to what is or is not human rights compliant and I wonder if the Attorney General, as well as giving us his more general views, could address that issue.

The Greffier of the States (in the Chair):

Thank you. The Attorney General may wish to reply to your question. Whether he wishes to give more general views I think is a matter for the Attorney. He is free to speak, if he wishes to, as any other Member.

The Attorney General:

Perhaps I can answer the question at this stage and I will speak later if I think I ought to. In the context of reviewing some legislation which comes before the Assembly, Members will see the certificate of the Minister that the proposed piece of legislation is human rights compliant. There is absolutely no reason why the Minister should not be grilled on the factors which have been taken into account in deciding whether or not something is or is not human rights compliant. That is just to raise the general level of understanding of what the Human Rights Convention means because it is so often a balancing of different rights which has to be undertaken. When it comes to legal advice, the tradition, the custom, is that the Attorney's legal advice is the advice upon which this Assembly acts. Until that changes, it seems to me that the position is that the Assembly ought to receive the legal advice of the Attorney and ought to take that as read. Now, that is not to say that there should not be a good deal of questioning of the Attorney in appropriate cases as to what the basis of the legal advice might be, no reason at all why politicians should not take views on adopting a new policy. Taking the present proposition, for example, if Members think that it would be a sensible idea to have a separate Crown Prosecution Service, that can be argued on its merits quite apart from the human rights issues which might have been raised by Mr. Cooper in his opinion and those are eminently matters for Members. As far as the legal issue is concerned, that, in my view, is a matter for the Attorney and the Assembly should proceed on that basis. Indeed, Members will know that I have frequently said I do not think that legal issues are ones which ought to be resolved by the Assembly. The right place to resolve a legal issue is in the court. When one talks, as has been mentioned in this proposition, about a so-called audit of the advice - which I think is another way for the Deputy of St. Martin to say he wants some different advice or what he regards as some proper advice - what that means is you get just another opinion and ultimately the only audit you are going to get is when you get a court decision. Suppose, for example, the audit comes back and it says that the Attorney General is 100 per cent right. That does not mean that there is going to be no human rights challenge in the future, maybe even a successful one. It is just another opinion and so that is why, when Members are asked to take decisions based on legal grounds, it seems to me that it is a very slippery slope for Members to embark upon and for my own part, I think it is better that legal issues are left to courts where they are better determined.

The Greffier of the States (in the Chair):

Deputy Le Hérisier, do you wish to say anything further?

Deputy R.G. Le Hérisier:

Oh, sorry, Mr. President, I was just making an intervention to enlist the Attorney General's views. What I would say, Sir, is I agree with certain people. I think this whole thing has gone over the top and I would quite frankly have liked the Constable of St. Ouen, who made a very robust defence - it is unfortunate he felt that he had to make it in the way he did - I would have liked him to have said: "Look, we are not worried about this issue because, quite frankly, we will take it on the chin. We would welcome more advice and we will take it on the chin." What has happened instead, Sir, is that we have ended up with the classic division in this particular debate where Deputy Hill is seen as the opponent, so to speak, of the honorary system and if we put one foot on the slippery slope the whole system will fall apart. As I said, Sir, had I been the Constable of St. Ouen who did a very spirited and robust reply, I would have said: "We will take it, we will take it. We will look for that advice wherever it comes from and however semi-definitive it is but we are quite prepared to deal with the issue" and I think that would have been far better. Similarly, I was taken a bit aback, and I notice Senator Syvret referred to it. It struck me, Sir, that Deputy Ferguson of St. Brelade, was arguing, in a sense, out of both sides of the argument. **[Laughter]** On the one hand, she was

saying we must preserve local institutions and on the other, Sir, she was saying these poor countries in Europe have not felt the benefit of the civilising influence of English law and it is only us that have. You cannot have it both ways. You either want to preserve the local institutions or you want to stop the encroachment of these so-called influences and I thought that was not a terribly strong argument. I also thought, Sir, that the Minister for Home Affairs, although she disguises it very effectively, must be totally fed up with the whole thing. I was a bit disappointed that she resorted to emotional appeals that if you allow this through, you will allow the whole breakdown of Western civilisation to occur. This whole issue that if you allow a small thing to happen from Deputy Hill then the whole system will fall apart. It is a great pity, Sir, that we have not got -- and the Constables whose hearts are in it and do such a good job in -- and quite frankly against stronger pressures and they probably accede to in terms of recruiting people and training people. We know some of them are really up against it and, at some point, I would tell the Constable of St. Ouen we have obviously got to address that issue. Why does the system have to work tremendously hard despite all the motherhood and apple pie statements that a lot of people make, why does the system have to work so hard to keep its end up? In this society when you interview anybody on the street they will say it is a wonderful system, but we know that people like the Constables have to work enormously hard just to keep the system on an even keel. Again, Sir, I would have thought the approach there is to say: "We are going to fight and we are going to really fight and try and reform ourselves and make sure that we are relevant." It has happened in some ways. But it is very sad, Sir, that when - and I think it could be argued that the Deputy of St. Martin is slightly obsessive about the issue - the issue arises I would have said that would have been the mature approach. Take it on the chin. Say we are prepared for reform, and quite frankly we will lead it. We will lead it. We will go after those opinions. We will make sure that it happens and we will make sure that we conform - within the context of Jersey that is - to the principles to which we have signed up, as Senator Syvret said. It strikes me this is all getting over the top; it is all getting too major a debate (thank you very much for those kind words). It is all getting over the top and the sooner we can bring it to an end the better.

8.1.12 Deputy S. Power:

I wanted to make a few remarks on a personal experience, and I refer to the Constable of St. Brelade's remarks. He brought it to our attention that he had not served in the honorary system before he became Constable. I go one better than that and say that when I arrived in Jersey in the early 1980s I was blissfully unaware of the honorary system until I got stopped one day for speeding on The Avenue - I think it was 1987 or 1988. I was duly processed by the Honorary Police and the Centenier of the day in St. Helier and I was swiftly processed. Judgment was made and I was fined. There is a saying whether you are a fisherman in the west of Ireland or you are a farmer in the Welsh hills or indeed you are a tradesman in Jersey - and that is: "If it is not broken do not fix it." My view today is that we have an example here today of a Member of this Assembly and another Member of the Assembly supporting him attempting to peel away what is, in my opinion, a valued and indeed a much-respected part of the Jersey legal system and indeed parish life. I am one who having come to live in this Island and love this Island and be as passionate about this Island as anyone else, I am not happy with the way this proposition has been presented. So therefore, Sir, I am not going to acknowledge or compliment the proposition by referring to its content. For hundreds of years this Island has been known as an Island of commonsense and hard work. This commonsense is still reflected in the parish system and the honorary system; and until recently the way that the parish system supervised the welfare in some of the parishes. I wonder whether we improve the way we do business by taking away responsibility from the parishes and from the system that has been proven over hundreds of years. I think not. I have heard much reference with what is supposedly meant to be human rights compliant. There are places in the world where there are certain traditions in other jurisdictions where things may not be human rights compliant. We do accept that it is not a perfect world. I give 3 examples. You ask a Texan living in America whether he would like to change certain articles of the American Constitution. He will

tell you very straight and to your face what he thinks of that. You ask a Swiss man whether he would like to do away with his militia and whether that is human rights compliant. You ask a Frenchman whether he would like to change his national anthem because the words of the national anthem are blood-curdling. I doubt he would want to do that. Sir, we have a system that works. I would be one that would hate to see it changed. I can see it evolve but I am not happy with this proposition and I will not be supporting it.

8.1.13 Senator P.F.C. Ozouf:

I just wanted to say that I propose to give notice for the guillotine.

The Greffier of the States (in the Chair):

Very well, duly noted. Does anyone wish to speak?

8.1.14 The Attorney General:

I have hesitated about whether I should speak or not but at the end of the day the Attorney General is in charge of the prosecution service. When that service is the subject of political debate it is not only my right to speak but I think I have a duty to consider doing so. In the light of some of the comments which have been made today I feel that I ought to exercise that right. The very small point I would like to start with is the point made by Deputy Le Hérissier at the end of his speech: “Why is it people are not coming to put their name forward for honorary service?” I received an email about 3 weeks ago from one of the Centeniers on the Island and I have had the same comment expressed to me by others: “I felt I needed to write to you with regard to the report in the *Jersey Evening Post* of Friday 12th October. The article and Senator Syvret’s comments are, to say the least, unhelpful and quite demoralising to all the Centeniers of this Island, least of all the very dedicated Centeniers who give up so freely of their time not only for their Parish but for the Island.” Then he goes on to make some comments which are not entirely flattering about some of the political contributions which have been made. I make that point because Members must appreciate that down on the ground among the Honorary Police what is said in this Assembly really does matter. It really does have an impact on the willingness of people to put their names forward. The next thing I wanted to say was really about the prosecution service generally. I am entirely satisfied in my own mind that the position which we had until June of this year was defensible on human rights grounds. I use that expression deliberately when I say defensible. I do not discount the views which have been expressed by Mr. Cooper. I am not in the business of slating Mr. Cooper who is a respected liberal human rights lawyer. But they were defensible. I thought that in principle that the matter probably ought to be defended. I thought that until publicity was given in July of this year to the opinion which Mr. Cooper had given. That publicity arose from the proposer’s interview with Channel Television. As a result of that publicity I had second thoughts and looked to see whether there were any areas where changes might be made which would reduce the risk of a successful human rights challenge. Indeed, as a result of that I gave a direction that where the accused was defended, where he had counsel representing him, then the legal advisors in the Magistrates Court should take over the prosecution. I would just like to explain to Members why that is so. When the accused is represented it follows that the Magistrate does not really have to worry about cross-examining or grilling, if you like, the prosecution witnesses because he knows that the defence counsel is going to do it for him. On the other hand there is no one to cross-examine the defence witnesses. So when the defence gives their evidence the Magistrate is then seen to be probing that evidence to ascertain what the position really is. This is absolutely no criticism of the Magistrates. They exercise those functions with complete integrity. But the question is really, what does the impartial observer think at the back of the court and there he sees the judge not cross-examining the prosecution witnesses but cross-examining the defence witnesses. It seemed to me that there was a risk that the impartial observer might think that that was difficult for the judge subsequently to do justice when he had to decide guilt or innocence. That was the reasoning why - although I think the system was perfectly defensible - given the

publicity that was given to it I gave the direction that where the accused was represented legal advisors were to take over the course of the prosecution. There I thought matters would lie. It became apparent over the next 3 or 4 months that more and more publicity was being given to the issue and there were some further letters in the columns of the *Jersey Evening Post* and ultimately I reached the view that one had to see where the greatest risks lay. There was a good chance that even as we were there would be no human rights challenge in the courts. If that were the case there would be no definitive conclusion about whether the system was or was not human rights compliant but there might be some lurking uncertainty in some quarters of society. There might be a feeling that the courts were not doing justice. Justice is something to be nurtured, to be respected. It is like the butterfly, you have to treat the justice institutions with some care. To have sniping at the justice institution going on would do us absolutely no good in this Island. So when one puts that in - as it were, the one corner, the one scale - and puts in the other scale the extra pressure for my legal advisors and my department to take over the additional 20 or so prosecutions a year, I did not think that there was any doubt as to what was the right course to follow. That is why I took the decision more recently - in light of the publicity that had been given - to direct that we should take over in the Law Officers Department the conduct of all not guilty trials. I do not think it should have been necessary but as things have turned out it has become necessary. I do not regret giving that instruction. I thought I ought to give Members the benefit of those views as to why I have taken the decisions I have.

