

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 12th FEBRUARY 2008**

<b>1. Written Questions .....</b>	<b>7</b>
1.1 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING SHARED EQUITY HOUSING:.....	7
1.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING EMPLOYMENT RELATIONS CODE OF PRACTICE IN JERSEY: .....	10
1.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHAIRMAN OF PRIVILEGES AND PROCEDURES REGARDING ELECTORAL EXPENSES:.....	12
1.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING DEMAND FOR 3 BED HOUSES IN THE STATES RENTAL SECTOR: .....	15
1.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING PRODUCTIVITY GROWTH: .....	16
1.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING TERMS OF REFERENCE AND SELECTION OF A BODY TO REVIEW THE JCRA: .....	17
1.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PROPOSED SALE OF JERSEY TELECOM: .....	18
1.8. DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR SOCIAL SECURITY REGARDING INCOME SUPPORT: .....	19
1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING FLATS SOLD IN JERSEY BY SHARE TRANSFER: .....	23
1.11 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PLANNING APPICATION FOR AN ENERGY FROM WASTE PLANT AT LA COLLETTE: .....	24
1.12 DEPUTY D.W. MEZBOURIAN OF ST. LAWRENCE OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING PUPIL CAPACITY IN ALL STATES SCHOOLS: .....	25
<b>2. Oral Questions.....</b>	<b>30</b>
2.1 Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding problems encountered during the first 2 weeks of administering the Income Support system: .....	30
Senator P.F. Routier (The Minister for Social Security): .....	30
2.1.1 Deputy G.P. Southern: .....	31
2.1.2 Deputy C.J. Scott Warren of St. Saviour: .....	31
2.1.3 Deputy J.A. Martin of St. Helier: .....	31
2.1.4. Senator S. Syvret: .....	31

2.1.5 Deputy R.G. Le Hérisier of St. Saviour:	31
2.1.6 Deputy G.P. Southern:	32
2.2 Deputy K.C. Lewis of St. Saviour of the Minister for Treasury and Resources regarding the possibility of granting Parish Committees and private Battle of Flowers entrants charity status:	32
Senator T.A. Le Sueur (The Minister for Treasury and Resources):	32
2.2.1 Deputy K.C. Lewis:	32
2.3 Deputy S.C. Ferguson of St. Brelade of the Minister for Transport and Technical Services regarding the disposal costs of a ton of cardboard:	32
Deputy G.W.J. de Faye of St. Helier (The Minister for Transport and Technical Services):	32
2.3.1 Deputy S.C. Ferguson:	33
2.3.2 Deputy G.C.L. Baudains of St. Clement:	33
2.3.3 Deputy C.J. Scott Warren:	33
2.4 Deputy F.J. Hill of St. Martin of the Minister for Education, Sport and Culture regarding the establishment of a Board of Visitors for Greenfields:	33
Senator M.E. Vibert (The Minister for Education, Sport and Culture):	33
2.4.1 The Deputy of St. Martin:	34
2.4.2 Senator S. Syvret:	34
2.4.3 Senator S. Syvret:	34
2.4.4 Deputy J.G. Reed of St. Ouen:	34
2.4.5 Deputy S.C. Ferguson:	34
2.4.6 The Deputy of St. Martin:	35
2.4.7 Senator S. Syvret:	35
2.5 Connétable A.S. Crowcroft of St. Helier of the Minister for Education, Sport and Culture regarding the allocation of free nursery places:	35
Senator M.E. Vibert (The Minister for Education, Sport and Culture):	35
2.5.1 The Connétable of St. Helier:	36
2.5.2 Deputy J.J. Huet of St. Helier:	36
2.5.3 Deputy J.J. Huet:	36
2.5.4 Deputy S.C. Ferguson:	36
2.5.5 The Connétable of St. Helier:	37
2.6 Deputy J.A. Martin of the Minister for Transport and Technical Services regarding the proposed car park on the Ann Court site:	37
Deputy G.W.J. de Faye (The Minister for Transport and Technical Services):	37
2.6.1 Deputy J.A. Martin:	37
2.6.2 Deputy J.A. Martin:	37
2.6.3 The Constable of St. Helier:	38
2.6.4 Deputy J.A. Martin:	38
2.7 Senator J.L. Perchard of the Minister for Economic Development regarding the integrity of the Annual Business Plan process:	38
Deputy A.J.H. Maclean of St. Helier (Assistant Minister for Economic Development - rapporteur):	38
2.7.1 Senator J.E. Perchard:	39
2.7.2 Senator S. Syvret:	39
2.7.3 Deputy S.C. Ferguson:	40
2.7.4 Deputy A.D. Lewis of St. John:	40
2.7.5 Deputy G.C.L. Baudains:	40
2.7.6 Senator J.E. Perchard:	41
2.8 Deputy R.G. Le Hérisier of the Minister for Housing regarding the discount rate applied in the sales of States-owned housing:	41
Senator T.J. Le Main (The Minister for Housing):	41
2.8.1 Deputy R.G. Le Hérisier:	42

2.8.2 Deputy R.G. Le Hérisssier: .....	42
2.8.3 Deputy G.P. Southern: .....	42
2.8.4 Deputy G.P. Southern: .....	42
2.8.5 Deputy J.A. Martin: .....	43
2.8.6 Deputy R.G. Le Hérisssier: .....	43
2.9 Deputy C.F. Labey of Grouville of the Minister for Planning and Environment regarding the imposition of certain conditions on the development of first-time buyer or retirement homes: .....	43
Senator F.E. Cohen (The Minister for Planning and Environment): .....	43
2.9.1 The Deputy of Grouville: .....	44
2.9.2 The Deputy of St. John: .....	44
2.9.3 Deputy G.P. Southern: .....	44
2.9.4 Deputy G.P. Southern: .....	45
2.9.5 The Deputy of Grouville: .....	45
2.10 The Connétable of St. Helier of the Minister for Treasury and Resources regarding the payment of rates on States properties: .....	45
Senator T.A. Le Sueur (The Minister for Treasury and Resources): .....	45
2.11 Deputy K.C. Lewis of the Minister for Social Security regarding the cost of multiple G.P. home visits to house-bound patients under the Income Support Scheme: .....	45
Senator P.F. Routier (The Minister for Social Security): .....	46
2.11.1 Deputy K.C. Lewis: .....	46
2.11.2 Deputy K.C. Lewis: .....	46
2.11.3 Deputy G.P. Southern: .....	46
2.11.4 Deputy G.P. Southern: .....	47
2.11.5 Deputy J.A. Martin: .....	47
2.11.6 Senator S. Syvret: .....	47
2.11.7 Deputy P.V.F. Le Claire of St. Helier: .....	48
2.11.8 Deputy J.A. Martin: .....	48
2.11.9 Deputy J.A. Martin: .....	48
2.11.10 Deputy G.P. Southern: .....	48
2.11.11 Deputy K.C. Lewis: .....	49
2.12 The Deputy of St. Martin of the Minister of Home Affairs regarding the establishment of a Lay Visitor Scheme in Jersey: .....	49
Senator W. Kinnard (The Minister for Home Affairs): .....	49
2.12.1 The Deputy of St. Martin: .....	49
2.12.2 The Deputy of St. Martin: .....	50
2.13 The Deputy of Grouville of the Minister for Housing regarding the 65 units of self-catering accommodation proposed in the Hopkins Plan: .....	50
Senator T.A. Le Main (The Minister for Housing): .....	50
2.13.1 The Deputy of Grouville: .....	50
2.13.2 Deputy P.V.F. Le Claire: .....	51
2.13.3 Senator S. Syvret: .....	51
2.13.4 Senator S. Syvret: .....	51
2.13.5 Senator S. Syvret: .....	51
2.13.6 Deputy S.C. Ferguson: .....	52
2.13.7 Deputy S.C. Ferguson: .....	52
2.13.8 Deputy G.P. Southern: .....	52
2.13.9 The Deputy of Grouville: .....	53
2.13.10 The Deputy of Grouville: .....	53
Senator F.H. Walker: .....	53

<b>3. Questions to Ministers Without Notice - The Minister for Education, Sport and Culture:</b> .....	<b>53</b>
3.1 Deputy D.W. Mezbourian of St. Lawrence: .....	53
Senator M.E. Vibert (The Minister for Education, Sport and Culture): .....	54
3.1.1 Deputy D.W. Mezbourian: .....	54
3.2 Deputy J. Gallichan of St. Mary: .....	54
3.3 Deputy J.J. Huet: .....	55
3.3.1 Deputy J.J. Huet: .....	55
3.4 Deputy J.A. Hilton of St. Helier: .....	55
3.4.1 Deputy J.A. Hilton: .....	56
3.5 Deputy G.P. Southern: .....	56
3.6 Deputy P.J.D. Ryan of St. Helier: .....	56
3.6.1 Deputy P.J.D. Ryan: .....	57
3.7 Deputy S. Pitman of St. Helier: .....	57
<b>4. Questions to Ministers Without Notice - The Minister for Transport and Technical Services</b> .....	<b>58</b>
4.1 Deputy D.W. Mezbourian: .....	58
Deputy G.W.J. de Faye (The Minister for Transport and Technical Services): .....	58
4.2 Deputy A.E. Pryke of Trinity: .....	58
4.3 The Deputy of Grouville: .....	58
4.3.1 The Deputy of St. Martin: .....	59
4.4 Deputy G.P. Southern: .....	59
4.5 Deputy J.A. Hilton: .....	59
4.6 The Deputy of St. John: .....	59
4.6.1 The Deputy of St. John: .....	60
4.7 Deputy S. Pitman: .....	60
4.7.1 Deputy S. Pitman: .....	61
4.8 Connétable P.F.M. Hanning of St. Saviour: .....	61
<b>STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY</b> .....	<b>61</b>
<b>5. Statement by the Chief Minister regarding succession planning and appointments in the public sector</b> .....	<b>61</b>
5.1 Senator F.H. Walker (The Chief Minister): .....	61
5.1.1 Deputy R.G. Le Hérisier: .....	62
5.1.2 Deputy J.B. Fox of St. Helier: .....	62
5.1.3 Deputy J.B. Fox: .....	62
5.1.4 Deputy R.G. Le Hérisier: .....	63
<b>PUBLIC BUSINESS</b> .....	<b>63</b>
<b>6. Draft Burials and Exhumations (Amendment) (Jersey) Law 200- (P.195/2007)</b> .....	<b>63</b>
6.1 Connétable K.P. Vibert of St. Ouen (Assistant Minister, Chief Minister's Department - rapporteur): .....	63
6.1.1 The Deputy of St. Martin: .....	64
6.1.2 Deputy R.G. Le Hérisier: .....	64
6.1.3 The Connétable of St. Ouen: .....	64
The Deputy Bailiff: .....	64
Deputy C.H. Egré of St. Peter (Vice-Chairman, Corporate Services Scrutiny Panel): .....	64
<b>7. Draft Proceeds of Crime (Substitution of Schedule 2) (Jersey) Regulations 200- (P.127/2007)</b> .....	<b>65</b>

7.1	Senator T.A. Le Sueur (The Minister for Treasury and Resources):	65
7.1.1	The Deputy of St. John:	66
7.1.2	The Deputy of St. Ouen:	66
7.1.3	Senator T.A. Le Sueur:	66
	The Deputy Bailiff:	66
	The Deputy of St. Peter (Vice-Chairman, Corporate Services Panel):	66
7.2	Senator T.A. Le Sueur:	67
7.2.1	Deputy A. Breckon of St. Saviour:	67
7.2.2	The Deputy of St. Martin:	67
7.2.3	Senator T.A. Le Sueur:	68
	The Deputy Bailiff:	68
<b>8.</b>	<b>Draft Pilotage (Jersey) Law 200- (P.197/2007).....</b>	<b>68</b>
8.1	Deputy A.J.H. Maclean (Assistant Minister for Economic Development - rapporteur):	68
8.1.1	Deputy R.G. Le Hérisier:	69
8.1.2	Connétable M.K. Jackson of St. Brelade:	70
8.1.3	Deputy S.C. Ferguson:	70
8.1.4	Deputy A.J.H. Maclean:	70
	The Deputy Bailiff:	71
	Deputy A. Breckon (Vice-Chairman, Economics Affairs Scrutiny Panel)	71
8.2	Deputy A.J.H. Maclean:	71
8.2.1	Deputy R.G. Le Hérisier:	71
8.2.2	Deputy G.C.L. Baudains:	71
8.2.3	Deputy C.J. Scott Warren:	72
8.2.4	Deputy A.J.H. Maclean:	72
	Miss. S.C. Nicolle Q.C., H.M. Solicitor General:	72
	The Deputy Bailiff:	73
	The Deputy of St. Martin:	73
<b>9.</b>	<b>Income Support Medical Appeal Tribunal: appointment of members (P.20/2008) ....</b>	<b>73</b>
9.1	Senator P.F. Routier (The Minister for Social Security):	73
9.1.1	Deputy G.P. Southern:	73
9.1.2	Deputy R.G. Le Hérisier:	74
9.1.3	Deputy C.J. Scott Warren:	74
9.1.4	Senator P.F. Routier:	74
	Deputy G.P. Southern:	74
	<b>LUNCHEON ADJOURNMENT PROPOSED.....</b>	<b>75</b>
	The Deputy Bailiff:	75
	<b>ADJOURNMENT.....</b>	<b>75</b>
<b>10.</b>	<b>Corporate Management Board: access to meetings and minutes (P.11/2008).....</b>	<b>75</b>
10.1	Deputy G.C.L. Baudains:	75
	The Deputy Bailiff:	78
10.1.1	Deputy J.J. Huet:	78
10.1.2	Senator F.H. Walker:	78
10.1.3	Deputy S. Pitman:	81
10.1.4	Deputy G.P. Southern:	82
10.1.5	Deputy G. De Faye:	82
10.1.6	Deputy J.B. Fox:	84
10.1.7	Deputy J.A. Martin:	84

10.1.8	Deputy P.J.D. Ryan:	86
10.1.9	Senator S. Syvret:	86
10.1.10	Senator T.A. Le Sueur:	89
10.1.11	Deputy A. Breckon:	90
10.1.12	Senator M.E. Vibert:	91
10.1.13	Deputy C.J. Scott Warren:	93
10.1.14	Deputy P.V.F. Le Claire:	93
10.1.15	Deputy P.N. Troy of St. Brelade:	94
10.1.16	The Deputy of St. Martin:	95
10.1.17	Deputy D.W. Mezbourian:	96
10.1.18	Deputy S.C. Ferguson:	96
10.1.19	Deputy R.G. Le Hérissier:	97
	The Deputy of St. John:	97
10.1.20	Deputy G.C.L. Baudains:	99
	The Deputy Bailiff:	101

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS ..... 104**

11.	Connétable D.F. Gray of St. Clement (Chairman, Privileges and Procedures Committee):	
	.....	104
	Deputy P.J.D Ryan:	104
	The Deputy Bailiff:	105

**ADJOURNMENT..... 105**

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

## **QUESTIONS**

### **1. Written Questions**

#### **Question**

#### **1.1 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING SHARED EQUITY HOUSING:**

#### **Question**

1. On page 2 of the White Paper “Jersey Homebuy: a new form of ‘shared equity’ housing” (R.7/2008) it states that “*buyer would purchase 100% of the property for just 65% of the first-time buyer value*”. As the buyer can only ever realise 65% of any subsequent sale price would the Minister state whether a buyer will, in fact, only ever “own” a 65% interest in the value of the property?

#### **Answer**

Under the proposed scheme, the buyer will own 100% of the property, and will have all of the obligations of a property owner. Repayment of the outstanding 35% of the purchase price will be secured through a second charge on the property, and will be realised on its eventual resale. To that extent it is similar to any other property purchases, where any outstanding charges on the property, such as a mortgage, are cleared from the receipts of the sale.

The Jersey Homebuy proposal is a simple scheme which has deliberately designed, with the advice of the Law Officers, to fit Jersey’s property laws as they stand.

#### **Question**

2. On page 5 it states that short of a fundamental change of Jersey property law, shared equity as in the United Kingdom cannot happen in Jersey. Would the Minister explain why this is so and why he has not chosen to make the “fundamental change” to the law?

#### **Answer**

Shared equity in the form commonly referred to in the UK is perhaps better described as ‘Shared Ownership’. Such schemes make available for sale only a percentage of the home and this arrangement exists in perpetuity. The initial buyer does not purchase all of the property and in most cases is required to pay a rental on the portion of the property which they do not purchase. Shared ownership is known in Jersey Law. The perceived barriers to its implementation are in respect of the borrowing required by most purchasers. Although it is not beyond argument, it appears probable that as a matter of law a loan cannot be secured on a share in a property. Even if it is possible it is inconceivable that any lender would be prepared to lend, as all that the lender would get if the security had to be realised would be that share.

The law governing property is customary law which has evolved over the centuries, with occasional modification by statute rather than statute law and is not capable of simple legislative change. Should the laws fundamentally change in due course, then it is possible that other forms of shared equity may become possible.

#### **Question**

3. Would the Minister inform members why “*Shared ownership is possible but, as a form of affordable housing provision in Jersey, is commercially unrealistic?*” (Page 5).

## Answer

Shared ownership is commercially unrealistic because it is inevitable that purchasers will only be able to buy if they can borrow to do so, and lenders will only lend if they can secure their loans. It is probable that as a matter of law a loan cannot be secured on a share in a property. Even if it is possible, all that the lender would have as security would be the purchaser's percentage share. It is inconceivable that lenders would wish to lend on those terms. .

## Question

4. Will the Minister explain to members how the "Jersey Homebuy" scheme "*helps to reduce the public requirement to provide and maintain social housing*"? (Page 6)

## Answer

Most recent developments of social rented homes have been acquired by the Housing Trusts with the benefit of interest subsidies on their borrowing. If these social rented homes are not needed to meet current demand then those homes can be released into the first-time buyer sector. Adopting the Jersey Homebuy scheme proposed enables those people who cannot afford to acquire first-time buyer homes at the market rate to purchase their own home. In the absence of such a scheme, they will have to rent property in the local market which would include the social rented sector.

## Question

5. Will the Minister explain what is meant by the phrase "*Within the current 45% allocation for affordable housing, it would allow for a split between social rented and Jersey Homebuy housing based on available evidence of need and supply*"? (Page 9) and inform members whether this will mean that housing intended for rental to the poorest and those in real social need will be diverted for those just below first-time buyer incomes?

## Answer

I will liaise with the Minister for Housing and have regard to the latest housing needs survey when determining:

- whether the current 45% affordable housing allocation is sufficient and
- what proportion of that 45% allocation should be allocated to Jersey Homebuy and what proportion should be allocated to social rented housing.

At the present time, I am advised by the Minister for Housing that the development of social rented family housing on the developed Island Plan H2 sites has significantly reduced the waiting list for such properties. These homes can then therefore be re-categorised for Jersey Homebuy without having a deleterious effect on the availability of social rented homes.

## Question

6. Will the Minister set out for members the proposed income boundaries between those who will fall into the categories he is proposing through his "gateway" of those –
  - i) unable to buy at all, and eligible for social rental housing;



ii) who do not qualify for the above, but are unable to buy on the open first-time buyer market and qualify for “Jersey Homebuy”; and

iii) who are able to enter the first-time buyer market unaided;

for the following categories –

Single persons;

Married couples;

Married couples with children.

### **Answer**

The Minister for Housing will operate the gateway. The gateway will assess applicants and will categorise applicants as being eligible or not for Jersey Homebuy. Financial limits have not yet been set and the results of this consultation and the recent Housing Needs Survey are awaited in order that these maximum income levels can be established.

### **Question**

7. Has the Minister considered whether the proposed scheme will further exacerbate house price inflation by increasing the eligibility of those driving demand for house purchase whilst doing nothing to increase supply? If he has not yet considered this matter will he undertake to do so in his response?

### **Answer**

There is no evidence to suggest that the scheme would be inflationary. It is my view that rather than increasing the demand for first-time buyer homes, which clearly already exists, the effect of the proposed scheme will be to increase the supply, given that 45% of the homes on these 3 sites will not now be restricted to social rented use. The further provision for all types of homes will be met through the Island Plan Review process, and be based on the results of the Housing Needs Survey, the results of which will be available in March.

### **Question**

8. What consideration, if any, has the Minister given to the possibility that the “Jersey Homebuy” scheme, whilst providing a short-term solution for a few potential first-time buyers, could cause a blockage in the market in the longer term, in that those who enter the scheme (as mentioned in the White Paper) are unlikely to be able to move on for some considerable time, and may remain for life?

### **Answer**

The great majority of homes purchased in the first-time buyer market on sites zoned for the purpose tend to be occupied for the long term by their purchasers. I do accept that the capital growth of the 65% proportion of the initial value paid by the purchaser is likely to make it more difficult for the purchasers to move upwards in the housing market, however, such a situation must be preferable to a lifetime of renting.

### **Question**

9. Will the Minister give further details to members of how the 35% equity in this scheme will be arranged and administered by “not-for-profit” bodies referred to, and what part the States of Jersey will play in such a scheme? What monies, and from what sources, are to be allocated to the scheme in order to fund the 35% funding for the initial scheme on the three H2 sites identified in the White Paper?

**Answer**

It is intended that the Homebuy homes be sold by the developer to a non-profit making body at 65% of the first-time buyer value, before a single first-time buyer home can be sold. The non-profit making body will allocate the homes to persons approved through the Gateway. The non-profit making body will register a second charge against the property which will be repaid at the next alienation of the property. That income will be paid to the non-profit making body and utilised for the future provision of affordable housing.

No resources public resources will need to be allocated to the scheme for these sites, other than at the Housing Department which will manage the Gateway.

**1.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING EMPLOYMENT RELATIONS CODE OF PRACTICE IN JERSEY:**

**Question**

1. In the debate on P.9/2008 on 29th January 2008, the Minister stated that “*what we are bringing forward is common practice in a lot of jurisdictions*”; in respect of Articles 36 and 38 of the code of practice, and Articles 5(3) and 20 of the Employment Relations (Jersey) Law 2007 will the Minister identify for members which jurisdictions he was referring to?

**Answer**

In developing the codes of practice, consideration has been given to employment relations systems in a wide range of other jurisdictions, some that we are geographically close to and others that we are similar to.

This statement was made by the Minister in regard to preventing “wildcat” action by requiring unions to ballot members prior to strike action and to give notice to an employer about when and how a strike would happen. It is common practice in other jurisdictions to regulate for balloting and/or strike notices prior to taking action, including in the United Kingdom, the Isle of Man, France, the United States and South Africa.

The statement was not in reference, as the Deputy implies, to paragraph 36 of Code 2 (which provides that secondary action is unreasonable), paragraph 38 of Code 2 and article 5(3) of the Law (which makes provision regarding States employees and secondary action) and article 20 of the Law (which qualifies a union’s immunity in the event of unreasonable action). However, there are also limitations on secondary action in other jurisdictions, including the United Kingdom, the Isle of Man, Germany and the United States.

**Question**

2. The Minister also stated that “*the code specifically states that action shall not be classed as secondary where a union official is acting in support of his union members despite not having the same employer*”

- a) would the Minister inform members whether this provision is found in the Code or the Law and explain to members what distinction, if any, is drawn between the actions of an “official” and the actions of “members” of a union?
- b) what is the position under the Code of a union member acting in support of colleagues despite not having the same employer?

### **Answer**

Question 2(a) requests information that is already in the public domain. Paragraph 41 of Code 2 refers to action by officials in support of union members who are picketing. “Union official” is clearly defined at paragraph 42 of Code 2.

Question 2(b) requests information that is already in the public domain, as provided at paragraph 36 of Code 2.

### **Question**

3. Further to the Minister’s statement that *“being employed in different premises does not prevent employees from taking action in support of colleagues who have the same employer”* will the Minister explain the statutory basis, if any, for this statement and state whether, or to what extent, this is limited by the codes which are applicable to the “bargaining unit”?

### **Answer**

The Minister made this statement in regard to the extent of the limitations on secondary action; specifically point 36 of Code 2. Action is defined as unreasonable by the code where it is taken against an employer who is not a party to the collective employment dispute. That definition does not result in action being deemed “secondary” and unreasonable where employees are employed by the same employer and there is only a physical division of work premises.

Employees clearly must be part of the same bargaining unit in order to take action in support of their colleagues. Where an employee is employed by the same employer but is not part of the bargaining unit that is in dispute with the employer, any action taken by that employee would not constitute a “collective employment dispute” under the Law. Therefore the question of whether the action was secondary is irrelevant

### **Question**

4. Would the Minister explain what he meant by his statement *“I believe that the limitations on secondary action reflect our local conditions”*?

### **Answer**

This information is in the public domain. The Minister explained during the debate of P.9/2008 that he believes that the limitations on secondary action reflect our local conditions and the interests of the majority of Islanders on the basis that, in a very small and geographically isolated economy, the ability for trade unions to widen industrial action to involve others who are not party to the primary dispute would be extremely disruptive to the life of the island and to the provision of necessary commodities and services to citizens.

### **Question**

5. Would the Minister inform members of his response, if any, to the issues raised in Paragraph. 1534 of the ILO report on the Employment Relations Law and in particular to the request contained in the final sentence which stated that *“The Committee requests the Government to take the necessary measures to ensure that sympathy strikes and social and economic protest action are protected under the law”*?

**Answer**

The Minister has followed the required protocols via the UK’s Department for Work and Pensions (DWP) which is responsible for responding to the International Labour Organisation (ILO) on Jersey’s behalf. The Minister understands that the DWP has responded to the ILO’s “request to be kept informed of developments” regarding the Employment Relations Law and that the UK’s response will be published by the ILO in due course.

**Question**

6. Would the Minister inform members in what areas, regarded as essential services covered by Articles 31 to 35, minimum service agreements are already in place and in what further areas he anticipates such agreements being negotiated?

**Answer**

The Minister suggests that the Deputy should make enquiries of trade unions and of employers as to whether minimum services agreements are already in place for any particular services in the Island. There are likely to be many collective agreements in existence in the Island, which may or may not currently include a minimum service agreement; however there is no requirement for the details of collective agreements to be made publicly available.

The Deputy’s question goes on to seek the Minister’s opinion as to what other services might negotiate minimum service agreements. The Minister anticipates that, where it is identified that any element of a service falls under the definition provided by Code 2, the employer and union will negotiate an appropriate agreement, if one does not already exist.

**1.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHAIRMAN OF PRIVILEGES AND PROCEDURES REGARDING ELECTORAL EXPENSES:**

**Question**

1. Following his response to my question 3673 of 29th January 2008, will the Chairman inform members what actions will be included on the list of offences on electoral expenses and advise how such matters will be reported and investigated in a timescale sufficient to prevent offences being committed in the course of an election and not simply some months or years later when it will be too late to affect the result of the election?

In particular will he address these issues in relation to:

- lobby organisations that are not registered
- expenditure by third parties without prior consent of candidate
- expenditure by third parties with consent
- total expenditure by candidates

- the use of websites based in foreign jurisdictions

### **Answer**

1. The draft legislation soon to be considered by the Privileges and Procedures Committee on the issue of the regulation of election expenses will, subject to the receipt of legal advice, contain offences including the following -
  - a) it will be an offence for a candidate or third party to exceed the permitted amount of election expenses;
  - b) it will be an offence for a candidate or third party to receive donations in excess of the permitted amounts and it will be an offence to keep anonymous donations of more than £100;
  - c) it will be an offence for a person who incurs or pays election expenses for a candidate or third party not to provide that person with information about the expenses;
  - d) it will be an offence for a person not to make the necessary return after the election setting out details of expenditure and donations or failing to provide necessary invoices, receipts and other proof if required to do so.

Expenditure by a third party with the consent of the candidate is considered to be the expenditure of the candidate himself or herself. Expenditure by third a party without the prior consent of the candidate is regulated by the rules on the maximum amount permitted to be spent by third parties.

It is important to stress that there would be no jurisdiction for the Jersey legislation to regulate activities undertaken entirely out of the Island. Nevertheless it is likely that in the majority of cases any activity by third parties will be managed and co-ordinated from Jersey and the legislation will therefore apply to any activity in the Island.

As stated in a previous answer the offences will be normal criminal offences which will be investigated in the usual way. Because of the relatively short period of an election campaign it is only fair to point out that it may be impossible for potential offences to be investigated and taken to Court until after the election. The legislation is nevertheless intended to act as a severe deterrent to any abuse because of the potential criminal offences and experience in other small jurisdictions such as Guernsey has shown that candidates will normally comply with the restrictions.

### **Question**

2. Does the Committee envisage a separate Electoral Commission to supervise elections and, if not, which other body will do this?

### **Answer**

2. The Committee does not envisage a separate Electoral Commission as it does not believe that this could be justified on grounds of costs in a small jurisdiction such as Jersey. Elections in Jersey have for many years been supervised through the Royal Court and the legislation will require candidates and third parties to submit returns of expenditure to the Judicial Greffier.

### **Question**

3. Will sanctions include the capacity to declare election results null and void as a result of offences committed?

**Answer**

3. The Public Elections (Jersey) Law 2002 permits the Royal Court to order fresh elections in certain limited circumstances under that law. The Committee's current proposals do not include the ability to declare election results null and void as a result of offences committed but the Committee is willing to give further thought to this matter in the permanent legislation being brought forward in due course. It is important to recognise that the ability to prove that an election result had actually been affected by any breach of the rules on election expenditure may be extremely difficult to establish.

**Question**

4. Will the Chairman further inform members what costs (both financial and in terms of staff) the Committee estimates will be involved in its proposals?

**Answer**

4. The Judicial Greffier is satisfied that the resource implications of receiving necessary declarations of expenditure can be managed within existing resources. As stated above the offences created will be investigated as normal criminal offences and dealt with through the normal prosecution process.

**Question**

5. What consideration has the Committee given to limiting candidates to a fixed format organised by the States or to providing limited assistance to candidates to ensure a level playing field?

**Answer**

5. Candidates will be limited to a fixed level of expenditure and, in practice, the Committee believes that this is the most appropriate way to create a level playing field between candidates. The Committee does not believe it would be appropriate to limit candidates to a fixed format of electioneering as some candidates may, for example, wish to use the expenditure allowed for advertisements in the media whereas others may prefer to simply display posters or circulate letters. The Committee's proposals nevertheless provide for a free mailing at public expense for every candidate and these mailings will need to be in a fixed format determined by the Privileges and Procedures Committee.

**Question**

6. Will the Chairman detail for members how the Committee proposes to define what constitutes acceptable assistance from volunteers? In particular, will the Committee consider the following alternatives in relation to the delivery of leaflets door-to-door by:
  - a) friends of the candidate (unpaid);
  - b) friends of the candidate (paid nominal sum);
  - c) employees of the candidate (unpaid);
  - d) employees of the candidate (paid their normal hourly rate).

**Answer**

6. The Committee is determined that the proposed regulation of election expenses does not affect the long tradition of voluntary assistance given to candidates. In order to avoid any

loopholes in the legislation the Committee will nevertheless be ensuring that any voluntary assistance provided by a person who normally provides that service as part of his or her business is counted at full cost. For example a candidate who obtains a free website design from a friend who works professionally as a website designer would be required to obtain and declare the normal commercial value of the service as part of his or her overall expenditure limit. In the examples given by Deputy Southern -

- a) no election expenses would be incurred from this voluntary help;
- b) the nominal amount paid would be an election expense;
- c) the normal salary paid to the employee would count as an election expense for the time spent on election work;
- d) the payment made would be an election expense.

The Committee notes that this lengthy set of questions is the third successive set of written questions submitted by Deputy Southern. Although the Committee is happy to continue to answer questions as submitted I would urge Deputy Southern, if he has concerns, to come to PPC to discuss this issue. If appropriate the Committee may be able to take on board some of his concerns before the legislation is finalised. In addition I must stress that the draft legislation that PPC will bring forward will, of course, be subject to amendment by any member in the usual way.

#### **1.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING DEMAND FOR 3-BED HOUSES IN THE STATES RENTAL SECTOR:**

##### **Question**

Will the Minister confirm whether or not there is any demand for additional 3-bed houses to be provided in the States rental sector, and, if not, would he provide members with the evidence he has to support this view in light of the proposal to offer such housing for sale as part of the shared equity scheme?

