

# STATES OF JERSEY

## OFFICIAL REPORT

TUESDAY, 13th MARCH 2007

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

## **QUESTIONS**

### **1. Written Questions**

#### **1.1 DEPUTY D.W. MEZBOURIAN OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING STAFF SUSPENSIONS AS A RESULT OF DISCIPLINARY INFRACTIONS UP TO THE END OF 2006:**

##### **Question**

Would the Chief Minister inform Members –

- (a) of the total number of staff, by Department, who were suspended as a result of disciplinary infractions during the year 2006 and in each case identify the employee group concerned, the nature of the alleged infraction, the period of suspension, and the means of disposal of the case?
- (b) out of the total number of staff who were suspended during the period 2000 to 2005 and who remain suspended, identify in each case the Department concerned, the employee group concerned, the nature of the alleged infraction, the period of suspension, and the means of disposal of the case?

##### **Answer**

The information requested by Deputy Mezbourian is given in the attached tables -

### **EMPLOYEE SUSPENSIONS**

Table A – This table depicts the number of employees (defined by Department) who were suspended between January and December 2006

Department	Employee Group	Pay	Suspension Commenced	Suspension Finished	Method of Disposal
TTS	Civil Service		23/8/06	15/11/06	Resigned
TTS	Manual Workers		27/12/06	Ongoing <sup>1</sup>	Ongoing
Harbours	Manual Workers		29/8/06	20/9/06	Disciplined
Harbours	Civil Service		8/9/05	31/8/06 <sup>2</sup>	Resigned
ESC	Teachers		30/6/06	19/7/06	Disciplined
Home Affairs	Police		6/9/06	Ongoing <sup>3</sup>	Ongoing
Home Affairs	Police		17/1/05	4/7/06	Disciplined

<sup>1</sup> Case delayed due to employee signed off sick

<sup>2</sup> Case significantly delayed due to employee signed off sick

<sup>3</sup> Suspension extended due to a delay in case coming to court



Home Affairs	Police	8/7/05	31/5/06	Resigned
HSS	Civil Service	1/12/06	9/1/07	Disciplined
HSS	Civil Service	20/3/06	11/4/06	Disciplined
HSS	Nurses & Midwives	17/1/05	25/9/06 <sup>4</sup>	Reinstated
HSS	Nurses & Midwives	27/1/06	10/2/06 <sup>5</sup>	Reinstated
HSS	Nurses & Midwives	12/10/06	22/1/07	Disciplined
HSS	Doctors & Dentists	19/10/06	Ongoing <sup>6</sup>	Ongoing
HSS	Civil Service	16/10/06	30/1/07	Resigned
HSS	Nurses & Midwives	1/6/06	Ongoing <sup>7</sup>	Ongoing
HSS	RCCO	4/8/06	31/12/06 <sup>8</sup>	Reinstated
HSS	Nurses & Midwives	3/7/06	Ongoing <sup>9</sup>	Ongoing
HSS	Nurses & Midwives	27/4/06	7/8/06	Resigned
HSS	Manual Workers	1/8/02	31/1/07 <sup>10</sup>	Disciplined

### **Notes to Table A.**

- Despite the Deputy asking for the nature of the infraction, this has not been given in this report as there is a concern that it could be possible to identify an individual from the description of the nature of the infraction. Given that a suspension is carried out in the first instance on an accusation that upon investigation could subsequently be unfounded, it could be considered reckless and unreasonable of the employer to run the risk of identifying an employee in this way. This is of particular concern in a small island community such as Jersey where an individual's professional reputation could be severely affected by a spurious or unfounded allegation. However, it is factual to say that suspensions are carried out due to alleged behaviour or actions which, if proven, would constitute gross misconduct.
- There were 20 employees who were either suspended in 2006 or whose suspension carried on into 2006. They were made up of the following pay groups:
  - Civil Service x 5
  - Manual Workers x 3
  - Teachers x 1
  - Police x 3

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<sup>4</sup> Suspended for police investigation followed by internal investigation, no disciplinary case to answer and reinstated

<sup>5</sup> Suspended for police investigation followed by internal investigation, no disciplinary case to answer and reinstated

<sup>6</sup> Subject to investigation

<sup>7</sup> Case significantly delayed due to employee signed off sick

<sup>8</sup> Suspension lifted as after investigation, it was found that there was no case to answer

<sup>9</sup> Case significantly delayed due to employee signed off sick

<sup>10</sup> Suspension extended due to a delay in case coming to court

- Nurses and Midwives x 6
- Residential Child Care Officer x 1
- Doctors/Dentists x 1
- Following a report and recommendations presented to the States Employment Board (SEB) in May 2006, the situation regarding employee suspensions in the public sector has become more closely monitored. Foremost in that report were the recommendations that:
  - All suspensions be notified to the Employee Relations Section of the Chief Minister's Department at the time of the suspension thus enabling the level and duration of the suspension to be monitored; and,
  - Chief Officers to ensure that all suspensions were formally reviewed one month from the suspension date and no less frequently than a month thereafter.
  - The maximum time between suspension date and the disciplinary hearing be 8 weeks (with an expectation that it will be done before that time if possible).
- The SEB now reviews all employee suspensions by way of a twice yearly report.
- Despite the fact that 5 suspensions currently remain in place due to either the suspended employee being certified sick or the case requiring a lengthy and detailed investigation due to the nature of the alleged infraction, there is no doubt that the recommendations agreed by the SEB are resulting in a reduction in the time between suspension and disciplinary hearing. Clearly though, it remains the case that the Employer is unlikely to conduct a disciplinary hearing if a Police investigation is being conducted as it would not wish to risk interference in the legal process.
- Of the total of 20 employees under suspension, a total of 15 were actually suspended during 2006. Several of those cases have been delayed due to the need for an internal or external investigation or because the employee has been signed off sick. These are considered by the SEB to be genuine reasons for a delay to a case being resolved and if those cases are removed, the remaining cases were all dealt with within the recommended 8 week time period.

### **EMPLOYEE SUSPENSIONS (CONT.)**

Table B – This Table depicts the number of employees (by department) who were suspended between 2002 and 2005 and who remain suspended.

DEPARTMENT	EMPLOYEES WHO REMAIN SUSPENDED
EDD	None
TTS	None
Airport	None
Harbour	None
ESS	None
ESC	None
HA	None
P&E	None

CMD	None
Housing	None
HSS	None
Treasury & Resources	None

### Notes to Table B

- The 2<sup>nd</sup> part of the Deputy's question was possibly aimed at a recent and highly publicized case. That case was significantly delayed due to the resulting Police investigation. The particular case in question has now been decided in the Police Court and subsequently by a Disciplinary Hearing at which the employee in question was summarily dismissed.
- The case referred to above was clearly exceptional and it is the SEB's intention that such an unsatisfactory state of affairs is not repeated. It believes that the checks and balances it has put in to place will prevent such a repeat.
- In response to the specific question asked by the Deputy, no other employees suspended between 2002 and 2005 remain suspended at this time.

### **1.2 DEPUTY D.W. MEZBOURIAN OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING 'J' CATEGORY EMPLOYEES DURING THE PERIOD 2000 TO 2006:**

#### **Question**

Would the Chief Minister inform Members of all staff, by Department, who were employed as a 'j' category employee during the years 2000 to 2006 (inclusive) and in each case identify the following –

- job title?
- the number of applications received for each rôle, identified as being from Jersey and elsewhere?
- salary band?
- length of contract?
- in cases where the contract term has expired, whether the incumbent has been retained in the same rôle, been employed in a different rôle or left States' employment?

#### **Answer**

Information relating to unsuccessful applicants for positions with the States of Jersey is retained for a period of 12 months, and for this reason it is not possible to provide data prior to 2006 that would give an accurate reflection of the previous appointments made.

The attached data ( Appendix 1) identifies the members of staff recruited within the States of Jersey as a 'j' category essential employee for the period January to December 2006 in relation to items a, b, c, d of the Deputies question. In response to item (e) the majority of appointees remain in post apart from those identified as leavers in the final column.

The Human Resources function is currently going through a period of reorganisation which includes a review of all processes and the implementation of a new corporate Human Resource Information System in the autumn of 2007 which will allow more effective retention and analysis of recruitment data in the future.

## Appendix 1 – ‘J’ Category Appointments 2006

Dept.	Number of ‘J’ cat. Appts.	Job title	No. of Applicants	No. local Applicants	Nos. UK Applicants	Salary band	Length of contract	Leavers
Transport and Technical Service	1	Project Manager – Solid Waste Strategy	8	2	6	CS 15	5 year	
Economic Development	1	Legal and Intelligence Manager	1	0	1	CS 12	5 year	
Planning and Environment	1	States Veterinary Officer	32	0	32	CS 15	Permanent	
	1	Chief Officer Planning and Environment	15	0	15	A grade	Permanent	
	1	Principal Historic Buildings Officer	15	2	13	CS 12	3 year	
Education, Sport and Culture (Note 1)	10	Teachers				MPS and above	5 Year/ Perm	
	1	Special Educational Needs				MPS		
	1	Education Psychologist						
Law Offices	1	Legal Adviser	1	0	1	£58, 291 – £89,600	5 year	
Social Security	1	Finance Director	10	1	9	CS 14	Permanent	
Jersey Airport (Note 2)	1	Airport Director				A Grade	Permanent	
Treasury and Resources	3	Director of Strategic Procurement	44	3	41	CS 14	5 years	
	1	Deputy Treasurer of the States	15	5	10	A Grade	Permanent	

	1	Director of GST	8	3	5	CS 14	Permanent	
Police	1	Head of the Criminal Justice Unit	9	2	7	CS 13	5 year	
	1	Senior Scenes of Crime Officer	22	0	22	CS 10	5 year	
HM Prison (Note 1)	1	Principal Psychologist				CS 14	Permanent	
	1	Prison Governor				A Grade	5 year	
	1	Head of Residents				Snr. Unit Mgr Grade	2 year	
Chief Ministers (Note 1)	1	Emergency Planning Officer	17			CS 12	5 year contract	
	1	Deputy CEO/Director International Finance	18	1	17	A Grade	Permanent	
Health and Social Services (Note 1)	12	Staff Nurse					5 year	1
	9	Staff Nurse					Permanent	
	1	Head of Clinical Activity					5 year	
	3	Child Care Officer					5 year	1
	1	Team Manager Children's Service					5 year	
	2	Senior Practitioner					5 year	
	2	Centre Manager Children's Service					4 year/ 5 year	
	2	Consultant					Permanent	

1	Speech and Language Therapist				5 year
1	Adult Social Worker				5 year
1	Associate Specialist in Oral and Maxiofacial Surgery				Permanent
2	Environmental Health Officer				5 year/ 3 year
2	Biomedical Scientist				3 year
1	Nurse Practitioner - Methodone Co-ordinator				Permanent
1	Staff Grade Doctor				2 year
1	Assistant Director of Finance				5 year

Note 1: This information is not currently available from these departments, but will be retrievable in future.

Note 2: This appointment was made before the end of 2005, with the postholder taking up his appointment in early 2006. The records relating to the other applicants have not been retained, in accordance with agreed policy.

**1.3 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE POTENTIAL FOR COMPENSATION TO BE PAID TO THE NEW OPERATOR OF THE AMPHIBIOUS SERVICE TO ELIZABETH CASTLE IN VIEW OF THE PROPOSED CLOSURE OF THE CASTLE UNTIL 1ST JUNE 2007:**

**Question**

Would the Minister consider whether the new operator of the amphibious service to Elizabeth Castle should pay compensation to the Jersey Heritage Trust in view of the proposed closure of Elizabeth Castle and the non-availability of the Hydra Terra amphibious vehicles from the 1st April 2007 through to the 31st May 2007?