The Greffier of the States (in the Chair):

I call upon the Deputy of St. Martin to reply.

8.1.15 The Deputy of St. Martin:

I think it has been an opportunity today for people to get something off their chest. Not necessarily mine but I think what I could have done - I could have easily sat back last week, I think it was the Constable of St. Ouen who talked about a victory. It was not a victory. I did not see it as a victory. The media may have made it so. What I believed was that we have a system which is under suspicion as to whether it is human rights compliant. It is not about attacking or destroying the Honorary Police. I have always been a supporter of it. There is a need for it but as, I think it was Clothier said: "The greatest damage you can do the Honorary Police is to do nothing." I do believe the chairman of the Education and Home Affairs Scrutiny Panel said it herself, that the Honorary Police have had challenges in the past; it has met those challenges and has met the changes. If indeed we have to change a system because it is no longer human rights compliant that is important. I think the Honorary Police deserve to know whether what they are doing out there is human rights compliant. Really what we have here is we have one opinion ... and I accept the fact at the end of the day it could only be resolved in court but we should not have to wait to go to court to resolve a problem. That is why we pay good money to lawyers to give us opinions ... make sure whether we should go to court or not. What we have here is a situation where the Attorney General... I know up until then we will hopefully still play cricket, we will still talk, no problem about that at all - we have a difference of opinion. He says: "Present system is compliant." We have another's opinion, Mr. Cooper, who is an eminent lawyer, a specialist in that particular role, saying different. Then you get the Isle of Man who are supporting the change. All I am asking for really is for people to have an opportunity to see whether, in actual fact, which is the right view, because if the present system is wrong then it is going to do more harm to the honorary service than what it would do good. I am giving Members an opportunity here to get a third opinion to see whether in actual fact it is a badge to carry on because what we are doing is or is not human rights compliant. What we have to look at - it is unfortunate it has been missed - but what we are looking at is a separation of the police side from the prosecution side. That is a view now shared that the police should be part of the investigatory part, they make the arrest, then they go to court and give the evidence. They are not part of the prosecution. With the greatest respect to the Attorney General, and indeed the Minister, when they talk about the overwhelming evidence ... that is what

the Minister was talking about. The overwhelming evidence I gave, if one had read my report properly, was that the overwhelming evidence from those people who have said that the present system, the dual role, was not human rights compliant. It is in my report here, we took the transcript from what the Attorney General himself said when he came to the Scrutiny Panel and said that, if indeed it was challenged it is a reasonable position that we may well lose that. If the Attorney General would care to disagree with me, please do, but I would show the transcript. There was a concern that in fact if it was taken to court - and if indeed the Attorney General had the courage of his convictions he could have let the situation stand. It was not me that made the decision, it was the Attorney General. Anyway, we have an opportunity today to make a decision where we want a third opinion. I think if we got that third opinion it would do good. If only one thing, it would give us a certainty as to which way the Honorary Police should carry on. Can they continue? I should say police, not Honorary Police but police because that is what Honorary Police officers are, they are police. Should we still have police involvement in the prosecution? That is what this is all about. If you do not wish to get a third opinion, so be it. As I said, I could have easily withdrawn my proposition and kept my chest out and say: "Well, I have a victory." It was not a victory. It was just commonsense being seen to be done. I am grateful for what the Attorney General has done. However, I am not going to go through with what everybody said. I just thank all those people who have spoken. I am sure they are entitled to their feelings, as indeed I am entitled to mine. What I would ask people to do is think very carefully what we are doing because what we are going to do later on is agree to not have a prosecution service. It may well be that we are going to make a mistake if we vote against that as well ... or vote for it. Sir, I maintain the proposition. I will ask the appel because I think it is important we know where we stand.

Deputy J.A. Hilton:

Excuse me, Sir, earlier the Deputy of St. Martin said he would explain in his speech about the qualifications of the dedicated case workers in the U.K. which he seems to feel is a preferential system rather than our Centeniers. He has not actually told us. Could he possibly tell the House what qualifications the dedicated case workers in the U.K. need to have?

The Deputy of St. Martin:

I am quite happy. It is unfortunate she had not had the document of what their courses are. But off the top of my head I know that they go for a 5-day course - I think Deputy Martin spoke about ... in fact our legal advisors had been to see what they do there. They have a 5 day-course. Before then I could have brought in the folder they have. They have to go through this folder before they go on this particular course and then they take an exam on that. They go back in the field then shortly afterwards they then go back for another 5-day course where they are tested. Then later on they go back for another 3-day course. So I can assure you of this, that the dedicated case workers are professional people. You asked me whether they had degrees, I do not think it is necessary for them to have a degree, I do not know. If they have a degree, they have a degree. But at the same time they have to pass this course; whether they have a degree or not would make no difference. Providing they pass that course they will then be given this certificate of their ability and of course, most importantly, they are then assessed along the way throughout their training. I hope that satisfies the Deputy.

The Greffier of the States (in the Chair):

The appel has been called for. If all Members are in their designated seats, the Greffier will open the voting.

POUR: 6	CONTRE: 41	ABSTAIN: 0
Senator S. Syvret	Senator W. Kinnard	

Deputy R.C. Duhamel (S)	Senator T.A. Le Sueur		
Deputy of St. Martin	Senator P.F. Routier		
Deputy R.G. Le Hérissier (S)	Senator M.E. Vibert		
Deputy J.A. Martin (H)	Senator P.F.C. Ozouf		
Deputy S. Pitman (H)	Senator T.J. Le Main		
	Senator B.E. Shenton		
	Senator F.E. Cohen		
	Senator J.L. Perchard		
	Connétable of St. Ouen		
	Connétable of St. Mary		
	Connétable of St. Clement		
	Connétable of St. Helier		
	Connétable of Trinity		
	Connétable of St. Lawrence		
	Connétable of Grouville		
	Connétable of St. Brelade		
	Connétable of St. Martin		
	Connétable of St. John		
	Connétable of St. Saviour		
	Deputy A. Breckon (S)		
	Deputy G.C.L. Baudains (C)		
	Deputy C.J. Scott Warren (S)		
	Deputy J.B. Fox (H)		
	Deputy S.C. Ferguson (B)		
	Deputy of St. Ouen		
	Deputy P.J.D. Ryan (H)		
	Deputy of Grouville		

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

The Greffier of the States (in the Chair):

Just before we come to the Criminal Justice Policy can I draw Members' attention to 2 propositions lodged this afternoon. P.176 Flu Pandemic Funding lodged by the Minister for Treasury and Resources and P.177 Inquiry by Mr. Andrew Williamson, removal of administrative involvement of the Chief Minister's Department lodged by Senator Syvret.

Senator S. Syvret:

Could I ask that that is listed for debate at the next sitting?

The Greffier of the States (in the Chair):

We will come to that at the end of the sitting, Senator, that will be noted, I am sure, by the chairman of P.P.C. (Privileges and Procedures Committee) when he makes the proposal.

9. Criminal Justice Policy (P.118/20007)

The Greffier of the States (in the Chair):

We come now to the Criminal Justice Policy in the name of the Minister for Home Affairs. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to receive the Criminal Justice Policy as set out in the report of the Minister for Home Affairs dated 30th August 2007. In order to give effect to the recommendations made in the policy; (a) to agree the action plans as set out in the report with regard to (i) criminal justice values on page 26; (ii) criminal justice statistics on page 35; (iii) looking after victims on page 44; (iv) joint working on page 47; (v) early interventions on

page 57; (vi) enforcement on page 70; (vii) dealing with offenders on page 87; (viii) rehabilitation on page 101; (b) to agree the policy statement in the section entitled Prosecution on page 73.