##### **Answer**

The demand for three bedroom social rented homes has steadily reduced during 2007. The chart below shows the exact numbers, both on the Waiting List and the Department's internal Transfer List. I am confident that with the completion of sites due this year, such as Field 40, St Clement (10 x three bed homes) and Field 690a, St Martin (19 x three bed homes) there is no current need for further three bedroom social rented units.

Overall demand is greatest for one bedroom accommodation, Existing States Tenants currently under-occupying their accommodation would willingly move to smaller 'life-long' accommodation, if available, thus enabling their larger homes to be 'recycled'.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Total	110	110	118	112	108	104	102	105	107	102	96	91

W/L	20	20	25	18	25	17	16	16	18	18	16	18
Transfers	90	90	93	94	83	101	86	89	89	84	80	73

It is quite possible over the lifetime of the Property Plan that former States Tenants now living in Trust accommodation would wish to take advantage of the shared equity scheme thus making available their homes for recycling. With home ownership at a low level in Jersey, it is important that we encourage those that can afford it, the opportunity to purchase a property of their own.

## **1.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING PRODUCTIVITY GROWTH:**

### **Question**

In view of the Chief Minister's response to a written question on 29th January 2008 (number 3669), will he inform members what productivity growth he considers possible in the economy, how this will be achieved, and thus what the figure for the number of additional heads of household should be?

### **Answer**

The level of productivity growth that is achievable in Jersey will be a direct result of the policies the States decides to pursue. For example, if we keep the sector mix in the economy as it is today the rate of productivity growth we could attain is likely to be lower than if there was also a shift towards high value added activity in the economy. The Imagine Jersey 2035 consultation process has sought Islanders' views as to the extent and nature of productivity growth we should pursue. The decisions States Members take in response to that consultation process will determine what is possible in the economy in the future.

The recent trends in productivity growth also show how it can fluctuate with the economic cycle. In 2006 (the last year for which data is available) productivity growth in terms of real Gross Value Added per full-time employee rose by 4.2% as the economy experienced strong economic growth. Over the longer period between 1998 and 2006 the economy has been through a more volatile cycle and productivity has grown by 1.2% per year on average.

The States current Economic Growth Plan sets out how we can achieve productivity growth in the Island. The focus needs to be on improving the skills base, increasing innovation and investment, a thriving small business base and allowing competition between businesses to take place. The extent to which we want to and can achieve a shift to higher value added activity will also be a key determinant. Creating a stable macroeconomic climate in terms of economic growth and inflation is also critical to securing long-term improvements in productivity.

I do not follow the logic in the final part of the question as it seems to imply that economic growth is just a function of productivity and inward migration. This ignores an important factor in terms of the extent to which we can expand the workforce through increased participation from the existing Island population. This includes people working longer, people looking after the home returning to work and also helping the long-term sick return to work. The Imagine Jersey 2035 consultation process aims to identify Islanders' views on how, and to what extent, we should try to improve participation. Again, what is achievable will be determined to some extent by the policies the States puts in place.



## **1.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING TERMS OF REFERENCE AND SELECTION OF A BODY TO REVIEW THE JCRA:**

### **Question**

Will the Minister inform members what progress, if any, he has made towards finalising the terms of reference and the selection of a body to conduct a review of the powers and resources of the JCRA, and state the timescale for this review?

### **Answer**

As stated to the Economic Affairs Scrutiny Panel, the review of the JCRA's powers and resources is independent of the ownership of Jersey Telecom and as such the review will be undertaken as soon as possible. The terms of reference of the review have now been agreed with the JCRA and include recommendations of both the Steering Group and Oxera. Subsequent to the suggestion of the Economic Affairs Scrutiny Panel last year, that the terms of reference focus on the Authority's effectiveness as a telecommunications regulator; this is now the core remit of the review and it does not concern the JCRA's other roles as respectively: a competition law enforcer, postal regulator, or its provision of advice to the Minister for Economic Development.

The areas of enquiry will centre on both the current and potential powers available to the JCRA, in relation to telecommunications regulation, namely:

- examine the effective use of current powers at the disposal of the JCRA;
- examine the proposition to give the JCRA power to fine operators, explore whether this proposal goes far enough and if the extent is found to be proportionate to requirement, determine the structure for levelling penalties;
- explore what other powers, if any, are required in addition to the ones that are currently proposed in P.153/07, that should be added to make the JCRA a more effective regulator?

The review will determine whether the statutorily prescribed consultation process is appropriate in all instances and suggest streamlining if the present mandate is found to be excessive. To that end, consultation with the telecommunications operators is taking place and, subject to confirmation following the outcome of the review, law drafting instructions will be produced.

The review will also focus on the resources available to the JCRA. And assess the following areas:

- the skills, qualifications and competencies of the JCRA's current telecommunications regulatory staff, and an assessment of whether this staff is sufficient to meet the workload of regulation of telecommunications in a privatised environment, or whether additional resources likely will be required;
- sufficient flexibility in resources (both personnel and financial) to deal with different issues in telecommunications as they arise.

### **Conducting body**

It had been hoped that the National Audit Office would undertake the review. However, given that the terms of reference of the review now do not permit for an examination of the regulator as a

whole, the NAO felt that the scope of the study did not match their usual approach of a Value for Money Study.

Although, a VFM audit is needed to reflect the resource criteria of the review, regulatory policy is now of equal importance and in light of this we have asked both the Office of Communications (Ofcom, the UK's telecommunications regulator) and the UK Competition Commission to consider the terms of reference with a view to approaching the project as a peer review.

### **Review timescale**

Changing the focus of the terms of reference and, as a consequence, having to consider a different body to conduct the review, has inevitably led to a delay. Both Ofcom and the Competition Commission will need time to assess the terms of reference and decide if they have the capacity to undertake the review. Neither authority has yet given any indication of their decision, and it may well be that neither are able to progress a review within a reasonable timescale. If this is the case EDD will instigate a competitive tender process to identify who will undertake the review.

## **1.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PROPOSED SALE OF JERSEY TELECOM:**

### **Question**

1. Will the Minister advise members, now that he has had time to study the Economic Affairs Scrutiny Panel's Report SR3/2008, which of the key findings and recommendations he accepts?

### **Answer**

I will respond formally to SR3/2008, which was published on 29 January 2008, within the six week period allotted under scrutiny protocol, at which time a detailed indication of my views will be given.

### **Question**

2. Notwithstanding his commitment to a 3-year moratorium, will the Minister assure members that he will not bring a new proposition for the sale of Jersey Telecom (JT) to the Assembly unless and until revised powers for the JCRA have been put in place, and the issue of separation has been resolved?

### **Answer**

The powers of the Regulator are currently the subject of an independent review, and I do not intend to prejudge the outcomes of that process. I reiterate my previous commitment that I will only propose the sale of Jersey Telecom if it is in the Island's best interests. In taking that decision I will consider whether the structure of the company and regulatory framework are such that they will ensure the provision of high quality resilient telecommunications services at the lowest cost to the consumer.

### **Question**

3. Will the Minister give members a breakdown of the £500,000 costs incurred in relation to the proposal to sell JT?

### **Answer**

Advisory fees totalling £393,500 have been paid to a consortium of financial, legal and technical consultants appointed following a competitive tendering and commercial negotiation exercise. In addition there are unquantified costs of Treasury staff time and those of the scrutiny panel and its advisor.

#### **Question**

4. Will the Minister extend his commitment to a 3-year moratorium on the sale of JT to government holdings in other utilities?

#### **Answer**

The Treasury department has no current plans for the sale of any of the States utility companies and no plans to develop any such proposals within a period of three years.

### **1.8. DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR SOCIAL SECURITY REGARDING INCOME SUPPORT:**

#### **Question**

1. How many applicants for Income Support visited the department to seek advice and assistance during the week commencing 28th January 2008?

#### **Answer**

During the week commencing 28th January 2008 the Department received many enquiries regarding Income Support. I cannot provide the Deputy with the exact figures as to how many enquiries were received as staff were utilised fully to meet the needs of customers rather than to keep statistics. However, I can advise that during January 2008 the Department received, on average 1039 'walk in' customers per day across all service areas. For the same period last year the average daily figure was 1010.

#### **Question**

2. Can he confirm that the queue was some 20-strong for long periods of the week?

#### **Answer**

At times the Department has served queues of customers with Income Support enquiries. However, queues were rarely 20 strong as staff monitored the situation and deployed resources to manage peak demand, as is normal practice in the Department.

#### **Question**

3. How many enquiries did the department receive by phone during the same period?

#### **Answer**

The Deputy may not be aware that the telephone number provided on Income Support literature differs from the Social Security Call Centre number normally used by our customers. The reason for this is that Income Support enquiries, on average, take longer to resolve than other enquiries and the department would not wish for the Call Centre to be bottle necked and our other customers to experience difficulties in contacting us. When customers call the dedicated Income Support telephone number, their call goes directly to

the Income Support Section to be answered by an Advisor. Whilst this deals more effectively with customer enquiries it does mean that statistical data on Income Support enquiries is not available as it would have been if dealt with by the Call Centre.

### **Question**

4. Will he inform members how many of these enquiries concerned:

- wrong assessments;
- incorrect payments (either by the sum paid or wrong method a payment);
- missing payments;
- requests for special payments (from citizen's fund);
- new applicants.

### **Answer**

The Department does not keep all statistics in the format requested by the Deputy, as staff have been utilising resources to meet customer needs, rather than keeping precise statistics. However, I can advise that the Department has received very few complaints about incorrect assessments. In the vast majority of cases involving people complaining about the wrong rate of benefit it is because the Department has been supplied incorrect data from which to rate the claim.

The Deputy will be aware that prior to the 'go live' of Income Support all customers who had returned their application form were written to and asked which method of payment they preferred. The Department has made payments in accordance with customer's instructions and where people have not informed the Department of their preference, the default has been for cheques to be issued.

During the first week of operation, of the 8,245 claims lodged, only eight people reported that they had not received payment. Where it was identified that immediate need for support was present an immediate cash payment was made.

During the first week of Income Support, six requests for special payments were made and forty new applications received.

### **Question**

5. Can he state whether the 26-page IS application form is still in use, when he gave members repeated assurances that, following the changeover, this would be replaced by a user-friendly computer system?

### **Answer**

There are a small number of households who have not yet made an application for Income Support, despite receiving several letters from the Department. If these claimants approach the Department before the end of February they will be asked to complete the transitional form, which collects information about the benefits that have been replaced by Income Support.

Any claimant seeking Income Support as a matter of emergency is given a printed form to take away and complete and a list of proofs that are needed. The claimant is given an interview for later that day or the next day and an adviser then interviews the claimant,

works through the application with them, checks the proofs, and is able to make an emergency payment where appropriate.

Other new claimants who are not in need of emergency support are being provided with a form so that they have notice of the information required of them and so that they can collect the proofs that are needed prior to an interview. These claimants are then being interviewed within 10 working days. If the Income Support claim is successful, the benefit payment is backdated to the original date of application.

As expected and planned for, the first few weeks are proving busy and the use of the familiar form as part of the interview process, rather than completing the full application electronically, is reducing client waiting time. Clients do not, however, have to complete the application form themselves prior to the interview unless they wish to do so.

### **Question**

6. What proportion of the staff involved had completed their training on the new system by the 28th January 2008 and, if this was less than 100%, would he inform members why this was so?

### **Answer**

All the staff involved with Income Support have been fully trained on the new system. Staff transferring from the Parish of St Helier and the Housing Department, undertook some training before 28th January and are now receiving additional training. Staff training will obviously continue.

### **Question**

7. What proportion of the staff involved had taken the required oath in Royal Court so that they could be fully involved in the process by 28th January 2008, and if this was less than 100%, can the Minister state why, and whether this situation now been resolved?

### **Answer**

All the staff involved with the delivery of Income Support have taken the required Oath in the Royal Court. Staff who transferred from the Parish of St Helier spent their first week in training and took the Oath at the earliest opportunity, on 2nd February.

### **Question**

8. Does the Minister consider that the timescale which required the introduction of IS by 28th January 2008 in advance of the introduction of GST on 1st May 2008, has proved stressful for both staff and recipients?

### **Answer**

No, the timing of the introduction of Income Support is irrelevant; any challenges resulting from the scale of change involved which would have had to be faced whether we made the changes in January 2008 or January 2010. I would remind members that the Department has been working hard towards implementation for many months and has been developing, planning and explaining the system for years.

The Department has now completed the first two full weeks of administering Income Support. This change in benefits system is of a scale that would be impractical in larger jurisdictions. With the full backing of the States, the Department has introduced a coherent, comprehensive, fair benefit system which will help the States to support households who do not have the means to provide for themselves.

Any major change inevitably brings with it a degree of stress and, it is inevitable that there is an element of disruption and confusion at the time of the change. In the first week of Income Support the Department was, as expected, very busy and it is evident that the second week has been settling down. Already, people are getting used to the new procedures and understanding the new system. Staff are becoming more experienced in their new roles and recipients are getting to know and appreciate the advantages of the new improved system. I would like to pay tribute to the staff for their exceptional commitment and professionalism during this major change.

**1.9. DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING REFURBISHMENT WORK AT CLOS DUE FORT**

**Question**

1. Is the refurbishment work at Clos du Fort causing parking problems to residents and if so, will he inform members how long this refurbishment work has been planned and how long it is expected to continue?

**Answer**

The refurbishment work at Clos du Fort has required the scaffolding of the four 1970's blocks. Understandably this has had some impact on the availability of parking. The refurbishment has been in the feasibility and planning phases since 2005 but owing to a shortage of funds was not able to commence until October 2007. The first of the blocks is almost complete and the scaffold on that building will be coming down within the next month. The project is programmed to be complete in June this year. I was fortunate enough to be able to visit Clos du Fort myself with the Council of Ministers last week, to view the works-in-progress. This programme is delivering a much needed improvement to 48 States Tenants homes.

**Question**

2. Will he further inform members how many car parking spaces at Clos du Fort , if any, are allocated :
  - (a) to Housing department officers
  - (b) to other States departmental staff
  - (c) to members of the public who pay for a space?

**Answer**

- (a) There are no spaces allocated to anyone. All spaces are on a first come first served basis. Fourteen department Officers have permission to park on the estate but only once demand for permits from tenants has been satisfied. However, all but two of these officers have been moved to alternate locations for the duration of the contract.

- (b) As mentioned above there are no spaces allocated to anyone. A total of 14 permits to park have been allocated to other States departments. Ten of these are on a full fee paying basis.
- (c) As mentioned above there are no spaces allocated to anyone. A total of 6 permits to park have been allocated to fee paying members of the Public.

**Question**

3. Will he also reveal what revenue is generated from these spaces?

**Answer**

This year the site will yield £23,365.92 in paid parking fees.

**Question**

4. What steps will the Minister take, if any, to alleviate any parking problems caused by the works, and will he consider suspending any permits allocated to non-residents, and if not, why not?

**Answer**

The department has reduced the number of operational vehicles parked on the site and has not sought to increase the numbers of paid parkers this year. The parking enforcement contractors have stepped up levels of policing on the site to discourage illegal parking. Contractors working on the site have been provided with a small compound for their vehicles and are not allowed to park elsewhere on the estate. I do not propose to suspend parking for fee paying non-residents the income from whom is a valuable source of revenue.

**1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING FLATS SOLD IN JERSEY BY SHARE TRANSFER:**

**Question**

1. Whilst the Minister has stated that he has no record of the identity of purchasers of the 60 per cent of flats sold in Jersey by share transfer, is he able to confirm that there are no large investors buying share transfer accommodation for investment in Jersey?

**Answer**

The requirements of the Housing Law do not extend to identifying and controlling investments in share transfer flats. Accordingly, information on 'large' investments in share transfer accommodation cannot be provided. On the introduction of Stamp Duty on Share Transfer transactions, this information will be available. In the meantime, movements in flat prices do not suggest any specific problem exists, nor indeed does any sizeable body of anecdotal evidence exist.

**Question**

2. What estimate does he have for the proportion of flats being bought by locally qualified people?

**Answer**

The requirements of the Housing Law have been clearly explained – they do not extend to identifying or controlling share transfer ownership, nor indeed has the Law ever extended to

share transactions. The Housing Law merely ensures that only locally qualified persons can occupy this accommodation. As part of the development of the new housing controls under the Migration Policy, this may be an area to which legislation could extend, and this possibility will be explored.

### **Question**

3. Does the Minister have evidence to show whether significant numbers of both flats and houses are being bought by locally qualified people for investment (buy to let) purposes?

### **Answer**

The purchase of property by locally qualified persons and subsequent lease of that property to another locally qualified person is not something the Housing Law seeks to prevent – as the Housing Law does not control or prevent this practise, neither does it record its occurrence.

## **1.11 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PLANNING APPICATION FOR AN ENERGY FROM WASTE PLANT AT LA COLLETTE:**

### **Question**

Will the Minister agree to make public the diagrams, drawings, photos and other material presented by the Transport and Technical Services Department in relation to the planning application for an Energy from Waste plant at La Collette and advise whether these were available to the public before the application was considered and subsequently given ‘in-principle’ Planning Permission?

Would the Minister advise whether the selective and last-minute release of diagrams and photos during the application, which were different to previously consulted diagrams, is permissible under the Planning and Environment Committee Building (Jersey) Law 2002?

### **Answer**

I can confirm that all the diagrams, drawings, photos and other material presented to the Planning and Environment Department in relation to the application for the Energy from Waste Plant at La Collette are a matter of public record and are readily available for inspection at South Hill. These plans were available for public inspection prior to the determination of the application and were indeed presented at the Ministerial Hearing of 19th October 2007 when I considered the application.

It is vital to stress that all the drawings submitted in connection with the application were, in the context of its Outline status, purely for illustrative purposes only. This enabled me to gauge the potential impacts in visual terms of the buildings in relation to the possible plant and machinery that had to be accommodated for the Energy from Waste facility. This is reinforced by a condition on the Outline Permit which requires details of the Energy from Waste Plant to be submitted for further consideration once the preferred supplier of the facility has been identified. The Permit goes on to stipulate that all of these detailed designs must be accompanied by a Design Review undertaken by a suitably qualified person.

During the course of consideration of the application Hopkins Architects became involved in an advisory capacity to the applicants, Transport and Technical Services, and suggested revisions to their scheme in order to ameliorate as far as possible the potential visual impact of the building. This resulted in an illustrative building profile smaller than that originally accompanying the application.

When originally submitted and publicized the application attracted four representations only one of which raised concerns over the appearance of the building. These representations related to the illustrative plans accompanying the application when it was first submitted.



Planning applications must be publicised in accordance with Article 2 of the Planning and Building (Application Publication) (Jersey) Order 2006. Section 6 of the aforementioned Article stipulates that the Article does not apply to any change in an application where I consider that the change does not need to be publicised.

In the context of the following facts that

- firstly all the elevational drawings supplied with the application either initially or as amended were for illustrative purposes only,
- secondly, the size and therefore the potential visual impact of the elevations of as amended was smaller than those originally submitted, and
- thirdly given that only one representation had been received raising any concerns over the visual impact of the initial building,

I am satisfied that given the matter has to come back to the States, it was justifiable not to re-publicised the application alongside the amended Hopkins drawings. This accords wholly with Article 11 of the Planning and Building (Jersey) Law, 2002.

**1.12 DEPUTY D.W. MEZBOURIAN OF ST. LAWRENCE OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING PUPIL CAPACITY IN ALL STATES SCHOOLS:**

**Question**

Will the Minister please provide the following information on the pupil capacity in all States schools?

**Question**

- 1) For each States primary school, the intended maximum pupil capacity for the building design, this to include any building alterations.

**Answer**

The planned maximum pupil capacity for each school is listed on the table below.

<b>Year Group</b>	<b>Planned capacity</b>
Bel Royal	175
d'Auvergne	350
First Tower	350
Grands Vaux	175
Grouville	350
Janvrin	350
La Moye	350

Les Landes	175
Mont Nicolle	175
Plat Douet	350
Rouge Bouillon	525
Samares	350
Springfield	175
St.Clement	175
St.John	175
St.Lawrence	175
St.Luke	175
St.Martin	175
St.Mary	175
St.Peter	175
St.Saviour	175
Trinity	175

The capacity for Samares and Rouge Bouillon is recorded as the planned maximum for the respective buildings. Due to demographic movement and to a diminishing roll, the number of classes in Samares has been reduced from 14 classes to 10 classes and at Rouge Bouillon from 21 classes to 17. The capacity in real terms, since there is no teacher employed where there is no class, is 250 at Samares and 425 at Rouge Bouillon.

### Question

- 2) For each States secondary school, the intended maximum pupil capacity for the building design, this to include any building alterations.

### Answer

The planned maximum pupil capacity for each of the secondary schools is as follows:

School	Planned capacity
Haute Vallee	750

Grainville	750
Le Rocquier	940
Les Quennevais	750
Hautlieu	750

### Question

- 3) For each primary school, the current number of pupils in each year group, including the nursery class where appropriate.

### Answer

The number of pupils in each year group is indicated in the following table. Some nursery classes contain a small number of children who attend for mornings only or afternoons only as well as the vast majority of children who attend on a full time basis. The full time equivalent is the figure reported.

<b>School</b>									
<b>Year Group</b>	<b>Nursery</b>	<b>R</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>Total*</b>
Bel Royal	31	21	24	25	25	25	19	28	167
d'Auvergne	31	51	35	36	34	27	40	39	262
First Tower	41	44	50	51	44	52	49	50	340
Grands Vaux	31	19	21	26	23	26	25	22	162
Grouville	31	52	46	51	53	51	44	54	351
Janvrin	31	46	43	49	48	52	46	40	324
La Moye	31	45	34	47	52	52	51	50	331
Les Landes		26	25	25	21	17	26	26	166
Mont Nicolle	31	26	26	23	22	26	26	24	173
Plat Douet	31	38	38	41	43	49	54	46	309
Rouge Bouillon	31	48	49	49	50	75	73	77	421
Samares	31	44	23	26	27	40	28	33	221
Springfield		26	26	26	24	25	26	24	177

St.Clement	31	26	26	26	26	26	26	25	181
St.John	31	26	22	26	24	23	24	24	169
St.Lawrence	31	26	22	23	23	25	22	25	166
St.Luke		26	26	24	26	25	26	28	181
St.Martin	31	28	24	26	23	26	24	26	177
St.Mary		22	20	22	21	18	25	21	149
St.Peter		26	18	24	25	24	29	28	174
St.Saviour	31	22	24	25	21	26	24	25	167
Trinity		24	17	26	21	23	25	17	153

\*Total excludes nursery classes.

### Question

4) For each secondary school, the current number of pupils in each year group.

### Answer

The number of pupils in each year group is indicated in the following table.

	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	<b>Total</b>
School	7	8	9	10	11	12	13	
Haute Vallee	153	152	172	148	139			<b>764</b>
Grainville	111	112	148	114	110			<b>595</b>
Le Rocquier	195	179	162	146	130			<b>812</b>
Les Quennevais	169	187	163	150	151			<b>820</b>
Hautlieu				124	124	279	201	<b>728</b>

### Question

5) For each primary school, which year group, if any, is over subscribed, and, if so, by how many, including the nursery class where appropriate.

### Answer

The year groups that are over capacity are indicated in the following table, with the number displayed being the amount of overcapacity in the year groups.

In general, each primary class has a planned maximum of 25 pupils but it may be increased to 26 if circumstances demand it. A class containing 26 pupils is not considered as being oversubscribed. Similarly, a nursery has a planned maximum of 30 FTE places but is not considered overcapacity with 31 children.

### Overcapacity

Year Group	Nursery	R	1	2	3	4	5	6
Bel Royal								2
d'Auvergne								
First Tower								
Grands Vaux								
Grouville					1			2
Janvrin								
La Moye								
Les Landes								
Mont Nicolle								
Plat Douet							2	
Rouge Bouillon								
Samares					1			
Springfield								
St.Clement								
St.John								
St.Lawrence								
St.Luke								2
St.Martin		2						
St.Mary								
St.Peter							3	2

St.Saviour								
Trinity								

### Question

6) For each secondary school, which year group, if any, is over subscribed, and by how many?

### Answer

The year groups that are over capacity are indicated in the following table, with the number displayed being the amount of overcapacity in that year groups:

The current year 8 total in Les Quennevais was agreed with the headteacher in order to accommodate a particularly large year group for one year only.

#### Oversubscribed

	Year	Year	Year	Year	Year	Year	Year
School	7	8	9	10	11	12	13
Haute Vallee			4				
Grainville							
Le Rocquier							
Les Quennevais	1	19					
Hautlieu							

## 2. Oral Questions

**2.1 Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding problems encountered during the first 2 weeks of administering the Income Support system:**

Will the Minister inform Members what problems, if any, have been encountered in the delivery of income support to applicants in the first 2 weeks of operation?

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

Considering the number of claimants involved in the transfer to income support and the differences between the old systems and the new system there have been very few problems of any significance in the first 2 weeks of operation. It was always expected given the scale of changes that there would be matters to be resolved once income support was in operation, and the department has always made this clear and built flexibility into its planning. However, implementation went as well as could be hoped for. The biggest challenge was always going to be the volume of activity in the first couple of weeks and I emphasise it is just the first couple of weeks. This turned out to be the case, with the staff and resources needing to be deployed to keep up with the number of

inquiries. The staffs' hard work, including over weekends, has paid off and activity has settled right down, now that we have moved into the third week. I would like to take the opportunity to thank all the staff at Social Security for their hard work over this busy time and draw Members attention to the recently published social survey for 2007 in which 77 per cent of respondents rated the service they received from the department as either good or very good.

**2.1.1 Deputy G.P. Southern:**

Has the department received any inquiries from G.P.s (General Practitioners) over the working of H.M.A. (Household Medical Account) or other medical arrangements concerning income support?

**Senator P.F. Routier:**

The departments have been working with G.P.s on a regular basis over recent months to ensure that they are aware of how the system works. They are in continual contact with G.P.s to ensure that they are able to provide the service to the patient.

**2.1.2 Deputy C.J. Scott Warren of St. Saviour:**

Can the Minister assure Members that all patients who were formally on H.I.E. (Health Insurance Exemption) now know their household medical account details?

**Senator P.F. Routier:**

I cannot give that assurance because that is not the case. We are talking with the G.P.s on a regular basis to ensure that the correct information has been put into the record. What has happened is that people who were on H.I.E. originally, the records showed that they were with one particular doctor and in some cases they had not informed or made that information known to our income support team to ensure that their records were put with the correct doctor. There is quite a bit of work still to be done to ensure that the H.M.A. accounts are going to work in the way we intend them to. It is an ongoing piece of work which we are working closely with the doctors.

**2.1.3 Deputy J.A. Martin of St. Helier:**

Could the Minister give us the assurance that G.P.s in general have not been told that people who have an H.M.A., i.e. the people who used to be on H.I.E., are only allowed up to 2 home visits a year? Can he tell us that this is definitely not the case?

**Senator P.F. Routier:**

There is no set amount that people can have home visits, the G.P.s should be aware of that. There is no need for anybody to have been told that at all. The practice that will be in place is that if a G.P. feels the need to visit somebody's home they will do that without any need for any reference to us to enable that to happen. The home visits will be monitored to ensure that people do receive the service that they require.

**2.1.4. Senator S. Syvret:**

Could the Minister give the Assembly an assurance that he had discussions with G.P.s before deciding that giving a blanket fee of charged prescriptions was a good and effective use of the surplus in the health insurance fund as opposed to directing it at other more important aspects --

**The Deputy Bailiff:**

I am sorry, Senator, I cannot see that arises out of the income support matter.

**2.1.5 Deputy R.G. Le Hérissier of St. Saviour:**

Would the Minister confirm that in delivering income support, the role of the parishes and of, indeed, each parish has now been clarified?

**Senator P.F. Routier:**

The week before last we had a very good meeting with the Comité des Connétables to finalise the details of the way things would move forward. There is a letter which still needs to be signed between ourselves which I intend signing in the next couple of days to finalise the final arrangements.

**2.1.6 Deputy G.P. Southern:**

Will the Minister outline for Members and for members of the public what arrangements are in place for the administration of urgent or immediate requests for funds for emergency use?

**Senator P.F. Routier:**

As we have experienced in the first couple of weeks, we have in place a system whereby if somebody comes into the department and their needs are urgent we are able to provide them with an immediate payment. We have cashiers at the department who are able to -- the determining officer can make a decision about whether that need is urgent and the payment can be made.

**2.2 Deputy K.C. Lewis of St. Saviour of the Minister for Treasury and Resources regarding the possibility of granting Parish Committees and private Battle of Flowers entrants charity status:**

Will the Minister grant both parish committees and private Battle of Flowers entrants the same status as charities and zero rate the Goods and Service Tax in respect of costs associated with building and decorating parade floats?

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

As the States have already agreed, any registered charity will be entitled to favourable treatment in respect of G.S.T. (Goods and Services Tax). It is open to any competitors in the Battle of Flowers who feel they qualify for such treatment to apply for registration as a charity to the Comptroller of Income Tax. Once registered they would then pay and recover in the normal way.

**2.2.1 Deputy K.C. Lewis:**

If that was not a favourable option, Sir, will the Minister consult with his fellow Ministers with a view to increasing the grant to parish organisations and private individuals to compensate for G.S.T.?

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

That is really a matter for my colleague, the Minister for Economic Development, who already gives a significant grant to the Battle of Flowers Association, but I am happy to talk to him, Sir.

**2.3 Deputy S.C. Ferguson of St. Brelade of the Minister for Transport and Technical Services regarding the disposal costs of a ton of cardboard:**

Can the Minister tell us the cost of burning a tonne of cardboard in the incinerator compared to shipping the same amount to the U.K. for recycling?

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

To address the first part; burning a tonne of cardboard in an incinerator is effectively the same cost as burning a tonne of anything else in the incinerator and works out to an estimated £33.53 per tonne. Recycled cardboard, which is segregated as a higher quality, is handled for Transport and Technical Services by a contractor who deals with the handling and the shipping elements. But looking at the 2 aspects to this, the amount paid to the contractor which covers the shipping to the U.K. is £31 per tonne to which needs to be added the costs of running the reception centre and



transport of the cardboard from the Bellozanne Recycling Centre to the private service operator, and that is an additional £12.50 per tonne making a total for the recycling of cardboard in the United Kingdom of £43.50 per tonne.

**2.3.1 Deputy S.C. Ferguson:**

Those of us who are not living and breathing incinerators perhaps are a little vague on the comparative costs of these. I wonder if the Minister could give us a list which gives comparative costs, comparing recycling to incineration.

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

I think that list probably could be drawn up, Sir, but I regret to inform the Deputy I do not have the list in my head. But I am happy to look into that for the Deputy.

**2.3.2 Deputy G.C.L. Baudains of St. Clement:**

I was just wondering if the cost of combusting a tonne of whatever material, in that cost has the Minister included the amortisation of capital cost of plant as well as the running costs and the cost of ash disposal and all that sort of thing?

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

I regret I did not personally do that calculation, Sir, so I cannot tell the Deputy whether amortisation of the plant has been built in or whether a straight calculation was made on the basis of the annual running costs of the plant, but I can find out.

**2.3.3 Deputy C.J. Scott Warren:**

Can the Minister tell Members whether he would consider the shipping of cardboard and other materials to France for recycling if this were possible and viable?

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

Yes, Sir. Not only could the Minister consider it but this has been considered on more than one occasion and is an issue which is kept constantly under review by the relevant officials in the department who are responsible for this. Regrettably, the fact of the matter is that although the United Kingdom is a little further away I understand that the Kent plant, where the recycled cardboard is recycled into further cardboard to form the fluting element in the centre of bits of new cardboard, that operation is at a better rate than has so far been offered by Nocussard Bretagne et Normandie.

**Deputy S.C. Ferguson:**

I thank the Minister for his replies, Sir. I would perhaps add that I was not expecting him to have the list in his head and I will be happy to receive it.

**2.4 Deputy F.J. Hill of St. Martin of the Minister for Education, Sport and Culture regarding the establishment of a Board of Visitors for Greenfields:**

The Prison (Board of Visitors) (Jersey) Regulations 1957 confirms the right on the board members to make frequent visits to the prison in order to promote the efficiency of the prison and bring any abuses, which comes to its knowledge in connection with the prison, to the attention of the Minister for Home Affairs. Will the Minister inform Members if there is a similar board in respect of visits to Greenfields?