**Answer**

The contract entered into between the Jersey Heritage Trust and the new operator of the amphibious service to Elizabeth Castle includes provision for compensation in the event that the operator

should fail to fulfil his obligations. If those obligations are not fulfilled, it will be for the Jersey Heritage Trust to determine whether to enforce such a provision, taking into account all relevant circumstances including the implications of any alternative interim arrangements made to facilitate access to the Castle.

#### **1.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHAIRMAN OF THE ENVIRONMENT SCRUTINY PANEL REGARDING WASTE DISPOSAL ISSUES:**

##### **Question**

Would the Chairman, with regard to waste disposal issues, advise members whether his Panel agrees with the current Transport and Technical Services proposals, and, if not, advise members -

- (a) what the current thinking of the Panel is?
- (b) the nature of any work being undertaken by the Panel?
- (c) when that work will be concluded?

Would the Chairman further advise whether the Panel has decided to brief members on alternative strategies for waste disposal, and, if so –

- (i) when the decision was taken and what date was chosen on which such a briefing would be given?
- (ii) whether that timescale is being met?

##### **Answer**

- (a) (b) The Panel is undertaking a review of some aspects of the Transport and Technical Services proposals in respect of waste management in Jersey. The terms of reference are as follows -
  1. To quantify the composition of waste within the residential and commercial collections.
  2. To investigate the practicality and cost implications of re-using or recycling in excess of 32% from the waste stream.
  3. To investigate European and international markets for recycled goods and recyclable materials.
  4. To examine existing technology for the treatment of food waste with the green waste in a composting facility.
  5. To examine systems/policies to encourage the public to play a more active role in recycling.
- (c) The review is nearing completion and drafting of the report currently in progress. It is anticipated that the report will be published in April.
  - (i) A decision to brief members on alternative strategies for waste management was taken on Thursday 11th January 2007 with the briefing to coincide with the publication of the above report.
  - (ii) The original timescale was for the briefing to be held at the end of February or during March. As noted above, it is still the intention of the Panel to hold the briefing at the



same time or shortly after the publication of the report to enable States members to gain the maximum benefit from the briefing.

## **1.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE CONCRETE DEGRADATION AT CONVENT COURT:**

### **Question 1**

- (a) Will the Minister release to members the content of the report on the state of concrete degradation at Convent Court and if not, will he state on what grounds he feels justified to refuse?
- (b) Following the statements made to tenants in his Department's newsletter of the 16th February 2007, stating that refurbishment of Convent Court would cost £5 million, will the Minister reveal to Members what estimates, if any, he has been given regarding the relative costs of refurbishment versus demolition and replacement of Convent Court, along with the respective costs for Caesarea Court?
- (c) Given the Minister's admissions on 27th February 2007 under questioning over plans for Convent Court that he was not in possession of all of the facts, will he undertake to come to the Assembly better prepared for notified questions in future?

### **Answer**

- (a) I am happy to release the report on the concrete degradation affecting Convent Court.
- (b) When dealing with capital projects of this nature, the Department does not solicit 'estimates'. The Department has carried out a number of high-rise refurbishments over the years and is currently preparing tender documents in respect of The Cedars. This knowledge, together with the known requirements of a revamped Convent Court, to meet the needs of demographic change, highlight the need to spend in the region of £4.5 and £5 million on refurbishing this 'tired' building. However the Property Plan is aiming to achieve so much more with an imaginative use of the site so as to improve the lives of existing tenants and those also living in the surrounding area. The future for States tenants is now so bright it is hard to understand why some wish to look for negativity, when none exists.
- (c) I am always well prepared when I attend the States Chamber. When the future for States tenants is so bright, it is regrettable that I have to divert my time and attention to answering questions immersed in negativity.

### **Question 2**

- (a) Does the Minister concur with the conclusion reached by the Public Accounts Committee (PAC) in paragraph 52 of the report PAC1/2007 on the States Property Plan that "The Committee agrees with Mr. Ogle and Mr. Le Ruez that, as a matter of principle, the proceeds of the sale of capital assets should not be used to meet revenue expenditure"?
- (b) If he does not agree, will he state his reasons and, if he does, will the Minister state why the plans outlined in P6/2007 of the Social Housing Property Plan do not follow this principle?

### **Answer**

- (a) It may be helpful to Deputy Southern if he checked with Mr Ogley & Mr Le Ruez as to their actual comments and the important point they were making.
- (b) The Housing Department's Property Plan is not using the proceeds from the sale of capital assets to meet revenue expenditure. The Department is investing money in an extensive refurbishment programme, planned maintenance and where appropriate, sheltered housing acquisitions, to protect and enhance assets for the Public of this Island. That is an intelligent and strategic use of a property portfolio.

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

### **Question 1**

Does the Minister consider that the statement signed by General Practitioners on medical certificates "*that in my opinion his/her incapacity is valid until...[a specified date]*" indicates that the patient is incapable of work on that date and , if so, does he agree that by treating this date as the date on which the claimant can return to work, the department is in effect saving the payment of one day's sickness benefit?

Will the Minister give consideration to either treating the dates given on sickness certificates as inclusive, or to changing the wording to clarify the payment period?

### **Answer**

No, I do not think that the date described as the "valid until date" indicates that the patient is incapable of work on that date. The incapacity continues until that date, but on the date entered the incapacity is no longer valid and the claimant will return to work or, if the incapacity continues, another certificate will be submitted. Therefore, there is no "saving" of benefit payment.

When the current medical certificates were introduced in 2004, thought was given to the words used to avoid unnecessary misunderstanding, before deciding upon the term valid until and general practitioners were advised. If general practitioners are confused, although I am not aware of any confusion, I would be happy to instruct the Department to re-issue guidance as to how a medical certificate should be completed to comply with the Law.

### **Question 2**

Would the Minister inform members what "*options for reducing or limiting expenditure on supplementation*" mentioned in his answer of 27th February 2007 are under consideration in the ongoing review of the underlying reasons for the unforeseen rise in these costs and, in particular, will these options include the removal of the one third division of funding between employer/employee/taxpayer or the abolition of the contributions ceiling altogether?

Does the Minister intend to report the total 2006 supplementation figure to members and will he also report the findings of the review to the States?

### **Answer**

It would be a strange review if I were able to consider any options for supplementation before the detailed analysis was undertaken. Options will be put forward on the completion of the analysis. The fundamental question of Social Security funding, including the proportion of funding and the

earnings ceiling will be part of the review of Social Security outlined in RC 49/2004 which is due to begin after the income support system is implemented and will also inform the Triennial Actuarial Review for the period ending December 2006 .

The 2006 Supplementation figure will be published in the report and accounts which is presented to the States each year. The review of supplementation will also be reported to the States as clearly this is a fundamental feature of the scheme driven by law.

### **Question 3**

- (a) Has the Minister yet received the report on Long Term Incapacity Allowance (LTIA) commissioned from Professor Stafford and can he yet say when he will release its findings to Members and the public?
- (b) In an answer on 19th April 2005, the Minister stated that it was possible to assess how many recipients of LTIA were in work but pointed said that an evaluation of a full year (2005) would be undertaken in order to establish meaningful trends. What meaningful trends, if any, have so far been identified in respect of -
  - (i) The proportion of LTIA recipients in work?
  - (ii) The proportion of recipients requiring assistance from Parish welfare?
- (c) Figures revealed in parts (a) and (d) of his response on 19th April 2005, indicated that awards had been assessed on average at around 60 per cent of the maximum benefit previously awarded under previous schemes, and this amounted to £5.1 million in 2005. What sum, if any, has been factored into the funding of income support to supplement the missing 40 per cent produced by the partial awards?

### **Answer**

- (a) Professor Stafford will be presenting his report to me later this month and it will be released to members and the public after that.
- (b)(i) LTIA has only been in place for two years. The Department's experience of new benefits is that it generally takes up to five years for any true trends to emerge from claim data. However, a snapshot assessment of the 2005/06 data showed that around 30% of LTIA claimants paid some contributions. Those with long-term illnesses would not have been permitted to work under the previous benefit system.
- (b)(ii) I am unable to give any figures regarding the proportion of LTIA recipients receiving Parish Welfare as the Department does not have any data regarding individuals receiving assistance from the Parishes. In my answer to the Deputy's question on the 27 February 2007. I explained that the data gathering exercise for Income Support would provide more information on all claimants.
- (c) It is wrong to assume that *all* LTIA recipients will require Income Support. As indicated above some may be working and able to support themselves. Those who are not able to work at present, will likely to already be receiving support from the Parish and the budget for Native Welfare transferred to the Social Security Department in May 2006. The whole of the Welfare budget (Native and Non Native) has already been factored into the funding of income support.

### **Question 4**

- (a) Following the public consultation over income support, is it the Minister's intention to withdraw benefit from recipients, especially single parents with children aged over 11 years, who are judged to be not actively seeking full-time work, as is now proposed in the UK?
- (b) Does the Minister consider that people are more likely to return to the workplace or work more hours if there are greater financial incentives, and, if so, will he seek to ensure that the framework for income support he brings to the Assembly later this year achieves this?

**Answer**

- (a) It is not my intention to simply withdraw benefit from recipients. The whole purpose of Income Support is to consider the circumstances of households and, if at all possible, help them find genuine employment. This would apply to single parents as much as it would apply to nuclear families. The Income Support system would also provide support whilst they look for work, but it would not support those who have the opportunity and capability to work but refuse to do so.
- (b) I do not necessarily agree that financial incentives are the only driver for people to return to work. I do recognise however, that financial incentives are important particularly to those seeking to extend their working hours. A balanced system has to have both incentives to betterment and penalties for those who do not work when they are perfectly capable of doing so. The Income Support system provides rights to individuals but also requires them to be responsible citizens and the framework I am developing will achieve this principle which was agreed in the States when the Income Support system was proposed.

**1.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING TEACHERS' PAY AWARDS:**

**Question**

Will the Chief Minister inform members when the improved offer for the 2006 and 2007 pay awards was made to teachers' representatives, whether it was authorised by the States Employment Board, and, if so, whether all members of the Board were present?

**Answer**

The improved offer for the 2006 and 2007 pay awards was made to teachers' representatives at a meeting on 8th February 2007 and in writing on 9th February.

The decision to make the same improved offer to all pay groups (apart from Police and Prison Officers, who had already settled their 2006/07 awards following discussions with the Board during 2006) was indeed authorised by the States Employment Board, with all members present at the meeting. Teachers were not singled out as a pay group in this decision, and nor was any other pay group.

**2. Oral Questions:**

**2.1 Deputy R.G. Le Hérissier of St. Saviour of the Chairman of the Privileges and Procedures Committee regarding the outcome of recent investigations into a letter written by Senator S. Syvret:**

What lessons have been learnt from the outcome of recent investigations into the letter written by Senator Syvret?

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

A code of conduct came into force with the new Standing Orders in December 2005. Standing Orders set out very clear procedures that must be followed by P.P.C. (Privileges and Procedure Committee) when the complaint is received or when P.P.C. has information by any other means that lead the Committee to believe that the code might have been broken. As the code has now been in operation for just over a year, P.P.C. decided at its meeting last Wednesday that it wished to review its operation to see if any changes are needed or if additional guidelines for Members should be issued to ensure that there is a shared understanding of what should be involved with complying. P.P.C. would be grateful to receive comments from Deputy Le Hérisier or any other Member to assist with this review.

**2.1.1 Deputy R.G. Le Hérisier:**

Would the President confirm that there is perhaps some ambiguity in the code insofar as complaints received via phone calls, the callers of whose names have apparently been forgotten, might not be a solid basis upon which to proceed?