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

The debate, Sir, about the causes and consequences of offending behaviour is constantly with us. The decision as to whether someone who committed an offence did so due to unfortunate circumstances, psychiatric problems or is considered as having no excuse has implications for the criminal justice system. Practical help may try to remedy unfortunate circumstances. Treatment and training is provided by, for example, the Probation and Aftercare Service. Punishment of more serious crime usually results in a custodial sentence. Probation, community service and suspended sentences are examples of alternatives to prison. Reparation and Restorative Justice is achieved through the Parish Hall inquiry System. While our Island has many examples of best, indeed unique, practice - some of which are the envy of other jurisdictions - in other areas though our practices do not reflect the needs of modern society and some important changes towards reform and rehabilitation are long overdue. These will unfold as we go through the policy proposals. As a background to policy development the department has taken the approach that criminal justice is an essential part of life. The policy acknowledges that offending behaviour occurs for a complexity of reasons. That it can be reduced, or in some cases, prevented. It explores alternatives available to complement the formal court system. Importantly it upholds the independence and integrity of the judicial system and prosecution role and does not seek to interfere directly in the sentencing policy of the courts. Regard is also paid to human rights issues in this policy. Policy formulation began when the then Home Affairs Committee took office in January 2003. There was every indication that the Home Affairs ministry once formed would become responsible for criminal justice policy in the Island. Sir, there is currently no formally laid down existing policy so the committee took the view that it should be proactive in developing a policy ready for ministerial government. While not quite the gestation period of an elephant but we have certainly come a long way since Professor Rutherford's report in 2002. The *Rutherford Report* was not universally welcomed but for the committee of the day it gave a very useful springboard for policy development; providing as it did an across the board statistical analysis from which to work, a review also of processes and priorities in the criminal justice system, and an independent critical appraisal of our system. It also helped shape the committee's thinking that it should take a broad cross-cutting look at the criminal justice policy and its place alongside other important policies and in society in general. It was never intended to be a judicial services review of the court system. I should like to say at the outset that this policy was developed entirely in-house using the expertise within the department and the wider public sector. We have a criminal justice system which is peculiar to Jersey. It was vitally important that policy development was in the hands of people who fully understand it. I suppose the penalty for this is the time that it has taken to develop, but this development has been both thorough and inclusive of the opinions of others through the use of focus groups, as is shown in appendix 2 of the report, and extensive public consultation using the media and road shows at various parish halls. Of course, many Members will know that I originally lodged the report for debate on 25th October 2005. We could therefore have had a policy in place 2 years ago but the States decided at the time that the new House elected at the end of 2005 should have the opportunity to debate the policy. I said at the time, however, that this would mean a substantial delay in bringing the policy forward. That the delay would mean significant updating to the statistics and it would be reasonable to expect that time would be needed to make sure that it tied in with the objectives being included in the emerging States' Strategic Plan in 2006. Then there was the need to re-consult and seek the endorsement of the Council of Ministers. In any case to have lodged the report halfway through the term of the present House was probably good timing from Members' point of view. To set the policy in context, I think Members will probably want to ask: "Where are we now?" And to assess what the criminal justice landscape looks like. The policy undertook this. A P.E.S.T.E.L. (Political, Economic, Social, Technical, Environmental and Legal) analysis was carried out which considered criminal justice under 6 headings; political, economic,

social, technological, environmental and legislative influences. This is what I mean about considering criminal justice on a broad canvas. It certainly does not exist in a vacuum and it is subject to all these external factors. In the political arena the policy takes into account the advent of ministerial government including Scrutiny, the Attorney General's special role as the *parte public*, criminal justice initiatives - and I use the term guardedly taking place in the United Kingdom - and our international responsibilities concerning, in particular, the O.E.C.D. (Organisation for Economic Co-operation and Development) and the I.M.F. (International Monetary Fund). Economic factors that bear on criminal justice policy development include our stable low crime society which complements the Island's reputation as a financial centre. On the down side, however, our relatively small size gives askew economies of scale and gives us a major challenge in putting limited resources to best effect. For example, where the police is concerned in a small English town with Jersey's population you would not find a financial crimes unit, a drug squad, a scenes of crime unit, an intelligence bureau and a criminal justice unit. This list is not exhaustive. But then there is the important traditional role of the Honorary Police which runs through the policy. From the social perspective, Members will recall that the imagined Jersey experience regarded Jersey's society as safe, as a given. It did not feature particularly as an aspiration for the future. However, successive surveys with the public have shown that crime among young people, loutish behaviour, drug abuse and speeding are matters which, indeed, concern everyday folk. This policy also strikes a cord with the recently published social policy framework, *Every Person Counts* with its theme of individual responsibility and intervention. Technology can have benefits for the criminal justice system but it is expensive. We already have electronic tagging at the prison and surveillance cameras on our streets. The policy considers whether there is a place for further use of enforcement cameras and with the proviso that any proposals will come to the States for decision. Criminal justice considerations would not be a first thought when considering the environment but by way of example the *Eagle Report* on the waterfront acknowledges that there is a golden opportunity to design-out crime as plans are developed. Then there are the inevitable legislative pressures on policy development. In recent years the legislative framework has burgeoned and we have had to take on the police procedures and criminal evidence laws, the regulation of investigatory powers law, the terrorism law and others, all of which have sprung from the Human Rights Law. All these points I have mentioned have been considered properly and their importance weighed in the development of the policy. Members may wonder how we made sense of such a wide and varied landscape. We built the policy on 9 pillars. That was to provide a framework on which the policy could be developed, not only now but in the future, as it is very important to appreciate that this is a dynamic policy which can, and will, change over time. The policy sets out each of the pillars individually but I will begin by just picking out one or 2 major policy considerations, if I may, before going into detail just to give a flavour. Members may find it helpful to turn to page 8 of the policy document where the pillars are set out. It is right that with criminal justice we should start with a set of values, and these were at pillar one of the policy. The values outlined are those which underpinned policies designed to create a safe community; reduce crime, disorder and re-offending; and to deliver justice fairly and cost-effectively. Pillar 2 gives us a comprehensive statistical base from which to work. The point here is that good policy should be evidence led. Over the years my staff have painstakingly kept prosecution and court statistics analysed on an annual basis so that we have this important data to work from. The statistics show a continuing trend of falling crime. For example, there was a 5.6 per cent fall in crime in 2006 over preceding years. Clearly there are limits to the rate at which this will continue. Youth offending continues to fall. In 2004 the 14 to 17 age group made up 24 per cent of all offenders. But in 2006 this had fallen to 18 per cent. On the down side appendix 4 shows where we sit in the Champions League for prison population per 100,000 and sadly we are well up there among the worst of them. We also currently have a 70 per cent re-offending rate from custody. These key statistics are the very things that need to change and this policy is designed to address that. The victims of crime warrant special attention hence the chapter at pillar 3 which outlines proposals to achieve better co-ordination of effort among victims' agencies through the setting up of a forum and the need for

review of vetting and barring arrangements in the light of the U.K. Government's Safeguarding and Vulnerable Groups Act 2006 which will be brought into effect at the end of next year. We have some commendable joint working going on at officer level, particularly through the Building a Safer Society strategy and the work on the Safer St. Helier project. But pillar 4 acknowledges that we need to do much better at policy level and hence the proposal to set up a forum for criminal justice policy and planning involving the Bailiff, the Attorney General and the Home Affairs Minister. We have years of experience in the intervention field as outlined in pillar 5 through the commitment the States has made to building a safer society, the youth action team and the Children's Executive, in particular. I have heard Members say that we can do more, particularly Deputy Fox I think, and I concur with that view. But we do the very best that we can within the resources that are set aside for this important work. More funding, of course, would be most welcome. But the important point is that our intervention programmes are focussed on the major risk areas and make a concerted effort to address the risk factors that give rise to offending, which are also explained in pillar 5. In pillar 6 on enforcement we make a commitment to finally introducing a police authority; getting a better handle on the nature and affects of anti-social behaviour and bringing in a Disorderly Conduct and Harassment Law; and of course the much awaited Sex Offenders law. Pillar 7 covers prosecution where Members will see that the former Home Affairs Committee took the early decision to support the preservation of the Centeniers traditional role in the Parish Hall Inquiry and to reject the establishment of a public prosecution service. Pillar 8 on dealing with offending also examines briefly the scope for better exploitation of technology, particularly with regard to enforcement cameras and the scope for dealing administratively with offenders. As I will shortly allude to some of the action plan objectives have already been taken forward and coincidentally there was a proposition earlier on in this session making greater use of community service by allowing the Royal Courts to award up to 480 hours. The policy document culminates in what is by far the most radical and innovative proposals and those are outlined in pillar 9 on rehabilitation. This deals with the introduction of a form of parole and discretionary release of offenders from prison. The main proposal under rehabilitation is to introduce a system of discretionary supervised release. I would like to explain the changes in the prison regime which I believe are right for Jersey; and the main features that are being proposed. The drivers for introducing discretionary supervised release are firstly; lack of self-esteem and poor literacy skills as principle risk factors for re-offending. Our re-conviction rates from custody are far too high at 70 per cent for adults and 85 per cent for young offenders. We need to be proactive in addressing this revolving door syndrome which is a feature of our present custodial regime. At the moment prisoners simply get their one-third remissions - and not to put too fine a point on it, Sir, they are let loose back on society - although I would say that they have the opportunity of voluntary contact with the probation service. Then there are, of course, the various authoritative reports which support a change in the direction of previous policy, notably the 2 Her Majesty Inspector of Prison reports and a Shadow Scrutiny report of 2004, and more latterly the Ombudsman's report into the recent deaths in custody. I have also been careful to take account of the U.K. Criminal Justice Act in 2003 in that half the sentence will be served in custody and half under supervision upon release. The main difference, however, is that after extensive consultation I consider that a system of discretionary release is more appropriate for a small community like Jersey as opposed to the automatic release at half sentence point which will apply in the U.K. for all but the most serious offences. The main features of discretionary supervised release in Jersey would be the establishment of a parole board working very much along the lines of the current discretionary release panel. Discretionary release at half sentence point following rigorous risk assessment, supervision in the community by probation, until the end of sentence with the power for the prisoner to be re-called if the licence is breached. Finally, a power for the Royal Court to specify minimum sentences for offences involving serious violence or sexual attack. Guernsey has had a parole system since 1991 and I envisage a similar system whereby members of the community would put themselves forward for service on the parole board with other professionals and receive a small financial remuneration for their commitment. The Guernsey scheme cost