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

Yes, a similar body exists in relation to the Greenfields Centre and this is known as the Board of Independent Visitors. This was established by the former Education, Sport and Culture Committee

under my presidency following approval by the States of the Education (Revocation of Provided School) Jersey Regulations 2004 which came into effect in November 2004. The board meets regularly on site in order to monitor the operation of the facility. In addition, members of the board make unscheduled visits to the centre and report back to the rest of the board on their findings.

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

I welcome the Minister's response, but could I ask are reports ever made available to the public of these visits?

**Senator M.E. Vibert:**

No, Sir, because the reports could involve confidential information regarding inmates and staff they are not made public, but obviously the Children's Executive and myself have access to them.

**2.4.2 Senator S. Syvret:**

Could the Minister explain what expertise and training members of this board have and whether also they are allowed private audiences, private conversations, with inmates without any of the management being present?

**Senator M.E. Vibert:**

The Board of Independent Visitors is what it says, independent visitors. They are given a grounding and explained what the Greenfields Centre is all about and the board, as I mentioned, make unscheduled visits. In fact, they made 11 unscheduled visits in 2007 to the centre in which they have free rein to go about the centre and both talk to anyone who is in residence there and the staff, and they have this facility on certain occasions. For safety reasons it may be suggested to them that they do not talk to a resident on their own but generally they have free rein, as they are independent visitors, to look round the facility, to ask questions, and report back to the full board and through the full board the Children's Executive and the Minister.

**2.4.3 Senator S. Syvret:**

Does the Minister not accept then, from what he said, that the system is seriously defective? Having a grounding in something, i.e. being told what goes on by a few of the officers is not the same as being specifically trained and qualified in these matters and if the management are able to determine which inmate a visitor may or may not speak to privately then, I am afraid, that defeats the entire object of the inmate being able to express freely any concerns they may have to this independent visitor. Will the Minister undertake to re-examine this system?

**Senator M.E. Vibert:**

I am quite happy to re-examine the system but I do not accept the criticisms of Senator Syvret. These are independent visitors. They are not professionals in the field. We employ professionals in the field and that is where the professionalism come in, but these are independent visitors and I mentioned advice being given to them which is, in my view, necessary and sensible advice, but I am quite willing to examine it again to see if any improvements can be made and I await, of course, the *Williamson Report*, in case it suggests any improvements.

**2.4.4 Deputy J.G. Reed of St. Ouen:**

Could I ask the Minister to confirm how long the board has been in existence?

**Senator M.E. Vibert:**

I did say in my answer how long the board had been in existence. It was set up and came into effect in November 2004.

**2.4.5 Deputy S.C. Ferguson:**

I really do not understand this business about not publishing a report. Surely the Minister could redact those parts of the report that might be used to identify somebody? I mean, even school inspection reports in the U.K. are freely available on the website so why should not a report, as I say, without the details of individuals not be available to this House?

**Senator M.E. Vibert:**

I am quite willing to look into that. I am not aware that prison boards' reports are for general publication. Perhaps I am mistaken. But certainly I have some minutes in front of me and with taking out all the names concerned and the things I do not think it would be of much value, to be totally blunt, to States Members, but I am prepared to look at it again.

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

Could I reassure the Minister that the Prison (Board of Visitors) (Jersey) Regulations make it mandatory that an annual report is produced and can I give an assurance that they have been produced although albeit we are waiting for one for the last year, but I am sure that will be coming on very soon. Could I press the Minister to ensure that such reports are made public?

**Senator M.E. Vibert:**

That is totally different and I am quite happy to look again and produce an annual report. But I thought what was being asked was a minutes of the 6 actual meetings the Board of Visitors have every year which I think would be something a step too far, in a way, and not very valuable to the States. But, yes, I will look at that. Like I said, I am waiting for the recommendations of the *Williamson Report* but I will certainly put that into the equation, and I see no reason whatsoever why an annual report should not be produced.

**2.4.7 Senator S. Syvret:**

Could the Minister explain to the Assembly what the predecessor organisation of this board was when the institution was Les Chênes, what regulations it was governed by and whether he considered it appropriate that there was a man who is a member of that board who engaged in the cover-up of child abuse at Victoria College?

**Senator M.E. Vibert:**

I have not got the details of the predecessor regime in front of me and given Senator Syvret's interest in this matter I would not like to say anything without having thoroughly checked it beforehand, so I can come back to him on that. But there was a predecessor body and I, of course, disassociate myself from any of the other extraneous comments he made in his question.

**2.5 Connétable A.S. Crowcroft of St. Helier of the Minister for Education, Sport and Culture regarding the allocation of free nursery places:**

Would the Minister confirm that his department will not be allocating any further free nursery places until the outcome of the Scrutiny Panel review into the matter has been published?

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

I am afraid the answer is no, I will not be delaying the allocation of further nursery places until after the Scrutiny Panel's report is published. Parents expect to be informed of nursery placements within the next few days and it would be unreasonable to change the timetable at this late stage as such a delay would cause huge inconvenience to parents in general, both to those who are to be offered places and those who will be unsuccessful. I had hoped the Scrutiny Panel's report would have been published before the allocation procedure but my understanding is that the publication is still some 3 or 4 weeks away. I will of course give careful consideration to the report of the Scrutiny Panel when it is published and will respond to any recommendations that the panel may

wish to make. However, any changes to the allocation process or to the criteria for allocation could not be introduced with immediate effect but will need to be considered for introduction next year.

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

Would the Minister confirm that he has failed to meet the target set by the Council of Ministers in the Strategic Plan, that is that equitable nursery funding proposals will be brought forward by the end of last year?

#### **Senator M.E. Vibert:**

I brought forward proposals; unfortunately the States did not approve them.

### **2.5.2 Deputy J.J. Huet of St. Helier:**

Is the Minister aware that free nursery places are being given to new (j) category residents that are coming to Jersey and living in the country after having bought but we are unable to give free places to our children in St. Helier because there is not enough of them?

#### **Senator M.E. Vibert:**

I have explained to the House before the criteria for allocation of nursery places. I have it in front of me again. I can read it out again. It is carefully done in the best interests of the educational provision, and I do not believe that we should discriminate against any children in the allocation of places.

### **2.5.3 Deputy J.J. Huet:**

Is the Minister saying that people that have paid nothing whatsoever into this Island, their children can have free places against people that are paying on a regular basis and have been paying on a regular basis for many years because they happen to live in St. Helier or maybe St. Saviour as well - I am not sure about St. Saviour, I can only talk of St. Helier?

#### **Senator M.E. Vibert:**

The first criteria on the allocation of nursery places is children with social and education needs, and we offer places to all children that we identify like that. Sometimes they are not taken up if we cannot offer the place in the right area. Also other criteria, children with families with particular needs, e.g. very low income families, siblings with special needs, parental illness, children suspected of being at risk and so on. As I said before, and I repeat, I do not believe we should discriminate against any children and we should apply those criteria fairly to all children who we are legally obliged to educate in the Island.

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

In the furore leading up to the Minister's amendment to the Business Plan, one of the things that came forward most strongly was the fact that people felt treatment should be equitable. Now, they were quite happy to have charges in the States system as well as in the private system provided the treatment was equitable, with perhaps means testing for those who need it. Has the Minister not considered this again?

#### **Senator M.E. Vibert:**

Yes, the Minister has considered it again. The phrase such as "they will be", I am not sure if there was a referendum held on it to be able to give this blanket assurance. In fact I had considerable representation saying from members of the public that it should be free for all, not charges for all, free for all, as of course is the trend in most democratic Western countries, including the U.K. who have got an offer and intend to increase their free nursery places in the future. So I am looking at it again. I am in the process of setting up a working group with the Early Years' Association. We are planning to further look to see how we can square the circle by ensuring that all our young people

have the best possible opportunity for a start in life, and I urge Members to take this issue very seriously and support the extension of nursery education.

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

Would the Minister clarify how his proposal at the end of last year was equitable given that what he was offering was 20 hours free nursery places which does not seem equitable to me when people under his system enjoy 30 hours free nursery places?

### **Senator M.E. Vibert:**

I know the Constable is trying to justify why he voted against the proposal I put forward, but certainly no hours free against 30 hours free is a lot more inequitable than 20 hours free against 30 hours free, and I was trying to move to a situation of complete equity in stages.

### **2.6 Deputy J.A. Martin of the Minister for Transport and Technical Services regarding the proposed car park on the Ann Court site:**

Would the Minister advise Members when he intends publishing the suggested traffic flow around the proposed 850 to 1,000 space car park to be created on the Ann Court site, and whether the proposals are included in the overall integrated transport strategy for the whole Island.

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

Traffic studies for the proposed Ann Court car park have commenced and, in fact, are currently being progressed in conjunction with a feasibility study for the car park and the surrounding area. I regret I cannot give a definite date for publication of this but I can assure the Deputy that the details will be published within the first half of this year. I can also confirm that the construction of a new car park at Ann Court is included in both the integrated travel and transport plan, and the EDAW proposals.

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

If they are included I would just like to remind the Minister, he has just said that probably the first half of this year; last time in the States, Sir, he said he would be viewing the final draft of his transport strategy on Friday 1st February. That was in an answer to the Constable of St. Helier. Can he also inform me, Sir, that if these plans are so loose why was the project manager of the town park and the traffic flow presenting to the St. Helier Roads Committee on 6th February, and why can the residents of St. Helier not find out what is going on?

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

The fact of the matter is that the traffic modelling details of the proposed Ann Court multi-storey car park will not be included in the integrated travel and transport plan. I am not precisely aware of the ability of members of the general public to attend St. Helier Parish Roads Committee meetings. I understand that the Constable of St. Helier has had a very libertarian view so that may be possible. But I think any discussions that have taken place at that level are part of an anticipated consultation process that is going on.

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

I am very confused now, because on the first answer, unless I am losing my hearing as well as my voice is going, the Minister said I can assure the Deputy that the plans for Ann Court would be in the integrated transport strategy, and now he is saying it is not. Which one is it, Sir?

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

It is both. **[Laughter]** There will be a clear reference to proposals for the Ann Court multi-storey car park in the integrated travel and transport plan but clearly not all the details and the traffic modelling studies, those will be published and presented separately.

### **2.6.3 The Constable of St. Helier:**

Would the Minister give the States and the public an assurance that he recognises the difficulty in planning transport related matters? In particular, parking but also walking and cycling in the absence of the framework that he has been promising to deliver for 2 years. Would he tell us definitively when can the States and the public expect the integrated travel and transport policy to appear on their desks and their doormats?

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

I think it is very unlikely that the integrated travel and transport policy will be appearing on peoples' doormats but, as I have indicated, and I have sent an email to the Constable on this matter, we are very close to finalising the final draft. I think States Members are quite well aware of why delays have taken place. The department simply does not have enough officers to progress all the pressures that department faces...

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

The question is simply when, Minister, rather than why. When?

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

When you see it, Sir, I think is the answer.

### **2.6.4. Deputy J.A. Martin**

Just before we do see it, I would just like the Minister to assure me that his officers have worked very closely with the officers from the Health Ministry because New Directions has a lot of transport issues in it and if he has not consulted it is probably not worth the paper it is written on I would say, Sir, so he can keep it.

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

The question was?

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

Has he consulted at all with the officers at Health on the New Directions and the policies?

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

I can assure the Deputy there have been very extensive cross departmental discussions that go way further than the Health Department, so I am sure she will be entirely satisfied with what she sees when we do publish.

## **2.7 Senator J.L. Perchard of the Minister for Economic Development regarding the integrity of the Annual Business Plan process:**

I notice the Minister's absence. I assume the Assistant Minister will answer in his absence. Has the integrity of the States' Business Plan process not been brought into question by the Minister's request for an additional £5.1 million for runway refurbishments just 4 months after the States approved the airport's 2008 capital expenditure programme which included £13.54 million for runway construction and A.G.L. (Aeronautical Ground Lighting) systems?

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

No, the integrity of the States' Business Plan process has not been brought into question. The question posed by Senator Perchard suggests that he may not fully appreciate the States' Business Plan process. As Members will appreciate the airport had to submit its 2008 Business Plan by May 2007. The replacement runway project was not due to commence until September 2008, some 16 months later. At the point of the Business Plan submission the estimate cost was fair on reflection of replacing the existing runway on a like for like basis, however a C.A.A (Civil Aviation Authority) audit of the aerodrome carried out in August 2007 identified the regulatory risk of not upgrading the runway and the need to meet the changing profile of modern aircraft. Following further work on the project an independent peer review was commissioned which delivered its report in January 2008. This report from J.E. Jacobs made a clear recommendation that the runway should be upgraded to ensure Jersey Airport is not only able to meet regulatory and safety standards but that it will be able to continue to accommodate existing airlines and not be restricted in future development of air routes. A risk to our airport's operational viability is a risk to the economic and social success of the Island.

### **2.7.1 Senator J.E. Perchard:**

Just as an aside, Sir, I do under the States' Business Plan process. We, the States of Jersey, agreed the Business Plan on 18th December 2007. I am unable to accept the excuses provided by the Assistant Minister, particularly when he claims that the extra £5.1 million, Sir, is required for a project upgrade to a 4C specification. Will the Assistant Minister explain why, when the requirement for extensive runway works have been identified for many years, budgeted for, agreed and approved, did he only then consider the specification that needed work? Why was the requirement for the work to obtain 4C specification not recognised during the budget planning process?

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

Over many years the airport has received audit reports from esteemed organisations such as the C.A.A. It has been a policy in the past to cherry pick recommendations made with regard to regulatory compliance. It is the decision of this administration and this airport authority that, in fact, taking matters of safety into consideration and regulatory considerations that we should not be cherry picking such recommendations, and it was absolutely clear when the audit was carried out in August this year, or the results came through in August this year, that there was a risk to the future viability of the airport. We considered that a peer review of those recommendations should be carried out, a completely independent review. That was done and from that report which was received only in January last month, the decision was taken to upgrade the runway, which is absolutely the right decision to make for Jersey Airport and for the Island.

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

In 17 years in the States I have rarely heard such a lot of rubbish being spoken in answer to a question. Why was the C.A.A. audit only undertaken in August last year? What was going through the minds of your senior officers of that department? Why was there no foresight? Why were these things not built into the Business Plan? It is frankly utter nonsense to suggest that it is compliant with the Business Plan and represents competent management by the airport that we today suddenly find ourselves with another £5.1 million expenditure from taxpayers' resources.

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

I am afraid I completely reject, Sir, the comments made by Senator Syvret. The C.A.A. audit was first of all not an audit of just the runway, it was an audit of the entire aerodrome. It was good practice to invite the C.A.A. to come to Jersey to look at our airfield and to give us advice on a wide range of issues relating to the safe operation of the airport. That is exactly what they did. In the past they have only been invited on limited occasions to give advice to the airport. This was a wide ranging review, something that the airports took the decision to ask them to do and that was

absolutely correct. The process has been properly followed and I am thoroughly satisfied that the airport management has acted in a most appropriate manner with regard to this matter.

**Senator S. Syvret:**

The Deputy has not answered my question. My question was: why was the C.A.A. not invited to give a full examination and audit of all of the runway requirements at a far earlier stage?

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

The invite of the C.A.A. was done at an appropriate time as far as we are concerned.

**Senator S. Syvret:**

Appropriate? We now have a £5.1 million bill.

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

Senator Syvret, Sir, clearly does not understand the process of how one would manage a business of this nature and quite frankly **[Interruption]** the due process was, as far as the airport management is concerned, followed most appropriately. We have requested an additional sum of £5.1 million. We are hoping that through the tender process and through a value engineering process that that sum will be reduced. We do not believe that any earlier recommendations could have come forward to assist with this process at all. We believe it has been done as quickly as it possibly could be, but at the end of the day, as far as we are concerned, safety is of paramount importance and that is what we are concerned about, Sir.

**2.7.3 Deputy S.C. Ferguson:**

I do feel that the Assistant Minister is stretching credibility to expect us to think that this really crept up on them unexpectedly. However, I am interested in the difference in planes between a 3C and a 4C rating, I think you said, of the airport. Is this perhaps connected with the fact that with new cheap cost airlines there will be larger planes flying in?

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

I think the Deputy might well recall a story that involved our sister island of Guernsey where local airline Flybe have a newly upgraded fleet of Embraer 195 aircraft. These are one particular make of aircraft that require a 4C runway. We do not want to leave ourselves in a similar position to Guernsey where we cannot accommodate aircraft of that type. There are, of course, other aircraft, fleets are continually changing, and in order to ensure that the lifespan of the airfield runway can meet the modern and changing aircraft, that is why we are needing to upgrade now. We are at our capacity with 3C and that is another reason why it needs to go to 4C.

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

I wonder if the Minister could help with some clarity to this by giving us some detail here as to the chronology of what occurred. I mean, how long after the approval of the Business Plan did the need for the upgrade of the runway specification become apparent? Also, could the Assistant Minister assure the House it would not have been possible to obtain information about such changes to criteria before the Business Plan was agreed?

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

I believe I have answered that question. The C.A.A. audit was carried out and the report was received in August. The Business Plan submission had to be in by May 2007, so it was at that point that the issue was first raised. Continued work went on in terms of assessing the need for the 4C upgrade of the runway and a peer review was commissioned at the latter half of the year, the report came in January 2008.

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



It is suggested, Sir, that the C.A.A. have suggested this upgrade is necessary and the Minister has said, Sir, that the C.A.A. were invited to look at our runway. Could the Assistant Minister clarify something for me, Sir, and that is: was the runway upgrade initiated by the C.A.A. or by the department, because it would not be the first time, Sir, the department has had a plan and invited consultants to come and approve what they want?

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

I think it is perfectly clear that the department did not have a plan otherwise [Laughter] it might well have been identified a little bit earlier. However, the C.A.A. were invited in and it was quite correct that they should be to do a full and proper audit of the aerodrome, so Members should also bear in mind that we have, in fact, or will shortly have our own D.C.A. (Director of Civil Aviation), which falls under the administration of the Home Affairs Department, and it is for that reason as well that it is absolutely important that we take regulatory and safety matters of the utmost importance. That is something that we have borne very much in mind because our independent D.C.A. will, of course, have oversight into such matters regarding Jersey Airport.

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

I wonder, Sir, if he might consider answering my question by email.

**2.7.6 Senator J.E. Perchard:**

Did the Minister, Sir, just to inform the Assembly when answering my original question, that the Annual Business Plan process demands that his department had to put their expenditure proposals forward 16 months before the States debate the Annual Business Plan, and this is the norm?

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

I think I need to clarify again for Senator Perchard. In fact, the Business Plan process for 2008, which is what we are referring to, needed to be submitted by May 2007. The 16 months to which I was referring was the date when the project was due to commence, September 2008. Sixteen months from the time of submission to the actual project, not the entire Business Plan. The Business Plan relates, the Senator will understand, for the entire year of 2008.

**2.8 Deputy R.G. Le Hérissier of the Minister for Housing regarding the discount rate applied in the sales of States-owned housing:**

Would the Minister explain why the discount rate applied to the sales of States-owned housing has been fixed at 25 per cent?

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

I would like the Deputy to listen very carefully because [Laughter] he has already had a very full explanation from my officers, but I will repeat it so that he does hopefully understand it. Some 30 per cent of States' tenants do not receive any form of rental subsidy. Taking the example of a tenant in a 3-bedroom house this would indicate an income of around £45,000. In deciding the percentage figure I considered those income levels, the first-time buyer values of our homes and the willingness of lenders to lend and the associated levels of borrowings sustainable. Having considered this I felt that a 25 per cent discount, which was approved by this Assembly, would represent a realistic and sustainable figure for many of our tenants and would provide sufficient revenue for the department to carry out the necessary refurbishment and realignment of the stock, as we explained in the Property Plan. As an example, at the time a Clos Du Roncier terrace house was coming in at a first-time buyer valuation of approximately £300,000. With the benefit of a 25 per cent discount the purchase price reduces to £225,000. Discussions with lenders confirmed that they would be willing to lend this amount to someone with an income of approximately £45,000 per annum. Although the value of the homes of Clos Du Roncier will have increased since

that time so will individual incomes. Our list of potential purchasers indicates an ability to purchase with this level of discount, not forgetting of course that we will, in due course, be selling a number of flats which will have a lower first-time value.

**2.8.1 Deputy R.G. Le Hérisier:**

A few questions. First, could the Minister explain why his highly esteemed Planning and Environment colleague has chosen 35 per cent and he has chosen 25 per cent? Second, Sir, could he explain how his department will be holding the line at a 25 per cent evaluation in a runaway market, as exists at present? In other words, how will he hold the line at 25 per cent? Thirdly, Sir...

**The Deputy Bailiff:**

I think you are stretching Standing Orders a little asking more than one question. So let us just have the 2 dealt with first.

**Senator T.J. Le Main:**

I think the first question ought to be perhaps directed more at the Minister for Planning and Environment, but I would respectfully say, Sir, that there is currently a difference in prices in valuation of properties in social housing from the States of Jersey because we want to try, as I say, by putting in a 25 per cent we want to get people into home ownership that otherwise should not be currently in States' housing and I know that there is a consultation paper out at the present time on the 35 per cent by the Minister for Planning and Environment, and those issues will be raised, Sir.

**2.8.2 Deputy R.G. Le Hérisier:**

How does his department intend to hold the line between evaluation and the kind of price hysteria that is occurring in the open housing market at the moment?

**Senator T.J. Le Main:**

I think I explained very strongly during the Property Plan debate, Sir, that this is a plan that will carry over for 10 years and the idea is that over a 10-year period we will create 800 home owners out of our stock. Currently I am prepared to hold this figure, but if the situation changes dramatically, that Members or otherwise are concerned, or we are concerned in the marketplace, then we would obviously come back to this Assembly to seek guidance on it.

**2.8.3 Deputy G.P. Southern:**

Does the Minister for Housing not accept that measures such as 25 per cent discounts or 35 per cent discounts are mere stop gaps? That the real problem lies in matching supply of housing in this area with demand, either by reducing demand or increasing supply.

**Senator T.J. Le Main:**

There is no question, Sir, that currently house prices are at their levels because of the lack of supply. I absolutely totally agree with that and we are working very hard with the Minister for Planning and Environment and hopefully, with all Members of this Assembly, that we will see that we need to increase supply and that land will be rezoned.

**2.8.4 Deputy G.P. Southern:**

Does the Minister for Housing accept responsibility, in his 8-year tenure, for that lack of supply?

**Senator T.J. Le Main:**

How many times have I got to explain to the Deputy that I am not the Minister for Planning and Environment, Sir? I am the Housing Minister. The Minister for Housing cannot produce one new home on any kind of land or land development. As I say, I am very, very confident. I have an excellent working relationship with the Minister for Planning and Environment and his Assistant

Minister for Planning and Environment and we are confident that, in the next few months and the next year or so and within the Island Plan, that enough land will come forward in the next few years to meet the needs of all our owners.

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

As the Minister for Housing, as he said, he can only supply housing when there is planning permission given; then how can he defend, as Minister for Housing, and our great shortage of need for the elderly, as giving away a valuable property like Ann Court, that is in the heart of the St. Helier community, is already in housing, but the Minister for Housing, how can he defend giving it to a concrete jungle of a 1,000 space car park, Sir?

#### **Senator T.J. Le Main:**

Thank goodness: thank goodness the Minister for Housing is a person that works corporately for the benefit of this Island. Quite honestly, I am due to be questioned again this morning about self-catering. This Island has got to live, work, breathe and survive and the issue about Ann Court is a classic example. We made a promise many years ago to 16,000 or 18,000 people that we would produce a town park and the issue is that I am confident, as I say, with the Minister for Planning and Environment and with sites like the Sunshine regenerated, now we are able to sell a bit off and keep some and Le Masurier is another site that we will be able to recover what we are losing in the town areas by the release of that valuable site to meet the needs of the 16,000 people that signed that petition, acquiring, in the eastern part of St. Helier, some leisure facilities and a park.

#### **2.8.6 Deputy R.G. Le Hérissier:**

Would the Minister explain the relationship between the valuation price, which his department place upon these houses, and the developer led price. Could he therefore say, if prices in the open market go up, as they are allegedly doing, for example, on a new development, how does that affect the prices at which his houses are being...

#### **Senator T.J. Le Main:**

I cannot answer that question, Sir. The issue is that we are currently valuing our homes for sale to our clients, our tenants, and valuations are coming out of both of my ears at the moment. We have valuing for the sake of valuing for valuing. The issue is that we have to realise that the homes that we are selling are social affordable homes and, as I say, we have got highly experienced professionals valuing the homes that we are selling currently to our clients and tenants. As to the valuations, I am not sure that any of us know what the true valuations in the private sector are for first-time buyers. I mean, one minute you are seeing a home at £280,000 about 12 months ago, being sold and now I understand they are being advertised and sold and offered at around £450,000 and £500,000. It really is a mad market at the moment and it is totally down to the shortage of supply in the marketplace. We need supply in the marketplace. Thank you.

### **2.9 Deputy C.F. Labey of Grouville of the Minister for Planning and Environment regarding the imposition of certain conditions on the development of first-time buyer or retirement homes:**

When considering planning applications for housing developments, is the Minister able to impose a condition which requires a certain percentage of the units in the development to be for either first-time buyer or retirement homes, either as part of an original application or as a new condition in the case of a revised application?

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

The H1 and H2 sites were largely rezoned on the basis of the provision of social housing at the ratio of 45:55, however, other than at the time of rezoning, there is no policy that would allow the

Minister to require developers to provide a proportion of affordable homes in any proposed housing schemes as a condition of a planning permission, whether new or revised. While the need for affordable homes is accepted, there are also shortages in other sectors of the market. While it is sometimes possible to encourage and negotiate provision for affordable housing, I cannot require it in the absence of a policy for its provision. As Members know, the Island Plan Review is underway and the requirement for providing a proportion of affordable homes as a policy instrument is something we are actively considering as part of it. In the meantime, any H3 or H4 sites brought forward would be on the basis of the provision of a proportion of social housing. Furthermore, the retirement housing proposition for the rezoning of land is of course proposed to be brought forward on this basis. The results of the Housing Needs survey, which will be available soon, will give us a clearer picture of housing needs and demand and will allow us to better structure the Island Plan to deliver the appropriate forms of social housing.

### **2.9.1 The Deputy of Grouville:**

If this action needs a policy, what is he or his department doing to develop it, and have it in place, before 60 vergées of our countryside gets covered in concrete? Surely, if we can use existing sites first to supply first-time buyer and retirement homes, that we have just heard from the Minister for Housing, that are urgently needed, these ought to be looked at first before agricultural land.

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

As I have already said, the Island Plan Review is underway and we are looking at providing the necessary mechanisms to deliver affordable houses. The pressure should be to deliver affordable houses wherever we possibly can and I do intend to do that but I can only do it within the constraints of the planning law and within the constraints of previous applications and consents given in relation to specific sites that have not provided a proportion of affordable housing or social housing.

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

Would the Minister agree that a contributing factor to the shortage of affordable homes is the fact that, over recent decades, insufficient numbers of second and third time purchase type dwellings have been constructed, thus creating a logjam in the current housing market? Sir, does the Minister have any policy initiatives designed to alleviate this?

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

With regard to lack of supply, lack of supply is one factor that is presently driving house prices. There is also the fact that we have a very buoyant economy and with GNI (Gross National Income) growing at 10 per cent per annum, it is inconceivable, if you look at comparisons of other jurisdictions, to expect there to be no asset price inflation and the only inflexible asset we have in the Island is housing. It is not going to apply to cars, for example, because we can import as many cars as we need. So, we have these 2 issues of the lack of supply and the GNI growing at a high rate. I will do what I can to provide additional sites and additional houses in the Island, wherever possible but largely this is down, with exceptions of course, to the Island Plan Review, which is ongoing at the moment.

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

Does the Minister accept that his Jersey Home Buyer Scheme is simply, merely transferring housing intended for rental to the poorest, those in real social need, it is diverting them to first-time buyer incomes, those with first-time buyer incomes? Does he accept the figures produced by the Minister for Housing today that suggest that 3-bed social housing, rental housing is still in need, where he talks about 29 3-bed homes being constructed for social renting with 91 waiting to receive 3-bed social homes?

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

The Jersey Home Buyer Shared Equity Scheme on the remaining H2 sites is taking a proportion of houses that would otherwise be made available for social rented. However, the reason for that is that there was an identified lack of demand for social rented accommodation. However, we are about to release the Housing Needs survey, that will more precisely identify the demand for all types of housing and of course there is no intention of bringing anything to this House for debate until the Housing Needs survey has been published and Members have had the opportunity to analyse the findings of the Housing Needs survey.

**2.9.4 Deputy G.P. Southern:**

Supplementary for me, Sir, the second part of the question; does the Minister accept the Minister for Housing's figures that 91 people are currently waiting for 3-bed social rental accommodation and that the key element in house price control is supply and demand?

**Senator F.E. Cohen:**

To repeat, I would rather wait until the Housing Needs survey is completed. We are only a few weeks away from that and we will have, at that point, a more precise understanding of demand that will update information in relation to all housing needs of all sectors in the Island.

**The Deputy Bailiff:**

The Deputy of Grouville. I am sorry, Minister, the Chair does have a policy on the whole to not allow one Minister to ask questions of another because they are usually rather friendly. **[Laughter]**

**2.9.5 The Deputy of Grouville:**

With this parallel review that is going on about rezoning swathes of our countryside and the existing timetable, does the Minister not see that we could end up losing a lot of good agricultural land about 6 months before the Island Plan is approved? Surely, with political will and policy, he could look at existing sites and, in my own parish, there are many huge sites that should be looked at first, before looking at rezoning parts of the countryside.

**Senator F.E. Cohen:**

We have a conundrum in this area. Very simply, we have urgent demand identified by the Housing Department in relation to retirement housing and the current proposal is a compromise proposal that is designed to deliver affordable retirement housing through the Constables. Is it ideal to be doing this now, in advance of the Island Plan Review? No, it is not but we have an urgent demand and I am responding and the Assistant Minister is responding to an urgent demand. However, it is up to this House to decide any rezoning proposals. Thank you, Sir.

**2.10 The Connétable of St. Helier of the Minister for Treasury and Resources regarding the payment of rates on States properties:**

Would the Minister advise what progress he has made towards bringing a proposition to the States to enable rates to be payable on States' properties?

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

A final version of the working party report has recently been signed off by all members of the working party. I will consider its content in the near future and I will table both the working party's report and my response, as a States report in due course, hopefully by the end of this month.

**2.11 Deputy K.C. Lewis of the Minister for Social Security regarding the cost of multiple G.P. home visits to house-bound patients under the Income Support Scheme:**

Would the Minister inform Members whether the cost of multiple G.P. home visits to housebound patients will be met by the Income Support Scheme or will there be a limit on the number of visits for which a claim can be made?

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

The department recognises a G.P.'s duty to treat patients when there is a genuine medical need. The G.P. will always provide a medical service regardless of the previous number of visits that the patient has had. Support for G.P. visits is provided in a number of ways, under income support. The basic living component covers up to 4 surgery visits in a year, which is the average for a healthy person. Then, on top of that, the clinical cost component provides additional support, up to a total of 12 visits a year, for individuals with chronic illness. Then there is also the additional personal care component and the mobility component, which provides additional assistance for individuals who are housebound. The household medical account allows individuals to save an appropriate amount from their weekly benefit to cover the costs of the visits that they require. If someone is in genuine need of home visits, the weekly amount saved can be increased to cover this cost. Special payments can also be made to assist people who have unusually high needs or to cover the costs of a serious bout of illness. There is no specific limit on the number of visits for which a claim can be made.

**2.11.1 Deputy K.C. Lewis:**

As the Minister is aware, Sir, not all patients can attend a doctor's surgery, some being housebound and a few even bed bound. I have had many calls from senior citizens who are very despondent about the new regime and fear for the future. They feel abandoned by the States. Some have rung me and just say they want to hold hands and walk into the sea, they are that despondent. I personally have 4 parishioners who have prepaid their own funerals. This level of G.P. cover is woefully inadequate for home visits. Does the Minister not agree?

**Senator P.F. Routier:**

I do not agree at all. I am very sorry that the Deputy has had phone calls in the manner that he has. There is absolutely no need for anybody who is housebound to feel they have been let down by the system. The system is there to support people and they can have the visits that they require. It is the G.P.'s duty to treat people and that is what he will do. I would urge any Member who has received a phone call like that or comments like that, to reassure the people that are speaking to them, that they can have the visits they need and they will be met. As I said in my initial response that there are mechanisms to fund additional payments for people who are housebound and I suggest to Members that they should put that message out widely to anybody who speaks to them.