**The Connétable of St. Clement:**

I will draw the Deputy's attention to 2 articles of the code, one which definitely states that if the Committee has knowledge that there is a breach of the code - not a complaint, a complaint does not have to be received - if the Committee has the knowledge that a breach could have occurred, then it is obligatory of the Committee to proceed with an investigation.

**2.1.2 Deputy R.G. Hérisier:**

Would the President confirm that there has been an irretrievable breakdown in relations insofar as the complainant defined the Committee as a bunch of Nazis and a group of silly, old men? Would he say that, therefore, the foundations for a good working relationship no longer exist? **[Laughter]**

**The Connétable of St. Clement:**

In the report that was issued about this complaint, I think you will find that the Committee answered that question.

**Senator S. Syvret:**

Could I, on a point of clarification, say that I did not call the Committee a bunch of Nazis? I said that trying to silence people's free speech was the kind of thing that one might expect of Nazi or Communist regimes. I think there is a subtle difference.

**[Laughter]**

**2.1.3 Senator S. Syvret:**

I just have a supplementary question to the Chairman. Will he buy a copy of my book when it comes out?

**The Connétable of St. Clement:**

It just depends whether it is affordable, Sir.

**2.2 Deputy D.W. Mezbourian of St. Lawrence of the Chief Minister regarding statistical records of additional people taking up residence in the Island consequential upon the States employing (j) category staff:**

Would the Chief Minister advise Members what records are kept, if any, of the number of additional people taking up residence in the Island, be that spouse and partner and/or children, consequential to the States employing J Category staff?

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

As outlined in the Appointments Commission Recruitment guidelines, all appointments to the States of Jersey are made on the basis of fair and open competition. For this reason, the details required from an applicant to a post are only those which are needed to ensure that the person's competence and experience will be fairly assessed against agreed criteria relevant to the post. Therefore, no data is obtained or recorded regarding any family members that may take up residence in the Island as a consequence of employing (j) Category staff. Following agreement in principle in June 2005 by the States to the Migration Policy, a population office has been established which is responsible for the development of policies which will include the creation of a population register that will enable the future monitoring and regulation of the total residence population.

**2.2.1 Deputy G.P. Southern of St. Helier:**

Is the Minister aware that sometime ago, I think the 2001 Census produced a figure of 1.8 dependants per (j) Category employee on the Island? Is that figure still valid, does he know?

**Senator F.H. Walker:**

I cannot give a precise answer to that but I will establish the answer to it. I think the States should record that, of course, the vast majority of (j) Category employees taken on by the States are, in fact, teachers and nurses; essential frontline staff.

**2.2.2 Deputy G.P. Southern:**

Can the Minister expand on the total number of (j) cats. that are now being employed in the Island since the change of policy from fixed term (j) cats. to permanent (j) cats?

**Senator F.H. Walker:**

No, Sir, I cannot but again, I will get that information.

**2.2.3 Deputy D.W. Mezbourian:**

It seems to me that in the Chief Minister's response, it is quite correct that we employ (j) Category staff on the basis of fair and open competition but to me, Sir, that does not preclude - having appointed someone as (j) category - the fact that we could then make inquiries as to how many additional people are being brought into the Island as a response of that appointment and I wonder whether the Chief Minister would comment on that.

**Senator F.H. Walker:**

Even that is fraught with some difficulty because I am afraid the Human Rights Legislation kicks-in here and there could be, I am advised, some difficulty in that respect but I think what the House should take comfort from here is the second part of my answer relating to the population register and the fact that when that is in place, then of course, it will be possible to know the exact number of people in Jersey and in what capacity they are living in the Island.

**Deputy D.W. Mezbourian:**

I am not sure from the Chief Minister's answer whether he was telling the House categorically that it is not possible to record, having appointed a (j) category employee, the dependants who would

come to the Island as a result of that appointment and I wonder whether the Chief Minister can clarify for me whether he is stating that categorically because of Human Rights?

**Senator F.H. Walker:**

I am not stating that categorically this morning and I have to say that as a result of the question asked by the Deputy, I am instituting some further inquiries of my own to establish what exactly is possible and what is not possible and I myself do not have a 100 per cent clear picture of that at this particular time.

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

May I ask the Chief Minister a question in relation to the amounts of people from (j) category appointments that are left in place in the Island after they cease to become employed by the States. I wonder, perhaps not having that answer today, whether or not the Chief Minister might get back to us on the impacts of using the (j) category licence in respect of the people who are no longer employed by those departments remaining in the Island and perhaps remaining in positions and households and houses and buildings, flats, et cetera, that might have an overall impact. I wonder if he could get back to us on that situation?

**Senator F.H. Walker:**

Yes, Sir, I will get back on that but, of course, we should remember that all (j) category employees both in the public and the private sector have to be approved under the Regulation of Undertakings legislation which controls the numbers very strictly indeed. We also have to remember the importance of (j) category employees to the Island - not just the public sector but to the economy - and I am sure Members will recall, because I am aware there is concern about house prices and house availability, the answer I gave to earlier questions at a previous sitting where the Statistics Department state quite clearly and strongly that it is not the (j) category employees who are driving up the price of houses in Jersey, it is demand from local people which is doing that. The number of (j) category houses in the economy is very small indeed.

**2.2.5 Deputy G.P. Southern:**

Would the Chief Minister state which Human Rights considerations preclude the keeping of such records at present that will not preclude the keeping of such records when we have a population register?

**Senator F.H. Walker:**

As the Deputy is well aware, the population register has been subject - and the proposal for the Population Register has been subject - to stringent review against the Human Rights Legislation and when the proposal comes forward to establish the population register, it will be fully compliant with the Human Rights legislation.

**2.2.6 Deputy R.G. Le Hérisier:**

Picking up on the Chief Minister's comment about local people driving-up prices, does he, therefore, not accept the contention of the Jersey Association of Architects that it is the slowness or indeed, the denial of the Planning Applications Panel to applications which is stoking-up demand?

**Senator F.H. Walker:**

I have no knowledge of that question. That is a question for the Planning Minister. I have seen the article. I have no further information on it. I would be extremely surprised, to say the least, if that turned out to be the case.

**2.3 Deputy R.G. Le Hérisssier of the Minister for Health and Social Services regarding a Ministerial response to the “Overdale, the closure of Leoville and McKinstry Wards” Scrutiny report:**

When will the Ministerial response to the Scrutiny Report entitled: “Overdale, the closure of Leoville and McKinstry Wards” be available?

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

I hope to have it completed and with the Greffe later this week, Sir.

**2.3.1 Deputy A.E. Pryke of Trinity:**

I wonder if the Minister could inform the House if any patients are still at McKinstry Ward, please?

**Senator S. Syvret:**

I would need to check to get the latest figure but my understanding was that some patients were still there because of complexities and the need to identify appropriate places to put them but certainly, we are moving closer towards being able to close down those 2 patient areas.

**2.3.2 Deputy I.J. Gorst of St. Clement:**

Could the Minister confirm when those patients will be removed and to where they will be removed?

**Senator S. Syvret:**

I cannot give a time when the people when will be removed. There are a variety of factors at play. For example, the clinical condition of the individuals concerned may make moving them a high risk activity and, therefore, they will not be moved. I cannot give a precise time as to when all of the individuals will be moved. Where they will be moved to will be high quality, appropriate settings principally in the private sector.

**2.3.3 Deputy R.G. Le Hérisssier:**

Building on that, would the Minister tell us whether the respite facilities at Overdale have been closed and whether his department is now purchasing all those replacement facilities from the private sector?

**Senator S. Syvret:**

Not entirely, Sir. We are certainly purchasing some of those facilities from the private sector. There is still some usage being made of the Overdale facility which is regrettable. As we have repeatedly stated, we do not believe the building to be adequate and indeed, that is reflected in the great downturn of people taking up the respite facility at Overdale, so certainly, we are looking to a move as quickly as circumstances allow to make sure that better, higher quality respite facilities are available.

**2.4 Deputy J.A. Martin of St. Helier of the Minister for Treasury and Resources regarding Ministerial study of the “Jersey Telecom Privatisation” Scrutiny report:**

Has the Minister had time to study the Scrutiny Report, S.R.5/2007 - Jersey Telecom Privatisation and will he now state which of the 5 recommendations he agrees with and which he will act upon. Thank you, Sir.

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

I have not had as much time as I would have liked but I have indeed studied the Scrutiny Report and the potential sale of Jersey Telecom. I found the report helpful to some extent and I am pleased that the Panel recognises that it is a combination of competition, regulation and privatisation that is



most likely to deliver the best telecommunication services to the people of Jersey. It is not possible to give a detailed response that the Scrutiny report merits in the limited time available to me, so I will publish a further written response in the next week or so. I do, however, see merit in some of the Scrutiny report's recommendations. I agree, for instance, that a sale to a private equity group should be treated with caution. Members should know that I will treat any approach with caution but private equity groups may well require particular care and to only be considered if we are certain that they will invest in Jersey Telecom and improve the quality of telecommunication services for Islanders. I also agree that there may be a case for introducing a T.U.P.E. (Transfer of Undertakings (Protection of Employment)) type of legislation in Jersey as soon as possible. This, however, has no relevance to the proposed sale of Jersey Telecom where there will be protection in place for employers as good as or better than they would receive under T.U.P.E. The Panel proposes a review of the powers of J.C.R.A. (Jersey Competition Regulatory Authority) but provides no evidence that they are inadequate. The J.C.R.A. has already strongly refuted the Panel's assertions in this respect and all the evidence shows that the J.C.R.A. has sufficient power to regulate a privately-owned Jersey Telecom. I will, however, commit to working with the Minister for Economic Development to provide whatever assurances States Members feel they require and if the regulatory framework does go bust, there is no need for the States to retain partial ownership in Jersey Telecom. The Panel recommends that the States sell a minority share but does not make any case as to why it should. The advice I have received is that there will be little or no interest in Jersey Telecom if they only offer a minority stake and certainly, we will not attract major players in the telecommunications market. Finally, the Panel has proposed that a full cost benefit analysis is undertaken before sale. This would be a costly exercise and my advisors are not aware of such an analysis ever having been carried out anywhere else in the world prior to a sale but we are willing to talk to the Panel's expert advisor to understand the rationale behind this recommendation and whether it has any merit.

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

On recommendation 3 - and this really worries me and I think really should worry other Members of the House - we may be not so sure that the J.C.R.A. does not have the legal power, our problem being that the only assurance that we have if they have to fight a court case is from the Economic Minister telling us, when pressed, what the budget was: "Well, how long is a piece of string?" As Treasury Minister, Sir, is the Minister happy with this and could he also update us on the powers of the J.C.R.A. on how effective they have been in getting Jersey Telecom to give Sure Mobile number portability because I think this is not happened at the moment. Thank you, Sir.

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

I am perfectly happy that the powers within the Telecommunications Law and the Competition Law are more than sufficient for the J.C.R.A. to deliver the services they need to do fully and properly. As to number portability, that is a question which will need to be addressed to the Minister of Economic Development. I understand that the J.C.R.A. is indeed working to find a constructive solution to that particular issue.

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

I must push him on the budget, our concern is that if the J.C.R.A. has to take on a multi-national company, do they have the budget to go to court? We cannot find out a definite: "Yes." They have a very limited budget to backup their powers.

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

The budget for the J.C.R.A. is a matter which is, to some extent, within their own remits because they omitted to charge to the operators, sufficient fee in order to recover the costs of regulating that particular industry, so I believe that were additional budget to be required the J.C.R.A. already has the power to achieve it.

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

Does the Minister accept that the answer he has just given is incorrect when he refers to action taken under the Competition Law which has to be funded by the Economic Minister, not under the Telecoms Law and if it is a Competition Law ruling, it has to be funded by this House?