£7,000 in 2006. The chairman is paid £120 per half day session and each member £48 per half day session. I attended a Guernsey Parole Board meeting on 4th July and was very impressed with both the process and the competence of the members. Members will find that all of the policies and action plans are at the end of each chapter in the policy but it would be legitimate for them to ask how they are going to be achieved. Appendix 3 gives a summary of the 35 actions in a cost of action plan. I, and my department, have put a considerable amount of effort into turning the policy into a working document so that the costs can be clearly attributed and delivery monitored. The action plan includes the 12 Strategic Plan objectives. Given the long lead times in developing policy I took an early decision that the department should progress as many as they could, save for those, of course, that could not be achieved without either States approval or new legislation. Consequently action has commenced on 24 of the 35 objectives, but the remaining 10 require Members' approval. In terms of costs my estimate is that the policy could require approximately £240,000 of new funding mainly from 2009 onwards. However, these costs are concentrated in item 34, should it prove necessary to form a central vetting bureau in the Island, and in item 28, also where we would ideally need to bolster our post-custodial supervision capability by one probation officer. If I were a member of the public I would want to know what difference this policy would make to me and to Jersey society. Here are some examples where I think the effects will be felt: from the public perspective the emphasis on victims' needs; the continued commitment to intervention projects; legislation to enhance public protection and preservation of our unique criminal justice system are all significant. Additionally the public will want reassurance that a rehabilitative regime at the prison will bear fruit and that public safety will not be compromised. These are possible concerns that can be addressed downstream but certainly the consultation process over the last few years suggests overwhelming public support for these proposals. From the point of view of good government I trust that Members will welcome the initiative to create closer working relationships between the executive and the judiciary. We must, of course, respect each other's position, particularly where sentencing policy is concerned, but I see no reason why we should not be striving towards a common goal. How will we know that we are achieving our policy aims? Linked to delivery is the need for a performance monitoring regime. In terms of monitoring our outputs we will be regularly monitoring the achievement of the Strategic Plan objectives and the action plan contained in the policy. However, as Members will appreciate measuring specific outcomes is more difficult and this will require further research and monitoring; the collection of new baseline data, particularly with regard to the prison population and its make up. Most importantly it will require some longitudinal data over a period of time to measure, for example, the profile of re-offending after we have brought in a system of supervised discretionary release. So measurement of achievement of outcomes will take some time in some cases but that is to be expected with some strategic policies. As I said, action has commenced on 24 of the 35 objectives with the 10 remaining requiring Members' approval. Ideally I think what I ought to do is to perhaps go into a little bit of detail about the way in which the pillars have been put together. There is a logical order to the pillars which enabled a cradle to grave approach to be taken to this policy development. The policy commences with, as we have said, the clear set of values and statistics. It then goes on. We look at the needs of victims; the roles of joint working and intervention. But clearly we need to be effective in enforcing law, prosecuting criminals and dealing with them appropriately. However, we should not just give up on those that transgress, so effort must go into rehabilitation to reduce offending. The pillars are providing the framework upon which the various statements and action plans are built. I will go on to just refer to those in a bit more detail. If Members wish to refer to pillar one where we are talking about criminal justice values there, I would say that the values that we subscribe to in our society can probably be summed up in the key policy statement that is on page 26. I suppose there, of the key words that make up that statement, cost effectively might seem out of place in a criminal justice context. But the point bears repeating that criminal justice competes for funding among other essential services. Like anything else therefore we have had to deploy the resources we have as cost-effectively as we can. I should add that we included the reference in that chapter to re-offending and the key aim

following consultation with States' Members. Pillar 2 which deals with the statistics. I have outlined the kind of statistics that are contained there. What we are hoping to do there in terms of our action plan is to make the most of the systems that we have at present and to co-ordinate better the information that our systems already provide, so that at some point in the future we may be able to aspire to an integrated criminal justice I.T. (information technology) system in due course. Our action plan on criminal justice statistics is therefore to implement the recommendations of the integrated criminal justice scoping study through the Criminal Justice Information Strategy Group and in the meantime to produce co-ordinated statistics. In terms of the action plans that Members will be approving in terms of pillar 3, looking after victims, the policy statement on looking after victims is on page 44 of the report. After the Soham trial, Mr. Justice Moses said of the place of victims in the criminal justice system: "The greatest task facing the criminal justice system is to protect the vulnerable." Whether you agree with him or not I am in no doubt that while first and foremost justice must be done and seen to be done, the needs of victims and the vulnerable have to be high up on any criminal justice agenda. The focus group work identified a need for agencies who work with the vulnerable. For example, the women's refuge, victims' support and the Brook Centre to come together more often and to share their experience and practice but, in a way of course, that would respect confidentiality. The first action therefore has been to establish a victims' agencies forum to bring together the agencies representing the victims of crime and witnesses. As this is also a declared Strategic Plan objective the forum has in fact already met. Secondly, we need to update the victims' charter that was produced in 1996 and this has been identified as an early task for the victims' agencies forum. The charter explains how victims can get help and what assistance they might expect to receive. Thirdly, the Jersey Crime Victimisation Survey is a vital source of information on public perceptions of crime and victimisation; we intend to repeat it every 3 years, resources permitting. Fourthly, our view - which I know is also shared by the Royal Court - is that there is also a need to review the conditions under which the vulnerable give evidence in criminal proceedings. We therefore intend to review the provisions of the Criminal Justice Evidence and Procedures Law to make it less restrictive so that victims and witnesses could present their evidence without fear of intimidation or retribution. The U.K. is intending to also implement the Safeguarding and Vulnerable Groups Act 2006 at the end of 2008, to which I have already referred. This is meant that we have had to review our own arrangements for vetting and barring in the Island to ensure that we retain access to the important records in the U.K. which help to determine the suitability of individuals to work with children and other vulnerable groups. A cross-departmental working group has already been set up for this purpose. At pillar 4 joint working - moving on to page 47 of the report. The States has rightly been taken to task in the past concerning a silo mentality in wrestling with important issues. I believe the move to ministerial government has helped greatly in purging us of some of that tendency. Within the criminal justice system there are many good examples of effective joint working, certainly at working level. Notwithstanding recent difficulties Customs and Immigration worked closely with police in the Joint Intelligence Bureau and the Joint Financial Crime Unit. The successes that they have had working together with the U.K. and the French authorities in intercepting drug traffickers are well reported in the media. The probation service working in partnership with the Honorary Police at Parish Hall Inquiries has proved the value of restorative justice techniques and the States of Jersey Police now work much closer with Honorary Police on community policing. For 8 years now we have had an effective partnership working across the States managing the substance misuse and community safety initiatives which operate under the umbrella of the Building a Safer Society strategy. With this policy we will continue to invest in this type of collaborative intervention work and extend it to the private and voluntary sectors. Strangely enough some would say such partnerships have not been quite so evident at the higher strategic or policy making level. This is to some extent because of historical and cultural reasons given - as I have mentioned before - the special role of the Attorney General as the *parte public* and the requirement for an independent judiciary. But I see no reason why the executive in the shape of the Minister for Home Affairs and the Assistant Minister, the judiciary and the prosecution should not have a light touch relationship as Professor Rutherford

put it: “which encourages some dialogue on criminal justice policy matters.” This way the judiciary would receive early consultation on a possible policy direction change and could consider its impact on the judicial process. In the same way an intended review of sentencing policy by the courts could be considered for its impact on the criminal justice agencies and any resource implications. The intention of the action plan for pillar 4 then, Sir, is that we promote effective joint working not only between the criminal justice agencies reporting to it, but also the partner agencies in the public, private and voluntary sectors; and also to establish a forum for criminal justice policy and planning involving the executive, the judiciary, and the prosecution. Moving on to pillar 5, Sir, on early intervention looking at page 57, it is certainly true that in the criminal justice world, as it is in medicine, that prevention is always better than cure and during the series of presentations that I gave to the public and the consultation period, and more recently obviously to States Members, people have commented on the importance of early intervention as a means of preventing offending behaviour. I agree wholeheartedly in suitable programmes being put forward and have put in place as many as I can within the resources currently available but would certainly like to see more. Consequently, our first action within this pillar has been to take the lead with the Health and Social Services Department to implement the building of a safer society strategy and this joins up with the work we have done in previous years, as I have mentioned, on substance misuse and implements a range of community safety initiatives. The work we do in this policy, Sir, is either preventative in nature or designed to intervene at critical points. Examples of projects in the first category, that is preventative, are the support we give to mainstream nurseries to focus effort on challenging children. The Health Promotion Officer on drugs, the one-to-one youth counselling project and the detached youth worker project which engages young people in areas where they tend to congregate. Examples of intervention projects are the methadone programme which helps those with a heroin addiction, the basic skills project for offenders and the prison drug education programme. These projects have proved a worthwhile investment in addressing many of the risk factors that have given rise to offending behaviour and we do keep them regularly under review to make sure that they are delivering the expected outcomes. Secondly, the department is playing its part in implementing the recommendations of the *Cathy Bull Report*. For example, the department contributed to the formation of the youth action team which is one of the recommendations of the *Bull Report* into children with severe emotional and behavioural difficulties. This was formed with a multi-skilled team consisting of childcare officers, education welfare officers, probation officers and the police. The team’s remit is to enable young people between the ages of 11 and 17 to overcome the barriers they are experiencing and through a carefully designed range of programmes address their challenging or offending behaviours. It is another example of specialists from a range of disciplines working together to deal with a particular problem area so that these young people, and society in general, can benefit. Thirdly, we have a superb residential secure unit for young people through the lead taken by Education, Sport and Culture in developing the Greenfields site. However, there is further work to be done in deciding what options should be available to the court in accessing the new secure facility. Its use for secure care is reasonably clear cut but the corporate parent is currently engaged in discussions to decide the appropriateness of Greenfields through the criminal justice route. Advice will be taken from Mr. Andrew Williamson on the matter during the course of his present review. Turning to enforcement, the States of Jersey Police and the Customs and Immigration Department have consistently shown themselves to be effective enforcement agencies. This is borne out by inspection reports from Her Majesty’s inspectors and the crime figures reported periodically to the public. I shall turn to those in a moment. First, Sir, it has been a long and difficult road to set up a police authority in Jersey or something similar and R.C.35 of 2003 gives the history. In the past the key problem areas have been the conflict of interest created by having parish constables as members of an authority while they were also heading up policing in their parishes, the lack of law drafting time to amend legislation to create a U.K. style police authority by statute, the lack of volunteers willing to come forward to run such an organisation and the potential running costs at a time of financial stringency. I know some of those matters have been partly addressed, Sir, but