**2.11.2 Deputy K.C. Lewis:**

Sorry, just a final one, Sir. It was not the G.P. visits as such I was querying, Sir, it was the payment thereof.

**Senator P.F. Routier:**

As I said in my comments, the payments will be made. There is a mechanism in place that, if the person's medical account does not have sufficient in it, there is a mechanism for special payments to be made. It is the G.P. who will decide whether those visits are necessary and if the G.P. decides those visits are necessary then the account will be paid.

**2.11.3 Deputy G.P. Southern:**

Is the Minister confident that his department has clearly communicated both to G.P.s and to recipients of income support that this funding is available and is readily accessible by all?

**Senator P.F. Routier:**

In my earlier answers to questions on income support earlier this morning, I made it clear that there is still a bit of work to be done with G.P.s. The G.P.s all work in different ways and they make decisions about whether they are wanting to receive information or not at a rate that we are prepared to give it to them. This has been very, very difficult for us to arrange personal interviews with every G.P. and that is what we set out to do and that is what we intended to do. But G.P.s are very busy men and ladies, I should say. Very busy people and it has been difficult to gain appointments with everyone, which is what our intention was. We are continuing to work with them, to ensure that they do have a personal visit with advisers from the Health Department and from the Social Security Department so that there is a clear understanding of the way the system works.

**2.11.4 Deputy G.P. Southern:**

Can I just clarify, Sir? Is the Minister saying he is confident that he has effectively communicated both with G.P.s and with recipients, or not?

**Senator P.F. Routier:**

I am saying there is still some work to be done.

**2.11.5 Deputy J.A. Martin:**

In his first answer to Deputy Lewis, I am sure the Minister said that if there is not enough, which is for 12 visits a year, which is about £588 taken out of each person's money, who used to be on H.I.E. they could reassess that. He also said that this person would probably be getting a personal care element to assist with G.P.'s visits. Now, a once a month G.P. visit to the home is about £1,200 a year, I would suggest, on average, Sir and is the Minister sure the personal care element is not for the likes of Family Nursing (Family Nursing and Home Care), which his department definitely have not got sorted out between Family Nursing, the clients and the parishes yet. So, where is this money intended to go and who is it really intended to help? Is the Minister not sure that the message out there is to try and avoid home visits from G.P.s, where possible? This is what seems to be coming across to the clients and I am sure the Minister must get this right. If someone needs a home visit, the person does not have to worry about who is going to pay for it. Is he quite sure that this is happening?

**Senator P.F. Routier:**

The costs of home visits for people who are in medical need, and the G.P.s decide that it is right for them to have a home visit, will be met from the income support system. There is no need for anybody to fear that they cannot afford the G.P. through the costs not being met by income support, if there is a strong medical need. It has been recognised the H.I.E. system was abused. People were **[Interruption]** ... people were calling the doctor home when there was absolutely no medical need for them to do so. Now the G.P.s are working together with the Health and Social Services people and with my department to ensure that appropriate care is given to people when the medical need is identified. People will be able to receive home visits and the cost of it will be covered. The Deputy also questions the issue with regard to Family Nursing and Home Care with regard to how the money from the personal care element is used. The personal care element there is to be used in a manner which is appropriate for each individual. If the person has family nursing, that money can be used for that. It is a matter for the individual to decide how those funds are going to be used.

**2.11.6 Senator S. Syvret:**

Will the Minister accept that the answer to the original question, posed by Deputy Lewis, is in fact yes? There is, de facto, a limit on a number of visits but it will not be perhaps rationed by the number of visits. It is going to effectively be rationed by, ultimately, the funds available. Therefore there is a limit. Will he accept that?

**Senator P.F. Routier:**

The visits will not be rationed by the funds available. The visits will be rationed by the medical needs of the patient.

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

There are a couple of issues. In Canada, for example, when you call a doctor, sometimes they will stick on the phone with you for half an hour and tell you to go to the hospital, and other services they provide more modernly were response to the patient's requests for a doctor. I think, regardless of the fact that there is a money issue and a pot of money and the increasing cost of home visits, will the Minister undertake to investigate and report back to the States about creating - if there is not one already - a dedicated team of doctors at the hospital that will respond when G.P.s are not available to respond to patients or decline to respond to patients because I have had it reported to me that sometimes they cannot get the doctor to come. That is more important than figuring out the money. It is getting the doctor there in the first place.

**Senator P.F. Routier:**

That is a new one on me but I certainly am aware that there is the out-of-hours medical service, which the hospital do provide. I would be very concerned if a G.P. was not prepared to visit somebody unless, perhaps, the G.P. has made a decision that perhaps it was a frivolous request for a visit. It may be that but I would not like to make any judgment on that. There is the service provided by the Health Department for the out-of-hours G.P. service and that is what it is there for.

**2.11.8 Deputy J.A. Martin:**

The Minister made the strong statement that we all know H.I.E. was abused. Being the Minister that monitors, that pays the doctor, how will he ensure, he says on medical needs, that it will not be abused? If a patient calls out his doctor 30, 40 times, when will it be, Sir, that Social Security gets involved to say that these are not medically needed home visits? He has already said the old system was abused. Who monitored that and when will he start cutting in and saying: "That patient you are going to, doctor, does not need another home visit this year"?

**Senator P.F. Routier:**

The monitoring of the relationship between G.P.s and patients is undertaken by a medically qualified person within my department and also in conjunction with the - I forgot the title - the Assistant Medical Officer of Health. They have been visiting the doctors to ensure that the new governance procedures, which are being brought into place for G.P.s, do work in the new system. So, I believe that there will be a very clear understanding of how monitoring will happen and it will be for those medically qualified people to make those decisions.

**2.11.9 Deputy J.A. Martin:**

Just, I am sorry, he is talking about - this is a supplementary, he has just given some information, Sir, the Minister, about new governance between G.P.s and his department. Could he make that public? Because it is the public that it affects and if somebody asks me whether they can go and the money will be found, I would like to know what governance this comes under. Thank you, Sir.

**Senator P.F. Routier:**

The governance that I was talking about is the work that the Medical Officer of Health is wanting to implement with the G.P.s. It has been something that they have been working on for quite some time under New Directions and they want to ensure that governance procedures are in place for G.P.s.

**2.11.10 Deputy G.P. Southern:**

Can he make that public, was the question? But, anyway, is the Minister aware that the lack of clarity is to such an extent out there among G.P.s that many G.P.s are simply solving his problem



for him by simply not charging for visits, not charging their clients on income support, for visits, until the system settles down and they are clear on what they are doing?

**Senator P.F. Routier:**

The G.P.s are interestingly making some decisions about not charging. Obviously they set their rates at whatever rate they want to, as Members will be aware. The rates G.P.s charge across the Island vary quite considerably. Now that H.I.E. does not exist, because H.I.E. clients used to be just paid a flat rate by the department, and the G.P.s are now finding they are having increased funds per visit for somebody who was previously on H.I.E. because they are now getting a full rate for their visit being paid by Social Security. So they are now in a position to not charge the patient the £5 charge which was initially thought that some patients would be paying. That is a commercial decision which G.P.s are making on their own behalf.

**2.11.11 Deputy K.C. Lewis:**

I thank the Minister for his replies, Sir. Would the Minister undertake to circulate all G.P.s with a note stating what has previously been discussed and would he also accept a letter from a G.P. as proof of someone's need for long term home care visits?

**Senator P.F. Routier:**

Letters are being exchanged now between the department and G.P.s, with regard to each individual patient. It is literally an agreement that somebody's medical need is sufficient for them to have a certain level of visits and that is the process that is going on. As this is the last question, I really want to say to Members, please be assured that the H.M.A. system for income support is being resolved as we go along and people need not worry about not being able to go to the doctor through the lack of funds. If they have a medical need, they must go to the doctor.

**2.12 The Deputy of St. Martin of the Minister of Home Affairs regarding the establishment of a Lay Visitor Scheme in Jersey:**

What consideration, if any, has the Minister given to establishing a lay visitors scheme in Jersey, which would enable independent volunteers the right to visit police stations whenever they liked, to check on the treatment of people held in custody by the police?

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

Lay visitors schemes, known as custody visitors, operate in most of the U.K. and they have the following key features: they are independent of the police, they are staffed by representatives of the community. Membership of minority group representatives is usually encouraged. Visitors are trained in law and guidelines relating to custody and they report directly to a police authority. Should the States agree to the setting up of a police authority under the new police force law, I intend to ask the authority to consider what a lay custody visitor scheme could add to the process of independent oversight of policing.

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

The Minister is aware that I have raised this issue before and the lame excuse of non-establishment of police authority has been given as a reason not to go forward. Would the Minister confirm that the lay visiting scheme or the prison lay visiting scheme comes within the remit of Home Affairs and reports to Home Affairs and also, we have learned this morning, as we have heard from the Minister for Education, Sport and Culture, that the independent body visiting Greenfields comes within the remit of the Education Department? Would she not consider it quite apt for the lay visitors scheme to come within the remit of the Home Affairs Department?

**Senator W. Kinnard:**

There are 2 answers to that, really, Sir. It was in the 2000 inspection that Her Majesty's Inspectorate Constabulary suggested that it should be the new police authority that should consider setting up the scheme and I am abiding by that suggestion. It is also, Sir, appropriate, I feel, for the police authority to consider the matter, to avoid any unnecessary overlap and confusion because we already have an independent police complaints authority. We are also proposing to set up a police authority and that could make a total of 3 corporate bodies overseeing the police, not of course counting the Minister, and of course in the presence of the custody suite on a daily basis, the Centeniers who have an independent role in laying charges. It may well be, Sir, that in a small Island, that the new police authority might see themselves as exercising the role of custody visitors. So I think, Sir, it is too early to say what their view would be and I think it would not be wise therefore to go about creating a separate custody visitors scheme. It would seem to me to be premature and we would be better off waiting until the authority were in a position to consider this matter themselves.

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

Yes, Sir. The Minister has mentioned about the police authority. In the absence of any police authority coming to fruition, would the Minister give consideration then to establishing a lay visiting scheme which would come under the remit of the Home Affairs Department?

**Senator W. Kinnard:**

I would.

**2.13 The Deputy of Grouville of the Minister for Housing regarding the 65 units of self-catering accommodation proposed in the Hopkins Plan:**

Given the demand for first-time buyer and retirement homes among Jersey residents, is the Minister satisfied that 65 units of self-catering accommodation, proposed in the Hopkins Plan, represents an effective use of a housing development opportunity while demand for accommodation for local people remains unmet and if so, what steps will he take to ensure that such accommodation is occupied by genuine tourists as opposed to unqualified tenants?

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

Yes, Sir, no new compliance issues are presented by the development of self-catering accommodation on the Waterfront. Self-catering accommodation will be registered with the Economic Development Department as tourist accommodation and any suspected infractions of that registration will be dealt with by the compliance officers of Economic Development and the Population Office in the normal manner. As to housing supply, I again reiterate, I place reliance upon the Minister for Planning and Environment to deliver sufficient housing supply within the constraints under which he operates. I view the Hopkins Plan as one of a number of initiatives around land use currently in progress. In particular, I look to the Minister for Planning and Environment to provide an effective Island Plan which will both protect our environment and also deliver the housing supply we much need. As to the Hopkins Plan, it also includes 316 units of residential accommodation which is an important contribution to the overall housing supply as a part of a mixed development, and will also provide housing and regeneration opportunities as officers migrate from other parts of the town.

**2.13.1 The Deputy of Grouville:**

Could the Minister confirm who agreed to the terms of reference for the Hopkins Master Plan and, in particular, how the new accommodation was to be allocated and what input he, as Minister for Housing, had?

**Senator T.J. Le Main:**

I have not had any input in this at all and the issues are being dealt with, obviously, by the Minister for Economic Development and/or the Minister for Planning and Environment.

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

The Housing Needs survey, which the Minister for Planning and Environment referred to this morning as something that will give us a greater indication as to the housing supply demands and requirements for the future is a straw poll and elements of that Housing Needs survey, albeit a straw poll, will be accurate and elements will not be. It will give us a stronger indication but it will not give us an accurate picture. What is the current practice, in terms of keeping information, when people who have qualified under the current regulations, for a set period of years in the Island, being kept at the moment in housing? For example, somebody who has been here 12 years, they get 2 letters to confirm that they have been here 12 years. They send it to the Housing Department. The Housing Department grant them their qualifications and where are the numbers of how many of those people are qualifying on a monthly or annual basis? Are they kept in housing? If they are, can the Minister for Housing bring those forward because, among rezoning, which is very important, that we need to do, this is also a need that we have, to understand the qualifying people?

**Senator T.J. Le Main:**

Yes, Sir, I am given those figures on a regular basis, and if Members want the figures I am very happy to give them, but we have them on a regular basis.

**2.13.3 Senator S. Syvret:**

Senator Le Main did not answer the original question. He was specifically asked whether he was satisfied that 65 units of self-catering accommodation represents an effective use for the Island, given the needs of housing opportunities and he simply has not answered that question. Could he just reconfirm, because I understood him to say that the usage to which the self-catering accommodation would be put would be determined by the Economic Development Department and the Population Department, which I find somewhat strange given that I understood that all residential accommodation or housing in the Island came under the control of the Housing Department?

**Senator T.J. Le Main:**

The first part of the question is, I am satisfied. I am a corporate player, as one of the Ministers and a Member of this Assembly, and I am totally satisfied that within that development, in view of the loss of many hotels and guest houses over the years which have increased the supply of affordable housing in this Island, and I am more than happy and comfortable with the 65 units of self-catering accommodation. In relation to the compliance issue raised by Senator Syvret, the issue is that it was similar to the previous committee system, whereby Tourism registered the premises and licensed the premises and if there was any issue in relation to housing and people were using them for other issues, it was dealt with under the Housing Law and Loans. Similarly, the accommodation and the permit is given under Economic Development but there are strict conditions attached to that permit, which has to be dealt with the Population Department.

**2.13.4 Senator S. Syvret:**

The Senator referred to the old Housing Law and Loans system. I take it from that that he is confirming that if there were questions of proper usage of these properties, abuses or whatever, that in fact that power still does, in fact, reside with the Minister for Housing. Would he confirm that that is the case?

**Senator T.J. Le Main:**

Yes, that is the case.

**2.13.5 Senator S. Syvret:**

That is the case. Great, thank you and will he then answer the second part of the original question and say what steps he will take to address the potential abuses of this self-catering accommodation if it is not being occupied by genuine tourists but is instead being used as an easy way of housing unqualified labour?

**Senator T.J. Le Main:**

I think I have answered that question. The issue is quite clear that if the terms and conditions of the self-catering permit are breached in any way, then the Population Department, under the current Housing Law will prosecute. Simple as that. Strict tourism only conditions attached to the permit.

**2.13.6 Deputy S.C. Ferguson:**

Given that the company leasing or renting this particular hotel from the developer is a company specialising in short and long term leases to companies for their professional staff who may visit on a short term basis, like sales representatives or auditors, perhaps, is he still happy with the occupancy of the accommodation? Can he really regard these people as genuine tourists?

**Senator T.J. Le Main:**

Now that, Sir, is a question with a question mark on it **[Laughter]** because I know, Sir, that a large part of our tourist income is people that have either investments in Jersey or come to Jersey and may stay for a few days or otherwise, or are associated with financial institutions. But, Sir, you know, I have to say, again, and I can only work within the law and there is going to be put into place in these 65 units specific conditions of use, agreed by the Minister for Planning and Environment and by the Minister for Economic Development. Once those issues have been finalised, if they are finalised, once they have been finalised, then if there are any breaches under the housing regulations or population, then it will be myself or my department that will have to deal with it.

**2.13.7 Deputy S.C. Ferguson:**

But surely one of the problems originally with self-catering was that people were concerned that companies in the U.K. or elsewhere would in fact be taking out leases and using this accommodation for unqualified people. Is the Minister satisfied that sufficient safeguards are in place?

**Senator T.J. Le Main:**

I have asked my department the same question but I will ask it again, just to make sure that I am absolutely correct. I am given to understand that the permit will say for the tourist or what we are talking about now, accommodation, but if it comes out of self-catering, then it would have to go for (a) to (h) because the Deputy, Sir, is quite right. In the past cases have been made in considerable parts of Jersey for self-catering accommodation and within 2 or 3 years they were taken out and used as lodging houses. Absolutely right and I intend to make sure that this is quite tightly controlled and, in future, any accommodation that comes for letting to tourists as self-catering should be on that basis as well.

**2.13.8 Deputy G.P. Southern:**

The Minister referred to the 300 units of accommodation planned for this site. Does he believe that this is good use of accommodation, of the supply of 3-bedroom accommodation which is the area where supply is most needed?

**Senator T.J. Le Main:**

I am unaware of the make-up of the 316 units and perhaps the Deputy may tell me that they are 3-bedrooms, are they?

**Deputy G.P. Southern:**

I believe the majority are one and 2-bedroom flats, again.

**Senator T.J. Le Main:**

Well, the issue is, Sir, that I believe very much that there is still a great need, particularly in one-bedroom flats at the moment. The 2-bedroom units, well, the Deputy is pulling faces, but it is quite clear that the market at the moment, Sir, that 2-bedroom units are fairly static but just rising a bit but the one-bedrooms, there is still a huge demand for one-bed, decent size apartments in St. Helier.

**2.13.9 The Deputy of Grouville:**

Does the Minister not consider this process of developing new accommodation for the Island to be remiss and lacking, in the extreme, not to have included the Minister for Housing, so instead the Minister turns to the Comité des Connétables to rezone parts of the countryside?

**Senator T.J. Le Main:**

No, Sir, this is a totally different kind of issue. What we are talking about for sheltered lifetime homes is not into a development such as, going on the Esplanade Quarter. Sir, the Esplanade Quarter is going to be the business quarter, predominantly, for Jersey and in my mind, to put in elderly people in that quarter is quite wrong.

**Senator F.E. Cohen:**

A point of information, the mix of the 316 apartments is by no means fixed yet. The matter will be the subject of some discussion with States Members and I can assure the House that the mix will meet perfectly, the results of the Housing Needs survey. Thank you, Sir.

**2.13.10 The Deputy of Grouville:**

Should this process have not included the Minister for Housing in the first place?

**The Deputy Bailiff:**

Well, I am sorry but I do not think you can start asking questions of the Minister for Planning and Environment now. That in fact brings oral questions on notice to an end.

**Senator F.H. Walker:**

I did have 2 questions to answer right at the end. I make it clear, I will make the written answers available to the questions.

**The Deputy Bailiff:**

Yes, I think it is helpful that all Ministers who have outstanding questions, if they would give written answers, I am sure that is appreciated by Members.

**The Deputy Bailiff:**

Very well, so we come now to questions without notice and the first question is to the Minister for Education, Sport and Culture. Yes, Deputy Mezbourian.

**3. Questions to Ministers Without Notice - The Minister for Education, Sport and Culture:**

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

I would like to thank the Minister for his response this morning to my written question regarding capacity in Island schools and I note from his response that Les Quennevais appears to be showing a current over capacity of 70 pupils. From the response it shows that the built capacity was for 750. The staff there are working with 820 pupils. I know, Sir, also, that many of the current facilities do not conform to U.K. national standards for a school of the size of Les Quennevais. My question to the Minister is will he confirm that he is satisfied that the over crowding in a school where facilities

are below national standard does not mean that there is a detrimental impact upon educational provision? Would he also advise the House when the intended refurbishment for Les Quennevais is due to begin?

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

If I get my papers together, because I gave a very - I hope - useful and detailed response to the questions to do with the pupil capacity. Les Quennevais, perhaps I can explain, Les Quennevais is only oversubscribed in 2 year groups, which is year 7, by one pupil and year 8, by 19 and that was a particularly large year group and it was agreed with the head teacher that we would expand it by an extra class for one year only. The overall numbers that look high in the other schools are because Les Quennevais has a particularly large staying on rate for year 10, where pupils stay on rather than transfer to Hautlieu from that school, and that is how the figures get expanded in that way but is not in excess of capacity because there is capacity in year 10, 11, 12, onwards, to provide that. Les Quennevais, we wish to redevelop as and when we can. It is going to be put into the future capital programme. One of the difficulties we have with Les Quennevais is the constricted site. We did some work, some substantial work on it some years ago and we are aware of that. I am very aware that we must not at any time compromise the educational provision of pupils at any of our secondary schools and I can assure the Deputy that the education provision at Les Quennevais is not compromised in any way and is excellent.

**3.1.1 Deputy D.W. Mezbourian:**

I am a little confused because when I look at the answers given, it clearly states that the planned maximum pupil capacity for Les Quennevais school is 750 pupils and yet we know, from the answer to another question, that the total pupils at Les Quennevais are 820, so we are looking at a difference between 750 and 820 and it seems straight forward to me that Les Quennevais school is functioning at the moment with too many pupils for the design and size of the school. Will the Minister confirm that is correct or not, please?

**Senator M.E. Vibert:**

The design of the school and the planned maximum pupil capacity was designed on year groups going up through the school with an expected number of pupils to transfer at year 10. At Les Quennevais, as I said, they stay on. A large number stay on in year 10. There is capacity, yes, Les Quennevais is over capacity but it is over capacity within, for example, the U.K. guidelines for an efficient school and, when you look through the year groups, you can see how the year groups change and sometimes you get more and sometimes you get less and we try to cater and try to help parents where we can in the catchment area. The head teacher of Les Quennevais is fully informed and fully involved in all discussions and decisions about can the school manage with the number of pupils concerned and I repeat, and it shows in its popularity, Les Quennevais offers excellent education. It is not working inefficiently, it is not over crowded to the extent that there would be great concern over it and it is a very popular school.

**3.2 Deputy J. Gallichan of St. Mary:**

The Minister has largely, I think, answered the question. I was going to ask for the discrepancy that is apparent. There have already been 20 people over subscribed at Les Quennevais, so the 70 over subscription in the general figures, in other words, where are the missing 50 pupils? Sir, I am a product of the education system in this Island. I am reasonably fluent in 4 languages. Double Dutch is not one of them, I am afraid and so I think that possibly the Minister has answered my question but in a way that I am not quite sure I still understand, Sir.

**Senator M.E. Vibert:**

One of the difficulties, you see, I am quite happy to answer, but the Deputy did ask some quite detailed, long questions covering many things which is why we produced tables and I think that is part of the problem. We tried to be as comprehensive as possible in our answers and of course as

the 2 Deputies questioning me on the Scrutiny Panel for my department, I am quite happy to come along and bring officers, so we can explain it in more detail. It is complicated but, let me assure you that our concern is always the education and wellbeing of the children and I am very confident that Les Quennevais is operating near capacity but is offering an excellent service and is not operating over capacity to the extent that it affects the education of the children.

### **3.3 Deputy J.J. Huet:**

Back to nursery places, I know the Minister said that he did not wish to discriminate against children. Does he not feel that the kiddies or the children in St. Helier, of the poorer families, are being discriminated because they do not get a nursery place? If there are nursery places in the country, should he not be a lot fairer to these children by arranging transport for these kiddies to go to those places, rather than giving them to well heeled, (j) category, just arrived immigrants?

### **Senator M.E. Vibert:**

Deputy Huet feels very strong in this issue. I repeat again, the criteria for the allocation of all nursery places, regardless of where they are, are based, firstly, on social educational needs, so that the children the Deputy is so concerned about would be offered a place. It is children from families with particular needs, it is children suspected of being at risk and so on. We do, if necessary, try to make arrangements so that, you know, the places are offered where they are accessible and we make arrangements of accessibility. The problem is we have far too few free nursery places for the number of people who want to take them up and, unfortunately, this House decided it would not provide the funds for my department to offer free nursery places for all.

### **3.3.1 Deputy J.J. Huet:**

I am still back again. I am sorry, obviously I do not know if it is that the Minister does not want to answer the question but can he not arrange, or does he not believe that the children that live in crowded accommodation in St. Helier, with mothers that wish to work but cannot work because they cannot afford a private nursery, surely those children are the ones that are mostly discriminated against and why can he not be honest and say they can afford, they should be able to? It is no good offering those children places out in St. Mary's and St. John's. They cannot get there unless Education is willing to transport them there. If he is so seriously concerned with the ones that are being discriminated against, those are the ones that are being discriminated against. Those are the ones that need the children's nursery education.

### **Senator M.E. Vibert:**

I was not quite certain what the question was but I repeat that our criteria for allocating nursery places is based on children's need to start with. We do offer places and sometimes the parents do not want to take up those places, for one reason or the other, but we do offer places based on need. There are other criteria and at least 20 per cent of children can be taken from out of catchment area in all our schools, including our country schools. So, Sir, we have a system whereby we allocate according to criteria, primarily based on need but also based on ensuring that the class has a mix and that there are some people in the class from the catchment area. What the problem is is too few places to offer for too many people who wish to take advantage of the excellent nursery service we offer.

### **3.4 Deputy J.A. Hilton of St. Helier:**

I would like to ask the Minister a question about the construction faculty at Highlands College. Previously I have asked a question about the number of places available to those young people who wish to pursue a career in construction. I would like to know what progress the Minister has made in increasing the number of places available to those students wishing to take up a career in the building trade. Thank you.

### **Senator M.E. Vibert:**

What we are trying to do is to ascertain and ensure that what we offer is more closely aligned to the needs, both of the young people of the Island but also of businesses and for the future which is why the Council of Ministers agreed to set up a Skills Executive. We have been an active partner in that development and we are involving the private sector so that we can look ahead, ascertain need, ascertain what jobs are going to be available and try to marry the 2 and offer the courses. It is very difficult at short notice to change courses. You need people to teach them, you need the space to teach them in and so we need much better information on what employers want, what employees want, employees in the future, so we can marry the 2 up. The Skills Executive is specifically designed to achieve that so I am hoping we will get a better marriage in future, between what is on offer at Highlands and other places where they offer training, including construction, and what is required both by the Island and those students wanting to go into those areas.

#### **3.4.1 Deputy J.A. Hilton:**

When I asked the original question, about 18 months ago, my understanding was that there were about 80-odd applicants for 28 places. That was in the autumn of 2006 and the Skills Executive aside, everybody is very aware that we have a booming building trade in the Island and we are importing immigrant workers to fill that need, so I am just really looking for the Minister's assurance that instead of possibly putting finance first and foremost, that he also gives due consideration to the construction trade and those opportunities available to young people who really do not want to go into the finance industry.

#### **Senator M.E. Vibert:**

The Skills Executive is designed to achieve exactly that and I give the Deputy that assurance.

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

With reference to the Skills Executive, the much heralded Skills Executive, will the Minister inform Members when it has or when it will meet and what will be on its early agenda, its early targets?

#### **Senator M.E. Vibert:**

It has met and one of the things that we are hoping will be coming forward very quickly is a new integrated career service and employment service, which we are planning to open in a central location offering information, advice and guidance on educational and employment matters to all ages, bringing together elements from my department, from Social Security and from Economic Development. We are in the process of seeking to try to find the employer representatives that will work with the Skills Executive so that we can really get to grips with what the Island's needs are and what the people who want to be retrained or trained in the first place, what their needs are.

#### **3.6 Deputy P.J.D. Ryan of St. Helier:**

Could the Minister remind us of where he is with university tuition fees, with the U.K. and remind us why he feels we are being treated unfairly, what he is doing about it and whether he is currently in negotiation with the U.K. to try and redress the situation? Thank you, Sir.

#### **Senator M.E. Vibert:**

Certainly. Yes, as Members may know, I met with the Ministers of Education of Guernsey and the Isle of Man in London yesterday prior to meeting with representatives of the newly-formed U.K. Department of Innovation, Universities and Skills, of the department concerned, to discuss the future of higher education and to develop a mutual understanding of the challenges facing the Island on this matter. At the meeting, the 3 Ministers agreed the need for a common approach in their dealings with the U.K. Government on our education matters, and we maintained our commitment to remain in dialogue with the U.K. authorities to ensure that students from the Island are not disadvantaged by possible fee increases in the future. We stressed the need for that oft-quoted "level playing field" with the U.K. representatives we met. We want to be treated fairly.



We do not want a subsidy as such, but we want to be treated fairly, and we want to ensure we have a fair settlement for all Island students. We are going to be preparing to take this further with the U.K., because at the moment we do not think we are being treated fairly. We feel that we are being discriminated against in a way, in relation to students from the British Overseas Territories, and we also want to make sure that when we work out our contribution, which is based on paying the same amount as a U.K. university gets per U.K. student from the U.K. Government, that we are not including in that figure for calculation, items that local students do not benefit from.

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

Can I ask a quick supplementary on that, Sir? Thank you. I know this is a slightly different subject, but on the basis that we have recently signed tax information exchange agreements with the Netherlands, and bearing in mind, particularly, as the Netherlands has lots of overseas territories who presumably send students to the Netherlands for university training and courses, does the Minister think it is appropriate maybe to even look at some alternatives, particularly with the Netherlands which has, you know, something like 50 per cent of its population being fluent in English anyway? I wonder if that is an idea to bring ...

### **Senator M.E. Vibert:**

One of the things I did in a review of higher education some time ago was change the rules so we will support students at any recognised higher education institute if they are studying for a recognised qualification, whether it be in Netherlands, whether it be in Australia, New Zealand, which are very interested in developing arrangements with us; whether it be in Iceland where most of the courses are taught in English at the University of Reykjavik, or anywhere else. I would encourage our students - and some are - to raise their eyes and also look further afield than the U.K. on occasion, because they might find a course better suited to themselves further afield. But at present, the vast majority of our students do go to the U.K. for higher education, and we want to make sure that ourselves, Guernsey and the Isle of Man are getting a fair deal in relation to what we pay for those courses.

### **3.7 Deputy S. Pitman of St. Helier:**

When considering the youth facility on the Waterfront, how does the Minister foresee how the facility will be staffed, given that the youth service is already short staffed, Sir? Could he not ramble on with his answer, and give an answer succinctly?

### **Senator M.E. Vibert:**

If the Deputy does not ramble on with the question, I will not ramble on with the answer. We will be reviewing the staffing of the Move On Café. I am very pleased to say its future has now been secured, and I would like to thank the Parish of St. Helier for their generous contribution to not only securing it, but ensuring we can staff it future. We will obviously arrange the staffing for the opening hours and so on, and one thing I want to ensure and to encourage people, is to take up youth service training so that we have got more people to call upon in future.

### **Deputy S. Pitman:**

Will he be staffing it within current human resources, or will he be looking to employ further youth workers?

### **Senator M.E. Vibert:**

The question is not quite framed correctly, perhaps. I do not know whether the Deputy is referring to our current human resources, the head count that we are currently allowed, but we are allowed to employ a number of people on a part-time basis, and many of the youth facilities rely on part-time people to offer the excellent service they do. I do not see the Move On Café as being any different.

### **The Deputy Bailiff:**

By my calculations, that is time. I have not been alerted by the Greffier. Is it time yet? So, I am sorry to those who have still got questions to ask.

#### **4. Questions to Ministers Without Notice - The Minister for Transport and Technical Services**

##### **4.1 Deputy D.W. Mezbourian:**

Would the Minister advise Members whether he is awaiting the completion of a report from within his department in which consideration is being given to the current seatbelt legislation, and if so, will he undertake to make the final report available to States Members?

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

Under the Transport and Technical Services business plan, I commissioned a report into seatbelts several months ago. Perhaps coincidentally, it is the case that that report is now virtually at completion, and I am expecting to read a draft of it this week. In the light of Deputy Le Claire's proposition, I can certainly give an undertaking to the House that I will be bringing that report forward as a first priority, and I think it is entirely appropriate that Members have the widest possible information to hand when we come to the debate. So, I expect to publish that report shortly.

##### **4.2 Deputy A.E. Pryke of Trinity:**

Paper recycling schemes have been working well, with the bins emptied 3 times a week. Would the Minister inform the House if it is proposed to change these existing bins to newer bins, and if so, will there be a need for new trucks equipped with lifting facilities as these containers are going to be much heavier and larger?

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

The department keeps the issue of technology associated with recycling constantly under review, and I would hope that where we can improve on matters, things will be improved upon. I have no information I can give directly to the Deputy on the specific questions she is asking, but I can say that regrettably we have, at this point, spent the entire recycling budget that is available for the department, so I am not in a position to push things any further. However, that is all a matter under review, and I am pleased to say that I am getting co-operation from the Comité de Connétables and indeed only yesterday enthusiastic help from the Environment Scrutiny Panel. So, we do intend to progress these issues. Regrettably, it always boils down to a matter of cash.