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

I do take the point, Sir. Were it a matter for competition, it would be funded by this House and that will need to be addressed but we do not, at present, have any particular indication of the needs for that budget or in which area it might be required.

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

In denying that there was any problem with the powers of the J.C.R.A. to regulate adequately should the Jersey Telecoms be taken over by a multi-national, has the Minister paid attention to the limitations stated on page 69 of the report that are headlined: "5. The regulatory tools are not optimal" and it is a statement from the J.C.R.A. themselves?

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

I believe the J.C.R.A. will make their own case for the extent with which their comments are correctly reported. I repeat that I have every confidence that J.C.R.A. do have all the tools within the law to deliver the services and the regulation that they need.

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

The Minister said that the report was helpful to some extent. To what extent was it not helpful?

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

As I have tried to outline in the answer, Sir, there were some recommendations which I do not believe have been fully justified. For example, although there was a request for a cost benefit analysis that was perhaps not explained as fully as it might be. As far as the powers of the J.C.R.A., I would say that was not necessarily argued as well as it might be; it was argued at some length but I think the conclusions do not necessarily support the facts within the paper. As I say, it is a mixed paper and there were some very helpful comments within it.

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

In criticising the report on the Jersey Telecoms Privatisation, the Minister refers to a lack of justification for some of its recommendations. Does he not accept that there is no justification given anywhere in any documentation that he has produced for the a priori assumption that 100 per cent sale of Jersey Telecom is the only way forward?

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

If I have not made that conclusion of mine clear in documentation so far, I will make it amply clear when I come to debate the proposition when we do that.

#### **2.5 Deputy G.P. Southern of the Minister for Economic Development regarding the tendering and selection process for the new Jersey Tourism website:**

Would the Minister advise Members of the tendering and selection process adopted for the £250,000 contract for the new Jersey Tourism website and indicate whether this covers ongoing site maintenance?

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

I hope Members will forgive me if I sway a little. I am only on one leg at the moment. I am very confident that a robust process was followed in awarding this contract and that the Island will benefit from a new, well-designed website that enables us to compete in the global market place. The tender for Jersey.com followed all guidelines laid down in financial direction at 5.7. Seven companies invited to tender; 3 local, 4 from the United Kingdom. Two of the local suppliers decided to join forces and produce one reply to the tender. Of the 7 short-listed, there was a matrix criterion with a weighted average for importance to different elements of the project and each tender was scored against this matrix. The top 2 scoring tenders were invited to give a presentation to a panel made up of the Chief Executive of Economic Development, E.D. (Economic Development) officials and the Chairman of the Tourism Development Fund. The short list consisted of one U.K. and the 2 local companies that had teamed jointly together. Following presentations, a recommendation paper was given to members of the T.D.F. (Tourism Development Fund) for consideration. The paper and support documents were discussed and a unanimous decision was made by the T.D.F. to me as Minister. The £250,000 will not include maintenance, this is covered by the Economic Development operational budget. The global change in consumer purchasing habits means a state-of-the-art website is a must. Of all international travel, 43 per cent will be purchased online this year. If Jersey is to compete for its share of tourism, an outstanding web presence is essential. The new site will be completely customer focussed and I expect that it will increase substantially a conversion and increase visitor spending.

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

In the documentation, the Minister refers to a significant 19 per cent increases in the total sales year on year between 2007 and 2006 but the total sales achieved by this website amount to a mere £250,000. Does he really believe that spending £250,000 to get the £250,000 is value for money?

#### **Senator P.F.C. Ozouf:**

I think it is important for me to explain that there are 2 elements that I think the Deputy needs some assistance with. There is the actual website which is Marketing Jersey and there is the actual booking engine which is combined, all the hotels in Jersey are linked into the booking system and the figures that he is talking about is in fact the amount of money that is the direct sales that engine drives and so the website is consisting of 2 things. It is a showcase for Jersey and there is a separate booking engine. From that Jersey.com website, members of the public - travellers - may well be booking on all sorts of different sites; Expedia, Flybe, B.A., all sorts of other sites. There are 2 separate issues there. What is important is that figure of 43 per cent of international travel now booked online. That is why we need a strong Jersey.com website presence and an integrating travel booking system which is what we both now have.

#### **2.5.2 Deputy P.V.F Le Claire:**

The Minister said that the £250,000 cost of the website which he has defended as being necessary for keeping up to date with modern tourism is not inclusive of operational costs which are borne out by the department in relation to their annual expenditure. Could I ask what are the anticipated maintenance costs of these websites and these systems for this year and the years in the future?

#### **Senator P.F.C. Ozouf:**

Economic Development is part now of the corporate I.T. system which is under the Chief Minister's Department. We get excellent I.T. support from the essential service of Computer Services and it is all basically rolled into that but we have individual people based at Tourism in order to run the website. The most important thing is this new website is going to mean that we are going to be able to put content on and change the website in a much more up to date manner than we have. We are going to be able to control the D.N.A. (deoxyribonucleic acid) of this website in a way that we have never done so before, so not only are we going to be spending much more time with our own people putting on content but also the operational aspects of it; the actual way the

website works will be run by the Computer Services Department. If the Deputy is interested in knowing those specific costs, I can certainly give him those. They are certainly within the budgets that we have available.

### **2.5.3 Deputy P.V.F. Le Claire:**

It does seem strange that one would take on board a way of consulting that extends to 7 companies, spending £250,000 developing a website and not know what the maintenance costs of that website will be once it is operational. Then, to tell us that there are people in the States of Jersey that are going to be able to add content and are going to be able to work within that content to update it, basically tells me, from my knowledge of websites, they are going to be fully conversant with what they are being given and not to have taken into account and not to know how much it is going to cost to continue to fund. This does seem to be rather disappointing. I wonder if the Minister might get back to us as to what the actual expenditure will be, please.

### **Senator P.F.C. Ozouf:**

The fact is the £250,000 is for designing a website and that is the whole content management system and once that overall machine is in place, you then put on all the additional content - and that is the important thing to keep live, to keep up to date, special offers, the latest advertising material that we are putting forward. That is the content provided, but it is absolutely vital that we have the website engine to do that and that is the £250,000 together with the overall structure of the website interface with the consumer. It is the additional content that will be added from the Tourism Department together with our marketing advisors and it is the Chief Minister's Department and the Computer Services Department that will run it. There are 3 different disciplines there, all being joined into one; moreover, it is the existing budget of the operational costs which are already budgeted for and if he wants those figures, I am happy to give to them to him.

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

Would the Minister not acknowledge that in terms of the remit of his department in other areas such as the development of a strong, local I.T. base, it would have been better had he encouraged local suppliers, for example, to develop alliances with U.K. based suppliers in order that the skills were developed in co-operation and strengthened on-Island?

### **Senator P.F.C. Ozouf:**

I am no less a supporter of local businesses and I want to see... and indeed, the Showcase Awards for Enterprise showed what expertise we have in Jersey. I would have loved this tender to go a local organisation and indeed, I explained in my answer that a local organisation was on the short-list. At the end of the day, we have to take professional advice and I have to take the advice of the T.D.F. and they believed that the U.K. company in this case was the best person and the best organisation to deliver that website. That does not mean to say... and that is not in any way critical of the local capability. We are working as hard as we can with local organisations to raise their competencies, get further and... indeed, of all of the people, the Chairman of the T.D.F. is a member of the Chamber of Commerce and I am sure that he thought very hard when he had to make that decision which was in the best interests of the Island.

### **2.5.5 Deputy S.C. Ferguson of St. Brelade:**

Is this new website going to include a facility for booking one ticket to go to various local attractions just as you can for trips to London because that is an important part of the tourism brief although I understand that Elizabeth Castle will not be open until the beginning of June.

### **Senator P.F.C. Ozouf:**

The Deputy is absolutely right and indeed, Deputy Southern, in his question earlier in respect of the amount of money that we are putting through the website... up, by the way, 26 per cent on 2007 in

January to February figures up to 144, that is just for the moment on tourism bed nights. There are some 4,200 bed nights booked on the website. I know it is small in overall terms but what we want is a booking engine which my very good friend, the Assistant Minister for Education, Sport and Culture and I are trying to achieve; an integrated booking system which is now well under way that not only can you book your hotel room but you can book your visitor attraction and you can book your flight. A whole integrated booking engine is what we are trying to achieve.

**The Bailiff:**

There are a number of Members who wish to ask supplementary questions and we will close soon but may I encourage the Minister please, to be succinct in his replies?

**2.5.6 Deputy J.A. Martin:**

Could the Minister inform the House if this was the cheapest tender, the highest tender or where did it range in around the tenders? Thank you, Sir.

**Senator P.F.C. Ozouf:**

The tender was for £250,000 worth of budget.

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

Would the Economic Development Minister undertake to assess how much money is being spent States-wide on the development and maintenance of websites within the States' budget together with, perhaps, the Chairman of the P.A.C. (Public Accounts Committee) to identify whether or not the States is not running simultaneously budgets that could not be contained within the States themselves? It does seem, on the surface, many websites have been developed, updated and refined and perhaps we might need some uniformity in relation to the expenditure and manufacture of these systems.

**Senator P.F.C. Ozouf:**

I think that is an answer properly directed to the Chief Minister, if I may say, but Corporate I.T. (Information Technology) is changing the way we are dealing with content management for a variety of different websites across the States and efficiencies as part of the £20 million of efficiency savings are being delivered already. But, that is a question properly directed to the Chief Minister's Department.

**2.6 Senator B.E. Shenton of the Minister for Planning and Environment regarding free parking for departmental staff:**

Would the Minister advise Members whether he will be reviewing the free parking offer to staff within his department given his commitment to environmental taxes and user-pays policies?

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

Demonstrating a commitment to the environment is something that we should all be seeking to achieve, both States Members and across the States' Departments. I launched eco-active to begin the process of helping people to make environmentally conscious decisions and I am aware from the tremendous response it received that it has struck a cord with a great many Islanders. The provision of free parking is a complex subject that the States have visited on several occasions in recent years, both for States Members and for members of staff. I would not like to see it act as an obstacle to addressing the important changes to our environmental behaviour that we can and should be getting on with immediately. While there are a few sites within St. Helier where employees are able to park free of charge, the majority of St. Helier-based staff pay for parking in public car parks or use public transport or walk. Out of town the availability and timing of public transport means that it can be difficult to get to and from work using public transport. It would be

impractical to levy a workplace parking charge on one group of employee and not others as this would cause inequality, but there are practical changes that we can make now. As a department we are committed to exploring and promoting the use of green forms of transport. For instance, we have an electric scooter at Howard Davies Farm, which can be used for making business trips to town, and like other departments we will need to introduce green travel plans to reduce the number of car journeys associated with travelling to and from work. I will, however, happily undertake to further reviewing the parking arrangements of all Planning and Environment staff to see if there are practical and realistic ways of reducing car journeys and promoting a more environmentally conscious example.

#### **2.6.1 Senator B.E. Shenton:**

The Minister, in the States, often seems to advocate “do not do as I do, do as I say” policies. Will the Minister give confirmation that he will lead by example before bringing in any environmental taxes?

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

I am not quite sure what the Senator is getting at but I think I am already doing my best. I am using a smaller car, I have bought an electric bicycle, there is not much more I can do, thank you.

#### **2.7 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the effectiveness of the European Union Savings Directive:**

Would the Minister advise Members whether he considers the E.U.’s (European Union) Savings Directive to be an effective means of producing revenue and reducing tax evasion?