they have not been addressed sufficiently for the original proposition from 1999 to be implemented. However, Sir, I have got quite good news in that we are now well on the way with a new draft police force law which will make provision for an independent authority to oversee policing matters within the legislation. The next step with the draft law, once I have approved the final draft, will be further consultation with our honorary colleagues and other interested parties. Our first action, therefore, under pillar 6 on page 70 is to finalise the legal framework for a police authority for establishment during 2008 which is the requirement under the States' Strategic Plan. The police performance report for January to September 2007 shows that recorded crime is now 4 per cent down on this time last year and 9 per cent lower than the 3 year average for the same period 2004 to 2006. In terms of policing plan priorities the overall number of crime, disorder, nuisance, and youth incidents has reduced by around 16 per cent on the 3 year average and there has been, unfortunately though, a 12 per cent increase in violence and disorder associated with the night time economy. However, accident and emergency attendances are down by 10 per cent and calls from the public are down by 8 per cent. Most of the rise, therefore, Sir, looks as if it could be attributed to violence towards doorman and other staff, but we are keeping a watching brief on this matter. Taking the second and third action points together, therefore, we will support the States of Jersey Police in the achievement of its policing plan priorities and it would be sensible to plan for anticipated changes in crime levels according to the predicted population profile and any effects of the migration policy. Taking the modern day phenomenon, Sir, of disorderly conduct and anti-social behaviour together, the department is on the point of bringing back to the States the Disorderly Conduct and Harassment Law following the review of certain points that were requested when it was first lodged. The new law is designed to address difficulties being experienced with charging persons with offences where they are intoxicated, but not necessary drunk and are being disorderly, and will introduce the statutory offence to deal with stalking or causing harassment. Despite the new statutory powers, Sir, we are committed to supporting the important role of the Honorary Police in dealing with lower levels of anti-social behaviour and nuisance. The honorary system has a history of being able to deal with this appropriately at local level in helping people to see the error of their ways. There has been some explanation already today of the role of the Centenier at the Parish Hall Inquiry but I think it is worth reiterating, Sir, that on receiving a report of bad behaviour in the Parish, a Centenier is empowered to look into the matter and decide upon the appropriate course of action. Admittedly, this relies upon the compliance of the perpetrator but this will frequently result in an informal course of action which happens outside of the formal legal process. Most importantly, Sir, and here is the difference, the cost of a course of action will often be co-ordinated with other agencies such as the Housing Department, schools, parents, Health and Social Services and others with the aim of addressing the root cause of the problem and achieving a sustainable solution. The United Kingdom, Sir, has felt it necessary to introduce a whole new bureaucracy in order to deal with this type of activity. Whereas they can claim some success, there are numerous examples to suggest that those have been misused or have given rise to people ending up in prison for breaching their order even though the original offence or behaviour would not normally have attracted a custodial sentence. In my estimation, Sir, the prevailing situation in Jersey is not so dire that we need to take such a radical step as introducing A.S.B.O.s (Anti-Social Behaviour Orders) especially with the attendant risks associated with breached orders and when we have more community based sanctions serving us very well in the Island, as it is. But, Sir, we do need to keep the phenomenon of anti-social behaviour under constant review. Consequently, Sir, we shall be analysing local data in more detail to see if the nature and effect of such behaviour needs to be addressed differently. Our fourth and fifth action points are, therefore, to bring in the Crime, Disorderly Conduct and Harassment (Jersey) Law to combat anti-social behaviour but support the role of the Parish Hall Inquiry in dealing with less serious anti-social behaviour and nuisance, and taking into account recommendation 94 of the social policy framework and agreed St. Helier initiatives such as piloting a relaxation in licensed premises closing times, analysing the nature and effect of anti-social behaviour in Jersey and also, in consultation with others, seek appropriate solutions. Of particular success for the Home Affairs Department has been the

intelligence networks that we have across international boundaries to combat the drug trafficking, and it is difficult to overstate the time and effort that goes in to establishing those links, and I know I have mentioned them before under joint working, but the success is evident, Sir, by the annual police and custom's drug seizure values which are shown at appendix 8. Our sixth action point under enforcement is, therefore, to maximise intelligence collecting and sharing with other jurisdictions in order to combat imported crime, particularly drug trafficking. I know the public and many Members feel strongly about so-called imported crime so the seventh action point is to review the powers of detention for wanted migrants which I am currently engaged in doing with the Law Officers Department. Also, I am pleased to report that I have recently received a final draft of the Sex Offenders Law which will shortly be available for consultation. Pillar 7 will be dealt with at the end, Sir, as it has been relegated to part (b) of the proposition so I will move on, if I may, to pillar 8 first of all then dealing with offenders. In pillar 8, dealing with offenders, I have outlined the value of the Parish Hall Inquiry system, the problem of the burgeoning prison population, how mentally disordered offenders are dealt with and the various forms of administrative disposal. The growth in the prison population and the consequent overcrowding that we had experienced is of particular concern. I felt it therefore necessary, Sir, to outline in the policy the types of measures that the States would need to consider depending upon the severity of the problem. Table 7 on page 78 gave the position of the prison population in May 2007 when the population had reached the high of 200. This level has reduced slightly of late but the pressures on prison staff through excessive overtime and the need to seek prison places in England and Wales have caused the prison budget to be substantially overspent. There are no easy solutions to the financial problems of the prison. Last week, however, the Chief Minister announced an extra £500,000 for the prison and there are to be further discussions on prison finances at the Council of Ministers on 29th November following a base budget review carried out by my department and with the assistance of the Treasury. Clearly, Sir, the department has absolutely no control over the numbers sent to prison and the policy outlines the methods we have used to cope and contain costs as best we can. For example, the prison governor has been particularly effective in transferring prisoners to England and Wales at no cost, to the extent that whereas in 2003 the average number for whom we were paying was 30 prisoners annually, each at a cost of around £33,000, the figure is now usually below 10. Overtime payments at the prison have also been reduced but we have some way to go yet before they reflect average overtime levels for other pay groups. While I would not want this to turn into a debate about the size of the prison population per se, it would certainly be remiss of me not to make it clear in a debate about the future criminal justice policy that the Island has the same problem as that being felt in the United Kingdom at present in terms of pressure on prison numbers. Members will have seen, I am sure, recent publicity about some of the measures that have been considered in that jurisdiction to reduce numbers in custody and also to build more prisons. Returning to the general policy issues, our courts bear, of course, the heavy responsibility of finding the appropriate sentence for an offence under all the circumstances and achieving the right balance between a rehabilitative and a punitive approach. Although not a judicial process, Centeniers have to exercise a similar discretion at the Parish Hall level. The point is that if offenders are dealt with appropriately they are more likely to be turned away from crime and the revolving door which sees them coming back before the courts repeatedly. We also need to develop more customer friendly ways of dealing with some of the offences at the lower end of the scale such as parking infractions and minor road traffic offences. Taking all these factors into account the policy contains actions to consider ways in which the Parish Hall Inquiry system could be strengthened for making greater use of electronic monitoring, provided that this can be done cost effectively, maximising the use of community penalties, introducing other technology and greater use of fixed penalty notices. All of these are matters that are considered. I am consulting on a new criminal procedure law being prepared by the Attorney General. I have also taken steps to introduce civil asset forfeiture where assets are suspected of having been accrued from illegal activities. There will be many occasions, Sir, when the court decides that a custodial sentence however cannot be avoided and in the last 10 years or so this has usually been the case with drug

traffickers, many of whom have no direct links to Jersey. As I have already said, where such offenders orientate from the United Kingdom we do our very best to transfer these prisoners to England and Wales at no expense to the Jersey public. However, this does require us to show that the prisoners have demonstrable links to that jurisdiction, many mainly through relatives or others who will come and visit them. This is not always easy but we certainly will redouble our efforts in this area to transfer as many prisoners as possible at no cost. Of course, one of the reasons that we have had steadily increasing numbers at the prison has, indeed, been the severe sentencing in respect of drug trafficking offences and the court has not had the opportunity to carry out any research into whether the rationale for such severe sentences is correct. Part of it will be a deterrent effect and whether or not this can be substantiated. They may well be warranted but Jersey pays a very high price, not only in illegal drugs but also on the blight of our community in terms of its safety and quality of life and also, of course, in the high cost of dealing with the offenders at the other end. Consequently, the policy makes a request that the Royal Court review its sentencing policy, in the light of evidence and experience both here and in other jurisdictions, and I make no prediction as to any outcome of such a review. Pillar 9 on rehabilitation, I now come to, which contains, perhaps as I have said, the most radical and positive proposals, and they are on pages 100 and 101. This is an area which has received in the past far too little attention and far too little investment. Clearly, we want offenders who come into contact with the criminal justice system to leave it reformed rather than as potential recidivists. This work has been work for the probation and after care services for years, but previously there has been neither the inclination nor the resources to treat prison as a rehabilitative opportunity as well as a restriction on a person's liberty and, Sir, this really must change. Jersey does not have a system of parole and nor, up until now, has the prison had any resources to prepare prisoners for release through sentence planning and a range of education programmes. The system of remission means that prisoners are eligible for release having served two-thirds of their sentence but once in the community they receive no supervision. Hitherto, formal education has been minimal although there have been opportunities to learn some skills through the horticultural centre, workshops and work experience using temporary release. Improvement, Sir, though is on the way. Indeed, I was able to attend recently the opening of the Prison Resettlement and Sentence Management Unit and the new Learning and Skills Unit. Radical changes have taken place in the United Kingdom where there has been a system of parole in place for a long time. As I have mentioned, Sir, under the Criminal Justice Act 2003 the United Kingdom has converted to a system of automatic supervised release for most prisoners. There are special provisions for those assessed as dangerous and for sexual offenders but most are released automatically without the need for consideration by a parole board after they have served half their sentence. Sir, we could have considered simply replicating the system so that we tied in exactly with the United Kingdom system, however having consulted the Royal Court and having taken into account the close Island community in which we live, a system of discretionary release supervision at half sentence point is considered to be more appropriate. As in the United Kingdom, prisoners would be eligible for release having served half their sentence, however unlike the United Kingdom release would be subject to risk assessment, and a thorough risk assessment it would be, and through a form of parole. The present system, Sir, is automatic and it is not rehabilitative in its approach. The arrangements that we are proposing are a real innovation for Jersey. Not only will prisoners be prepared properly for release through sentence planning, but upon release all prisoners will be supervised by a probation officer for the whole of the second half of their sentence according to their level of risk. The new custodial regime, Sir, particularly the timing of its introduction, will depend upon new post-custodial supervision legislation. This is reflected in the first 2 points in the action plan. Thanks to the willingness and diligence of the law draftsman I already have a draft of the new supervised release law which is undergoing a human rights audit. It is likely that the new regime will be more cost effective as the prison population turns over more quickly and prisoners are less likely to resume a life of crime. Subject to the approval of this new legislation therefore, the third action point is to introduce a system of discretionary supervised release in 2008, but I stress that the precise timing is dependent upon new