##### **4.3 The Deputy of Grouville:**

My question is quite simple, given the questions that the Minister fended off in the last few weeks. When exactly are the lifts in Minden Place car park going to be open after 10.00 p.m.?

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

I regret to say I seem to have found out the Deputy has not read her emails this morning, because if she had she would have noticed that I emailed the States Members last night to inform them that, as of only a matter of days ago, the lift at the Minden Place multi-storey car park now stays open until 11.00 p.m. This is on a trial basis, and I regret I do not recall the name of the Member who raised this matter, but due to an accident in not adjusting the timers, we did run Minden Place multi-story car park until 11.00 p.m. for a while last year - a matter of days - and in that light as nothing untoward took place, it seems to me entirely reasonable that we should test the waters and see whether we can keep the lift open until 11.00 p.m. So, that is the current position.

##### **Deputy D.W. Mezbourian:**

May I thank the Minister for that answer, and doing something about it? I am sure the public will be delighted to hear that.

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

Could I just ask a supplementary on that line, and ask if, indeed, the Minister has informed the States' Police and the Honorary Police of St. Helier, so maybe they can keep an eye open?

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

Well, I have to admit I have not informed either of those worthy bodies about the change in the lift time, and I am not sure how often they use it, but I can advise the Deputy there is a very clear notice inside the lift and, should any of those worthy gentlemen and ladies be going past, they will soon find out that it is open an hour later.

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

I do not think I need the flippant answer. I think the query is whether the police are informed to know so that they can police the area, not use the lift.

#### **Deputy D.W. Mezbourian:**

Do the Ministers not know?

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

Well, Sir, I will take steps to inform the States' Police and the Honorary Police so that we can have their additional assistance.

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

Will the Minister inform Members whether he intends to consult with local residents over the decision to create a 1,000 space car park on the Ann Court site?

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

That is something that I am prepared to consider, but I should point out to the Deputy that that type of consultation will be carried out as part of a normal planning application process, and I do not see why things are likely to change.

#### **4.5 Deputy J.A. Hilton:**

The Minister touched briefly on the question I was going to ask. I attended a very helpful meeting that was called by the Environment Scrutiny Panel yesterday, alongside with my colleagues from No. 3/4 District, and really, we talked about additional sites for green waste collection and generally recycling rates. I would just like the Minister to confirm, as a result of that meeting yesterday, his intention to consult widely with the Constables in an attempt to possibly introduce kerbside collection of recyclables in the parish. Thank you.

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

The Transport and Technical Services Department has regular meetings with the Comité des Connétables. This is a subject that often comes up. Kerbside collections are, of course, essentially a matter for the parishes themselves, and we respect the parishes and their various different systems of dealing with the matter. The department will try and facilitate wherever we can, and this is an ongoing process, and I can assure the deputy that we will continue these consultations.

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

Deputy Hilton has asked the question really that I was going to ask, and I thank the Minister for his reply on that. But if I could just add a little more: I mean, does he have any plans at the moment to assist the parishes in introducing kerbside collection schemes similar to that currently in St. Johns, and in virtually every western country in Europe? There is lots of talk about it, but I do not see a huge amount of action from the parishes or from the Minister. Does he have a precise plan to introduce this, and would he ever consider making the parishes adhere to a mandatory obligation to introduce such recycling?

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

It is always a pleasure to hear from the Deputy of St. John as his parish is doing so particularly well in this area. There are a number of plans and a number of ideas, and I apologise, I am sure Members tire of hearing this: everything is constrained by the amount of monies available. I think it really is rather early to suggest we may be looking at mandatory moves to inflict upon the parishes. This is really an issue of how both parties can co-operate with each other, and of course, it does raise the issue of how payments for things like waste disposal are dealt with. Parish kerbside collections, as I understand it, will be paid for by the rates system, and that is something that really is a matter for the individual parishes and parish ratepayers, and something that they will thrash out at parish meetings. The involvement of the States is a slightly different issue. To date, while we encourage the parishes with their kerbside collections and wish to assist, the department has largely been restricted to only being able to introduce green bank operations, though I have to say, there is clearly some level of progress on looking at the idea of extending the numbers of recycling reception centres around the Island, which I think would be of great benefit to all our Islanders.

**4.6.1 The Deputy of St. John:**

Does the Minister not agree, though, that it should be one of his remits and, indeed, a policy decision on the part of his department to introduce such legislation, possibly, to encourage the parishes to move forward with this; and, as an aside, if I could just say that the cost of doing such a thing in St. Johns, every household is collected for less than £6 per household per year. I would suggest that other parishes could follow suit, but perhaps they need a bit more of a nudge from the Minister to do so.

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

Well, Sir, I thank and congratulate the Deputy for his enthusiasm on this subject, though I have to say that I think that the role of the department is largely policy formation. I think it really is a matter for the States Assembly once we start to move into any suggestion of somehow adjusting the relationship between a States' department and the parishes. That is something that bears an awful degree, I think, of prior consultation, and certainly would not be a matter I would wish to take an executive decision on as a Minister. I think that would have to be a matter to be dealt with by the States Assembly as a whole.

**4.7 Deputy S. Pitman:**

As one of the Ministers responsible for road safety, does the Minister not agree that his libertarian argument does not stand and is irresponsible regarding the rear seatbelt issue when considering that a significant of front seat passengers have been killed by back seat passengers not wearing seatbelts? Also, and in the last 6 years in Jersey, 3 head injuries and 3 deaths have been caused by passengers not wearing rear seatbelts, Sir. Also, the costs of people suffering head injuries due to not wearing rear seatbelts to Health and Social Services and the Social Security Department.

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

I do not think it is appropriate in question time to go into response to the details of the various incidents that the Deputy has raised. I would rather say that I do not think it is in any way responsible to raise allied issues in respect of what is being described as a libertarian approach. I have made it quite clear in the media, and I would hope that Members understand my position: I am entirely in favour of the use of rear seatbelts, and I have encouraged anyone who has the slightest concerns for their safety while travelling in a motorised vehicle to ensure that they are properly belted in, either in the front seat or in the back seat. But it is a factor that if we approach a change of law in this area, it is yet another extension into people's personal freedoms, and I happen to know on the body of an enormous amount of correspondence that I have had from members of the

public, that people do feel very strongly about this issue out there, and it simply is not a question of wishing to bow down to the latest dictates of Health and Safety.

**4.7.1 Deputy S. Pitman:**

Is the Minister aware of the cost to the Health and Social Services and Social Security Department?

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

I do not believe that there are any reliable statistics to be had on the Island on this particular subject, and most of the statistics available come from the United Kingdom, which realistically speaking, is a rather substantially different experience to the experience of driving in Jersey where a taxi driver informed me only this morning, that around town he drives on average at 18 mile an hour, and around the rest of the Island he drives on average at 28 mile an hour. That is rather different to living in a place with motorways. I do think that there is a strong argument for having a Jersey approach to this particular issue. Now, that is ultimately a matter of conscience for all the States Members for them to decide, and I ...

**The Deputy Bailiff:**

The question was about costs and I think you have answered.

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

As I said, Sir, there are no straightforward Jersey statistics to indicate precisely what the costs are.

**4.8 Connétable P.F.M. Hanning of St. Saviour:**

Given that we are being encouraged to use low energy light bulbs, which I believe contain albeit a small quantity of mercury, could the Minister say if any provision is being made for the special collection of these bulbs, or should we continue to keep putting them into the household rubbish as we have to at the moment?

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

I am very grateful to the Connétable for that question, Sir, because I have just started using low energy light bulbs myself, and I find it rather interesting walking around in what appears to be more of a candle-lit environment, rather than the bright flat I was used to residing in. But I have to inform the Connétable that this is a relatively new development in terms of bulk purchases of all Islanders of this type of bulb, and I am not aware the department has, at this point, any specific mechanism to deal with it. However, I will certainly put that to our recycling officer and see, and I will respond to the Connétable so that he can dispose of his light bulbs when they do finally give out, in a sensible and safe way.

**The Connétable of St. Saviour:**

I believe that they are going to increase in use, albeit probably somewhat less effectively than candles.

**The Deputy Bailiff:**

Very well. The time for questions without notice to the Minister has expired. There are no matters under J. Under K - Statements on a Matter of Official Responsibility - the Chief Minister will make a statement regarding succession planning and appointments in the public sector.

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

**5. Statement by the Chief Minister regarding succession planning and appointments in the public sector**

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

At its meeting on 8th February 2008, the States Employment Board received a report outlining the work that was currently underway with regard to succession planning and management and leadership development across the States. The report has been circulated to all Members. I am extremely grateful to the 4 States Members who have supported the Director of Human Resources in this work, and so I would like to name them. It was Deputies Le Hérissier, Gorst and the Deputy of St. Peter, assisted by Deputy John Le Fondré who came on to the project at a somewhat later stage, and I do thank and commend them for a very, very useful piece of work. The members of the States Employment Board were very pleased to receive the report and accepted and fully endorsed all the recommendations contained within it. The Board were particularly pleased to receive this positive confirmation of the co-ordinated efforts that are now in place which, in the future, should ensure that local candidates for the most senior roles in the public service in Jersey are much better equipped to compete for those positions than they may have been in the past.

**The Deputy Bailiff:**

Does any Member want to ask questions on that? Deputy Le Hérissier.

**5.1.1 Deputy R.G. Le Hérissier:**

Thanking the Minister for his kind words, would the Minister accept that this is just not a simplistic attempt to get jobs for local people, but to put in place programmes that will provide solid foundations, and which departments cannot evade in terms of progressive people through their management succession.

**Senator F.H. Walker:**

Yes, Sir. Absolutely. The overall objective is still to ensure that the best person is appointed to the right job, but as a part of this report and the work that underlies it to ensure that local candidates are better equipped to apply for those positions and to operate in those positions, there may have been a case previously.

**5.1.2 Deputy J.B. Fox of St. Helier:**

Could the Chief Minister give us reassurance that there will be the necessary training funds made available and retained for these future senior officers of ours to be able to get the necessary qualifications in order to be able to make the applications and not just left to restricted budgets of departments?

**Senator F.H. Walker:**

Yes, Sir, I can, and I would point out that the report refers to 2 programmes which have been underway now, relatively recent, but nevertheless have been underway for a certain period of time, and that is the Modern Managers' Programme and the Future Leaders' Programme, both of which are designed to develop the talent, and very considerable talent, that we have within the public service so that we can fill senior vacancies with highly trained, highly capable people who have come through the ranks.

**5.1.3 Deputy J.B. Fox:**

Can I have a supplementary, please, Sir? Yes, thank you. I was aware of those ones. My concern is for those specialist courses and those specialist areas like the emergency services, of course, and staff colleges at Bramshill, for arguments sake, for police courses are expensive and last for 12 months on some occasions.

**Senator F.H. Walker:**

I leave it to the expertise of the Human Resources Department and the senior officers of the relevant departments to determine which courses are most applicable, which courses are most important, to potential candidates for senior office.

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

Can the Chief Minister confirm that as part of this approach that the performance review of the senior officers will be a review of how well they are handling the development of their own subordinates?

**Senator F.H. Walker:**

Yes, Sir. Absolutely.

### **PUBLIC BUSINESS**

**The Deputy Bailiff:**

Very well. No more questions? In this case, we come then to Public Business. Now, the Chief Minister has sent me a note saying he would be asking the Assembly to take Projet 195 as the first item of business.

**Senator F.H. Walker:**

If I may it was my intention to ask the House, and is my intention to ask the House if the Connétable of St. Ouen can act as my rapporteur on this occasion. Sadly, the Connétable has a funeral to attend later on, and therefore I would ask if the House agrees that we do take this now while the Connétable is with us?

### **6. Draft Burials and Exhumations (Amendment) (Jersey) Law 200- (P.195/2007)**

**The Deputy Bailiff:**

Does the Assembly agree to take that? Very well. So, the first item we will take is the Draft Burials and Exhumations (Amendment) (Jersey) Law 200- - Projet 195 - in the name of the Chief Minister, and I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Burials and Exhumations (Amendment) (Jersey) Law: a Law to amend the Burial and Exhumations (Jersey) Law 2004. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

#### **6.1 Connétable K.P. Vibert of St. Ouen (Assistant Minister, Chief Minister's Department - rapporteur:**

I am reminded by the people behind me, Sir, that I should do this before I go to the funeral. Sir, although the Burial and Exhumations Law was adopted by this Chamber in 2004, regulations are necessary to bring it into effect. During the preparations of these regulations it has been realised that these amendments are necessary. The 2004 law empowered the States to designate both burial grounds and burial authorities for the same. Article 2(iii) of that law makes provision for management and control, together with giving burial authorities the power to issue directions. These include the setting of fees. There was never any intention to have these fees fixed by the States, and this amendment will provide for burial authorities to set their own fees, as has been the custom till now. Article 3 of the 2004 law allowed for the inspection by a health inspector of burial grounds to ascertain that regulations under the law were complied with. This proposed amendment widens the scope of Article 3 so that any officer designated by the Minister for Health and Social Services for the purpose can have the power to inspect burial grounds to ensure proper maintenance, so as to minimise any risk to the health, safety and welfare of public or other persons visiting the burial ground. This amendment also strengthens the enforcement powers to allow inspectors to serve notices on burial authorities. If these notices are not acted on, the Minister for Health and Social Services is empowered to take any necessary steps and to recover any expenses from the burial authority. The final amendment takes away the need to get the consent of the Harbour Master for burials at sea. This matter is covered by the powers of the Minister for

Planning and Environment, and to leave the name of the Harbour Master in the law merely caused duplicity. Sir, I make the proposition.

**The Deputy Bailiff:**

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

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

Yes, Sir. I think most of us will remember when we had this initial debate, because it was Deputy de Faye who raised the issue about family plots, which is one way of remembering how we debated the last proposition. I think none of us really at the time thought that we were voting for something which would really prevent parishes from deciding on what it was. Sir, I think most of us will welcome this amendment today, but while I am on my feet, and while I welcome the law, could I ask, the Burial Law allows for inspection of burial grounds, et cetera. Is there a similar one to ensure to carry out inspections of cremations, to ensure cremations are carried out in the appropriate manner?

**6.1.2 Deputy R.G. Le Hérisier:**

As the chairman of the panel knows, there was a move a few years ago for a private person to set up a particular burial ground in, I think, Trinity. Could the chairman confirm that among the burial authorities are private people or companies who might wish to set up private burial grounds, albeit under strict conditions?

**The Deputy Bailiff:**

Does any other Member wish to speak on the principles? Very well. I call upon the Connétable to reply.

**6.1.3 The Connétable of St. Ouen:**

The point raised by the Deputy of St. Martin regarding grounds where ashes are spread, principally the ashes are spread at the Cremation Centre itself, which is administered by Health and Social Services, and so they would be regulating their own ground. I am not sure whether the Deputy is happy with that, but that would be the process. As far as Deputy Le Hérisier is concerned, as far as private grounds are concerned, they will need to be designated as a burial authority by the law, and so it is not a case of everybody just opening up a burial ground. There will need to be stringent regulations in place before such an activity can take place. I maintain the proposition.

**The Deputy Bailiff:**

All those in favour of adopting the principles, kindly show? Those against? The principles are adopted. Now, I am advised that this is a matter for the Corporate Services Panel. The Deputy of St. Peter, in the absence of your chairman, do you wish this matter ...?

**Deputy C.H. Egré of St. Peter (Vice-Chairman, Corporate Services Scrutiny Panel):**

We do not feel we have to look at this one.

**The Deputy Bailiff:**

Very well. Do you propose the articles *en bloc*?

**The Connétable of St. Ouen:**

I do, Sir. They are fairly simple, and I am sure can be taken *en bloc*, Sir.

**The Deputy Bailiff:**



Very well. Are Articles 1 to 7 seconded? **[Seconded]** Does any Member wish to speak on any of the individual articles? Very well. All those in favour of adopting Articles 1 to 7 kindly show? Those against? They are adopted. Do you propose the Bill in Third Reading?

**The Connétable of St. Ouen:**

I do, Sir.

**The Deputy Bailiff:**

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

## **7. Draft Proceeds of Crime (Substitution of Schedule 2) (Jersey) Regulations 200-(P.127/2007)**

**The Deputy Bailiff:**

So, we then return to the Order Paper and the next matter is the Draft Proceeds of Crime (Substitution of Schedule 2) (Jersey) Regulations - Projet 127 - lodged by the Minister for Treasury and Resources. I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Proceeds of Crime (Substitution of Schedule 2) (Jersey) Regulations. The States, in pursuance of Article 36(2) of the Proceeds of Crime (Jersey) Law 1999, have made the following Regulations.

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

We are currently seeing a whole range of draft legislation relating to financial services in advance of the I.M.F. (International Monetary Fund) visit. However, of paramount importance to all of us are measures to deal with the threat of terrorism and use of money laundering to help further terrorist activities. It is not surprising, therefore, that as far back as 1999, well before 9/11, and when few of us had heard of Al Qaeda, that Jersey had already passed a law, known as the Proceeds of Crime (Jersey) Law. However, 8 years on, the need for that legislation remains stronger than ever, but the legislation does need to be kept up to date, and this proposition as amended does just that. The draft regulations have 2 main objectives: firstly to extend the scope of legislation to a wider range of cash-linked activities, and secondly, to take account of moves in relation to casinos and internet gambling following recent debates and decisions in the States. Taking the first objective, these proposals involve a new range of businesses involving lawyers, estate agents, car dealers and jewellers, and they have been discussed at length with the representatives of those industries, all of whom appreciate the need for some form of legislation and monitoring. Although casinos cannot physically operate in Jersey, there is still a need for legislation to deal with external activities which may have a Jersey relevance. Examples of this could be a Jersey company operating a casino in, say, Las Vegas or elsewhere, or an internet betting operation somewhere else in the world. There is also the situation of disaster recovery where those operations in respect of internet gambling can now be paid up through Jersey, subject to compliance with arrangements recently passed in this House. These proposals have been discussed with and approved by the Shadow Gambling Commission. These matters are set out in more details and regulations, but for the moment I ask Members to approve the principle of updating this important piece of anti-terrorist, anti-money laundering piece of legislation. I move the principles.

**The Deputy Bailiff:**

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

**7.1.1 The Deputy of St. John:**

Just a quick question, Sir. Obviously if, let us say, an estate agent failed to declare the fact that cash had been passed over and it was perfectly legitimate, but the owner of the cash likewise had not made the authorities aware that this transaction had occurred, does the person that hands the cash over have any liability at all to ensure that the agent that has received it complies with the law?

**7.1.2 The Deputy of St. Ouen:**

Just a quick one. I did notice in this report that there are some financial and manpower ramifications amounting to 2 staff at an annual cost of £115,000. I would ask the Minister whether or not this particular sum of money has been included in the overall revenue expenditure that we approved last September?

**The Deputy Bailiff:**

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

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

In relation to the Deputy of St. John, although all of us have an obligation to comply with anti-money laundering legislation, the onus would fall on the receiver of the money to ensure that it came from a valid source. As far as the manpower effects are concerned, yes, like the Deputy of St. Ouen, I raised my eyebrows when I saw this sum. It is the figure quoted to me by the Financial Crimes Unit as their estimate of the potential implications, and although it may be more than one might expect, that is information which I have been given based on their experience, which in this area is better than mine. That funding has not been provided for in the Business Plan, and at the moment will have to be found from within their existing resources. I maintain the principles.

**The Deputy Bailiff:**

All those in favour of adopting the principles kindly show? Those against? The principles are adopted. The Deputy of St. Peter, again, this is a matter, I think, for the Corporate Services Panel. Do you wish to have the matter referred to?

**The Deputy of St. Peter (Vice-Chairman, Corporate Services Panel):**

No, Sir.

**The Deputy Bailiff:**

Now, Minister, I think you have proposed your own amendments to Regulation 2, so ...

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

I suggested we take the regulations in the form as amended by myself.

**The Deputy Bailiff:**

Very well. I will just ask the Greffier then to read the amendment, and then we can take it as amended.

**The Deputy Greffier of the States:**

Number one, page 8, Regulation 2. Before clause (i) in paragraph 4(d) of Part A of the substituted Schedule 2, insert the following clause: (i) Paragraph 4, Private Trust Company Business, and renumber the remaining clauses in paragraph 4(d) accordingly. (2) Page 10, Regulation 2, in paragraph 4 of Part B of the substituted Schedule 2, (a) number the existing paragraph as sub-paragraph (1); (b) add the following sub-paragraph at the end: (2) in this paragraph, "cash" means any of the following in any currency: notes, coins, travellers' cheques, bearer negotiable instruments; (3) Page 10, Regulation 2, after paragraph 4 of Part B of the substituted Schedule 2, insert the following paragraphs: (5) Casinos, including internet casinos; (1) the business of operating a casino, (2) for the purposes of this law, a casino is an arrangement whereby people are

given an opportunity to participate in one or more casino games, (3) “casino game” means a game of chance (a) that involves paying or staking against a bank whether described as a bank or whether or not controlled or administered by a player, and (b) where the chances are not equally favourable to all participants; (4) for the avoidance of doubt, the provision of the game commonly known as Crown and Anchor in the circumstances permitted under Regulation 9 of the Gambling (Gaming and Lotteries) (Jersey) Regulations 1965 does not fall within sub-paragraph (1). Paragraph 6, Unregulated Funds Business: the business of a scheme or arrangement prescribed under Article 3(7) of the Collective Investment Funds (Jersey) Law 1988, other than a scheme of arrangement which is not a collective investment fund under the Collective Investment Funds (Restriction of Scope) (Jersey) Order 2000, and renumber the remaining paragraphs in Part B of the substituted Schedule 2 accordingly.

**The Deputy Bailiff:**

Do you propose the regulations *en bloc* as amended, then?

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

I propose the regulations as amended. Dealing with those amendments, the first one, to put in Product Trust Company business as one of the exceptions, is because that business is already carried out independently by a regulated trust company. Cash: the second amendment just defines cash to include other items as near cash such as travellers’ cheques and negotiable instruments. The third amendment brings in casinos following the recent debate by the States which allowed for certain disaster recovery activities and the operating of casinos in that way. Subject to that, the main part of the regulations simply reflects the updated list of businesses which need to be controlled and the activities which constitute areas falling within the scope of the regulations. I propose Regulations 1 to 3.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does anyone wish to speak on any regulations? Deputy Breckon.

**7.2.1 Deputy A. Breckon of St. Saviour:**

I would just like to comment in general terms. The amendments are fairly substantive to the regulations that were proposed, and the regulations were proposed on 24th September and the amendments came 2 weeks ago. Procedurally, Sir, I assume that is allowable for a Minister to do that, bearing in mind that these are substantive amendments because, having studied the main thing, you are then presented with amendments at short notice. So, I assume that there is a good reason for that which I hope the Minister will tell me when he responds, because the question I am asking, Sir, is why these amendments are there when they were not in the main regulations and have come at the sort of eleventh hour. Also, what consultation, or indeed approaches, the Minister has had from somebody - anybody, trade, business or, indeed, from his own advisers that make these amendments necessary that were not foreseen when the original regulations were drawn up, because they are quite substantive and some might be even controversial, Sir. So, I would appreciate if the Minister could respond to that and say what feedback if any he has had to this.

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

Very much on the same theme, because if Members look to page 4 of the proposition, one sees that there be 2 additional staff required at £115,000, and one looks at page 4 of the amendments it says: “Financial manpower implications: there are no measurable financial or manpower implications for the States.” Well, in line with what Deputy Breckon was saying, these do seem substantial amendments. I just wonder, is there substantial increased work, and if that is the case, what are these measurable additional costs? Will they be more than £115,000?

**The Deputy Bailiff:**

Does any other Member wish to speak on any of the regulations? Very well. I call upon the Minister to reply.

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

I think perhaps Deputy Breckon protests too much. There are 3 amendments which were proposed at reasonably short notice. The first is just to clarify the treatment of private trust company business. The second is to define cash more clearly. I think neither of those by any stretch of the imagination could be called major activities. The only substantial addition in these amendments deals with casinos. It was only at the end of last year that this House passed regulations allowing for the use of local providers for disaster recovery services, which highlighted the need for those activities to be extended through these regulations. Following the passing of those regulations, the law draftsmen urgently updated the original Schedule 2 to take account of that, and that is the only area of major significance. The casino amendment, if we call it that, has been discussed by the Shadow Gambling Commission who are the ones primarily interested in this sort of activity, and they signified their approval for the activity. Regarding the Deputy of St. Martin and the manpower: the original regulations had the manpower implication of apparently 2 people at £115,000. The additional amendments which are largely for clarification, apart from casinos, have no additional financial or manpower implications because they are, as I think Members can appreciate, relatively unlikely to have any significant impact at the current time. I maintain the regulations.

### **The Deputy Bailiff:**

Would the Members in favour of adopting Regulations 1 to 3 kindly show? Those against? Regulations 1 to 3 are adopted. Do you propose the Regulations for a Third Reading, Minister? Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show? Those against? The Regulations are adopted in the Third Reading.

## **8. Draft Pilotage (Jersey) Law 200- (P.197/2007)**

### **The Deputy Bailiff:**

We come next to Draft Pilotage (Jersey) Law - Projet 197 - lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

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

Draft Pilotage (Jersey) Law: a Law relating to pilotage. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

### **The Deputy Bailiff:**

Assistant Minister, are you proposing this one?

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

Yes, Sir. It is well known that the waters around Jersey are among the most navigationally challenging waters in the world. It is therefore imperative for the Island to maintain ports that are accessible and safe for shipping. A crucial part of supplying the Island with an open and safe port is the provision of a pilotage service. It is recognised worldwide that it would be both unreasonable and impractical to require masters of ships to have intimate knowledge of all the ports that they visit. Therefore, ports have historically supplied persons with expert local knowledge - a pilot - to ships' masters to assist them in the safe navigation of their vessels through unfamiliar and sometimes dangerous waters. This pilotage service not only needs to be manned by seafarers with a high level of qualification and competency, it needs to be able to evolve and develop in line with modern shipping industry requirements. The present legislation in Jersey controlling this essential

service is out of date, as it assumes a private service requiring the pilots themselves to maintain and operate 2 vessels and does not reflect recent changes to the provision of pilotage. While Jersey Harbours has, for a number of years, administered the service, the service itself has been provided by an independent partnership under the name of the Company of Town Pilots. Over recent years, this pilotage service in Jersey has shrunk, partly due to fewer ships using the port, and the ships that are using the port are larger. A parallel reduction in the number of pilots needed to operate the business has meant that the service operated by the Company of Town Pilots was no longer commercially viable as a standalone business. Therefore, Jersey Harbours have, during this time, employed pilotage trained officers into the ranks of the system harbour master. Now that the remaining pilot serving with the Company of Town Pilots has been able to be brought across and is serving as Assistant Harbour Master or pilot, Jersey Harbours now has full control and administration of the pilotage service. This means that the Company of Town Pilots no longer exists. I would like to record the Island's thanks to the ranks of the highly competent seafarers who have, through the Company of Town Pilots, provided the Island with this little-recognised, yet absolutely essential service, over many years. Internationally, a pilotage service is recognised as an important aspect of port safety and, quite rightly, it needs to be administered by persons with the necessary expert qualifications and experience, to ensure that the service remains as a safety issue and not a commercial one. This law also seeks recognition to the expertise of chief mates of ships, so that they, as well as the ship's master, may act as pilots qualified to carry out pilotage for their particular ship. This legislation seeks to simplify the pilotage provision. Previously the setting out of qualifications required to become a pilot, together with the examination to obtain a licence had been contained in the States' regulations. The current regulations dictate that a pilot must have British nationality and hold a specific medical certificate that, in fact, is no longer available. The type and size of a ship requiring pilots are also dictated by law, and cannot easily be changed reflecting changing circumstances. These are all professional rather than political matters, and are subject to change as new international standards are set. It is therefore felt more appropriate for such matters to be managed directly by the Harbour Master, after he has consulted and taken professional advice from those involved. Under the new law, the Harbour Master will now have responsibility for the pilotage service and not individual pilots. A pilotage board will be made up of persons with expert knowledge in pilotage, and will be able to advise the Harbour Master on all aspects of the provision of a safe pilotage service. The board would only advise the Harbour Master on pilotage issues, and not on pilotage charges. The commercial side of the service, including pilotage charges, will be budgeted for through Jersey Harbours. All the costs in providing and operating the service are identifiable and, as is required of them under this new law, all charges will be reasonable and the users of the service will be consulted before charges are determined. This year's charges will not change with the introduction of this new law. The new law will provide Jersey Harbours with the necessary framework to continue to provide the Island with an essential modern pilotage service. Sir, I commend the proposition to the House.

**The Deputy Bailiff:**

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

**8.1.1 Deputy R.G. Le Hérissier:**

It partly falls into the regulations. The Assistant Minister has given us a very heart-warming speech about piloting forward, so to speak, in a new era. But I notice he has given, and I have shades of the car park debate in the marina occupying my mind - he has given us the word, too, that the Harbour Master will exercise reasonableness. How does a person in those circumstances exercise reasonableness in setting fees? Does the consultation, again warm-hearting though it appears, does it really not amount to much? So, is the Harbour Master, Sir, simply going to sit in his office and set the fees, and there will be no recourse from anyone else as to the decisions he makes?

### **8.1.2 Connétable M.K. Jackson of St. Brelade:**

Would the Assistant Minister just confirm that the revenue from pilotage charges will, in fact, cover the cost of the pilot vessels, especially in view of the fact that the potential revenues, in my view, will diminish as a result of spreading the potential pilots to chief mates and such like? Also, would he confirm the level of certification required by chief mates for becoming a qualified pilot in the Island waters?

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

Tucked away in the Assistant Minister's speech he mentions a pilotage board, or something like that. I have just re-checked, because I cannot see it in the law, and it does not appear to be in the original principles, although I may have missed it. Can the Assistant Minister just confirm what that is going to be; who it is going to consist of; and what it is going to cost?

### **The Deputy Bailiff:**

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

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

Deputy Le Hérissier asks a perfectly reasonable question in light of recent history with regard to fees. The fallback position with regard to reasonableness is that, of course, anybody who should disagree or have cause for recourse with regard to fees that are charged, has the ultimate opportunity to refer the matter back to the Royal Court, should they so choose to do. But I think it would be unreasonable to suggest that a level of fee that is competitive within the marketplace would not be charged, and in any event, one of the suggestions with regard to this law is that chief mates as well as masters will also be certificated. This will help certainly the commercial operators that are moving in and out of the Island on a regular basis, to defray costs because, of course, they would be responsible for their own pilotage services. We should also bear in mind at this particular point that there is pressure from one particular operator, H.D. Ferries, a very important operator for the Island in terms of low cost sea travel. They, at the moment, are pressing hard for the introduction of chief mates to be able to provide pilotage service on board their vessels. Under the current legislation this is not possible, and it is one significantly important driver for modernising this particular law. The Constable of St. Brelade asked about the recovery of cost with regard to this law - not the recovery of cost, but the recovery of cost with regard to the pilotage service. The approximate figures in terms of revenue are £315,000 in the budget for next year. The cost of running the service is round about £197,000. It is showing a profit. We are allocating approximately £90,000 for reinvestment in capital infrastructure and that, in effect, is the 2 pilot boats that will, over the passage of their lifetime need to be replaced. The chief mate and the requirements with regard to certification will be exactly the same as the masters'. There is no difference in qualification between the 2. Deputy Ferguson asked about the Board. The Board is effectively an honorary position. It will be calling upon the expertise of seafarers who have served the Island for many years. Indeed, it is hoped that the members of the Company of Town Pilots who have previously supplied this service will, as they are currently, provide advice to the Harbour Master in matters relating to pilotage issues. It is professional advice that we are looking at in this regard. Sir, I believe this answers the majority of questions that were raised.

### **The Deputy Bailiff:**

I think the Connétable of St. Brelade may feel ...

### **The Connétable of St. Brelade:**

Yes, Sir. I just would emphasise that there is an enormous difference between a certificated master and a certificated first mate, and I think that the level of certification, Sir, is extremely important and ought to be looked into.