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

I think the Deputy should perhaps have directed this question to the E.U. Member States since it is they who imposed the E.U. Savings Directive. The purpose of the Directive, as I understand it, is to ensure that interest on deposits is subject to tax in the depositor’s country of residence. The primary aim is to ensure that depositors provide full disclosure of information about their worldwide income in their home jurisdiction and those depositors who do provide that information continue to receive their interest gross. It is only from those who have so far declined to provide such information that the Island receives any tax revenue. I do not regard it as a particularly effective method of raising revenue as far as Jersey is concerned since there is no certainty as to the ongoing tax yield. While as far as Jersey is concerned the tax raises a few million pounds a year at present the likelihood is that depositors will over time and as tax rates increase move away from the retention tax arrangements towards those of full disclosure. Jersey does not seek to benefit from tax evasion and we have willingly entered into these tax deduction arrangements. We wish to demonstrate to the E.U. and to the world in general that we are a mature and responsible jurisdiction and to the extent that present arrangements lead to a reduction in the opportunities for tax evasion I do find them effective.

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

Does the Minister not agree with the statement made in *The Economist* and widely circulated by his Economic Development Minister that the E.U. Tax Savings Directive has been a flop and those opting to withhold taxes have remitted only a paltry 210 million Euros in total of which our jurisdiction is merely a part?

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

I think I answered the Deputy’s question in my first paragraph when I said it was the E.U. themselves who decided the limitations of their arrangements, and the arrangements that they have imposed do not solve the whole problem by any means. For that reason the yield that they get is

perhaps far less than they would have expected. It has nothing to do with anything that we can do in Jersey.

**2.8 Senator B.E. Shenton of the Minister for Economic Development regarding airline licences and subsidy paid to B.M.I. in respect of the Heathrow route:**

Does the Minister consider it appropriate for him to act as regulator, licensor and financier in respect of airline licences and would he notify Members of the amount of subsidy paid to B.M.I. (British Midland International) in respect of the Heathrow route and explain how this payment will be shown in the department's entry in the States' accounts?

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

Air permits are issued under the Air Permit Transport (Jersey) Law 1998. The policy underpinning this approach was presented to the States on 4th November 2003. This established the open-skies approach against which all permit applications are considered. Of course each application has also to be considered on its individual merits but there would have to be compelling reasons for departing from the stated policy. In any event, safeguards exist to ensure that any decision observes due process. An applicant may appeal to the Royal Court and a third party may seek judicial review. The majority of permits are issued by my department under delegated authority. However, in this case because of the strong representation given by Flybe the B.M.I. application has been referred to me for determination. Following advice from officials I expect to grant the licence later this morning. Many departments are in a similar position to myself as being legally regulator and operator. That is the nature of small states and it is this Assembly who has decided to form Economic Development in this way. In this case, officials advising me on this issue have been independent of the airport and senior officials have not been involved in any of the negotiation of the B.M.I. contract. Effectively a Chinese wall has been put in place to deal with this issue. Turning to the contract itself, the terms of this deal and any future ones must remain confidential to ensure that the most competitive terms can be negotiated. We recognise that public money is involved but to ensure best value commercial negotiations need to remain confidential. There are necessary safeguards to ensure that public monies are spent appropriately and these of course involve the Public Accounts Committee, Scrutiny and the Comptroller and Auditor General, any or all of whom may choose to investigate the terms of the commercial 'in confidence' arrangement. It is vital that we secure our existing route of networks and enjoy an expanding range of new destinations offered at competitively-priced rates. Route development expenditure will be published in the 2007 accounts in accordance with Treasury requirements. Expenditure in the E.D.D. (Economic Development Department) pages of the accounts will fall within the marketing service analysis and grants and subsidies expenditure of the income and expenditure analysis.

**2.8.1 Senator B.E. Shenton:**

Regional airline grants are normally done on an open-book basis. Will airport charges for other carriers be kept artificially high to pay for this subsidy and does the subsidy comply with the recent directive of the European Parliament dated 24th January regarding airport charges and complete transparency?

**Senator P.F.C. Ozouf:**

I can advise Senator Shenton and the Assembly that I took advice independently from the Jersey Competition Regulatory Authority in respect of this issue before signing any arrangements and I am satisfied with the advice that they have given me. Other deals will also remain confidential. That is the nature of a commercially operating airport designed to secure additional passengers, which has been the concern of this Assembly and the Island for so long. The airport needs to be commercial. It is becoming more commercial, and effectively different negotiations with different airlines designed to secure more passengers are effectively what is required. I am alert to all the

international precedents and arrangements and recommendations on that and I believe and am satisfied that Jersey complies with the spirit of those arrangements.

### **2.8.2 Senator J.L. Perchard:**

The Minister said that he took advice from the Jersey Competition Regulatory Authority. I am delighted that he did. Was the advice given to him compatible with the competition law and if it is what was the advice given?

### **Senator P.F.C. Ozouf:**

The advice, which is effectively quasi-legal advice in respect of a transaction... effectively we are dealing with 2 different bodies. The airport is an undertaking as defined by the Competition Law and has to be compliant with Competition Law principles. We do not have in our Competition Law state-aid provisions. There were 2 different elements of subsidy. That advice has been received. I am satisfied with it and the arrangements between B.M.I. and the airport have regard to that advice from the J.C.R.A. which I am satisfied is compliant.

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

Given that the lead article in the *Sunday Times* indicated that B.M.I. are operating flights to Wales empty in order to retain their very valuable Heathrow slots, might I suggest that there is not in fact a subsidy required for B.M.I. to run services to Jersey?

### **Senator P.F.C. Ozouf:**

The amount of slots available at Heathrow: B.A. is the largest single slot holder and I think they hold something between 60 per cent and 80 per cent of the slots. B.M.I. is the second slots holder. I think if I read that *Sunday Times* article correctly it was British Midland Airways, which is in fact a subsidiary or an arrangement with British Airways, not B.M.I. that was doing these so-called ghost flights. But it underpins an important point. That is that Heathrow is different. Slots have a massive value and that is the issue which we are dealing with in terms of correcting the seeming inequity between access to some London airports and Heathrow. That is why a deal has had to be done and I would have thought that that would be warmly welcomed by this Assembly as it has been by the financial community. I want to get those 100,000 passengers that we lost from Heathrow originally back in Jersey in hotel rooms and that is the purpose of the arrangement.

### **2.8.4 Senator L. Norman:**

Will the Minister accept my congratulations on achieving the revival of the Heathrow route and say what impact this and the recently announced reintroduction of the Luton connection have on the viability of the Gatwick route?

### **Senator P.F.C. Ozouf:**

I would willingly accept on behalf of the airport and my Assistant Minister who has done much of the running on this issue, his congratulations on the Heathrow link. Indeed, things are looking up at the airport. We have the re-establishment of the Heathrow route, we have the Luton route and we have a whole load of other routes basically being established. We have British Airways announcement last year - we enjoy an excellent dialogue with British Airways, I know that the Airport Director met with British Airways only yesterday - that business is good. They fully intend to continue the 6-daily service for British Airways and we intend to use our tourism marketing and the airport to drive more business to Jersey and that includes Gatwick. Gatwick is growing, British Airways business in Gatwick is growing and I hope very much that Flybe's traffic on the route will also grow. We will do everything we can to help the now expanded Flybe to do all they can to bring people to Jersey and to benefit our economy.

### **2.8.5 Deputy P.V.F. Le Claire:**



I too would like to congratulate the Minister and Assistant Minister for the wonderful, great work in getting back to Heathrow, but can I get back to the earlier question on this issue? How will the States be able to identify what money has been spent and where will that money appear within the States' accounts for States' Members to identify as to the expenditure as expressed by Senator Shenton? I think it is important to maintain confidentiality but how are we able to retain the oversight that is required by legislature in respect of its expenses if we are not able to understand this? Also given that he has stated that he has sought advice outside of the J.C.R.A. would he indicate where and with whom he sought that advice and whether or not, the question has been raised by Senator Shenton...

**The Bailiff:**

It is a supplementary question, not a speech.

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

I am just trying to get back to the answer that was never forthcoming from the first one, Sir, and it is not my fault that the answer was not given. I am trying to get the answer. Whether or not the question by the Senator in respect of the E.U. regulations and transparency will be addressed and perhaps brought back to the Assembly in consultation with the Attorney General as to whether or not we are acting outside of some E.U. agreement.

**Senator P.F.C. Ozouf:**

First of all, I answered the question very directly in relation to where it will appear in the accounts. It will appear, according to the Treasury requirements, in the E.D.D. pages of Marketing Service Analysis and Grant Subsidies. That is where the grant is going to be held. I agree with the Deputy that this issue must remain confidential. Those bodies which have been set up by this Assembly to safeguard the expenditure of public money are the Scrutiny process, the Public Accounts Committee and the Comptroller and Auditor General. I fully expect them to review arrangements within the airport. I think I have answered all the Deputy's questions.

**2.8.6 Deputy G.P. Southern:**

Is the Minister prepared to release the advice he obtained from J.C.R.A. over this issue?

**Senator P.F.C. Ozouf:**

I enjoy, I think, a good relationship with the Scrutiny Panel. They have calling-in powers in relation to most papers that are with me in my possession and I would need to take advice about the confidentiality of that, but certainly the confidentiality arrangements that exist between the Scrutiny Panel and myself would clearly not preclude any advice being shared. Whether or not it would be published would be an entirely different matter. May I say also, in respect of the earlier question of Deputy Le Claire, there is no contravention of any E.U. arrangement. We are not a member of the European Union. We are an independent state according to Protocol 3 and we have absolutely no requirement to abide by E.U. regulations in those matters, just for the avoidance of doubt.

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

Can I press just for the other question which I asked, Sir, which was not answered, which was with whom and what were the people you sought the advice from, please?

**Senator P.F.C. Ozouf:**

The airport, under Deputy Maclean together with the Airport Director, sought a widespread amount of advice from external consultants, accountants and route development specialists and the Airport Director himself is bringing a whole new range of working and commerciality in relation to agreements. We are seeing the results of that with the good work of my Assistant Minister. A substantial amount of advice was taken; advice which is good for the economy, good for Islanders and good for the visitor economy.

**The Bailiff:**

I am afraid I must draw supplementaries to a close on this question. 2 more supplementaries, one from Senator J.L. Perchard and one from Deputy Scott-Warren.

**2.8.8 Senator J.L. Perchard:**

The Minister informed Members just a moment ago that state aid provisions are exempt from the Competition Law and he maintains that the subsidy given to B.M.I. Baby should remain within his gift and confidential. Does he share my concern that one person should have such power?

**Senator P.F.C. Ozouf:**

For the avoidance of doubt it is first of all B.M.I. mainline service, not B.M.I. I take advice like other Ministers. I make decisions upon advice. Advice by - in this case - the Airport Director and his team, independent advice and indeed my own officials within E.D. and other people. So, it is not simply me deciding by myself whether or not to grant a licence, to grant subsidy arrangements, all the rest of it. There is a substantial amount of advice that was taken on the issue and I am absolutely delighted with the arrangement and the deal which has been struck with B.M.I. which I understand is already yielding additional passengers and indeed the forward bookings for the B.M.I. service are encouraging. It has given the boost of confidence that we need further for the finance industry, which is frankly fantastic news. But, safeguards are in place and I expect them to be scrutinised by the relevant bodies.

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

I also congratulate the Minister and Assistant Minister. I very much welcome the reintroduction of the Heathrow link. But, I also want to ask at the local level, can anything be done - for instance, negotiations with Aurigny and the Guernsey government - to get the reintroduction of flights to nearby destinations such as Dinard in France? Thank you.

**Senator P.F.C. Ozouf:**

I wrote to my opposite number - the Commerce and Employment Minister - immediately upon his re-election. I enjoy excellent relations with Guernsey. We do enjoy continual dialogue in respect of the overall transport arrangements between the Islands. I expect the B.M.I. service to benefit Guernsey. Aurigny is a state-owned airline. We will do everything we can with Blue Islands, with Aurigny, and indeed there are discussions going on in respect of other routes developments, which we expect to announce in the not too distant future. We are doing everything we can to expand our route network but we need a commercial approach at the airport together with the joined-up tourism to deliver it. That is what we are doing.