legislation being in place. I am nearly there, Sir. There will be, of course, a body of opinion that will regard pillar 9 and the idea of supervised release and education programmes as going soft on prisoners. To those, Sir, I would simply say that when we release prisoners we do not want to see them through the prison gates again. We would rather prisoners left to lead productive lives in the community and I consider, and I trust that Members will agree, that creating the conditions for effective rehabilitation is a more sensible and practical approach which will benefit both prisoners and society generally in the longer term. If I can move on to pillar 7 which relates to prosecution which under the proposition is part (b), Members will have noted that on pillar 7 on prosecution it is quite short, and I refer to the policy statement on page 73 where it says that it was never the intention to carry out a judicial services review of the court system as part of criminal justice policy development. In fact, when the *Rutherford Report* was published the previous Home Affairs Committee, and later endorsed by myself, as we all know decided that we would not pursue the recommendation for a public prosecution service. We have already had the debate on the proposition of the Deputy of St. Martin calling for an independent audit of the human rights implications of that decision, so I will not go into that at all now, Sir. I have lodged obviously this document with great pride, Sir, because the policy represents a considerable achievement for the Home Affairs Department developed as it was entirely from within very limited officer resources. I do regard it as a thorough piece of work which has taken on board outside opinion, established achievable policies and gone that extra mile by expressing the policy in terms of an action plan which can be monitored. Therefore, Sir, I commend the Island's first criminal justice policy and hope that Members will support it.

The Greffier of the States (in the Chair):

Is the proposition seconded? **[Seconded]** There is an amendment to the policy we must deal with.

Senator J.L. Perchard:

I am not sure if Senator Kinnard had her microphone on. I wondered if she could repeat ... **[Laughter]**

The Greffier of the States (in the Chair):

There is an amendment to the policy we must firstly deal with before opening the debate on the policy itself in general and I ask the Greffier to read the amendments.

The Deputy Greffier of the States:

In paragraph A4 after the words "joint working on page 47" insert the words "except that in the action plan on page 47." For the words "establish a forum" substitute the words "establish a formal criminal justice policy oversight council."

9.2 The Deputy of St. Martin:

Members may be pleased to know this is a much shorter debate. On page 93 of the *Rutherford Report* it states that steps should be taken to establish a body with oversight responsibility for the criminal justice policy. Such a body might be called a Criminal Justice Policy Oversight Council. This recommendation has been partly accepted by Home Affairs, however the difference between what Home Affairs is proposing and my amendment is that Home Affairs wants a small informal body whereas I want a formal body in line with what Rutherford recommended. So the council's task would be to keep under review and co-ordinate all legislative and other initiatives relating to criminal justice. Professor Rutherford was of the view that at present much legislation is put forward on an ad hoc basis with little apparent consideration to initiatives emanating from other quarters. The Oversight Council would provide a co-ordinating roll but its remit would not end there. It would give shape and direction in terms of keeping a light touch on the policy tiller across a range of policy making activities. In the Minister's comments to my amendment she accepts that Professor Rutherford was recommending a light touch approach, but the Minister is of the view that the light touch forum should consist solely of herself, the Bailiff and the Attorney General. I am of

the belief that such a restrictive body gives the impression of an ad hoc cosy club which currently exists and, according to the Minister, is not effective. That is just not what Professor Rutherford was suggesting. What the Minister has conveniently omitted to mention in her report, or in her comments to my amendment, is that Professor Rutherford was not suggesting that a forum should be so restrictive. It says Professor Rutherford, without wishing to be unduly prescriptive about the membership of the Oversight Council, envisaged that the council would include the Attorney General, the Home Affairs Minister and one or more senior representatives from the courts and - this is the important bit - as well as department heads from across the criminal justice policy. Now, I think that is very important. On page 46 of the Minister's report she has stated that effective joint working at officer level has become common place both in the conduct of operations and a developed strategy but the same cannot be said for liaison between the executive and the judiciary at the highest level. Meetings do take place but they tend to be of an ad hoc nature and there to discuss specific issues. This observation became more than apparent during the recent review undertaken by the Scrutiny Panel, which I was chairman. Members will recall that the Education Home Affairs Scrutiny Panel conducted a review to assess the justification for why Rutherford's recommendation was not reviewed. The panel identified several examples of how the current arrangements failed to work well, notably the absence of adequate scrutiny of policy proposals and the fact that the legal basis for the Magistrates Court has been allowed to become outdated. It was also apparent that none or very little evidence was presented and almost no record of who of the committee consulted what was said. The Scrutiny Panel conducted a number of public hearings to assess the justification for Home Affairs' rejection of the Rutherford recommendation. At the public hearing on 11th October 2006, the Minister of Home Affairs attended. The Minister was asked what steps other than consulting the Attorney General did the committee take to establish the viability of Professor Rutherford's fourth recommendation and the Minister said the Bailiff had been consulted and he was totally opposed to the removal of Centeniers from the court process. The Minister was asked if the Bailiff had consulted with anyone before forming his opinion. The Minister said she did not know; we should ask him. There is no written record of that discussion with the Bailiff. The Minister was questioned regarding the meeting with the Attorney General, what consultation had he conducted before advising the committee. The Minister stated that was something the panel would have to ask the Attorney General. The Minister was asked if she had asked him. The Minister replied: "Well, no. I mean he gives his reasons in letters and comments, but I am not in the habit of cross-examining the Attorney General." It is apparent, Sir, that the Minister is a good listener and accepts advice and opinions without question. It should be noticed, Sir, that on page 31 of R.C.4 of 2007, the Strategic Plan progress against initiatives, it is reported that the Bailiff has already agreed to the informal forum. Given the present arrangements one should not be surprised. Surely the way in which the Minister has operated in the past, with an informal rather than a formal approach, should not be perpetuated or it will continue to be on a head office arrangement with a streamlined and top down direction with no accountability, and surely not as Rutherford recommended. If the Bailiff and the Minister and the Attorney General want to continue to meet on an ad hoc manner to discuss confidential matters so be it, but this informal forum should not be at the expense of a formal body. It is right and proper that the oversight of our criminal justice system involves the relevant stakeholders. These should include the Minister and senior members of the judiciary plus the police, both States and Honorary, probation, customs, prison, et cetera. Not only will there be an opportunity for them to play a vital role, but the council will have co-ordination and shared awareness of the issues and the council can be properly structured with agendas, minutes and annual reports. Therefore, I am proposing that a formal body be established along the lines of the *Rutherford Report* and the council should adopt an open and accountable approach to its work. I believe the council should also set up a website to explain this role and keep the interested parties informed about his work. Sir, I believe the resource implications of the proposed council should be no greater than those for the informal forum and I ask Members to support my amendment and I make the amendment.

The Greffier of the States (in the Chair):

Is the amendment seconded? [**seconded**] The amendment is open for debate. Does any Member wish to speak on the amendment?

9.2.1 Deputy R.G. Le Hérisier:

I have a slightly different view of this one than the last one. I cannot really see to be quite honest why we are debating it, even though I have supported it for the same reason that Deputy Fox supported the earlier one, so that a private Member does get the chance to put their view forward. I am sure there can be a meeting of mind on this. If the difference is between a slightly enlarged membership and recording minutes I would have hoped, Sir, that we could have come to some agreement about that before we all met here. It seems a bit unfortunate that that is what it seems to have been reduced to.

9.2.2 Senator W. Kinnard:

If I could just perhaps make it clear that some reference was made to the idea of a group of agencies getting together - police, customs, prison, probation - perhaps as a level of officers, but that happens anyway to discuss criminal justice issues at the level of the Home Affairs Department. What is very crucial, Sir, in this particular issue that the amendment refers to, is the right respect that has to be had for the different parties. I do believe that what is proposed by the Deputy of St. Martin would not afford the appropriate respect to the different parties that is necessary to ensure justice is done and that we have a proper separation of powers. Indeed, Sir, the proposition proposed by the Deputy of St. Martin would not be the light touch that was originally recommended by Professor Rutherford. Professor Rutherford's report, *The Review of Criminal Justice Policy in Jersey* in 2002 recommended the establishment of a body with oversight responsibility for criminal justice policy but nowhere does it appear that this body should be a formal body. In his recommendation on page 92 of his report, rather he says that: "This body would give shape and direction in terms of keeping a light touch on the policy tiller across the range of policy making activities. The establishment of an oversight council would encourage a joined up approach that fully respects the independence appropriate to the essential separation of powers." In the footnote of that report Professor Rutherford goes on to say: "It is not envisaged that the oversight council would have a censorious and directing role such as appears to be the case with the National Criminal Justice Board and the associated structural arrangements proposed for England and Wales." What is being urged here is a co-ordination and shared awareness of the issues but not a streamlined and top down direction of criminal justice. I took the opportunity once this proposition was put forward by the Deputy to consult with Professor Rutherford among others and, in fact, my department forwarded the proposition to Professor Rutherford. On the 7th November we received this reply from Professor Rutherford and he said: "I would be inclined to resist the proposed amendments for the reasons that are outlined. The footnote in my report makes it clear that the Oversight Council was not envisaged as having a censorious and directing role. As stated in the body of the report, the creation of such a council should fully respect the independence of agencies appropriate to the essential separation of powers. This precisely meets the point about any public expression of views, for example in terms of the Bailiff. Ideally, the council will build upon the emerging informal arrangements." So, even the author of the *Rutherford Report* does not support the Deputy's amendment. It is absolutely crucial that the prosecution and judicial functions are kept quite separate in relation to particular cases and it certainly would be inappropriate for the Bailiff to play any sort of public role in the discussions of many criminal justice issues. The reason for that, Sir, is that when it comes to sentencing any critical views that might have been publicly expressed through the circulation of minutes and agendas about a particular policy could place the court in a very difficult position were the defence to use that information in relation to a particular case. Also, Sir, some discussions of detail about some prosecutions may give rise to policy considerations and discussions which have security implications and, therefore, do not lend themselves readily to the production of agendas, minutes and annual reports which on balance I