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

I take the point of the Constable and I will certainly ensure that we get an appropriate answer to him with regard to that particular point. The Harbour Master, of course, will have the final decision on whether or not a chief mate can be certificated and it would be up to the Harbour Master to ensure that the qualifications are appropriate. But I am more than happy to refer back to the Constable just to confirm the point and liaise with him on the matter.

**The Deputy Bailiff:**

All those in favour of adopting the principles of this law kindly show? Those against? The principles are adopted. I think this falls under the auspices of the Economics Scrutiny Affairs Scrutiny Panel. So, that is Deputy Southern, who is not here. Who is the vice-chairman of his panel? Deputy Breckon.

**Deputy A. Breckon (Vice-Chairman, Economics Affairs Scrutiny Panel)**

No, Sir.

**The Deputy Bailiff:**

So, you do not wish to have it referred to? Very well. How do wish to propose the articles?

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

*En bloc*, if possible, Sir.

**The Deputy Bailiff:**

Very well. Do you propose them *en bloc*, then?

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

Yes, Sir.

**The Deputy Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual articles?

**8.2.1 Deputy R.G. Le Hérisier:**

Just to say, I am not sure that recourse to the Royal Courts is quite the answer I was seeking. If there is no reasonableness in setting fees can, Sir, the Assistant Minister give some comfort in those few situations which I admit where there could be contention, can he give us comfort that a person will be able to make representations and be properly heard?

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

I am just concerned on 3 separate issues. I know there has been a move, as the Assistant Minister outlined during his opening speech on the preamble, Sir, that there is to be a rationalisation of the pilot and harbour launches, but it does occur to me that there is a quite different requirement of the 2 types of vessels. I am concerned that if we have multi-purpose vessels we may end up one day with a pilot boat that is unable to go out in foul weather, particularly if it has a hull such as the previous Duchesse de Normandie had. Secondly, Sir, I am looking under Article 3, the licensing of pilots, (3)(b) of No. 3: "Provide for the examination and checks in respect of those qualifications." Perhaps I have missed it, Sir, but I wonder if the Assistant Minister could direct me to where the examinations are laid out. Who carries out the examinations these days, and who sets the charges for these things? I know, originally it used to be done by the Chief Pilot or the coxswain of the lifeboat. Also, talking of charges, Sir, under pilotage charges in Article 7, I am slightly concerned where it says: "The Harbour Master may make reasonable charges in respect of pilot services provided in accordance with this law." It does seem a rather, dare I say it, casual arrangement, Sir. I see further on that it says the charges will be published, but I would have preferred this to have been by order or by regulation or something, because it does seem to me that there is a possibility

that you can charge one firm a set of charges, but you might charge a different firm a different set of charges, or you might decide not to charge a particular firm. It does seem rather casual to me, Sir, and I am looking for the Assistant Minister to allay my concerns.

**8.2.3 Deputy C.J. Scott Warren:**

Under Article 16, Appeals, could the Assistant Minister confirm whether the appeal to the Royal Court is final - the outcome of the appeal?

**The Deputy Bailiff:**

Does any other Member wish to speak on any of the articles? Very well. I call upon the Assistant Minister to reply.

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

Deputy Le Hérisier again, Sir, regarding fees and the necessary consultation. Yes, Sir, fees absolutely do need to be reasonable and I can assure the Deputy that it is a commercial world that we live in and it is absolutely right that the Harbourmaster should, in fact, consult thoroughly with all the professional parties that are involved in the process of pilotage servicing and that is exactly the way in which we envisage this will work. Clearly there is the ultimate recourse to the Royal Court. I would not expect in matters such as pilotage that that would ever need to be the case because I would expect that necessary consultation between the parties would ensure that the fees charged are commercially appropriate. Deputy Baudains was asking, Sir, similar questions. He was also talking about the rationalisation of pilots. In fact, this move from the Company of Town Pilot, as an individual company, which was not viable to operate on its own can quite simply work, Sir, because within the Harbour Department, and as part of that organisation, the pilots that are employed can multitask. They are not just carrying out the role of pilots; they are carrying out a number of other roles as Assistant Harbourmasters, and because of that it helps defray the costs and the cost base. As far as vessels are concerned it is absolutely important that the appropriate vessels are utilised by the service. There are 2 vessels at the moment which do meet the requirements, I am told, for the pilotage service and if either one of them are due to be replaced in the future, which no doubt they will be, it will have to be with a vessel that is appropriate for the primary task, and that is of pilotage. Clearly we are looking to defray costs and if you can take a vessel or a function and multitask it then that is appropriate, but that would be for the professionals to advise upon; it would not be, dare I say it, Sir, for politicians, or non-professionals to advise on matters such as that. The regulations or orders: Deputy Baudains also requested that the matters should come back to this House in order to be determined. Sir, we are, with this law, trying to move forward away from this House making determinations in that regard. It is, as I have just said, in our opinion, for professionals to be able to determine such matters and it is for that reason that we believe that this particular law is a progressive way forward in terms of dealing with the pilotage services within the Island. Deputy Scott Warren also asked the question, Sir, under Article 16 about appeals. I do believe I have covered that. The appeal process to the Royal Court though would be a final course as far as the appeal process would be. Sir, I maintain the proposition.

**Miss. S.C. Nicolle Q.C., H.M. Solicitor General:**

I wonder if I could just clarify that last remark where the Deputy said that that would be final, so far as the appeal process is concerned. The House will remember that the Court of Appeal amendment No. 8 (Jersey) Law was passed last month and when that law comes into force the jurisdiction of the Court of Appeal will be to hear appeals from any judgment or order of the Royal Court, saving only orders on decisions of the Judicial Greffier so that while the position is as the Deputy has said I think that once that law is in force there will be an appeal to the Court of Appeal.

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

Could I thank the Solicitor General for her clarification.



**The Deputy Bailiff:**

Very well. All those in favour of adopting Articles 1 to 20 kindly show. Those against. Articles 1 to 20 are adopted. Do you propose the Bill in Third Reading, Assistant Minister?

**Deputy A.J.H. MacLean:**

Yes, Sir, thank you.

**The Deputy Bailiff:**

Is the bill seconded? **[Seconded]**. Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading kindly show. Those against. The Bill is adopted in Third Reading. We then come to Corporate Management Board: access to meetings and minutes, Projet 11, lodged by Deputy Baudains. I will ask the Greffier to read the proposition.

**The Deputy of St. Martin:**

Before we commence, this may well run on for quite some time and in fairness to the proposer, who may well just get his speech in and then have the break, could I suggest or propose, Sir, that we may deal with one of the other 2 first and then possibly be in a position to look at Corporate Services immediately after lunch.

**The Deputy Bailiff:**

Very well. Does the Assembly agree to proceed in that way?

**9. Income Support Medical Appeal Tribunal: appointment of members (P.20/2008)**

**The Deputy Bailiff:**

In which case we will take the Income Support Medical Appeal Tribunal: appointment of members - Projet 20 - lodged by the Minister for Social Security and 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 appoint, in accordance with Article 15 of the Income Support (General Provisions) (Jersey) Order 2008, further to a process overseen by the Jersey Appointments Commission, the following persons as members of the Income Support Medical Appeal Tribunal for a period of 5 years; Advocate Zoë Blomfield, Chair; Miss Kate Doherty, Deputy Chair; Dr. Sylvia Milner, Medical Practitioner Panel Member; Dr. Brendan Loane, Medical Practitioner Panel Member; Mr. Andrew Green M.B.E. (Member of the Order of the British Empire), Panel Member; Mrs. Barbara Bedford, Panel Member; Dr. David Moody, Panel Member; Mrs. Sandra Le Monnier, Panel Member.

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

This new Medical Appeal Tribunal is to help support the introduction and implementation of the income support system. It revolves particularly for any appeals with regard to impairment components and I am very pleased that the people who have put their names forward and have gone through the selection process from the Appointments Commission have now allowed their names to go forward and I propose the names, Sir.

**The Deputy Bailiff:**

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

**9.1.1 Deputy G.P. Southern:**

Just a series of questions really. First of all, the 2 doctors on the list; could the Minister inform Members whether they are currently practicing, or whether they are retired doctors? It seems to me

that where possible we should get doctors who are currently practicing and are aware of the latest trends in treatments, et cetera, and whether there is any psychological or psychiatric assistance because a great area, where the grey areas are, are concerned with mental illness; depression, bipolar, where assessments of capacity to work or incapacity to work, are very much subjective and could probably do with assistance. Certainly it has been a problem in the past; and thirdly, what sort of speed of response this tribunal can react with. If an applicant for income support has a benefit, or an addition, a unit withdrawn that can cause severe hardship on a relative scale to their income and if the Appeal Board cannot react quickly then it could well be that income support applicants are put in financial distress as well as the stress of going through an appeal process to establish what their benefit is.

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

I congratulate the Minister on the appointment process. There appear to be a good range of people and it is very good to see people who have come up through the system, so to speak, although I am sure we would not wish that to happen, but it is very good to see that. Could the Minister, Sir, address the issue; is there a certain balance, or a certain kind of representation sought on the panel?

#### **9.1.3 Deputy C.J. Scott Warren:**

I would just also like to have clarification regarding each sitting and hear the situation regarding a person, whether there will be sufficient mental health representation when that is appropriate.

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

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

#### **9.1.4 Senator P.F. Routier:**

With regard to whether the doctors are practicing or not, Dr. Milner has been a medical practitioner for a number of years, 40 years. I have to say I am not 100 per cent sure whether she is still practising or not, but she has a wide range of experience of disabilities and medical problems, but I know for sure that Dr. Brendan Loane is a current medical practitioner who is operating today to update his standards. But any doctor who is on the panel will have to have up-to-date training on a regular basis to ensure that they have appropriate skills to carry out their work. The psychiatric input, which both Deputy Southern and Deputy Scott Warren asked about; within the panel itself there are some people who do have experience in mental health issues, even in the lay members, and also the medical profession and also the legal people as well, but aside from that people can be called in as expert assistants as a separate matter to assist the board if there is a particular need. If the panel feel that they want extra support they can call for that to be provided to them. Deputy Southern also asked about the reaction time for the tribunal. We have made it so that there is a selection of people that can be called to tribunals to ensure that we are able to react as soon as we possibly can. The people who have put their names forward are very aware of the need to give a decision as soon as possible and they have a commitment to do that for us. So, it will obviously come to a tribunal once the application has gone through. Two determining officers will obviously have made a decision at some stage and if that has been in the negative then the applicant has the right to go to the Medical Appeal Tribunal and, as I say, the whole team of the tribunal are aware that they are under pressure to get that decision made as quickly as possible. Deputy Le Hérisier asked about the balance of representation. Yes, we obviously have the balance, being that we need somebody with legal abilities on the panel, medical and also we have balance as well in the lay people who have had a lot of knowledge about medical and needs within the community. So, we do try and create a balance and also obviously the selection procedure has managed to achieve that. I maintain the proposition, Sir.

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

May I seek clarification? In the circumstances where a determining officer has made a determination and the applicant has appealed, is it the case that the payment will be withheld or

reduced until the appeal is heard, or will the payment be made? Because any sudden reduction in the income of particularly vulnerable clients such as are on income support, is going to be a shock. How will the system work? While an appeal is being heard, will payments still be made, or will there be access to receive special payments in order to cover the temporary hiatus in income into the household?

**Senator P.F. Routier:**

Income support, as Members will know, is made up several components. This is just one section of the components, so an applicant would still be able to claim their living allowance, their rental allowance. This section is specifically just for the medical allowance. It will be for the Determining Officer to make the decision about what would happen to the benefits during that stage.

**Deputy G.P. Southern:**

Could I further, Sir, press the Minister? It sounds very comforting that the other components will be in place, however, for impairment components they are quite substantial payments. The difference between receiving and not receiving of the order of £125, or £400 is very significant. Will he guarantee that no payments will be withdrawn until the appeal process has been heard? Because that could be quite significant.

**Senator P.F. Routier:**

While the Deputy was talking to his colleagues next to him I gave that comment about how that would be dealt with. It would be for the Determining Officer to assess each case as to what would happen.

**The Deputy Bailiff:**

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

**LUNCHEON ADJOURNMENT PROPOSED**

**The Deputy Bailiff:**

The adjournment proposed and agreed to. The Assembly will reconvene at 2.15 p.m.

**ADJOURNMENT**

**10. Corporate Management Board: access to meetings and minutes (P.11/2008)**

**The Deputy Bailiff:**

The next matter is the Corporate Management Board: access to meetings and minutes - Projet 11. 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 request the Chief Minister to (a) make available for elected members the minutes of the Corporate Management Board meetings, (b) to arrange that elected Members are advised of the meetings so that they may observe those meetings should they so wish.

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

I thought I would start by addressing the comments of the Council of Ministers which we recently received. I must admit I had thought originally of ignoring them but then, having looked more closely, I realised, Sir, that they have excelled themselves this time and unfortunately they seem to

be getting better with practice. Using the straw man principle, that is; ignore the argument at hand, create a fresh argument, demolish that and then pretend to everybody that you have demolished the first argument. Frankly I expect better from Ministers, Sir, because they have been very clever. They have changed my words “develop policy” into their own “determine policy or develop and agree proposals.” There is a world of difference. I believe it reflects badly on the council that they need to conjure with these words in order to defend their position. They have also contradicted themselves in this document, Sir, by admitting that officers of the States of Jersey are responsible for advising on, and implementing, such policy. Advising. The role of the Corporate Management Board is to provide policy advice to the Council of Ministers, exactly the point I was making, Sir, which those of us who served on committees will fully understand. The Minister, or previously the committee, decides policy but of course it is the department who develop it and advise accordingly. I did not find, as Members will have gathered, the comments of the Council terribly helpful, Sir. When one looks at comments such as this: “As such it not only seriously undermines the reputation of the States of Jersey, it questions the fundamental principle of democracy, that those who are elected by the public must be responsible for policy decisions. The implication [of what I said] is that Ministers who are elected by the States Assembly do not fulfil the responsibility and the trust that is placed in them.” What a load of rubbish. Then, Sir, there is more. We come to page 4 near the top referring to my report: “The report implies that they, knowingly or unknowingly, usurp the roles and responsibilities of Ministers in the States. The implication not only impugns the reputation of Chief Ministers, it also demeans the authority and standing of the States itself.” Shredder material, Sir. I really do believe that the Council of Ministers need to start acting responsibly. This is supposed to be an age of open government, but it appears now that which doors remain open is in the gift of the Chief Minister or his Council. We know from previous answers to questions that the Chief Minister’s case hinges not on a confidential issue, but on his assumption that it is not necessary for politicians to know what goes on. Well, I have 2 observations relating to that position. I do not believe it is for him to decide what Members should or should not do, and I believe it is entirely right that Members should be aware of what is being done in their name and using taxpayers’ money. There must surely be a presumption in favour of openness, not in favour of secrecy, because there is already a suspicion from this side of the House as to what Ministers and Assistant Ministers are really doing and this sort of exclusion, Sir, does nothing to allay those fears. In the days of committees when all Members were on the Executive they understood how departments functioned and the colleagues you opposed on one day, you worked alongside on another day in a different committee. That is all gone. Many in this Assembly have not seen, or not been involved in the Executive. They have never sat down with officers and worked through policymaking decisions. Sir, because of the fluidity of different team mates from one committee to the next has also been lost there is now polarisation and this exclusion adds to that polarisation. It makes it doubly important that there is no hint of barricades by the Executive to keep others out because I believe that such a perception can only exacerbate the niggling problem that we have. I also found again in answers, at previous questions times, quite worrying the statement that it is not a politician’s job to monitor the employees’ output, especially when that comment came from the political head of human resources. I contend, Sir, it is very much our job to ensure what is being done is what we intended because if we do not there is effectively no accountability. To give an order and then wait until the job is finished before assessing the cost, the efficiency, the methodology, is simply not responsible because for too long our public services have operated with management structures and practices that in many instances belong to a bygone age. How are we to influence change, bring about efficient practices and structures, more akin perhaps to those found in the private sector if everything goes on behind closed doors? We simply do not know. It is clear from the comments that have been issued, Sir, that that is the way the Council likes to operate but it is not the way I work. I want an efficient public service, one where employees are valued and the taxpayer gets value for money. But, Sir, and I want to stress this point because it does get distorted by people for their own ends, not for one moment am I suggesting that we should be standing over people watching them work because if we

have to do that we have the wrong people in the job. What I am suggesting is that knowing how our senior management works would keep us better informed as to the efficiency and appropriateness of the work they do. Apparently, again if recent answers to questions are anything to go by, not even the Council does that. Well, perhaps they should. Another benefit of being aware of the senior officers' *modus operandi* would be a better understanding of how our public service works, by those I mentioned earlier; those Members who have never experienced committee or executive government. Another reason, Sir, given for denying access to the Corporate Management Board is that it only deals with implementation of States' policy. Well, how do we know that? We are denied the opportunity to see for ourselves. We simply do not know. I mean, given the fact that the combined salaries of the people who constitute the board is probably well in excess of £1 million per year, I presume at these meetings they are not discussing their golf handicap. I also hope that they are not discussing minute operational details. I would hope that they are in fact discussing policy. Indeed the Council of Ministers admits in its comments that they do discuss policy and each department will be formulating new policies and amendments to existing ones for consideration by the Minister. It happened before under committee government where usually 7 Members were able to apply their minds to policy and other matters but now there is only one person, so a delegation to officers has been greater than ever before. Surely one of the main functions of a Corporate Management Board is to make sure that the policies of the various departments integrate with each other, but as I said we do not know. We are not permitted to attend the meetings or see any notes or minutes. This truly is a secret society and makes one wonder who the Grand Master is. I was not happy when this board was first created without a great deal of debate and the fears that I had then have now been confirmed because for years, Sir, like several other Members with a guise towards scrutiny, I have been frustrated by the way certain projects seem to have gathered a momentum of their own before they even come to our attention, by which time they do they appear to be virtually unstoppable. It seems not unreasonable to me to suggest that the management board must be, if not the starting point, at least in at the beginning of such schemes and therefore it can only be of benefit to States Members if there is openness rather than secrecy surrounding these meetings. There can, in my view, Sir, be no excuse for holding these meetings behind closed doors any longer. If matters of a commercially sensitive or confidential nature come before the board there is no reason why they cannot behave like any present committee or panel whose meetings, unlike the board's, are open to the public. There is no reason why they cannot have a Part A and a Part B agenda. Sir, if the board's meetings really are as uninteresting and irrelevant to Members as the Chief Minister has suggested then Members will only go once or look at the minutes once and will not trouble them any more, but at least the present uncomfortable air of secrecy would have been removed. So, I make the proposition, Sir, and I will answer any questions to the best of my ability.

**The Deputy Bailiff:**

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

**Senator M.E. Vibert:**

Could I ask for a clarification before the debate starts. In the body of his report and in his speech the Deputy refers to Part A and B minutes and agendas, but in the proposition no such distinction is made, so I am somewhat confused and also no distinction is made about access to meetings, whether it be for Part A agenda items open only, or Part A and Part B agenda items, and I wondered what the situation was. Would we by passing this proposition be saying all minutes, as in the body of the report, or would there be a reference to Part A and Part B minutes and Part A and Part B of the agenda?

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

What a pity he did not pay attention, Sir. I said that there was no reason why they could not have Part A and Part B minutes if it was deemed necessary. Whether they have Part A and Part B

minutes at the moment I have no idea because I am not allowed to see them. If they have one type of minute that encompasses all, or one set of notes that encompasses all, and there is confidential or otherwise commercial sensitive material in those notes then clearly that could be put on to a Part B agenda and handled in the normal way.

**Senator M.E. Vibert:**

I was asking because I was listening to the Deputy and what he said was at odds with my understanding of the wording of the proposition.

**The Deputy Bailiff:**

I think this is a request to the Chief Minister to bring forward the proposal of these matters and no doubt the Chief Minister, when deciding what proposals he would bring forward, if the proposition is passed, would take account of the fact that the proposer himself has made it clear that some matters would have to be confidential and no doubt the proposal would reflect that. Does any other Member wish to speak?

**10.1.1 Deputy J.J. Huet:**

I thought I would stand up early because I know you do not like us to sort of repeat ourselves and to have something new to say so I thought that if I start then I am certainly not following anybody else. To start, I think that things should be transparent and I think they should be minuted. Now, why do I think that? Well, the late Senator Vernon Tomes, who I served with on the then Public Services Committee, and it was not until I served on that committee that I found out something that I guess the majority of this Chamber, at that time, did not know because there were no Scrutiny Panels in those days, so you only had your committee members. I felt that where it says it impugns the reputations of chief officers, it is the other way around. I felt very sorry for our chief officers because I am going to talk about the Cavern. I know it is going back but the Cavern is still thrown up regularly on a regular basis and it was only when I was on that committee I found out from our officers that they had said right at the beginning what the price of the Cavern was going to be and they said if anybody came in with anything cheaper it was a joke, it would be made up in other ways, but that was the actual price. Do you know, Sir, when at the end of the day it all finished years later, they were dead right. Now, if that had been minuted and if it had been transparent for anybody to look at it and see it, it would not have just been the 7 people on the committee that would have picked that up, other people would have picked that up and somebody might have said: "Hold on a moment, you know, this is so and so, we should not just be going because this is the cheapest." So, I think it is a cover. It covers the officers as well in this case. It covers their reputation because I felt our officers did suffer on that one. They were always accused of not knowing their job. They did know their job. It was the politicians that did not listen to them. Now, where else shall I go next? I can have a great time here, Sir. The La Masurier site. Again, I never worked out where it was decided what the price was, but we were told what the price was. It was way out. Again, if it had been open we would have learned something. We have seen so many mistakes go through this House it is an embarrassment. We have the La Masurier site; the latest was the States' housing. I am not blaming the Minister because he had to take the blame because he is the Minister but I do not think for a moment that it was his fault. I never have. But if everything had been minuted from way back you might be able to pin the right things to the right people. I could say the same for the Girls' College, dare I say the Waterfront? I also think the Les Pas Holdings. I think was another thing that was mucked up. I am just saying I really believe these things should be minuted. They should be transparent and I will be supporting Deputy Baudains. I know he does not have much time for Assistant Ministers, fine okay, but I am still going to support him because I believe he is correct here. Thank you, Sir.

**10.1.2 Senator F.H. Walker:**

I think many people would feel that at first sight this is a relatively simple, almost no-brainer-type proposition and I have no doubt that it is very attractive, obviously to Deputy Baudains and Deputy Southern, and indeed Deputy Huet, and no doubt would be attractive to others as well. So, why is the Council of Ministers not supporting it? Why are we not, in that context, expanding on the open government philosophy that is behind virtually all that we do? Why are we opposing it? The reason is that it is nowhere near as simple, as straight forward, and as harmless as it looks on the surface. Nowhere near, and the only reason we are opposing it is because there is a cost, potentially a very significant cost both in terms of money and efficiency if this proposition is accepted and the Council of Ministers cannot and will not sit back and accept a proposition where there is a hidden cost and a hidden impact on efficiency, which of course has not in any way been spelt out in the proposition. So, the reality, as opposed to the simple thinking behind the proposition, is very different. In fact, the whole report and proposition is based completely upon a false premise. I was not quite sure where the Deputy was going when he started his speech by talking about the Council of Ministers misquoting him, but I will now quote from his report because that is what we have referred to in our comments and paragraph 4 of the Deputy's report, Sir, if I may, says: "If the Council of Ministers truly believes it develops policy [it develops policy] it deludes itself and misleads others. The truth is each Minister is briefed by his department, meaning in fact that it is the department which develops policy." Now, I cannot quite see where our comments have departed from the Deputy's own quoted words in his report. He is suggesting ...

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

If he would give way, Sir, it is quite simple. The Council of Ministers have suggested that they have attempted to replace the word "develop" with "determine" and there is a world of difference between the 2.

**Senator F.H. Walker:**

We have used the word "develop" and quoted the Deputy entirely accurately in our report. I think that is an absolute non-point. The whole point is that the Deputy completely misunderstands how executive government works and the relationship between the chief officers and the politicians and the respective roles of chief officers and politicians. He just does not understand the structure of government that we have established, nor the way it works and the differential between politician and officer and the differing responsibilities between politician and officer. Let me, for the avoidance of any doubt, and I have said this before, say for the record categorically that no officer develops policy. Officers advise Ministers on the policy options facing them, but it is Ministers and ultimately this House which develops and approves policy. There is no possible alternative to that. It is only the politicians who can approve, accept and take forward policy, only the politicians, and so the whole basis for this proposition is based on the wrong premise. I would say that there is a fundamental principle of democracy that only politicians take policy decisions, yet the Deputy is alleging in this report that it is in effect the department that takes policy decisions. It is just not true, nor is it possible in our system of government. It is just not possible because the States have set up structures, those structures are adhered to and the Deputy either misunderstands or is blurring the various responsibilities that the States themselves have approved. The Deputy suggests that we do not know whether officers approve policy or develop policy, or formulate their own policy or not, but I challenge him to give any examples of a policy which has not been approved by a Minister and in all major cases not been approved by the States. Where are the examples to support his assertion? He cannot give any, because they simply do not exist. In answer to Deputy Huet's point about protecting the officers, just again to look at a point of operation, Ministers and only Ministers have the power and ability to sign off decisions and when they do sign off those decisions all papers relevant to those decisions, including the advice from officers, has to be appended to the decision document. So I hope the Deputy would accept that the points she made about protecting officers is not relevant because the officer's advice has to be appended to the Minister's decision where it is appropriate and where advice has been given. So, the officer's view is clear for all to

see, but the crucial point is the Minister and only the Minister has the ability to either accept or reject that advice as they wish. They are under no obligation obviously to accept it and only they can decide whether they wish to, or whether they wish to reject it, and what the policy should be. So, I say again, the whole premise of this proposition is fundamentally flawed, misguided and misunderstands where we are at. The Deputy also said that there has been an increase in delegation to officers since Ministerial government came into being. I would like to know where because in my experience officers have always advised politicians. They have advised committees in the past. Now they advise Ministers. Where are their additional powers? Other than working together as a team, which we asked them to do, indeed insisted they did when we approved P.122 in 2001, other than improving efficiency, other than bringing all the departmental issues together so at last we have a co-ordinated government, where is the additional delegation? Where are the additional powers of delegation that the Deputy uses to, in part at least, support his proposition? The implication behind the proposition is that Ministers are not doing their job and civil servants are doing their job for them. If that is really what the Deputy believes then he should bring a vote of no confidence in the entire Council of Ministers because clearly **[Laughter]** ... maybe, Sir, the Deputy should and I would be more than happy to lock horns with him in any such debate. But that is the implication of what he is saying; that Ministers, and indeed I have to say Assistant Ministers, are not doing their job and senior civil servants are taking the policy decisions for us and fulfilling the job of politicians, but where is the evidence? There is none evident in his report and proposition. None whatsoever. I would be interested to see if he could supply any in his summing up, but I very much doubt it. This proposition, simple, harmless, unimportant, as it may appear threatens to undermine Ministerial government, the role of Ministers, and indeed the role of Assistant Ministers as well. It threatens to do that because it seeks to blur the edges and confuses the respective roles of politician and officer. I think a very important point here. Ministers are legally accountable for their decisions, legally accountable, not just accountable as they must be to this House, but accountable in law as well. Now, what Minister in his or her right mind is going to delegate the sort of power and authority that the Deputy's proposition suggests is happening, to somebody else, to an officer and then without influencing the decision, without being responsible for the policy, without taking the policy decision? What Minister is going to delegate that power and then possibly find themselves in court as a result? I will tell you; no Minister that I know of. Certainly not a member of my Council of Ministers. They would not even think of doing that because they recognise the responsibilities they have and they work to those responsibilities. Now, of course minutes are possible. There is no doubt about that. It is absolutely possible to keep minutes. At the moment the only minutes kept by the Corporate Management Board are action points. They do not have minutes in the way that we understand them. They do not have minutes in the way that committees used to have them, the way that the Council of Ministers currently has them. They have action points. So, of course those could be made available. Absolutely. Those could be made available, but if the House wants full minutes then it will mean a change in structure, it will mean the Greffe becoming involved, it will mean additional bureaucracy and it will mean additional cost and there will be a consequential impact upon the discussion, the freedom of discussion at C.M.B. (Corporate Management Board) meetings and consequently their effectiveness, and for what? Will it impact one iota on the way this House takes its decisions? Will it impact one iota on the way that the Council of Ministers decides policy? At the end of the day, no. All it will do is reduce the efficiency of the Corporate Management Board and add cost. So, okay, it is appealing. It is open government. Fine. But open government in this context comes with a cost and we cannot possibly ignore that or overlook it and nothing material will be achieved as a result. Cost and inefficiency are exactly the reverse of what the public demands. Exactly the reverse.

**Deputy J.A. Martin:**

Sorry, Sir, would the Chief Minister give way a minute? It is a point of clarification and before he finishes his speech that is 4 times now he has mentioned cost and manpower. I am hoping by the end of his speech he tells us the actual cost and the manpower impact. As I say I would like to



know the costs. He may not know it but I am sure he has a chief officer around somewhere who could at least find somewhere near the pound or penny for the House please. I really think he is making this point very strongly and I think the rest of the House would like to know the cost.

**Senator F.H. Walker:**

I cannot answer the question in terms of what would be the additional cost, but it does not need too much thought, I would suggest. Firstly, if they are going to be proper minutes, and in fact the report and proposition are clear on that, as we have come to expect them from the Council of Ministers and in the past from committees, we will need a committee clerk. Committee Clerks cost money. Then there is the cost of checking the minutes, the time taken, the cost of distributing them and so on. Now, it may not be enormous. It may not be enormous, but there is a cost. But the biggest cost is to the efficiency of our chief officers and to the Corporate Management Board. Members may deride that and if Members do want to put open government ahead of efficiency then that, of course, is for Members to decide. Sir, the proposition, and I do not know whether the proposition is divided or not, but it goes much further than seeking minutes. It also suggests that Members should have the right to sit in on Corporate Management Board meetings and observe, and I have to say that is entirely undesirable and will have an even worse effect on the freedom of discussion and the freedom from political influence that the Corporate Management Board has when they are discussing the matters they have to discuss at their level. Members will not be any the wiser in terms of policy formulation because policy formulation will just, as it does now, come through Ministers and come to this house for verification. What the Council of Ministers does is accept and have a very clear idea of what the differential is between politician and officer and we trust our officers in the first instance to get on with their job, but we also hold them very firmly accountable. Again, another misstatement in the Deputy's report where he says he does not see that these people are held accountable at all. Absolutely not the case. They are held accountable by their individual Ministers and held accountable by the Council of Ministers as well and, of course, Ministers are then in turn held accountable, as I have already said, legally but also by scrutiny, which is exactly the system and the structure we set up. So, there is full accountability at every level already and what are we going to achieve by approving this proposition? Blurring the edges, and I do say it again, I make no apology whatsoever for doing so, impairing the effectiveness and efficiency of our senior officer team who are doing a first class job at this moment in advising the Council of Ministers on the right policies for Jersey, policies which principally are included in the Strategic Plan and the Business Plan which of course have to come to the States for approval. So, where is any shred of evidence that officers are making up policies? It is just not possible. Under our system it just cannot happen. It misunderstands the role of executive government completely. Sir, as I have said, everything is possible. The House can vote in favour of keeping minutes, circulating minutes, of Members sitting in on Corporate Management Board meetings if they wish and I have no doubt there will be those who will say the Council of Ministers is overreacting to this proposition. I have no doubt about that at all. The fact is we know we are not. We know there is a real issue lying behind this proposition; not just of misunderstanding, not just of undermining the structure that this House has agreed to set up, but hampering efficiency and effectiveness as well. So, Members have a simple choice to take, in the view of the Council of Ministers, and particularly my view. Do we vote for open government, as some Members will see it, basically for the sake of open government, or do we vote to continue the efficiency of the system we have and the efficiency of our government? That basically is the choice facing members. I think I have made it clear where I sit. I think the Council of Ministers have made it very clear where they sit and I hope Members will think very carefully about what underlies this proposition, the gross misunderstanding that has spawned it, and the problems it will cause if it is accepted. It is not as simple or as up-front as it first looks. There are real implications and I hope Members will take those fully into account when they arrive at their decision. Thank you, Sir.