**2.9 Deputy S. Power of St. Brelade of the Minister for Education, Sport and Culture regarding the proposed Hydra Terra amphibious vehicle service to Elizabeth Castle:**

Would the Minister inform the States whether the proposed Hydra Terra amphibious vehicles for use on the Elizabeth Castle service will be able to operate safely in an open-sea state and will he advise whether the Jersey Heritage Trust has retained a naval architect and marine consultant to assess the stability, survivability and suitability of the proposed vehicles? Can I clarify, Sir, that stability relates to the stability calculations relating to the design of the hull, survivability relates to inclusion of watertight compartments and suitability means the operational suitability?

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

My Assistant Minister with responsibility for culture, the Deputy of Grouville, answered questions on this subject at the last sitting and as she has started I ask that she should be allowed to finish, Sir.

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

The Jersey Heritage Trust has not retained a naval architect or marine consultant to assess the new vehicles which will operate the service to Elizabeth Castle, nor does it have any plan to do so. It is important to appreciate that the suitability and safety of vehicles to operate between West Park and Elizabeth Castle is not assessed by the Jersey Heritage Trust. It is Jersey Harbours which will apply standards set down by the Maritime Coastguard Agency, the M.C.A., in order to issue the necessary licence. To fulfil its contractual requirements with the Jersey Heritage Trust the new operator is obliged to provide vehicles which are fit for purpose. That is to say vehicles which will conform to the licensing requirements in Jersey under M.C.A. regulations. These vehicles satisfy the requirements of the U.S. Coastguard and they satisfy the licensing regimes of all the other locations in which they operate. They will nonetheless be inspected and assessed locally to ensure that they comply with the M.C.A. standards which apply in the United Kingdom and are adopted also in Jersey. To reduce the possibility that there might be a difference in approach between regimes and to ensure that the manufacturer takes full account of the specific requirements of the M.C.A. the production contract for the vehicles specifies that they must be built according to these M.C.A. standards. The Jersey Heritage Trust believes that this approach addresses any reasonable concerns that might exist about specification of the vehicles.

### **2.9.1 Deputy P.V.F. Le Claire:**

I wonder if the Assistant Minister might inform Members as to what progress has been made, if any, in relation to the potential shorter season that we expressed concerns about in the Assembly the last time this was aired and what has been done in respect of perhaps plugging the gap with the old DUKWS or, as was suggested, perhaps looking into accessing the castle from the deepwater side of the facility.

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

Negotiations are going on at the moment and if the Deputy could appreciate these negotiations are between one private company and another, so I do not want to say too much here because it might jeopardise these in some way. But I believe thus far they have not been desperately positive. So, the new operator has been investigating getting a temporary craft from America to fill the gap.

### **2.9.2 Deputy K.C. Lewis of St. Saviour:**

In a previous answer, Sir, the Assistant Minister stated that unless amphibious vehicles are in service the castle will be closed. Can the Assistant Minister confirm whether this is a rough guideline or an absolute rule that Elizabeth Castle will be closed unless amphibious craft are running? Thank you, Sir.

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

It is not an absolute rule and the Jersey Heritage Trust have taken on board the concerns of the Assembly at the last sitting and they will endeavour to put on pedestrian tours to the castle to fill the gap, but it has to be remembered that this time of year, the time of year we are talking about, there are many neap tides and the tours will take place at different times each day. The causeway at best is clear for 4 hours so the café at Elizabeth Castle probably will not be open, nor will any living history interpretations be put on. So, Jersey Heritage Trust will not probably charge for entrance to the castle because of this. But Heritage do appreciate that it is more than just the takings, it is opening-up heritage sites to the public, and they more than anyone will endeavour to make sure this happens.

### **2.9.3 Deputy K.C. Lewis:**

Would the Assistant Minister with Heritage consider utilising the pier-to-pier arrangements that are currently in operation for boats coming from Albert Pier to the Elizabeth Castle pier?

### **The Deputy of Grouville**

If the negotiations are not successful and the new operator cannot secure a craft on a temporary basis I am sure the new operator will do everything they can to make sure there is some form of access to the castle and, as I said before, Heritage more than anyone will appreciate that it is a good thing that the castle is open to everyone.

#### **2.9.4 Deputy S. Power:**

The Assistant Minister has rightly pointed out that the U.S. Coastguard regulations in relation to the operation of passenger boats is different from M.C.A - Marine and Coastguard Agency. In actual fact I think the Marine and Coastguard Agency regulations are stricter than U.S. Coastguard regulations. Does the Assistant Minister not think that the prospective operators of the new service should submit stability data and survivability data to the M.C.A. in advance of the vessels arriving from the United States?

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

The new operator has engaged the services of an independent international surveyor to assist with ensuring that the vehicles are M.C.A. compliant. It might also be worth noting that the vehicles chosen by the operator are in use in many locations around the world including U.S.A., Saudi Arabia, Dubai, Japan, New Zealand and the Caribbean. The manufacturers currently have 38 in operation, 36 of which operate in salt water. So, we have no reason to believe that they are not fit for purpose.

#### **2.10 Deputy J.A. Martin of the Chairman of the Privileges and Procedures Committee regarding the accuracy of the findings of the recent M.O.R.I. poll on electoral reform:**

Is the Chairman satisfied that the findings of the recent M.O.R.I. poll accurately reflect the views of Islanders when 50 per cent of those contacted stated that they knew nothing or not very much about electoral reform in Jersey, and only one-third were sure that they had received the leaflet on which the questions were based?

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

P.P.C. contracted with *Jersey Post* to circulate the leaflet to all domestic households. There are some 37,300 on the database. P.P.C. relied entirely on *Jersey Post* to undertake distribution as agreed. P.P.C. agrees it was somewhat disappointed to see that only 37 per cent of those questioned by M.O.R.I. were sure that they had received the reform leaflet but the leaflet was still received and read by many, many thousands of Islanders. I think it would be difficult to think that there was any better way of reaching that number of people. M.O.R.I. surveys are just one part of an overall reform process. P.P.C. believes that they are an important way to gain some idea of public opinion but it would be wrong to give too much weight to findings at the expense of other forms of public consultation which will include, if the States agree, a referendum where everybody on the electoral roll will be able to express an opinion. But you must not forget there have been public meetings, we are going to hold an in-committee debate and we have received written contributions, all of which will inform the Committee on the way ahead.

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

What precautions were taken in conducting this poll that the order of options was changed in order that a bias was not built-in automatically by people hanging on a phone and picking the first option presented?

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

I think we must rely on the ability of M.O.R.I. to eliminate any bias.

**Deputy G.P. Southern:**

Is the answer none?

**The Connétable of St. Clement:**

As I have said before, we must rely on M.O.R.I. to conduct the poll in the way it feels fit.

**2.10.2 Deputy J.A. Martin:**

Is the Chairman convinced that if we do have a referendum that the people on the electoral roll is the best way to get to everybody on the Island, because I am not quite convinced it is.

**The Connétable of St. Clement:**

I am not certain that there is any better way of conducting a poll than using the electoral register.

**2.10.3 Deputy G.P. Southern:**

Does the Chairman not accept that there are severe limitations with the state of the current electoral roll, particularly in urban areas?

**The Connétable of St. Clement:**

I do not think that there is that much of a problem with the electoral roll.

**2.10.4 Connétable D.J. Murphy of Grouville:**

Could the Chairman tell us please that in response to the brochure that was sent round to most of the households in Jersey, how many replies or comments he had back; and also how many people attended the public meetings which were held at that time?

**The Connétable of St. Clement:**

I cannot give you exact numbers but there were as far as the public meetings were concerned, and I went to all 3 of them, there were I think 20, 20 and 50. That was in St. Martin, St. Mary and in town, with St. Martin being the most populated meeting.

**2.10.5 The Connétable of Grouville:**

So in fact less than 100 people attended these meetings. Would I be right in suggesting that you received less than 100 replies to this brochure as well when replies were asked for?

**The Connétable of St. Clement:**

Yes.

**2.10.6 Deputy R.G. Le Hérissier:**

The Chairman said that he relied on M.O.R.I. to give him advice. Would he identify whether he told M.O.R.I.: "These are the 5 options, please run a poll around those options" or whether he discussed with M.O.R.I.: "There are different ways of getting objective information from a group of people. Please, M.O.R.I., outline them to us and then we will put the proposals within one of these ways." How was the matter approached?

**The Connétable of St. Clement:**

We distributed a pamphlet and M.O.R.I. were asked to ask questions relating to that pamphlet.

**2.10.7 Deputy G.P. Southern:**

Will the Chairman highlight the finding found on page 12 that the views of the informed differ from the overall sample in that the informed were more likely to vote for option 5 than overall?

**The Connétable of St. Clement:**

That is obviously what the M.O.R.I. poll said.

**Deputy G.P. Southern:**

Will the Chairman highlight this fact?

**The Connétable of St. Clement:**

I am not certain when I am supposed to highlight it.

**2.11 Deputy G.C.L. Baudains of St. Clement of the Minister for Transport and Technical Services regarding timescales for shutting-down incinerators:**

Would the Minister advise Members of the timescale involved in safely shutting down from normal running the types of incinerators being considered as a replacement for Bellozanne and whether such timescale would involve any damage to the plant?

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

The control of modern Energy from Waste facilities is a highly automated process. It operates very much in line with any large industrial power station or plant and they are relatively easy to shut down. The normal method is to simply stop feeding in the waste which forms the combustible material and as the temperatures fall down auxiliary burners in the system maintain the temperatures in the grate to ensure that the combustion system is completely burnt. This type of process would last roughly in the order of an hour or longer and is an entirely safe way of shutting the plant down. Having said that, the business of closing down plants is a variable feast and there are of course emergency procedures that take substantially less time and the time span for an emergency shutdown would be in the order of between 10 and 20 minutes.

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

I am glad to hear that it can be shut down as an emergency measure, but I am nevertheless concerned that the plant is situated in the centre of the site and surrounded by petrol, diesel and liquid gas tanks and, should there be a leak of any of those and everybody has to vacate the site fairly quickly, I am concerned that the incinerator might be a source of ignition for those fumes or vapours that are escaping. I realise, Sir, that the power station has generation capability but they are mainly engines, which can be shut down in a minute or 2. Is it not possible to shut down this plant any quicker in an emergency than the 10 to 15 minutes the Minister suggests and would that be done automatically or does it mean that operators would have to remain on site after the emergency siren has gone?

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

I share the concerns the Deputy has about safety down at the La Collette plant as elsewhere and of course so does the Health and Safety Executive and the Fire Service and a number of other experts. I can assure the Deputy that all these folk pay full attention to the ongoing risk assessments and hazards on a regular basis. I perhaps should invite the Deputy down for a tour of the La Collette site because his geography is slightly inaccurate. The location of the plant is in fact off to one side of La Collette and it certainly is not surrounded by fuel tanks or gas tanks, although clearly it is in a proximate location. Having said that in respect of its proximity, at the time of submitting the outline planning permission in January this year the Energy from Waste plant proposal did meet all the planning requirements in relation to hazards: a position in fact that was subsequently confirmed independently by the United Kingdom Health and Safety Executive. I regret, though, that in the analysis of the information I have before me I do not see that there is a faster shutdown time than 10 to 15 minutes but having said that I would remind Members of the design of the plant and that is one where effectively the outside world can be closed-off. There is a differential of air pressure inside and clearly of course this is not an open furnace and, as I recall one observant contributor to a recent radio phone-in programme saying, neither do sparks and smuts fly from the chimney. So, this is a major plant which of itself will have a number of safety features built into it.