believe, Sir, would shackle the ability of the prosecution and the judiciary, in particular, to engage in frank and productive discussions with me. Sir, the Deputy of St. Martin failed to consult with either the Bailiff or the Attorney General before putting forward his amendment and I know they are very mindful about the importance of keeping the separation of powers. They would find it impossible to take part in a council where such open discussions, minuted and annual reports, et cetera, were to be the subject of their deliberations. I think that would be a terrible shame because I have already found that invaluable, and we have had just a couple of meetings trying to set up how we might work. I would think that what the approval of this amendment would mean is that I would lose the benefit of that kind of discussion in meetings that I have because I am fully aware that neither the Bailiff nor the Attorney General would feel that they could take part and that would be an awful shame. Because one of the reasons that Rutherford made his original recommendation was because there had been a change in policy of the Royal Court in relation to longer sentences for drug trafficking, but there had been no connection with the executive side and so it became quite a surprise to the prison authorities to suddenly find that they were having to deal with overcrowding due in large part to long sentences. It was a result of an example like that that Professor Rutherford made his recommendation for the kind of informal approach that is outlined in the policy and he, as I say, Sir, is very definite that he is not envisaging something of the nature that is put forward by the Deputy of St. Martin. Having taken this issue and thought it through very carefully, I think the value of ensuring the independence of the prosecution and judicial functions, and the value that I received from my discussions with both the Bailiff and the Attorney General on these matters, I cannot accept what the Deputy is putting forward. It would be just plainly unworkable so I will obviously be opposing the amendment.

9.2.3 Deputy D.W. Mezbourian:

Very briefly, during a review of the role of the Centenier in the Magistrates Court the panel agreed that on the understanding that it would promote a synergy between the executive, the judiciary and the prosecution on criminal justice matters, the establishment of an informal forum on criminal justice policy would be welcome. Notwithstanding the fact that the Minister has referred to Professor Rutherford's "light touch" on this issue, I believe that the recommendation made by the panel was sufficiently light and appropriate. Our recommendation was that the proposed informal forum to be established as part of the criminal justice policy should ensure that the lines of authority and responsibility for Jersey's criminal justice system are clearly set out. We maintain that as a recommendation, Sir, and therefore do not support the Deputy's proposition this afternoon.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on the amendment? Then I call upon the Deputy of St. Martin to reply.

9.2.4 The Deputy of St. Martin:

Very few people seem to have any interest at all about the accountability. What I would have liked to have heard from the Minister is really how this ad hoc informal forum is going to work. I was also interested to know why she did not ask Mr. Rutherford: "Why the u-turn?" because it is quite clear - it is on page 93 of my *Rutherford Report*, maybe page 92 of yours - but again I can only quote from what Rutherford was saying. It says: "Without wishing to be unduly prescriptive, et cetera, the council should also be comprised of one or more senior representatives of the courts as well as department heads from across the criminal justice process." It is there in black and white and I would like to inform Members that the Minister and I did discuss this before I put my amendment and I do not think she is that far away from my thoughts. I am rather surprised that, given we now integrate accountability, the Education and Home Affairs Scrutiny Panel are not more concerned about ensuring there are proper minutes and agendas, et cetera, for Scrutiny purposes. I would have thought that would have been useful, but again I would urge Members to support what I think Rutherford wanted and I shall also believe it is what is best for the Island. We

should have much more involved people, with those people who are involved in forming and making sure our criminal justice system works. What we will do is we will just have 3 people, and no disrespect to the Bailiff or the Attorney General or the Minister, but really I feel we should share this among the stakeholders and get more people involved on a more formal and structured process. It still can have a light touch. In no way am I suggesting that there is going to be a monthly meeting because, at the moment; even the Minister has not suggested it. What we are looking at here is setting up an informal or a formal body. What I am asking for is support to have something more formalised, more structured and involving more people. I maintain my amendment.

The Greffier of the States (in the Chair):

The appel is called for. If Members are in their designated seats the Greffier will open the voting for or against the amendment of the Deputy of St. Martin.

POUR: 5	CONTRE: 35	ABSTAIN: 0
Deputy R.C. Duhamel (S)	Senator W. Kinnard	
Deputy of St. Martin	Senator T.A. Le Sueur	
Deputy P.N. Troy (B)	Senator M.E. Vibert	
Deputy J.B. Fox (H)	Senator P.F.C. Ozouf	
Deputy J.A. Martin (H)	Senator T.J. Le Main	
	Senator B.E. Shenton	
	Senator F.E. Cohen	
	Connétable of St. Ouen	
	Connétable of St. Mary	
	Connétable of St. Clement	
	Connétable of Trinity	
	Connétable of St. Lawrence	
	Connétable of Grouville	
	Connétable of St. Brelade	
	Connétable of St. Martin	
	Connétable of St. John	
	Connétable of St. Saviour	
	Deputy A. Breckon (S)	
	Deputy G.C.L. Baudains (C)	

	Deputy C.J. Scott Warren (S)		
	Deputy R.G. Le Hérissier (S)		
	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 D.W. Mezbourian (L)		
	Deputy of Trinity		
	Deputy S.S.P.A. Power (B)		
	Deputy K.C. Lewis (S)		
	Deputy of St. John		
	Deputy I.J. Gorst (C)		
	Deputy of St. Mary		

The Greffier of the States (in the Chair):

The debate, therefore, resumes on the policy in its original format and amended. Does any Member wish to speak on the criminal justice policy?

9.3 Senator M.E. Vibert:

I would like to welcome this criminal justice policy. I think it is much overdue for the Island and I think there is a lot of excellent news in it. I think the emphasis on early intervention has to be right and good for the Island as is the emphasis on rehabilitation and the need to re-educate offenders to change their attitude and behaviour because, as the Minister said, there is simply no point operating a revolving-door prison and having people coming back time and time again. I welcome all that. I will not detain Members long. I think the Minister knows what I am going to say because there is mentioned in the policy - and if Members want to look at it, it is on page 85 - I wish to seek the Minister to reaffirm the assurance she gave about enforcement cameras. I am concerned that in the U.K. the drive for enforcement cameras has not been based on road safety improvements; it has been based on monetary return to those bodies which operate those cameras. My mind is not closed to the idea - as it says in the Minister's report there can only be one cogent reason for introducing enforcement cameras and that is to increase significantly safety on our roads by deterring motorists from speeding and that has to be demonstrated. It has not been demonstrated, as far as I am concerned, in the U.K. I believe it has been misused. I think that rather than having fixed cameras, mobile deterrents are much more effective and I think this is an issue - though it is

not a major issue - that should, if it is considered in the future, come back to this Assembly to be decided upon. I would like the Minister to reaffirm that if any movement is proposed on this, even an experiment, that it should come back to this Assembly first before being taken any further. I believe the case has to be made and approved by this House before such a measure is introduced. Having said that, and looking for that information, I very much welcome the Criminal Justice Policy.

9.3.1 Deputy S.C. Ferguson:

I was a little disappointed to see that there is no mention made of reviewing the working of the Rehabilitation of Offenders Law. There is anecdotal evidence that it is not working satisfactorily and obviously this is one of the factors leading to a high re-offending rate because is this one of the contributory factors for people not being able to get employment? I would ask the Minister to give assurance that this will be reviewed and if necessary amended.

9.3.2 Deputy J.B. Fox:

I concur that this Criminal Justice Policy is well overdue for all the same reasons as my Minister for Education, Sport and Culture says, and especially when it comes to early intervention, enforcement, prosecution, et cetera. There is a need to update ourselves, especially when we are still living with common law last seen before the 1916 Act and they have had about 4 Theft Acts since then - I do not know where we are going from that. The thing that the Minister is quite right about, which disappoints me, is that this policy, in the main, deals with everything that is after an event. In other words, you have got to have got yourself into a spot of bother in either a minor sense such as traffic offences or major, like drug trafficking. I get very disturbed when I hear all sorts of things and I read, going to the bit Senator Vibert was talking about with speed cameras, when we are talking about La Route de la Liberation: 174 drivers have been processed for speeding as a result of 4 enforcement visits. Well, I am sorry, we all know that going down La Route de la Liberation, under the tunnel there, you automatically go over 30 miles an hour without putting your brake on. Most of these are speeds of 39 miles an hour. I do not go that speed [**Laughter**] but it tells us one thing. It tells us that we are not preventing these things happening. It is either a nice little money earner or it clogs up the judicial system with everybody over a certain speed, and I am not going to go into the details of that, ending up by going to the Parish Hall and then having to go to court and we have the headlines as a result. Then we have that in the last 9 months 1,391 motorists were reported for speeding, probably done through this new wonderful speed camera we have, and this £75,000 police car which I am sure the money could be much better spent. I too ask that before any further consideration is given to fixed speed cameras ... yes, they can provide a good preventative measure. If you want to see how that works just go and drive on the Continent. They have a big sign that tells you that cars, motorbikes, et cetera, with the radar signal, with the speed ... it gives you what speed is the legal limit and it is there before the camera. It is there before the danger spot and very few people unless they are daft get caught by the camera but it provides a good deterrent. Unfortunately, in the U.K. - and I went there this summer up to the North of England and across - I spent more time looking at my speedometer than I did on the road because of the amount of threats of cameras. In fact, I have just taken from the computer a little example of Bournemouth which has cameras shown on it. Now, Bournemouth is roughly the same size as Jersey on this map here and there are just under 30 cameras in this one little spot and that is without the rest of the country. So it becomes a thing that does not do the law enforcement agencies any good. It does not do people's reputation any good when they start losing their jobs because they have gone through points, et cetera. In most of the ones in the U.K. it does not tell you what the speed limit is. It tells you that it is within whatever the national speed limit is and you have got to guess, if you are a visitor, what the speed limit for that particular road is. Then, of course, you hear that coming from the West Country there is a dual carriageway that is 70 miles an hour then suddenly there is a 30 mile sign while it is still a dual carriageway and a few yards from there the camera is picking up motorists like there is no yesterday. I wonder why? It is the