**10.1.3 Deputy S. Pitman:**

Just like the fact that non-Executive States Members cannot access Part B minutes of the Council of Ministers meetings unless they are undertaking a review as part of a Scrutiny Panel on an issue spoken of in the meeting, the difficulty with this is that there may be issues that Scrutiny would want to scrutinise but that because they are under Part B minutes we cannot get hold of them, and I think we have this situation here that we cannot get these minutes. May I suggest, Sir, that we abandon the communications unit which costs us £250,000 per year which is there to make Ministers look good and use that money to keep States Members informed.

**10.1.4 Deputy G.P. Southern:**

I am glad I came back this afternoon to listen to a classic Chief Minister's speech. Wonderful stuff. It is what he does every time but this time it really cannot wash. The first thing he does is to set up an end of the world Armageddon scenario. Deputy Baudains there is the institutor of Armageddon. This will undermine our democratic government, it will undermine the roles of Ministers, and of Assistant Ministers, and it will undermine the very structure of Ministerial government. Take a good look. Does this look like the man who can undermine democracy? No. Thank you. But yet we are asked to believe this. A classic straw man set up so that the Chief Minister can destroy it. Of course it is arrant nonsense, but nonetheless he has gone through the motions. Secondly, and here is the other weapon often used by the Chief Minister and I advise Members to keep an eye out for it, is to then say that the good Back-Bencher, or Scrutiny member, misunderstands. Classic. So, misunderstands, built on false premise about government, about how executive government works, and then he says: "Of course officers are only there to give advice. They do not decide on policy. They only give advice." Well, I think it is a jolly good idea if we knew what advice they were getting and it was minuted and then we can have an idea whether the Minister has made any sort of sensible choice, or whether he has just ignored it. That would seem to me a sensible thing for this House to know and that is what we are asking. What advice was given? He then says: "Give me an example." A wonderful classic: "Give me an example of anything where the powers have been delegated to officers which should not necessarily be." Well, I can think straight away of one. The Chief Officer of Housing now has the power to evict. I would have thought sensitivity of eviction notices is such that it should be a Ministerial ...

**Senator T.J. Le Main:**

On a point of order, only if the Minister and Assistant Minister are not on the Island and it is a very urgent issue.

**Deputy G.P. Southern:**

Absolutely urgent to get somebody out of their States housing while the Minister is away. I do not think so. Anyway, powers delegated, I would say, inappropriately, to officers. He then says: "Now, of course on the surface this looks like a simple no-brainer, apple pie proposition." He then went on to suggest that that was merely a first glance and should not be taken at face value because this has a cost and would render tremendous inefficiencies in the system. Come off it. Pull the other one. This House has a choice today. Does it wish to know more about how Ministerial government is working, or does it wish to leave the door closed and keep the previous policy of decisions taken time and time again behind closed doors? Does it wish for an open government philosophy? This is one way to make that happen. The Chief Minister himself said: "Open government philosophy lies behind almost all we do." Almost, except this particular bit. Come on. This is a clear decision. If we want continuation of secrecy and closed doors in government, or do we want to know as much as possible, as much as we need to, about what is going on? This House has a clear and simple choice to vote for openness, or to vote for closed doors.

**10.1.5 Deputy G. De Faye:**

There have been some interesting contributions so far, but I think Members should really sit back and consider what they really think this proposition will achieve. I also have to say it is a bit

worrying to see the lack of grasp that some Members have on modern management techniques but I will come to that later on. There is a small caucus of Members within the Assembly who believe that there is some sort of covert conspiracy going on. That despite the fact of having ostensibly open government that as soon as things disappear into the dark heart of the civil service behind these closed doors, and where things lack transparency there is some sort of other government in control. It is a fascinating theory, so I suggest that Members pursue it a little because if that indeed is the case and the real government in the Island is not the transient States Assembly with its Members here today and gone tomorrow, or in 3 years' time, but it is in fact the civil servants who are there on a career basis until they retire. If it is in fact those people who are genuinely running this Island and all its administrative functions and the policy formation as well, do Members seriously believe that by sitting on the Corporate Management Board meeting, as an observer, they are going to blow this open? It is barely credible. Do Members seriously believe that if they can all get access to the minutes that they are going to get the minutes of the real meeting, or will they get the minutes of the meeting that the Corporate Management Board know are going to be read by States Members? Do Members really believe that if they can all, either by notice or interestingly by surprise, turn up at a Corporate Management Board that they are suddenly going to hear everything that would have been said if they were not there? No, of course, States Members, you know the score. You know perfectly well that if the minutes were transparent and if the meetings were open to Tom, Dick and Harry there would be another meeting going on somewhere else with a similar group of people who would be saying what they really thought of you, which is what they do not do when you are there. So, what do you think you are going to achieve? You are just going to push things down to another level, assuming that that is what is going on. Let us just assume that there is a dark side of government. I simply say to Members if that is the case, all you are going to do is you are just going to push it further under the boulder and you are not going to achieve a thing. Now the other thing I would like to suggest to Members, and this really relates to about how management works efficiently, when I first took up my role as Minister I did consider whether I should go to my own Transport and Technical Services management meeting, and I took advice on the matter from very senior people: both politicians and in the civil service. The advice was very clear: if you want to stymie the meeting, Minister, go and sit in there, because they will just talk about what they think you want to hear, but they will probably not row in front of you and the meeting will be conducted with enormous decorum and courtesy and politeness, but will achieve very little. If you want a functioning management team, let them get in there and mix it among themselves, because they will scream and shout at each other, which they certainly would not do if you were imposing your presence, and they will probably be more efficient as a result. Let us look at some of the other things; some of the other advantages about not being formal. If you really want to curry favour with journalists, you do not insist that they are all standing there with their pens at the ready. What you do from time to time as any sensible politician well knows is you say: "Look, could you just put the pen down here and we can go off the record for a moment, and I will tell you what is really going on. Of course, I cannot really tell you this, but it will be useful to know because then you will be able to write a better picture of what is really happening. I will give you something that you can quote me on after we have had a good chat." That is like saying: "Let the Corporate Management Board function without having to provide minutes." Put the pens down for a change. It is a more effective way, as politicians know, of communicating with journalists, and this is the sort of theory that applies right across the board to all sorts of management set-ups. I simply say: "This looks jolly fun, does it not, at face value?" Let us burrow into the heart of government, let us try and dig something out, expose it, open it to those wonderful words "transparency", "openness" and so on, but will it achieve anything? I suggest to Members that no, it will not, because whichever one of these theories you support, either the heart of darkness of government will just submerge to a lower depth, or you are simply imposing artificialities and rigours of recording which do nothing to encourage your management team to get on and manage in an efficient way. I say that the best approach is to let managers get on with managing and if they do not deliver, that is when you can come in and crack the whip. But you have to give them a

chance to manage themselves and not be sitting in there like ink monitors supervising how the form and the classroom is operating. It simply will not work, and we really are going to waste everybody's time by agreeing this, because it simply will have no serious impact whatsoever.

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

I am very pleased that I am able to stand up and follow the Minister because you heard every word for it, he is always very eloquent and he is very humorous and everything else, but he has on another issue just told me why I, as an Assistant Minister, cannot go in and listen to the Council of Ministers' meetings, and he has also told me why I cannot see the minutes of the Part B section. So why do we think today that this proposition is going to go through? Because if it does not go through for the Assistant Ministers who are supposed to be part of the Executive, the Council of Ministers, certainly this one has not got a hope in hell. I would agree that in Part A that it would be very useful not just to have action points so you know what the end result is, I thought it would be quite useful even if they did not have full minutes that required the services of the Greffe that someone would record the points of discussion that went into consideration, and this was the final decision. Because it would be something that I would have thought that the various officers might have wanted to discuss further with their Ministers, and the Minister might have wanted to discuss it further with his Assistant Minister and other officers; that it might have had some useful bearing. But having said that in relation to B, the elected Members should be able to go in and observe. I do not think there is any hope in hell of that happening. As much as I would like to see this proposition going through, I think it was described the same as one of my previous chiefs of police: he was before his time. I think this one is before the proposer's time. Thank you, Sir.

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

Well, the poor Assistant Minister for Education obviously will not have a hope in hell if he never supports anything that will open up government to everybody else, but as an Assistant Minister if he wants to get some Part B minutes maybe a good Assistant Minister would bring a proposition or maybe they would resign their post. But getting back to why I am going to support this, and I probably take responsibility because when the Chief Minister was on his honeymoon all that time back in October 2006, I brought a question because I was having difficulty finding out something I thought was personally reasonable that I was told was discussed. As Deputy de Faye would say: "The pens were put down. Go and ask what was discussed at Corporate Management Board to find out what you need to know." So I thought: "A friendly email to the Chief Executive Officer, I may." No. The answer was: "I table these meetings, I chair these meetings and I decide who finds out the information." As I said, what I wanted to know was in the public domain in the end anyway. But it was the attitude and I did not like it. So I brought the question to the Chief Minister - obviously it was the Deputy Chief Minister - in October. I have 2 problems: I have the answer that I received from the Deputy Chief Minister then, which I will quote in a minute, and I also have the answer and comments that are in the report from the Council of Ministers; the comments. Of course, we have been told by the Chief Minister how much this will cost and everything, and in the penultimate paragraph on page 4 they say: "Well, we do not take minutes and it is not done." Well, when I asked the question, Sir, on 10th October and I will quote it - it is a small paragraph - I asked: "Would the Deputy Chief Minister inform Members who sit on the Corporate Management Board how often it meets, whether proper minutes are kept and who the minutes are distributed to?" Answer from the Deputy Chief Minister: "The Corporate Management Board is made up of chief officers of the 10 departments of the Executive, together with the Chief of Police, the Director of Human Resources. In addition, the Greffier of the States, the Director of Property Holdings are invited to attend. The board meets fortnightly and minutes are prepared by a research project officer in the Chief Minister's Department. Copies of minutes are distributed to board members and the secretaries, as well as to the Greffier of the States and the Director of Property Holdings. Copies of minutes are also sent to the Deputy Chief Executive and the Policy Adviser in the Chief Minister's Department." So, this was researched then by the Chief Executive Officer. That was the

answer this House received just over 12 months ago. There are other questions. Senator Le Sueur says about minutes to Scrutiny Panels, Sir, he would investigate, and there is a question from the Deputy of Grouville and, again, the Deputy Chief Minister said if there was a good reason, and I will quote this, he said: "If the States Member in question could justify good reason for wanting the relevant minute there will be no reason to withhold them." Well, the question was we cannot even know what is on the agenda let alone what the minutes are. But there is no good reason to withhold them. Now, I have really heard some debates here. I will go back to the Chief Minister who argued that they are policy advisers to the Minister who then make the policy, who then come to the States and then it goes back around, so they are proactive in deciding on a policy that they will advise the Minister to take to the Council that we will discuss, Sir, and presumably pass. Once passed they are then reactive to make sure the policy is going at full speed from the Strategic Plan and everything is going okay. I think the point being missed, and it is what Deputy Baudains said, Sir, there are policies that are coming out of the wall, coming out at me like a 90 mile an hour truck, and if I had have known, even if I had have known what was on the agenda of the Corporate Management - policy information - ideas are bounced around and let us not mince words, Sir, these men are paid for the job. These are experts in their field, so do not think we do not have to have a lot of input if we want a new policy, if we have a new Health policy that goes across to Social Security and impacts on Transport, we are told. I think as somebody pointed out to me earlier, in an answer today when I asked if the Department for Transport was discussing the policy of his new integrated transport strategy with the Department for Health, he said: "Yes, the policy was information" and that is what they were doing. Not the Ministers, Sir, the department, the Corporate Board, who is headed by the Corporate Board. So, this is why, Sir, I really do want to at least see the agenda. They can be Part A or Part B minutes, but I want to know, these people that we employ - I am not impugning any of their integrity - I want, as Deputy Huet says, to know they are doing the work. When they are doing the work, what are they discussing? Let us say how far in advance did they know that they should have had a different person looking at the airport runway? Now did they tell the Minister? We do not know that because we do not know, and the Minister will be the first one - I am sorry, Sir - to cover their own backsides, let us face it.

**Deputy R.G. Le Hérisier:**  
Posterior.

**Deputy J.A. Martin:**

Thank you, Deputy - posterior. If anybody does not think that the poor civil servants need protecting, listen to the speech of Deputy de Faye. He said: "Make them do something and they will take their meeting somewhere, nowhere knows, nothing discussed, and nobody will ever find out what they are discussing." He did say that is if you only assume there is a dark side of government. I am not assuming there is a dark side of government. I want to know. If I do not know in detail, I cannot know for certain every single minute. I want to see what I was told was produced over 12 months ago, not now from the Chief Minister, that it is going to cost a fortune, they do not have it. I want to see it. I do not want to see these Corporate Management Boards come in with less meetings - they should have an agenda. We already know where we are on policy from the Strategic Plan, we want to know where they are up to on that. When are they advising the Council? Or their Minister first; the Minister going back to the Council. I do not think it is rocket science, I think it is quite clear. The people out there who listen to Deputy de Faye must really think: "Who is running the show here?" Because all we are asking is for a Corporate Management Board employed by the Island to produce a set of readable, understandable minutes for the elected representatives, and obviously all the people who want to read them out in the community. We are told that will never happen because they will start hiding. Well, I am sorry, Sir, I do not want to be a Member of that sort of government and I do not think that we should be saying that civil servants would do that. As Deputy Huet pointed out very clearly, if they are giving Ministers the information and they are not acting on it, it is not going to be the civil servant

who is in the wrong. It is the Minister who needs to be held to account, and we are the House to do that, but we need the information. It may well be that one day, as the Chief Minister said, with all that information, and if things are not acted on, nothing is buried, it may have to be a vote of no confidence in a Minister or the Ministry. Nowhere to hide, but this Corporate Management Board, because of where it goes, Sir, and I have just mentioned at least 15 places these minutes or so-called unavailable or unkept minutes do not go, they keep the Ministers safe, and that is why I will support it. Thank you, Sir.

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

Well, I came into this debate, I have to say, going to support Deputy Baudains, but let us face it, conspiracy theories, they are really good fun, are they not? I mean, that is just the sort of stuff that politicians love to really get emotional about - and I do. I must admit that, oh yes, we need to clip some wings here. So I was going to support this and I was sitting in the coffee room, drinking my coffee and listening to the Chief Minister, and another Member of the States walked through to get a cup of coffee and he said something along the lines of: "Utter tosh." I am not sure if that is Parliamentary language, Sir, but I have to say that much of what the Chief Minister said, I tended to agree with that - there is a lot of tosh here. But he did make one good point. One good point **[Laughter]** and only one in my opinion. Only one in my opinion. It is not often that the Chief Minister turns me **[Laughter]** but I have to say that in all seriousness he has turned me on this one occasion. The one good point is this, and it is a very serious one: what we do if we vote for this is we politicise the officers. We politicise the officers. I do not think that that is healthy. There may be problems, there may be occasions when under the new Ministerial system certain politicians are more officer-driven than they were before. I think that is something that we need to watch, and that is something that, as politicians and as Back-Benchers and under Scrutiny, we need to be constantly on the lookout for, and that is exactly what Scrutiny is for. But if we start politicising the officers we will tend to degrade, we will tend to demote the political system. We will politicise them, bring them more into the political system, but by so doing we will downgrade the reason for being politicians in the first place. For that reason, I am afraid I have been turned. I know that Senator Syvret is going to talk after me, and I know that he may well turn me back in the other direction, but I think we have heard most of the arguments. I do not think there will be any new ones that he will be able to talk to me about, never mind the emotion, never mind the rather emotional and rather attractive conspiracy theories that we do constantly worry about. Unless Senator Syvret has some really strong, logical arguments as to why we should do this - he is nodding. Well, he would, would he not?

**Senator S. Syvret:**

And evidence too.

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

Oh well. But at the moment I have been turned and I will not be supporting, unfortunately, on the basis that politicising the officers in this way is not good for our future political system. Thank you, Sir.

**10.1.9 Senator S. Syvret:**

A while ago on my blog: [www.stuartsyvret.blogspot](http://www.stuartsyvret.blogspot) **[Laughter]** I wrote a post that went by the title: *Black is white - black is white - black is white!* and it was all about how absolute fictions can become accepted as fact in a strange, enclosed and rather odd universe that is the States. Really, that is the kind of situation we are in here today, dealing with the resistance to this proposition. Talk about wag the dog. I have never heard in 17 years - well, perhaps I have occasionally - a speech as hollow and as directionless and as desperate and as weak as the one that was delivered by Senator Walker. It was full of sound and fury, signifying nothing. It was a ludicrous over-exaggeration of the consequences of we, the elected representatives of the people, getting to see

what these very, very expensive group of officers get up to during all that time that they are paid by taxpayers' money. It is called democracy; it is called democratic accountability. Is the material that these people are dealing with so secret that they are planning for nuclear war or something of that nature? Of course not. They are talking about things like whether we should bother putting any effort into integrating all of the Island's health and social care systems properly. Now, is the sky going to fall in if the elected representatives of the public get to see and hear about those kind of discussions? Really? Of course it is not. It is absolute nonsense. Deputy de Faye, when he spoke, said that if you introduce this degree of transparency it will just mean all the real business, the real discussions, the real decisions will get taken elsewhere. Well, that is, of course, the standard argument that is always trotted out against any kind of freedom of information public access provision. It is the same old, tired old argument used all the time. The fact is if you have things properly minuted, discussions and decisions, it is very, very difficult for people to have one set of discussions and one set of decisions and one set of minutes for public consumption, and then go off and do something completely different. It is very, very difficult to get away with that, and anyone that was attempting to do so, would I suggest, be running quite a substantial risk. So, again, it is simply absolute nonsense. There used to be, back in the days of the committee system, I think it was called the Chief Officer's Policy Group and it is true, I am afraid to say, that much of the civil service is politicised. I do not necessarily blame all of them for that. There has been, over the decades, a policy vacuum quite often from the States. We have gone to committees, as we did in the past, and I used to be members of them from when I was first elected in 1990, and see members of the committee essentially turning up and sitting around waiting to be told what to rubberstamp by the officers. You could not necessarily blame the officers for that; there is a lack of political leadership involved there. But certainly that used to happen, and there was this Chief Officers' Policy Group. The senior ranks of the civil service are politicised already. It is worse than just being politicised; they are politicised and at the moment under the current arrangements they are able to hide that politicisation rather than it being open to public scrutiny and thus compelling them to act as objective, professional, impartial civil servants. Senator Walker spoke at some length in his speech about the fact that introducing a set of minutes and giving States Members access to them would somehow be an immense and costly burden, some kind of bureaucratic nightmare that we just could not even contemplate because it would not be efficient. Well, again, I have made quite something of a study of freedom of information over the years, and one of the things you discover when you research the introduction of transparency, of openness, in other jurisdictions is that invariably substantial amounts of public money are saved because errors, incompetencies, things that were just clearly not going to work or were going to be wrong, were spotted because people were able to see them. That is the experience in Australia, New Zealand, Canada, a whole range of jurisdictions where that degree of transparency has been introduced. Just imagine, had we had this degree of transparency concerning the chief officers, not only for as long as the Ministerial government has been in place but even back into the days of the old committee system. If we had had that kind of transparency, maybe we would not have been in a position like we are now having to find, out of synchronisation, £5.1 million for a totally gross failure to plan properly with sufficient foresight for the airport. Maybe that would have been spotted. Or even if it had not been spotted at the time, there would at least be a publicly-accessible audit trail as to who was responsible for that. So, the idea that going down this kind of path is going to somehow cost the taxpayers a huge amount is just so ridiculous it really is scarcely worth bothering with. The public of Jersey put us here. We are there to represent them. We are a democratic society and the public administration exists to serve the interests of the people and the community. We are the representatives of the people, and if we cannot see what this very powerful centralised grouping is doing, then the public cannot see it. The public cannot even get proper democratic, accountable representation on what it is this very powerful grouping of chief officers are doing. If you were to reject the proposition today, you would basically be continuing the current disenfranchisement of the public, letting this group of people, this group of officers, do what they want to do without open scrutiny, without being subject to effective checks and balances. We simply should not even be

contemplating that in this year 2008. Senator Walker also referred to Ministers and how they all had full confidence in the system, and there was an appropriate split of responsibilities and accountabilities between Ministers and officers. Well, I was a Minister and I can tell you that no, that is not always the case. Things do go wrong quite often. Civil servants, senior civil servants, can get the strangest ideas in their head. I wanted to make a Ministerial decision last summer and I went and told my Chief Officer and his assistant about it and they spent half an hour literally purple in the face shouting abuse at me across the table, refusing to enact a Ministerial decision and accusing me of being mentally ill. So, if you say that the civil service is not politicised and not out of control, I am afraid that you just do not have any experience of it. These are civil servants who lied to me, and who lied about me.

**The Deputy Bailiff:**

Senator, they are not here to defend themselves, so if you can confine yourself to the issues, thank you.

**Senator S. Syvret:**

Well, the Chief Officer in question is able to defend himself, because he has been offered the taxpayers' money and resources to fund a defamation action against me, so he is a good sight more able to defend himself than I am. But it is not simply a case of being lied to; being lied about, it is a case of important public policy decisions; not being fully accountable. Things were hidden from me; things were withheld from me. I know for a fact that things were discussed at the Corporate Management Board about my position, about me and about getting rid of me. My dismissal was engineered by the senior civil service. I can see some Members shaking their heads and tutting and saying: "You have no evidence of that kind of thing." Well, Members have already seen some of the evidence, certainly the evidence that the letter to Senator Walker demanding my sacking was written by a senior civil servant although signed by another person. But I also know for a fact that these issues were discussed at the Corporate Management Board and a separate meeting at the old Jersey Child Protection Committee, and I know that fact because detailed notes were taken of what was passing around the table, of what was being discussed and of what was being said. How do I know that? Because the notes in question were taken by the Chief Officer of the police force and he formally informed me about it. So there is your evidence. This is a civil service, a senior civil service, utterly out of control, basically jeopardising proper accountability and functioning of democracy. I can tell Members now that there is another thing I have discovered since getting the bullet from the Health Ministry position, which again was hidden and kept from me at the time. The truth was not told to me, the full details were not told to me, the relevant facts were not told to me, and this is not to do with child protection; it is a different matter, but an equally serious matter. It became clear to me, and the point of this is that Members need to understand often the not altogether healthy motivations of the civil service. Only since getting the bullet from my post when a number of people from within the organisation, Health and Social Services, at different levels and different places have come and spoken to me privately, only subsequently have I discovered a lot of the background information, the facts and so on, as to what led up to the tragic death of a young patient during a routine operation last year. The locum doctor who was involved in that operation

...

**Senator B.E. Shenton:**

May I just say that this case is going to trial very shortly.

**Senator S. Syvret:**

Indeed. I am aware of that.

**The Deputy Bailiff:**

In that case, Senator, I think you must be very careful. You must not speak in such a way in relation to a matter that is going to trial.



**Senator S. Syvret:**

Indeed, but there is a need to, I think, fulfil a public duty and not wish to ...

**The Deputy Bailiff:**

No, I am sorry, Senator, the Standing Orders say that Members may not speak in a way which may prejudice a forthcoming trial. That is what Standing Orders say and it is not open to individual Members to say that they do not agree with Standing Orders and would prefer it to be different. So you must stick by Standing Orders, I am afraid, just like every other Member.

**Senator S. Syvret:**

Indeed, I am trying to stick to Standing Orders, but I am concerned that what we are seeing is a miscarriage of justice.

**The Deputy Bailiff:**

Well, that cannot be relevant to the debate today. The debate today is about whether to see these minutes. It is perfectly open to you to say that it is very important to see minutes because of the public interest and give examples, but it is not necessary to that, and it would be contrary to Standing Orders to start talking about a particular case which is apparently before the courts.

**Senator S. Syvret:**

Okay. I will try and wrap-up by moving away from talking about the particular trial. But what went wrong in that case was a chain, a culmination of a variety of organisational, managerial failings, some of which were very, very serious within the organisation. If anyone should be in the dock it should be me, and the charge should be corporate manslaughter, because what led to that person's death was a failure of the organisation demonstrably and provably. This is why we need to get the civil service under control. If we cannot even say that we are going to see the Corporate Management Board minutes, then frankly we are being pathetic. Do we believe in democracy or do we not? Are we going to carry on letting the tail wag the dog? These people get paid an awful lot of money, along with big fat pensions to do their jobs, so why should they be excluded from a little bit of political and public scrutiny?

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

Can I begin by suggesting to Members that they might like to disassociate themselves with comments about civil servants unable to defend themselves in this House? I believe that our civil servants in generality, Sir, do an excellent job of work and they deserve our wholehearted support. But, Sir, that was not the point of my standing. I was standing really in a reminiscent mood thinking that as you get older maybe your memory fades, but I first came to this House in the year 14 B.C. - that is to say 14 years before Clothier. The Clothier Panel was set up because we were generally dissatisfied with the way the Government then operated under a committee system. We said, and the public said: "Surely there must be better ways of doing it." Well, we had a debate in 2001, it was on Projet 122 and I recall it went on the whole week, and we made some considerable decisions, not all of which were universally liked, but by a reasonable majority we adopted a new system of government. That new system of government, whatever one may think for or against it, had one tremendous advantage: it provided for accountability. Accountability both at the political level and at the level of those operationally who had to carry out the government policy. I think Deputy Ryan was so correct when he said that this proposition seriously risks us blurring the lines between political accountability and operational accountability and, if for no other reason, this proposition should be rejected. But in fact there are other reasons why this proposition should be rejected. Many of us I think are harking back to the old committee days with some sort of nostalgia, but in fact what we had there was a situation where there was no corporate thinking and no corporate responsibility to speak of. We all acted as individuals and individual committees. What the people said and what the States agreed in P.122 was that was not good enough; we had to improve. So we did. We implemented a review of the machinery of government, we implemented

the committee system, the Ministerial system and alongside it the notion of scrutiny, and the 2 go hand-in-hand. I think what this proposition also does is to misunderstand and denigrate the role of Scrutiny. Because I think what it is suggesting is that we simply trawl through loads of minutes trying to unearth bits of dirt here and there or things which are not quite right. Scrutiny... well, we had a long discussion about what Scrutiny was last week, but whatever Scrutiny is or is not, it should involve holding Ministers to account for policy and it should, in the Public Accounts Committee, hold officers to account for implementing that policy. I think what this proposition is maybe hinting at is that that scrutiny process is somehow inadequate at the present time. If it is inadequate, I do not think it will be strengthened by adding minutes of a meeting of the Corporate Management Board, or if there were minutes between, we will say, the Chief Executive and the State Treasurer about some financial matters. There are most meetings going on 7 days a week in terms of different aspects of implementing Ministerial policy, not all at C.M.B. level, and there is certainly no way we can minute every single one of those. But that misunderstands the whole point of what the Corporate Management Board is about. The Corporate Management Board was set up by this House in Project 122 to be a unified group under the leadership of the Chief Executive to carry out our policy. I think if we understand that, if we understand the need to keep the political accountability separate from the operational accountability, we see clearly the reason to reject this proposition.

**10.1.11 Deputy A. Breckon:**

Last week, as Members may recall, the Bank of England have an advisory group that their main function I think is to advise on interest rates. The reason I say that is you could see that is fairly high profile, it is of not just national, but indeed international interest, but their minutes are available. The city study them and they look to see where the doves are and who is hawkish and ...

**The Deputy Bailiff:**

I am sorry, Deputy, I think we are about to lose our quorum if we have not already.

**Senator S. Syvret:**

Why do we not just get a few chief officers in? They do the rest of it anyway.

**The Deputy Bailiff:**

I make it 26 at the moment. Do you make it 26? We have one more - 27. So I think you can carry on, Deputy.

**Deputy A. Breckon:**

The reason I say that, Sir, is it is very high profile, but the information is in the public domain. The minutes are published - I do not know when - some days or weeks after, and are studied indeed by professionals in the city and there is a degree of transparency. I believe members' comments are quoted about who is going which way about what might happen in particular to interest rates. So that is at one level. Also last week I was in the U.K. and I just happened to be looking in a local shop window, as you do, wasting 5 minutes, and the agenda for the local authority was stuck up in the window. The meeting started at 6.45 and between 7.00 and 7.15 was a session for questions from members of the public about anything they wanted. They could ask about items on the agenda. If they could not be addressed, the Executive were there, as well as the elected members, and they would get some sort of reply. The reason I say that, it demonstrates the level of openness and transparency at a very high level and a very local level, and I would suggest that perhaps we are talking somewhere in between here. Senator Le Sueur mentioned Clothier and what it did talk about was the power of the Executive to get on and do something: do not dilly dally, let us have some action if we are going to do stuff. Let somebody get on and do it. Let us not send Acts to each other as committees and waste 12 months and more. But with that - I remember some of the debates - were some checks and balances and the question maybe is: where are those checks and balances? It looks like freedom of information has been parked, there is a cost to it, but I think as

Senator Syvret said if you give people access to information, if other people can see what you are doing, then perhaps you will not do it, or you will think twice before you do it, and there is evidence to say it will not cost money; it will save money. I know, again, looking at the U.K. the transparency is if you are on the electoral roll there is a 28-day period when you can look at everything, even if it is a bill for a load of sand. You can look down to that level if you want, and people go in local libraries and in local authorities and they do. It is their money, let us not forget that, and it affects their lives, and that is really where we are. Also Clothier promised, and it is in there, I think it is at paragraph 8, part 8, the Public Sector Ombudsman. So when somebody preaches the word of Clothier, they conveniently forget some of the bits that went with it that have not happened and they have been conveniently parked. For what reason? Because the openness is not there and the transparency is not there. We had an exercise a couple of weeks ago when we were trying to engage, we as a government through the Council of Ministers, the public. So what do we do? Do we tell them and we consult them when we want to influence them to the ninth degree about this is how it is going to be, that is what you said, that is how you think - good. Here are the conclusions; here is how we get there. There is a very real suspicion that that is how it is and where does the influence come from? We do not really know. Is this inclusive government? A lot of people would say: "No, it is not." Are we having inclusive government? I do not know; that is a question that needs to be answered perhaps in the longer term. Do we have effective consultation? Do we give people, including ourselves, do we share the information and the answer is probably no. I think if this does give greater transparency, if it does make people accountable, then I think we should welcome it. There is very little cost. Deputy Martin has demonstrated that information is already produced. What is wrong with sharing the information? It is policy, it is developing and if we can be inclusive in that then I think we can win hearts and minds. But I think with Part B agendas and with degrees of secrecy, I do not think it does anybody any good. The openness will, I think, not create a flood of interest. We have scrutiny meetings that are open - very rarely people attend. They did at first; you do not get many people now. The media do not attend. We had Public Accounts the other day - a hearing - nobody was there. So the fact that it is available shows - and it would demonstrate from us I think to this Government - that we are willing to take that step, and I think that this is part of it. I think seriously added to this, the Council of Ministers really have to consider how they engage with the public and how they do business, not when they just want to send a press release of how they really do it, and I think there are lessons here for us all, Sir. So for those reasons I will be supporting this proposition.

**The Deputy of St. John:**

Could I give notice of closure of this debate?

**The Deputy Bailiff:**

Yes, you may if it is felt that one hour has elapsed. Has one hour elapsed, Greffier?

**The Greffier of the States:**

Yes.

**The Deputy Bailiff:**

Yes, one hour has elapsed and now you can give half an hours' notice. Does any other Member wish to speak? Yes, Senator Vibert.