**2.12 Deputy S. Power of the Minister for Education, Sport and Culture regarding an extension to the contract period for the proposed amphibious vehicle service to Elizabeth Castle:**

Would the Minister inform the States whether the contract period for the new proposed amphibious vehicle service at Elizabeth Castle was extended from 5 to 10 years and if so whether this was notified to all tender parties and announced publicly?

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

Again, may I ask that as my Assistant Minister started if she will finish, Sir, thank you.

**2.12.1 The Deputy of Grouville (Assistant Minister for Education, Sport and Culture):**

The opportunity to express interest in the amphibious service to Elizabeth Castle was advertised in the *Jersey Evening Post* by the Jersey Heritage Trust and a draft agreement sent to the 5 respondents to the advertisement to enable them to prepare submissions. All received identical information and all those who expressed formal interest were considered by a sub-group of the Jersey Heritage Trust on a like-for-like basis. The submissions were for a 5-year contract and the decision to proceed with the preferred operator was taken on the basis of those submissions alone. The terms of the agreement with that operator preserved the commitment to the original submissions; that is to say the tender sum, the vehicles to be acquired by the operator and the level of service required by the Trust. In concluding, the Trust chose to consolidate its position with an agreement which covered a further 5-year period under the terms favourable to the Trust and of course favourable to the public and to visitors requiring access to Elizabeth Castle. The Trust has the option to terminate this agreement giving 12-months' notice at any point after the conclusion of the fourth year while the operator is committed to providing access to the castle at an agreed price for a 10-year period. The Trust is confident that these arrangements were fair to those who expressed an interest in the service and that they constitute an improvement on the previous arrangement in terms of ensuring long term access to Elizabeth Castle.

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

What were the costs of entering the castle last year? I do not remember exactly, although I do remember going, but what were the costs in relation to getting into the castle having taken an amphibious service and what are they likely to be this year? What will be the difference, if any?

**The Deputy of Grouville:**

I have absolutely no idea and I cannot see how that relates to the question that was asked.

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

In defence of my question, Sir, the question does not necessarily have to relate to the question that was asked as long as it is on the topic. But, in defence of my question it does relate to the answer that was given in as much as having taken on board the criteria and the operator as set out in the Deputy's answer...

**The Bailiff:**

It was a perfectly proper question or I would have disallowed it. The Assistant Minister has told you she has absolutely no idea.

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

My question therefore is, having no idea would she be able to get back to us with the answer?

**The Deputy of Grouville:**

Yes, I most certainly will when the new operator is here and we will be able to tell the Deputy exactly how much it will cost him to visit Elizabeth Castle.

**2.13 Deputy K.C. Lewis of the Minister for Health and Social Services regarding non-notification to patients of the results of blood sample testing:**

Would the Minister advise Members why it is not intended to advise patients of the results of blood samples taken from them for testing for H.I.V. (Human Immunodeficiency Virus), and Hepatitis C?

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

The type of testing we are to embark upon is unlinked, anonymised testing. That means by definition that the samples taken from routine blood samples will be isolated and anonymised so it will not in fact be possible to inform people of positive results for things like H.I.V. or Hep. C precisely because the system is anonymised. There will be no way of tracing back to the individuals concerned any positive results that may arise. The purpose of this testing is to enable the health authorities to get good and sound epidemiological data about the prevalence of these illnesses across society in the relevant age groups. As far as the testing of individuals who may wish themselves to know is concerned, people have always been able to voluntarily ask to be tested themselves and they would be told the results under those circumstances.

**2.13.1 Deputy K.C. Lewis:**

While I applaud the initiative of the Health Department in collating this data and I fully appreciate the need for anonymity, data protection and human rights, I cannot help but wonder if we are missing an important opportunity here. Surely if the patients are given a code number they could for instance tap this code into a hospital website or some similar website set up and get a “blood sample okay” message or “seek medical attention” message. I am sure with all the foreign travel that is going on there must be many people who are completely unaware that they may be infected with Hepatitis C or H.I.V. Does the Minister not agree?

**Senator S. Syvret:**

Indeed that is our concern, that there may well be a higher prevalence of these illnesses in society than that which we are aware of. But, I have to reiterate it will not be possible to identify back to the individual patient. This methodology of the unlinked, anonymised testing is standard clinical procedure in other western jurisdictions. It is widely used. It has also been passed through the Health and Social Services Ethics Committee for their views of the subject. So, it is standard clinical practice. We are not doing anything unique here. To follow the path that the Deputy suggests would be attempting to test people on an individual basis basically and then informing them of the results when they have not gone through the process of discussing the issue with their G.P. (general practitioner), with the clinicians at the hospital, being counselled about the subject in terms of what the results might mean for them and a whole range of other considerations that need to be taken into account. The position is that the unlinked, anonymised testing will give us a substantial amount of very useful and important health data, which we just do not have at the moment. As far as individuals are concerned if they consider themselves to be at risk - and perhaps even if they do not consider themselves to be at risk - people should go and get tested voluntarily on the basis of these potential illnesses and they will be told the results.

**2.13.2 The Connétable of Grouville:**

May I congratulate the Minister on bringing forward this initiative, which in fact was one of the key recommendations of the Dorey drugs inquiry of 2003-2004, but could he assure me that we have funds allocated for this financial year and a planned date for the commencement of the service?

**Senator S. Syvret:**

Yes, Sir, we have funds available. We have long wanted to embark upon this and perhaps would have done so earlier had our financial circumstances allowed but yes, we have funds to embark upon this programme and we will certainly be doing so at the earliest possible opportunity.



### **2.13.3 Deputy P.V.F. Le Claire:**

In other countries when blood samples are taken by hospitals the actual results are appended to the patient's records and a copy of those results are given to the patient. Is that not something that we could be doing in Jersey and what is the reason for the anonymity in respect of people with concern for H.I.V. and Hepatitis C? Is it, because I am not certain, something to do with if they go for a test for H.I.V. or Hepatitis C that they have to tell their insurance company and therefore there is some kind of a risk or something in life insurance if they do this? What is the reason why we cannot get to grips with what is a serious disease because of an anonymity problem?

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

We are doing what we can to get to grips with a serious condition and I have to simply reiterate the answer I have already given. These samples will be a small part of a blood sample that may be taken from patients on a normal, routine basis for a wide variety of other tests. Those tests will remain identifiable with the patients for other clinical purposes but for the purpose of trying to identify the incidence of H.I.V. and Hep. C occurrence in our society a small part of the blood sample will be taken away, anonymised and then tested for H.I.V. and Hep. C and this will give us, as I have said, important public health data which will enable us to track and gauge the incidence of these kinds of illnesses in our society. If people want to be tested - and people should be tested and I would encourage people to do so for these and indeed other illnesses - they should go to their doctor and they will receive the appropriate guidance and counselling and be tested and get the results.

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

Will the Minister advise what provision is being made for patients to refuse to allow for their blood to be tested in this way?

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

Yes, Sir, there was an opt-out availability in the policy. People can discuss these issues with their general practitioner or clinicians at the hospital and they can opt out of this testing programme should they so wish.

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

I think the Minister has explained why the need for anonymity, and it is collecting data. My concern is, if the data collected reveals a very nasty shock for the Island that there are X amount or maybe 1,000 people with either of these diseases how will the Minister deal with this if it is completely anonymous even to the highest people in the hospital who these people are? Because they are diseases that are spread very quickly and that is my concern that if we do find out we have a serious problem what would the Minister then be able to do about it when we do not know who these people are?

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

Well, at present if, hypothetically speaking, there were very high incidences of these infections in society at present we just do not know that. With the unlinked, anonymised testing we would be in a hugely more advantageous position of at least knowing about it and I guess then we would have to embark, were the figures severe, on a much more intense programme of public health education to people to convince them to change lifestyles and take appropriate precautions and all of the other things that health authorities generally try to do to encourage people to lead healthy lifestyles.

### **The Bailiff:**

Two more supplementaries, Deputy Mezbourian and Deputy Lewis.

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

In answer to my previous question the Minister stated that patients will have the power to choose to not have their blood tested but I am concerned that unless they are told about these random testings they will not be able to say that they do not want to have their blood tested. Will it be incumbent upon clinicians and G.P.s to explain about this testing prior to taking samples of blood from patients?

**Senator S. Syvret:**

Yes, Sir, we have involved fully the Island's G.P. community in devising the relevant protocols and methodology and the fact that this testing will take place will be explained to people.

**2.13.7 Deputy K.C. Lewis:**

Further to that I am slightly confused by the Minister's previous answer that people will have an opt-out. If it was completely anonymous would that be absolutely necessarily? Can the Minister also state whether blood donors, et cetera, are screened for these viruses?

**Senator S. Syvret:**

Yes, it is part of the procedure that people who are good enough to donate blood submit to obviously being tested for blood-borne infections. This is standard clinical procedure and has been for a long time. The point of the anonymity is that people will not know - there will be no way of tracing back to individuals - the results of the tests and that is the reason for its anonymity. I hope that people will understand that this is important public health data that we have to accumulate and that we should not shy away from adopting this kind of policy simply because of these kind of concerns. This is standard procedure, standard clinical practice that is now used in many jurisdictions. We are not doing anything new or novel here and the whole approach has been approved by the independent Ethics Committee of Health and Social Services so I can assure the Assembly that this is a good and correct policy to be embarking upon.

### **3. Questions to Ministers without notice - The Minister for Economic Development**

**The Bailiff:**

We come now to questions without notice of Ministers and the first question period is of the Minister for Economic Development.

**3.1 Senator J.L. Perchard:**

Earlier when answering questions the Minister made reference to state aid provisions and the Jersey Competition Law. I believe I heard him say that state aid provisions are exempt from the Competition Law. Would the Minister like to expand on the relationship between state aid provisions and the Jersey Competition Law and importantly inform the Assembly why state aid provisions are not included in the Law and does he consider that in fact they should be included?

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

I think the first thing to say is I do not think I said they were exempt: they are just not in the Law. The standard Article 87 - as they are known - state aid provisions effectively regularise and set out a procedure for governments giving monies. I think Members will be well aware of all of the big stories that we know about of governments helping Air France and all these other places, they do not exist in our Law. Our Competition Law was brought in only a couple of years ago and it contained most of the provisions of competition authorities around the world but it did not have the state aid provisions. Personally I think that we will move to a situation where we should have state aid provisions in the Law. In respect of the guiding principles of state aid provision what one would normally do is have a completely transparent process by which you go ahead and issue state aid provisions and there are numerous examples of airports around the world. In respect of the

B.M.I. arrangements, in respect of the Heathrow link, there were effectively 2 operators; one was B.M.I. and one was B.A. - the 2 biggest slot holders by a mile in terms of slot holding and we did consult with British Airways in respect of the slot arrangements for Jersey. They did not want to do so; so in other words we were transparent with the other operator to the extent that that is possible and they did not want to enter into the route. That is why we did a deal with B.M.I.; but yes, indeed I am happy to look at the state aid provisions and certainly to apply best practice and certainly consider bringing that into our own Law in future.

### **3.2 Deputy S. Power:**

Does the Minister have any market research data on the possible yield of passengers - either business or recreational - from Heathrow and the volume it might achieve for Jersey in the coming year? Related to that, Sir, does he have any information on the resistance to Gatwick from business passengers over those that prefer the Heathrow link to Jersey?