stupidity of things like that - I hope we never get to the silly season. We have, as far as preventative measures are concerned, done away with our police motorcycles. They were very good deterrents; they provided an excellent deterrent. I know the reasons given why they did away with them but I want them to come back. You do not need great big 1100cc motorbikes. What you need is someone that is trained to do the job. They are also excellent frontline policemen in preventing crime, of which I spent many hours doing. It also trains you for future secondments to C.I.D. (Criminal Investigation Department), Special Branch, Financial Service Units and everywhere else. You will find that if you look at the record of police officers that have been promoted the majority of them were ex-motorcyclists. What are we going to do for the future? **[Laughter]** Now we are told that we have some 240 States of Jersey Police, and B.B.C. (British Broadcasting Corporation), I was very disappointed, were calling them paid police officers. We dispensed with paid police officers in 1956 but never mind; we will educate our B.B.C. staff on our Jersey titles and ways. **[Laughter]** 240 police officers, yes, are spending a lot of their time policing the streets at night because we have drunk and disorderly and various other disorderly problems and we want to open our pubs late at night longer and longer. However, it is a great privilege when we find a police officer in uniform during the day in St. Helier, but what I hope is that when we are reviewing this and we are finding all the ways of making our citizens reform and become better citizens, better educated and everything else, that we can also encourage the people that are involved in the administration of the police force, whether they are politicians or chief police officers, that they can find a way of bringing back the policeman on the street. It gives a reassurance to the public; it also is a very good deterrent in preventing people from getting into trouble and requiring the need for having such laws as we are discussing at the moment and procedures, et cetera. We have an Honorary Police Service as well which we are very proud of in the Island. St. Helier are a bit thin on the ground at the moment; we are 20 short which is half the force that we are having difficulty in recruiting. Again, it provides essential backup and support for so many things that we really cannot do without them. The thing that disappoints me, however, is that we used to have an establishment of 9 community police officers, uniformed police officers, that provided an invaluable service throughout the Island. We had a substation at St. Brelade with 6 police officers and one sergeant in uniform. Now we read about the small groups of people, often described as young, that cause mayhem. Yes, these things happen but if you have the right policing policy you should be able to nip it in the bud and prevent it from getting worse with appropriate courses of action. Likewise on the crime reduction officer, as we call it now instead of crime prevention officer, we have only got one officer. There are so many things that officer should be doing in long term prevention that is not being done. I will be frank with you, it does not do us any favours in the long term of reducing crime by having it designed out at the planning stage, an appropriate stage, when we are designing houses, when we are designing waterfronts or we are designing things like airports and harbours, et cetera. It is a false economy and now we are told by the police chief that in fact he wants another 20 police officers to join. I do not know what the percentage of officers that have been recruited from the United Kingdom is but there must be about 10 percent or 15 percent that are being recruited and I ask the question: "Why?" We have a high standard of education. The police service is a very good career. It is well paid from the time when I joined it and when Deputy Hill joined it. Why are we having to recruit from outside? It is far better to have officers that know the local young people because they are young people themselves. It provides a far greater deterrent value. I will be quite honest with you, I think that is another area; while we are looking at this new criminal justice policy we should be also looking at the basics to stop the necessity of that happening. One of the favourite things that happens when people ring up to the police headquarters is that they are told that the officers are extremely busy or it is an on-call service that they are dealing with. I am sorry, it does not send out a very good reputation for our local police service when we cannot deal with something that people are concerned about. We have an honorary system, as I say, but often they cannot cope with it. I think this is an area that I would ask the Minister if she would take on board, to look at ways of better communication in dealing with the public when they are obviously concerned. I appreciate the police service gets

busy but we are the only service that the public have an opportunity of calling 24 hours a day, 7 days a week and 52 weeks a year. I think that is all I wish to say at the moment, which is to cover the preventative side. I will support this criminal justice policy. I am not sure whether in fact we have the resources upfront to be able to implement it. It is on the right road moving forward but please let us look at the preventative measures to stop the necessity of our youngsters getting into trouble and others, and making the quality of life for so many people that much better than exists at this moment in time.

9.3.3 The Connétable of St. Ouen:

I rise to give my support to this policy and to maybe take the opportunity of commending to Members that they might read through the report at their leisure and look at the tremendous amount of work which is done by the Honorary Police at Parish Hall Inquiries. The Parish Hall Inquiry system, I believe, keeps so many people, especially young people, out of the criminal justice system. The Minister for Education mentioned early intervention and that is exactly what the Parish Hall system does. It points out to youngsters the error of their ways and is able to stop them from going any further down the slippery slope of getting into the criminal justice system. I know, because I used it when I was a Centenier, that voluntary probation is an incredibly good tool and one which I commend to people to find out what it is. The ability of the Centenier, in sometimes quite a serious offence which he is faced with, to liaise with the other services, with the probation office, and impose a voluntary probation order which is never mandatory; the person who is being imposed on has the ability to refuse it and go on to Youth Court but they very seldom do so. I think that the whole Honorary Police system, and the Parish Hall system especially, is worthy of Members looking up again, and reading again, and seeing what benefits there are in it.

9.3.4 Deputy J.A. Hilton:

Just to pick up on Deputy Fox's point a bit earlier about community policing. This came up at the Save St. Helier meeting last night and I did discuss with the senior police officer there the lack of community officers. At the present time we have only got one community officer for the whole of St. Helier - that just simply cannot be right. I think possibly the reason that there has been a huge increase in the number of attacks against doormen, particularly in St. Helier, is possibly to do with the smoking ban. People have to go outside the premises now to have their cigarettes and doormen are coming into much more contact with drinkers outside and are realising that they have had too much to drink and they are stopping them from going back into licensed premises. I think maybe this is why this has arisen and the fact that we only have 3 officers in our licensing unit now. I have said this countless times before: how can we possibly expect 3 officers in the licensing unit to carry out the job of policing licensed premises in St. Helier to the degree that it should be done? I just believe this is one of the difficulties we have come to because of the lack of manpower in those units. I think it is something that the Senator really needs to look very closely at. One of the main reasons I stood to speak was to approach the whole subject of parole and I have been through the document several times. There are a couple of things in there that I really need clarification on because I am quite concerned about this and the implications of changing the policy. Interestingly, on page 94, paragraph 12, the second sentence says: "However, the Royal Court is supportive of a system of parole" but if you then look on page 95, paragraph 12.35 it says: "During the 2006 consultation the court expressed its support for proposals to provide supervision following release and additional resources measures for prisoners. The court was concerned, however, that such proposals should preserve both public confidence in the criminal justice system and a relationship between the sentence passed and that served. On the basis of this relationship the court's preference would be for release to be maintained at the two-thirds point with compulsory supervision until the end of sentence." I would not want Members to think, from reading this document, that the Royal Court was totally supporting the idea of parole half-way through the sentence because they quite obviously are not. They would prefer for the two-thirds to remain but with supervision to continue to the end of sentence, which I think is a very practical way of looking

at it. If you look earlier in the report on page 87 under the action plan, and the action plan is a thing that we have been asked to approve today, it is to: "Maximise the use of the transfers where prisoners can demonstrate links with England and Wales thereby reducing significantly the cost to the public." I have sat and asked myself: "Why are we being asked to do this?" and I really do believe it is all down to money. We are trying to find ways of saving money and I do not believe for one moment that this is the correct way of going about it. The reason I am concerned about this is that at the moment when people transfer to the U.K. they transfer on a restricted basis so that when 2 prisoners, one Jersey prisoner and one English prisoner, are both sentenced in a Jersey Court the English prisoner does not benefit from the English parole system which is release half-way through the sentence and the Jersey prisoner ends up doing two-thirds. Currently, my understanding is, the English prisoner will transfer but still do two-thirds. My big concern is that possibly the Minister is going to go away and look to realign our custodial system with that of the U.K. She is nodding her head, so I am just looking ... it is definitely ... right. Okay, I am pleased to hear that but that was one of my biggest concerns, that by agreeing these action plans later on down the line at some point it may be that people would be released on to the streets in Jersey where we would not normally do so. If I have the Minister's absolute categorical assurance that we are not going to follow the U.K. route by doing this then I am satisfied. But just in case, I wanted to point out that I went on to the *J.E.P. (Jersey Evening Post)* website last night just to look at some of the cases that have been dealt with in the past year or 18 months of what we call serious cases, i.e. people have been convicted either of sexual offences or grave and criminal assaults. One of the first ones that I came across was a paedophile, who met a school boy for sex, was jailed, and this happened this year in fact; he was sentenced this year. He got a 3 and a half year sentence for having sex with a 13 year-old schoolboy in a public toilet. My concern was here is a man who has been jailed for 39 months; if we halve the sentence and took into consideration the time on remand this person would end up doing about one year inside. That was a concern I wanted to express to Members; that is the thing that I am most concerned about and I hope that the Senator, in her summing up, will be able to assure me that under no circumstances will those people who have committed violent crimes or sex crimes be considered for parole before they have served two-thirds of their sentence. The one other question I would like to ask is if that is the case, who exactly is she aiming her parole system at? According to the data in the criminal justice policy, the Magistrate uses very effectively community sentencing and I think at the current time there are only half a dozen prisoners currently serving sentences between 6 and 12 months. It follows that most of the people in the prison at the present time must have committed fairly serious offences. The conclusion I have drawn from this is that it must be people who have been convicted of drug trafficking offences that possibly she is looking at. I would like some indication from her in her summing up whether this is the case. Are we going to take a more liberal view on how we are going to be dealing with drug traffickers in the future? I will leave it there, thank you.

ADJOURNMENT PROPOSED

Deputy R.G. Le Hérissier:

Can I move the adjournment?

Senator M.E. Vibert:

I was just going to say that it has gone 5.30 p.m. and the adjournment should be moved unless Members want to make an exception. I was going to propose the adjournment because that is what is proposed after 5.30 p.m.

The Greffier of the States (in the Chair):

Are Members content that the Assembly adjourns until 9.30 a.m. tomorrow? Very well.

ADJOURNMENT