**10.1.12 Senator M.E. Vibert:**

I know we are barely quorate, Sir, I hope it is not just because I am getting up to speak, but I am sure there are lots of Members listening out there intently, because I hope they have not come to this debate with a closed mind, and I hope they will be listening to the debate. I think there are a number of interesting issues that have come up, and I think it is really about our system of government: who is there to do what; how have we set up the system? Are Scrutiny Panels there to hold Ministers to account on policy? I think they were. The P.A.C. (Public Accounts Committee)

holds accounting officers to account on operational issues. Ministers are there to hold their officers, including their chief officers, to account and make sure that they are doing what they should. Chief officers are there to advise the Council of Ministers and Ministers and that is why they meet together in their main group. It has been interesting to listen to this talk of need for transparency and openness, and Deputy Breckon referred to the F.O.I. (Freedom of Information) law being parked. What has not been mentioned so far is the Code of Practice on access to information held by the States, Committees of the States and the Department of the States, which was adopted by Act of the States on 20th July 1999, and amended by the Act of the States on 8th June 2004 - not that long ago - and which all States departments adhere to and there is a presumption of openness in and transparency in that code. When one gets a report, as States Members do every year, on how many times applications have been made, et cetera, and how many times they have been refused, you get very few really; a handful, where requests have been refused and the reasons for those refusals. One of the reasons are mentioned in this Act. One of the reasons I was asking, Sir, right at the beginning of the debate, for clarity about the Part A and Part B minutes which Deputy Baudains assured me I should have listened to him, although I was listening, was that in Deputy Baudains' report what Deputy Baudains seems to want to know about, he mentions it several times in his report, which is about officers developing policy. Well, I think that is a misunderstanding and certainly I do not see officers developing policy. What I see is officers advising on options of the policy that the Minister or the Ministers wish to adopt, and that is their role. Of course, such advice and such options would be about policy under development which under the code agreed by this House is one of those areas that would form a Part B minute, and that is under 3.2.1(a)(xiv): "Information should be exempt from disclosure if it constitutes a premature release of a draft policy which is in the course of development." I think this is part of the problem and it is confusing the issue. I think Deputy Ryan summed it up, and it has been said by the people, the difficulty in this is blurring the lines - politicising chief officers. I do not agree with Senator Syvret who believes that chief officers are politicised already, and I disassociate myself from any of the remarks he made to that extent. But I think it is very important that we do not politicise our chief officers and the C.M.B. I think it is very important that we maintain that separation. Scrutiny scrutinises Ministers on policy; not officers. I think it is the elected Members who must be accountable and be responsible for policy. I think there is a danger that in trying to get into the thinking, it seems to me, of the chief officers, it is a danger of politicising, a blurring of the edges. Officers' advice is there. It is open for Members to see. When a Minister makes a decision, all the supporting papers and the advice from the officer is attached and linked through to the decision that appears on the website so that Members can see what advice had been given. So it is not hidden; it is transparent. I worry that this is making too big a thing of what we should not be worrying about so much. Deputy Southern, I am sure he is listening out in the coffee room somewhere, talked about the way the Chief Minister referred to Armageddon: "This is terrible this happening." I think Deputy Southern, in his own way, was over-emphasising the other way as if Members did not have access to C.M.B. meetings, as if the world will come to the end, as if Scrutiny could not operate, the Members could not operate, which I think is over the top as well. Members get to know what advice is being given and I really do think there is a danger that we go too far in some things and the question is: where would it end? Should we have minutes of every meeting that a Constable has with his Procureurs and should that be made available to parishioners, et cetera? Should every departmental senior management team meeting be available to everybody? I hear Deputy Huet saying: "Yes." You are terribly bored, Deputy Huet, but I think you have to let people get on with their job and their work. It is the Ministers who are politically responsible for their staff, including their chief officer and what their chief officer says and does in that sphere, and that is the way it should be. We do not, I believe, in the interests of good government of the Island, and I say this in all sincerity, offer Ministers the opportunity of passing the buck to their chief officers. It is Ministers who are responsible. I say to Members if they are not happy, scrutinise the Ministers, bring the questions, bring no confidence votes or whatever, but do not politicise the officers. Scrutiny is there to do a job, States Members, Back-Benchers are there to do a job,

Ministers are there to do a job. We are the elected representatives and we should be held to account. I believe that if States Members go with Deputy Baudains that there will be confusion and there will be a danger of blurring those edges and politicising the officers. I do not think it is a risk that we need to take because I believe the information that Members seek and require is there, and can be found when there are Ministerial decisions made and that advice is audit-trailed. Also when Scrutiny Panels question the Minister they can ask whatever questions they want about what advice the Minister has received. I believe it is the politicians who should be held accountable in this way. Thank you, Sir.

**10.1.13 Deputy C.J. Scott Warren:**

I presume that the Council of Ministers has access to the action points and, Sir, I would like clarification on the point raised in Deputy Martin's speech where she said that she has been told that these minutes already exist. Sir, do Ministers know how their respective policies have been taken forward by the Corporate Management Board? I presume they do. I see no reason why States Members cannot have information about these discussions concerning what advice the chief officers decide to give respective Ministers and the Council of Ministers. I do believe this Assembly totally appreciates that confidential discussions will at times be appropriate and will be the only way. I believe that chief officers and managers in departments work extremely hard, and I fear, Sir, that many managers feel that their work is unrecognised by States Members. So I feel the action points and minutes if they are already being taken would be a middle way to satisfy Members of this Assembly. I do not feel that we need to sit in on meetings - I think that may be a step too far and may curtail debate. So I believe that there needs to be a sensible degree of access to non-confidential information from the senior management board meetings. Thank you, Sir.

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

Briefly, Sir, I think it is a shame that the Council of Ministers does not have a dedicated Member to go and sit into this so there could be the political oversight which is what many of us really would like to see. I have come through, as many Members have, the committee system where we were able to get advice from the officers and we were able to work in a different system that was more informed. I have experience where I have been told one thing, and the committee has been told one thing and in practice it was not true. I raised it during a meeting and was so berated by the president of the time for checking up on his officers that rather than the officer being pulled up for having given us wrong information, I had to apologise to the officer for catching him out and sticking my nose in, because we were told that we were not there to be involved in operational procedures. This week I have spent some time with some senior officers of the States, and privately a couple of them have said to me that really we do need to have that oversight and we do need to have that input into their operations. They feel that it is necessary - maybe not all of them. I think that perhaps there is an element here about them being able to speak openly and freely, and maybe it is not supportable today, but we have a very unhealthy position at the moment where we are diametrically opposed in our philosophy, and it is unhealthy. Some Members of the States normally in the Executive, or when they are the presidents or in the clique, believe that criticising or scrutinising or even getting involved to ensuring that what you are being told is the truth when it comes to the corporate side of things is just not on and undermines the confidence of the civil service. To a certain degree, I think you have to have confidence in them, and you have to give them the ability to get on with what they are paid to do, but I think that the diametrically-opposed positions need to recognise that neither position is healthy: to know everything will stymie true debate, to know everything will slow up everything, and that will not help. But to continue to deny that there is not a little bit of health once in a while from getting on to the shop floor is denying reality. I do not know any large businessman or woman in any corporate structure that does not take an active interest in the operations of their business. It is not just an interest of the operations that we need to have an involvement in, it is our responsibility and our duty of care, because there are issues that will come about in relation to corporate governance: the legal advice, the decisions

and information, and the due process of those decisions. While we continue in the States Assembly to argue about whether or not we leave the Executive to get on with it, or we have some measure of complete transparency, we are going to for ever more have these lengthy debates and it will come down to an arm wrestle at the end of the day. It is not healthy; we need to change. We need to recognise that involvements in operational matters does not necessarily mean that one has to carry out the tasks, but a politician should be brave enough and should have the due diligence and commonsense, common touch, to get on to the floor of the operation - not necessarily when it is announced and planned - and meet the people that are doing the work that the taxpayers are paying for, and make sure that what we are being told as politicians is happening. There are a couple of Members here that will recall that day that I was foolish enough to reveal the lie and they were there and I was really embarrassed, having to apologise to the officers for having done so. I will support this proposition today, although I feel that perhaps there is an element of the officers not wanting to speak as openly as they might if Members are present in certain circumstances, but given that we have got cross-regulatory functions in these departments in any event, surely there must still be a little bit of withheld information when they meet, from each other. They are not going to be completely open with each other because some of their departments might have a cross-regulatory function. If they do not and if they do share everything then it is bordering on collusion. So I hope Members will recognise that even if we do not decide to approve this today, we need to get away from this notion that the civil service is infallible and we also need to get away from this notion that the civil service is failing because the civil service, in the main, is doing a tremendous job. Our involvement in that will not necessarily hinder it.

#### **10.1.15 Deputy P.N. Troy of St. Brelade:**

As Deputy Breckon said, freedom of information should be high on the agenda and it does appear that it has fallen away for some time. I remember I was on P.P.C (Privileges and Procedures Committee) with the then Deputy Jennifer Bridge when we took a very serious look at the freedom of information and the ex-Deputy left this Chamber 2 and a half years ago and, quite frankly, we have not seen the freedom of information come back. What is happening? If we had the agendas and minutes of the corporate management board, perhaps we might know. I recall when we had the committee system, committees would send Acts from one committee to another, often referring to policy and actions required in relation to carrying out that policy, so there were these Acts going between committees and each committee might have 4 or 5 Members on, and there was quite a reasonable amount of information flowing around between committees. Of course, now, we do not see any information flowing around at all and I, in some ways, feel that that is a failure here. I think that States Members react to what is happening about them and the information that they have, and I think that at the moment we could do with greater information sharing. We are all in this together. We are managing this Island together and we should be working together with as much information as we have in taking our policies forward. So would it create massive problems if the minutes of the Corporate Management Board were available to States Members? I do not think it would. As Senator Syvret said, it is not such high powered stuff that we are going to cause problems and I think, as I said before, some good information sharing would be useful. States Members require information to make effective decisions and sometimes the Council of Ministers and civil servants advising them can, quite frankly, come up with some hare-brained schemes. We have seen the Chief Minister shouted down at the Town Hall in the past over a policy coming forward. I think with information going backwards and forwards between us, we could head off some policies at the pass before they get through to some of the levels that they reach before they are shelved. I am going to support part A. I am not going to support part B. I will support part A if it is voted on in 2 parts. I would like to say something about the fact that Members will be aware that I created a register of reports some years ago, which is on the gov.je website. I am not content with the structure that it has at the present time. Many documents are not being centralised on to that register of reports and if one is looking for government documents, as a member of the public or as a States Member, one still has to trawl around from one department web page to another

department web page and it is still very difficult to find many documents. The Chief Minister was lamenting the other day: “Oh, I have got my consultation documents out and I have not had many responses.” Well why not? Nobody knows it is there, that is why and I think that the central register needs to be beefed up and everything pulled together so that when people are looking for information they can go to the one place where still, if you want a consultation document that is issued by the Chief Minister’s Department, you have to go to his web page; if you want a consultation document that is issued by Housing, you have to go their web page. The Minister says he does not tell them anything but there we are. That illustrates the whole point of this debate, does it not? I think it is important that we, as a government, need to look at the way we are using information, sharing information, collating information and quite frankly it is haphazard at the moment. It really is quite haphazard. It is not organised structure. If you want to find anything it is so difficult and this government really should get somebody looking into it. P.P.C. should be organising something or the Greffe, the Minister, the Chief Minister, his department, someone out there should be doing something because it is lamentable the fact that if you want information in Jersey, it is absolutely awful to get hold of it. It is very, very difficult. Now I have got that off my chest, Sir.

**The Deputy Bailiff:**

We can return to the debate.

**Deputy P.N. Troy:**

With a bit of luck.

**Deputy J.J. Huet:**

It is quite a change to return to the debate, Sir.

**Deputy P.N. Troy:**

I do feel that Deputy Baudains does have a point here. It helps that States Members could have the information. Some people say you do not want every Tom, Dick and Harry getting information. We are not talking about every Tom, Dick and Harry, we are talking about States Members, people who represent this government, so I am all in favour of Deputy Baudains’ proposition and he knows he has my vote.

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

I was hoping that Members may rush back, knowing that we are almost going to come to the end of the debate and for those who have not made up their mind, this is the speech that is going to change their minds. But, again, wishful thinking. We were told by the Chief Minister this was a simple and harmless proposition and then he went on and muddied the waters. Because it is really a simple and a harmless proposition. We were told also that it was flawed, but we have heard very little evidence to show why it has been flawed. We were also told that Deputy Baudains has been misguided. He does not need to know that. He probably knows it already but that is usually the way that when someone brings a proposition to the House, which people might not agree with, so they call the proposer misguided. I know. We are part of the same club. We were told also that one of the real reasons about why we should not support this was because of the cost. It was so, so important that we see nothing at all in the Council of Ministers’ comments and yet when we hear about the cost, thanks to Deputy Martin who has put us right by informing us that of course these minutes are already taken and they do not involve any cost at all, certainly not to the Greffe because that was one of the reasons why the Chief Minister said we should vote against this, because of the cost. These minutes are already taken. They are already circulated. What this proposition is really asking for is that these minutes should be widened to a greater area of people. That is basically what it is. Quite a simple, harmless proposition and I will say that simply because who set up the Corporate Management Board? It was the States, so therefore the Corporate Management Board is accountable to the States and part of that accountability, I believe, should be the accessibility of

those minutes to States Members. People get them already. The people who do not get them are all the States Members and what this proposition is really asking for is that again all States Members are included as part of those who already receive it. Again, I see it as quite a harmless, quite simple proposition and I have not heard anything of any substance at all that could deviate from my support for this proposition and I hope that Members will support it.

**10.1.17 Deputy D.W. Mezbourian:**

I will be brief. I noted comments made by Senator Walker when he spoke and he reiterated it. He did say that Members, if they vote for this proposition, will be putting open government ahead of efficiency. Open government ahead of efficiency. By implication, Sir, he is agreeing that we are efficient but we are not open and I, for one, will be watching carefully to see those of us today who vote against open government. Thank you, Sir

**The Deputy Bailiff:**

Does any other Member wish to speak? Deputy Ryan, have you not spoken already? You have.

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

I have spoken Sir. May I ask you, Sir, if it is in order, as the Corporate Services Panel Chairman, and as a point of information, to inform Members of something that is being spoken about at the moment? Is that possible?

**The Deputy Bailiff:**

I cannot really.

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

Okay, thank you, Sir. May I make that after the debate?

**The Deputy Bailiff:**

Whatever hat you are wearing, I think you are only entitled to one speech.

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

It is not a speech, Sir, it is really just a matter of information for Members.

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

It is a tactic and a ruse. Can we get on with the debate please?

**10.1.18 Deputy S.C. Ferguson:**

A point of clarification? I do have a lot of sympathy with the freedom of information people. At committee meetings it was possible usually, not always, to be able to establish when the Chief Officer was snowing the committee. I am sorry, it is a technical term, Sir. Confuse. I must say I am a bit concerned that Ministers profess not to be aware of the details of the meetings, but I am sure they must discuss this with their chief officers. The real problem is that sadly I cannot see how this elephant really could fly. I can think of, and I am sure Members can as well, a number of ways to circumvent the proposition. I think there is a limit to drowning in information. If it is only action plans, fine. The results of the actions will be with the, hopefully, consultation/Green Papers. Senator Vibert talked about policy under development. I think what he is really talking about is the consultation/Green Paper stage when Ministers will make decisions based on the options and Scrutiny will assess the quality of that decision. He also, and a number of others, made a comment about politicising chief officers. A Chief Officer who is not politically aware is frankly not much use. However, I would remind Members that in the event the Public Accounts Committee does hold the chief officers to account, they have got to stay within their budget and to use money for the purposes for which it was intended. It is lovely to think that we can have information from



everybody about everything. Perfect information. I am sorry I do not think this one will work and unless somebody comes up with a very convincing argument, I will not be voting for it.

**10.1.19 Deputy R.G. Le Hérisssier:**

Like Deputy Ryan, I have been umming and ahing about this one. I think, oddly enough Sir, at the end of the day, despite what Deputy Ferguson has said, that this will tend to be a fairly benign exercise. The notion that we will find all sorts of conspiracy theories at work and so forth is probably a little far-fetched, but that said, Sir, it does happen to be the case that the Corporate Board in a sense is the civil service shadow, so to speak, of the Council of Ministers and it is important that we do see that particular audit trail. I certainly would not want to be involved so that we could hold civil servants to account and say “gottcha” and so forth and so on. From my point of view, Sir, I think it is a fairly benign exercise and maybe it will work out as Deputy de Faye said and that people will sanitise the minutes but, as Deputy Breckon said, at the end of the day, particularly if they are outlining action plans, there will be the possibility of following through the trail of what was said and so forth and so on. The other point I would make, Sir, in reference to the more general points that Senator Syvret raised, in a way what he also raised and what this debate has raised, and it is unfortunate that we are dealing with a bit of a sticking plaster approach, we are not looking at the issue of accountability in the more rigorous sense, but he did raise, in my view, the issue of political accountability. Because where you have got a situation like that, without going into its history, there appears to have been a breakdown in relationships, to put it in the most kind and polite way. There appears to have been a breakdown in relationships and clearly we need a mechanism to deal with that. We just cannot let people carry on fighting or struggling or whatever unless there is some way in which we could dig them out of the hole and the only mechanism I see in that case, Sir, would have been for the Council of Ministers. There is also another question. While it is very easy in these cases to blame the civil servants, there is no doubt one of the weaker parts of the system at the moment is political accountability. It has not worked and we do have to keep working at it through Scrutiny, where we are flying the flag and people are doing immensely good work under all sorts of pressures and with some Ministers who are not, shall we say, as able to receive it as constructively as other Ministers. I think the question the good Senator has to ask himself is how am I politically accountable in this situation? Why did I not know what was going on in the organisation over which I presided for 8 years? Why did I not take steps to get around that organisation? Why did I not do M.B.W.A. (Management by Walking Around) and so forth and so on. There are 101 questions that have to be asked about the situation in its totality, rather than pointing the finger at one particular group, and I am sure he would wish that to be done. That is the danger with this, that we are somehow operating on the assumption that a lot of what is going wrong with Jersey Government is because there are over-powerful civil servants there who are somehow manipulating weak politicians or whatever. If that is the case, that is our fault, it is not their fault. The system demands that we govern these people, we set the standards, we poke our heads into the organisation without being there every minute of the day undoing the mail and counting the paper clips, as has been the tradition in some parts of the States, that we do that in our organisations and we find out what is going on and at the end of the day we are politically accountable. So while it is tempting to think there are great civil service conspiracies going on, ultimately it is down to us, it is down to the kind of strength that Ministers show and it is how they handle their organisations. That is, to me, the starting point of this inquiry.

**The Deputy of St. John:**

I did ask for closure half an hour ago. I wonder if I could enact that now, Sir?

**The Deputy Bailiff:**

Do you now propose?

**The Deputy of St. John:**

I propose closure on this debate, Sir

**The Deputy Bailiff:**

Is it seconded? **[Laughter]** Very well, after this number of speakers and length of time I do not consider this an abuse of process or oppression of minority and therefore the matter is before the Assembly on whether to move to closure. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 22</b>		<b>CONTRE: 17</b>		<b>ABSTAIN: 1</b>
Senator L. Norman		Senator M.E. Vibert		Deputy G.C.L. Baudains (C)
Senator F.H. Walker		Deputy R.C. Duhamel (S)		
Senator W. Kinnard		Deputy A. Breckon (S)		
Senator T.A. Le Sueur		Deputy J.J. Huet (H)		
Senator P.F. Routier		Deputy P.N. Troy (B)		
Senator T.J. Le Main		Deputy C.J. Scott Warren (S)		
Senator J.L. Perchard		Deputy J.A. Martin (H)		
Connétable of St. Mary		Deputy G.P. Southern (H)		
Connétable of St. Clement		Deputy S.C. Ferguson (B)		
Connétable of Trinity		Deputy P.J.D. Ryan (H)		
Connétable of St. Lawrence		Deputy of Grouville		
Connétable of St. Brelade		Deputy G.W.J. de Faye (H)		
Connétable of St. Martin		Deputy P.V.F. Le Claire (H)		
Connétable of St. Saviour		Deputy S. Pitman (H)		
Deputy of St. Martin		Deputy A.J.D. Maclean (H)		
Deputy R.G. Le Hérissier (S)		Deputy I.J. Gorst (C)		
Deputy J.B. Fox (H)		Deputy of St. Mary		
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy D.W. Mezbourian				

(L)				
Deputy of Trinity				
Deputy of St. John				

**The Deputy Bailiff:**

Very well, I call upon Deputy Baudains to reply to the debate.

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

It has been a good natured and well-informed debate mainly. I will just quickly, if I may, go through some of the comments made. I thank Deputy Huet for her comments, quite pertinent I thought, because it has been in the back of my mind for some time that under the old committee system, we were more aware of what was going on because we were meeting with the officers. Now we are denied that access and it is an issue. I think she raised also an interesting issue which one or 2 other Members raised but which generally had not been appreciated I think by several people, and that is it is the Ministers who make the decisions and the orders but it is also they who make the mistakes, yet invariably it becomes the bar-room chatter that the officers have made the mistakes. Of course, if we had the information, we would know who made the mistake and it would be in everybody's interests. I think we would find that the officers are performing somewhat better than a lot of people imagine. People have referred to Senator Walker's comments about it looks straightforward but it is not. I would pick up on the issue that other Members have raised during their speeches and I thought it was definitely a hollow argument that he was pursuing, Sir, because on several occasions, as Senator Syvret and others referred to, he raised the issue of the significant cost, we would have to get in a clerk to take the minutes and all this sort of thing, and then we learn later on the minutes are already kept and already circulated. It is difficult to see what costs there could be. I thought his argument was particularly weak and, of course, I do not understand the issue. It has been some years now, I have not understood the issue. It posed the question, Sir, and if he really wants to know I will give him the information, but I thought he should know better than I as to where delegation to officers has occurred. I have had several sheets come my way, listing all the functions that have been delegated from a Minister to the Chief Officer or further down the line. I cannot count the number of lists I have had. The main thrust of Senator Walker's argument was apparently these things do not happen. Well, I can think of quite a long list we all had recently from the Economic Development Minister and also from the Planning Minister and a few from the Housing Minister. I have to say, I do not think it is I who is blurring the issues. It is a case I think of the kettle and pot. Deputy Southern reminded us of the straw man scenario and then gave an example of where delegation to officers had taken place. I think he used the Housing Chief Officer as an example. Deputy de Faye majored on the fear of a covert conspiracy. If Members do have fears of that, I am not one of them. All I believe is that the truth cannot hurt in matters like this. Members would be better informed and, as I have said just a moment ago, officers would be better protected. The idea that there would be covert meetings and the minutes of a meeting would be adjusted to suit the audience and even the meetings themselves might be held in a completely different manner and discuss completely different topics, I think was adequately addressed by Senator Syvret and, in fact, if such a thing were to happen I believe that makes a strong case for supporting my proposition because I believe, again as Senator Syvret has said, they would soon be found out, they would not get away with that for long. You cannot say one thing and then do something completely different without being found out. It is an interesting theory but one I cannot for one moment believe would happen. I was quite concerned that Deputy Fox informed us not even Assistant Ministers are apparently kept in the loop. One wonders just how little information circulates around these days. I do not know if that goes across the board or if it just in his particular department. I have another Assistant Minister looking... [Laughter] All

across the board, is it? All Assistant Ministers suffer from the same problem? Apparently not. My word, we do have an information blockage. I thought Deputy Martin gave a particularly clear explanation of why we need to see the minutes and in the process blew a hole straight through Senator Walker's argument when we learnt that these minutes are in fact taken and are in fact circulated apparently to most people except us, which does not seem to be good enough. Deputy Ryan majored on the politicisation of officers. Frankly, I do not follow his reasoning. It did not seem to happen during the fundamental spending review; it does not seem to happen when departments give presentations to States Members. Apparently the Deputy started out by supporting me but then turned. Perhaps he has gone back to his rallying days and done a rather quick handbrake turn. I simply do not follow his reasoning. Yes, a quick release handbrake. I have already referred to Senator Syvret, Sir. Senator Le Sueur was suggesting that there was no corporate working in the old system but there is in the new Ministerial system. Well, I have not noticed a great deal of change, Sir. I think Deputy Troy, in his reference to the Acts that used to pass between committees, was possibly quite enlightening because that did help information to move around, and quite important information, generally on policy. People were kept better informed than they are today. The danger is that we have a them-and-us situation. Senator Le Sueur also referred to Scrutiny. I think, while I have been accused of not understanding, I think there may be an issue here that perhaps the Minister for Treasury and Resources has not understood Scrutiny, because there are 2 types of scrutiny. There is Scrutiny with a capital S and scrutiny with a small s. I was basically referring to the latter. The fact that we should all, in representing the public, be aware of what is going on and make sure that they are getting the most efficient and quality service that is possible. I thank Deputy Breckon for his support, and the examples that he produced where apparently in the United Kingdom there are better checks and balances and considerably more openness. He pointed out the truth that if people know what you are doing, there may be some things that you would not do, so rather than there being cost to this exercise, there may well be a saving. Is this inclusive government, he asked. At the present time I think it is difficult to say yes to that question. He also pointed out what should be obvious to most people, of course making these things available does not mean to say they will all be used, as I pointed out in my opening speech. The idea that 53 Members are all going to be furiously reading minutes from the Corporate Management Board I think is slightly bizarre and if we do in fact find that the minutes are as benign as the Chief Minister has suggested in previous question times, then I am sure we will just read the first set and not bother any further. The mere fact that we are not allowed to see them is what raises suspicion. I think Deputy Scott Warren made a good point too that many officers' work goes unrecognised by Members. Of course this would come to light were these minutes available. Deputy Le Claire gave another example similar to Deputy Huet where information he had been given was not quite up to scratch and he also went on, if I heard him correctly, to claim that some officers would probably welcome this. I would agree with that and, as I said just a moment ago, some of the criticism officers face by seeing these minutes would be demonstrated to be unwarranted. I think it will benefit both ways and surely a good employer who knows what is going on in his business is better than one who does not. At the moment, we do not. I thank Deputy Troy for his support, I referred to him before, and his eloquent knowledge on the freedom of information and, of course, the Acts that I have referred to already. The Deputy of St. Martin I thank for his support: "A simple and a harmless proposition" and that is exactly the way I look at it. He also mentioned costs, as have other Members. The minutes are already taken so there are no costs built into this. And, of course, the interesting snippet that the States, having set up the board, surely the board therefore must be accountable to States Members. Deputy Mezbourian I thank for reminding us that Senator Walker suggested that agreeing to my proposition would put open government ahead of efficiency. If we have got to decide between those 2, surely it should not be too good because once we have got open government, efficiency would flow from that anyway. It has been an interesting debate. I was concerned when we started at the semantics, the words that were still being bandied about that apparently policy is not developed by officers but is formulated, according to Senator Walker. I really am struggling to find

the difference. We know that officers work on policy and the Council has admitted it, but apparently we, as mere elected Members of the public, are not allowed to know what goes on behind these closed doors. One of the arguments that has been used previously is that it would be inappropriate for ordinary States Members to know the advice that the board are going to give the Council of Ministers before they get it. I find that almost patronising, Sir. Maybe if non-Executive Members were able to see the beginnings of this work, starting at an earlier stage, by seeing these minutes, maybe as Deputy Huet and also Deputy Martin suggested, fewer mistakes would be made as a result and that must be of benefit to everybody. I know, like Deputy Huet, when I was on public services I know for a fact if there are 10 solutions to a particular problem, the officers are not going to give you all 10; they will give you the 2 or 3 that they think are the best ones. I know, in one particular case, as I later proved, the best answer was not one of the ones originally given to the committee. In fact they were opposing what I suggested, but when I managed to persuade the committee otherwise, I think everybody in La Blinerie now benefit from main drains they would not have otherwise had. Some Members, I think Senator Le Sueur was the main one, suggested Scrutiny is the proper vehicle for gathering information and individual Members have practically no right to know what is being done in their name. Well I realise that some people are struggling to understand the role of Scrutiny, but surely even they must realise, if we were to scrutinise everything, we would need another 10 or 15 Scrutiny Panels. It simply cannot be done at that level. What I am asking for, Sir, is not a job for Scrutiny with a capital S. It is every Member's duty, as far as he or she is able, surely, to ensure that the Island is governed efficiently and according to the wishes of the people. I cannot imagine how you can do that - well you cannot do that, if you are not allowed to know what is going on. Scrutiny Panel meetings are held in public, as has been pointed out by Deputy Breckon, long before reports are written. The Privileges and Procedures Committee, the planning application panels and numerous other States bodies or States appointed bodies, all sit in public. Members were invited to observe the fundamental spending review a while ago. Why should the Corporate Management Board be any different? I am concerned about the fight for secrecy to remain around this area and I am really struggling to understand what it is that the Council of Ministers appears to be so afraid of. Perhaps that we will find out a bit more and be in a better position to ask a few awkward questions. Well, how inconvenient. To allow work to go on, Sir, not only behind our backs but with our enforced exclusion is, as far as I am concerned, the stuff of dictatorships. There should be no place for it in democracy and I invite Members to put openness before secrecy and at no extra cost. I ask for the appel, Sir.

**The Deputy Bailiff:**

Yes, I was going to ask whether you wanted that. So the proposition is taken in 2 parts. The first matter before the Assembly is paragraph (a), which is dealing with the minutes. The Greffier will now open the voting on paragraph (a).

<b>POUR: 29</b>		<b>CONTRE: 14</b>		<b>ABSTAIN: 1</b>
Senator S. Syvret		Senator L. Norman		Deputy of St. Mary
Senator T.J. Le Main		Senator F.H. Walker		
Connétable of St. Mary		Senator W. Kinnard		
Connétable of St. Clement		Senator T.A. Le Sueur		
Connétable of St. Helier		Senator P.F. Routier		
Connétable of St. Lawrence		Senator M.E. Vibert		

Connétable of St. Brelade		Senator F.E. Cohen		
Connétable of St. Martin		Senator J.L. Perchard		
Connétable of St. Saviour		Connétable of Trinity		
Deputy R.C. Duhamel (S)		Deputy S.C. Ferguson (B)		
Deputy A. Breckon (S)		Deputy P.J.D. Ryan (H)		
Deputy J.J. Huet (H)		Deputy J.A. Hilton (H)		
Deputy of St. Martin		Deputy G.W.J. de Faye (H)		
Deputy G.C.L. Baudains (C)		Deputy of St. John		
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				

**The Deputy Bailiff:**

Very well, so now we come on to paragraph (b), which is the attendance at meetings and the Greffier will open the voting on paragraph (b).

<b>POUR: 15</b>		<b>CONTRE: 29</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Senator L. Norman		
Connétable of St. Mary		Senator F.H. Walker		
Connétable of St. Helier		Senator W. Kinnard		
Deputy R.C. Duhamel (S)		Senator T.A. Le Sueur		
Deputy A. Breckon (S)		Senator P.F. Routier		
Deputy J.J. Huet (H)		Senator M.E. Vibert		
Deputy of St. Martin		Senator T.J. Le Main		
Deputy G.C.L. Baudains (C)		Senator F.E. Cohen		
Deputy J.B. Fox (H)		Senator J.L. Perchard		
Deputy J.A. Martin (H)		Connétable of St. Clement		
Deputy G.P. Southern (H)		Connétable of Trinity		
Deputy P.V.F. Le Claire (H)		Connétable of St. Lawrence		
Deputy D.W. Mezbourian (L)		Connétable of St. Brelade		
Deputy S. Pitman (H)		Connétable of St. Martin		
Deputy K.C. Lewis (S)		Connétable of St. Saviour		
		Deputy P.N. Troy (B)		
		Deputy C.J. Scott Warren (S)		
		Deputy R.G. Le Hérisier (S)		
		Deputy S.C. Ferguson (B)		
		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 of Trinity		
		Deputy A.J.D. Maclean (H)		
		Deputy of St. John		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

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

### **The Deputy Bailiff:**

Very well, that concludes Public Business so then we come to the arrangement of business for forthcoming meetings and I invite the chairman of the Privileges and Procedures Committee to ...

### **11. Connétable D.F. Gray of St. Clement (Chairman, Privileges and Procedures Committee):**

I would like to propose the arrangement of public business as listed on the Consolidated Order Paper under section M.

### **The Deputy Bailiff:**

Does any Member wish to make any observations? Very well, are Members in favour of adopting the proposals for future business as set out there? Very well, that is adopted. Chairman, your estimate of the time for the next meeting.

### **The Connétable of St. Clement:**

On a quick glance, it looks like 2 days, Sir.

### **The Deputy Bailiff:**

Two days, very well. That concludes the business of this Assembly and the next meeting will be on 26th February.

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

Did not Deputy Ryan wish to say something before the meeting concluded?

### **The Deputy Bailiff:**

Deputy, do you wish to make a point?

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

I think, on balance, I probably do, Sir, having alluded to it earlier. It is not a major thing, but I thought that Members might be interested to know that having taken soundings among the Corporate Services Panel, in reaction really to some of the things that were said during the debate that has just taken place, we will be putting the question of the Corporate Management Board on our next agenda meeting to discuss some of the things that have been said. It is too early to say where that will go or where it will lead, but I thought Members might be interested to know that there were some serious things that were said and we do want to look at them. Really that is all I want to say on that.



**The Deputy Bailiff:**

Very well, business is concluded and we are adjourned to 26th February.

**ADJOURNMENT**