### **Senator P.F.C. Ozouf:**

The market research that we have is that when we lost the British Airways route from Heathrow we lost between 80,000 and 90,000 passengers. That needs to be divided into 2 for individual human beings because there is the return leg there. That is a substantial volume and we lost the ability to effectively market Jersey in that west of London/Oxford/Reading area and that is the catchment area that we are looking at. That is the first thing to say about market research, but we are determined and part of the arrangement with B.M.I. is to have targeted marketing around that area and around that catchment in order to get those passengers back which are affluent passengers well used, I think, to having short holidays, for which Jersey is now having an expanding market. In respect of the consultation with the finance industry my Chief Executive and my Assistant Minister, who are both Members of Jersey Finance, asked the board of Jersey Finance for their views on that. We consulted widely, and indeed certain markets such as Switzerland, Germany, have a particular difficulty in going through Gatwick. There is a particular issue, for example, with Israel and individuals wishing to transfer through to Jersey. There are North American groups, there are Asian groups, and the B.M.I. service is going to give us access to those markets that we have not had without that frankly dreadful journey around the M25. That is what we are trying to target.

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

Will the Minister agree to revisit the section of R.4/2007 - Strategic Plan Progress Against Initiatives which has currently all got green symbols suggesting that all his initiatives are on track? Surely at least 2 of them - and I refer to 4.2(i) the production of the EDAW plan, a co-ordinated plan for the town, by the end of 2006 - cannot possibly be, as he suggests, on track with a little green symbol. It should at least be an orange or a red symbol because it has not been produced by the end of 2006.

### **Senator P.F.C. Ozouf:**

Economic Development is a large department with a range of initiatives which we are delivering and we are delivering huge, I think, changes in the way that the economy is responding. In respect of EDAW I think that chart was issued - I am not sure what date he has got it - it was expected to be done by 2006. It has not been done, that is a shared report with the Minister for Planning and the Chief Minister's Department and indeed chaired by the Constable of St. Helier. We are looking at the final drafts of EDAW. I have seen the drafts; I am happy with the drafts - we have done a lot of work for it and it is going to change the face of St. Helier in a variety of different ways. It complements all of the work that has been done on the Waterfront and effectively it is going to deliver the capacity for the economy both in terms of residential units and office units that I am wanting to see to underpin the growth of the Jersey economy, which I am sure the Deputy will agree is what we are trying to do. Is it amber today? Yes. Are we going to deliver it? Yes, we are and very shortly.

**The Bailiff:**

May I just remind Members that one-third of the time for questioning this Minister has been consumed in 3 questions. May I please encourage both Members and the Minister to be concise as required by Standing Orders in questioning? Deputy Mezbourian.

**3.4 Deputy D.W. Mezbourian:**

I will try to be concise. In an earlier response the Minister spoke of the benefits to the Jersey economy of the reintroduction of a Heathrow link. Notwithstanding that he is indeed Minister for Economic Development, will he advise the House what consultation, if any, is undertaken with the Planning and Environment Department as to the benefit or otherwise to the Jersey environment?

**Senator P.F.C. Ozouf:**

The issue of a low carbon footprint is something which I am in discussion with my friend the Minister for Planning and Environment on, and indeed I only sent an email this morning in respect of what we can do for Jersey airport and our partners at Jersey airport in terms of reducing the carbon footprint and offsetting the carbon footprint. Travel is not bad, you just need to have an offset, and I would like to do something and I am discussing that with the Airport Director, my Assistant Minister only today.

**3.5 Deputy S.C. Ferguson:**

There are a number of rumours around about large international supermarkets. Will the Minister give us his assurance that no large international supermarket will be allowed to open in the Island without being brought to this House first?

**Senator P.F.C. Ozouf:**

I am giving evidence to the Retail Economic Development Panel on Thursday evening. I intend to set the record straight in a number of aspects of the retail strategy. Matters for supermarkets are, indeed, shared by Regulation of Undertakings which are decisions that I make and, indeed, they are delegated to me by this Assembly and also by the Planning Minister in respect of planning consents. I am happy for the Deputy to be invited to listen to what I have to say on Thursday so I do not take up too much more time. I will be setting the record straight on the retail strategy on Thursday.

**Deputy S.C. Ferguson:**

Will the Senator give us his assurance?

**The Bailiff:**

I think the answer to that is no.

**3.6 Senator B.E. Shenton:**

I am pleased to see that Heathrow route back, but would the Minister admit that it is not usual practice, nor best practice, to keep airline subsidies confidential?

**Senator P.F.C. Ozouf:**

I do not agree. I have already answered the question earlier. I do not think I have got anything else to say in respect of the answers that I gave. I disagree with the question.

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

This is really a brief supplementary from the previous question I asked. I can support the commercial emphasis on the airport on re-establishing old routes and getting new routes, but does the Minister accept that it is still important for Jersey residents to be able to have access by air to nearby destinations in France, mainly for weekends, short breaks. Also, a few people in the past

have used that to come to work in Jersey, and so can I have an assurance from the Minister that there will also be consideration to the local population?

**Senator P.F.C. Ozouf:**

Yes, I absolutely agree. Heathrow, however, represents from January to February... **[Laughter]** sorry London represents more than 50 per cent of the market. Can we do more for other groups? Yes. Are we doing so? Yes. Is there going to be news on more routes? Yes, I hope so.

**3.8 Deputy R.G. Le Hérissier:**

Yesterday an economy airline said it wanted Jersey Airport to run in a way that met economy airline conditions, i.e. sparse, utilitarian, basic, fast. In other words, is the airport now being structured, what with the new shops and the movement into the airside of all sorts of facilities... is its restructuring going very much against the whole notion of budget airline operation?

**Senator P.F.C. Ozouf:**

On the contrary, the restructuring of the airport and bringing the passenger gates forward is designed to give a better passenger experience, but also get the amount of non-airport revenue up. That means more retail sales for people waiting for their flights. That is one way that we are going to be able to offset the costs of operating for low-cost airlines. There is an unshakeable destiny in lower airport charges and that is what the policy is designed to achieve and I agree with the sentiments of what the Deputy is trying to say.

**3.9 Deputy R.G. Le Hérissier:**

Would the Minister not admit, Sir, that the unshakeable destiny of economy airlines is to have economy operations and people shopping is not part - no matter how fine the experience - of what they require?

**Senator P.F.C. Ozouf:**

Airport revenues: I must give the Deputy a lesson in airport economics and airport finances. **[Laughter]** The amount of revenue which the Jersey Airport has in terms of just passenger airfares and passenger landing fees is disproportionately high to virtually any other airport around. We are trying to get the non-aeronautical revenue up. That means getting more people to buy and have a good shopping experience at the airport and we are looking at the rest of the airport estate to see what we can do to raise the revenue in order to offset landing charges and maintain the infrastructure.

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

Could the Minister advise if there are any projects currently being considered for funding by the Tourism Investment Fund and, if so, what is the nature of any such applications?

**Senator P.F.C. Ozouf:**

There are a number of applications that are being considered by the Tourism Development Fund, one of which is I think in the public domain, but I am happy to confirm that, for example, one of the most exciting projects that we are looking at is the redevelopment of the Watersplash out at St. Ouen. There are a number of other projects which are being looked at and I am confident in the deliberations of the T.D.F. now having been set up separately under the chairmanship of John King, in order to deliver me good advice in respect of the administration of that and to help as much as we can to develop the visitor economy.

**3.11 Senator J.L. Perchard:**

It now looks likely that Jersey's new sales tax will be introduced probably in April 2008. Does the Minister consider April to be the best time to introduce G.S.T. (Goods and Service Tax)?

**Senator P.F.C. Ozouf:**

That is a very good question. I would have liked it to be earlier and, indeed, I will, of course, support the Treasury Minister. He has given an undertaking that it should be a 12 month period since this Assembly approves it. We need to balance at the right time to bring in the tax with the amount of time that businesses have to prepare for it. Frankly, I would like it to be a little earlier and, perhaps, there could be, because of the timing of Easter, et cetera... Certainly, if it could be brought forward slightly then that would be better, but that is clearly a matter for the Treasury Minister, but no doubt we will be consulting on this issue and debating that in this Assembly and, perhaps, somebody wants to bring an amendment to the actual implementation date so that we can have a debate on it.

**3.12 Senator J.L. Perchard:**

Supplementary, Sir. Why would the Minister like to bring it in a little earlier?

**Senator P.F.C. Ozouf:**

Partly because of the timing of the tourist season and, indeed, the whole kick-off of the arrangements of tourism. Frankly, the quicker we can get this tax in the better. There is always a cyclical market in Jersey in respect of tourism, visitors and the rest of it and, frankly, the earlier it is brought in, the quicker businesses can be equipped to do that. I authorised yesterday expenditure for Jersey Business Venture so they can help small firms adapt to the new regime. The quicker it is brought in, frankly, the better, but maybe a month early would be better.

**3.13 Deputy K.C. Lewis:**

While I am absolutely delighted that the Heathrow route is now back on line, many people have said to me in the past that the trek across London is absolutely horrendous with many people saying: "Never again." My question to the Minister is, are there any other U.K. airports that he seeks to target with subsidies?

**Senator P.F.C. Ozouf:**

My Assistant Minister and his Airport Director are doing very well. They have got Luton, they have got Leeds/Bradford I think is a new airport - or Teeside - and I am happy to give all States' Members a list of all the airports that we have now achieved a new route and there are some other routes which are currently under discussion outside the United Kingdom.

**3.14 Deputy G.P. Southern:**

Will the Minister finally undertake to give a response to my letter of 10th January, followed up in February, seeking a chat with an officer responsible for the finance sector, so that I can properly organise my Scrutiny Panel's work agenda?

**Senator P.F.C. Ozouf:**

That is a bit rich. **[Laughter]** I enjoy excellent communication. He is not going to get away with cheap shots like that - just letters being sent: my telephone number is in the book. He knows the responsible officers. We work night and day to deliver information to the Scrutiny Panel. If he wants to meet with officials and me in relation to the finance industry he can do so. What he is aware of, however, is that there is a new senior official which has been appointed only 3 weeks ago in respect of the financial services, and if he wants me to arrange an interview with him or a meeting with him, I will do so immediately that I sit down.

**3.15 Deputy P.N. Troy of St. Brelade:**

Regarding the airport retailing, can the Minister advise whether any new retailing companies are going to be invited to take up positions within the areas concerned, or whether it will just be dished out to the existing operators?

**Senator P.F.C. Ozouf:**

My Assistant Minister and the Airport Director have been reviewing a decision made by the previous Harbours and Airport Committee concerning the awarding of a contract. It is said to be exclusive. There are some elements of exclusivity in it. Yes, I would like to see more retailers up there; yes, I would like to see more people spending money and enjoying Jersey produce - Jersey purchases - before they depart from the Island and we are going to do everything we can to do that and that is why we are moving the security gate forward. Not only to do that, but to give people the best passenger experience, not so that they are herded through the gates right at the last minute.

**The Bailiff:**

I thank the Minister for his concision and that concludes the first question period. We come to the second question period of the Chief Minister and I invite questions. Deputy Mezbourian?

**4. Questions to Ministers without notice - The Chief Minister**

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

I would like to thank the Chief Minister for his response to my written question on employee suspensions, but having looked at the response, I would like to know from him the issue of delay in dealing with suspensions due to employees being off sick. It seems to be paramount in his response and I wonder how that is being dealt with. Will the Minister explain?

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

The new measures introduced earlier this year have made a considerable difference to the length of time and the whole discipline basically surrounding suspensions. There are still some issues which the States Employment Board wish to pursue further and the question of suspension and illness is one of those that we are looking at actively.

**4.2 Senator B.E. Shenton:**

Does the Chief Minister consider that he has enough power to carry out his role? **[Laughter]**

**Senator F.H. Walker:**

Yes, Sir, but I could always do with more.

**4.3 Deputy G.P. Southern:**

Could the Chief Minister state the reasons that underlie his decision not to grant Jersey Dairy a Public Policy Exemption, as recommended in Scrutiny Report 4 of this year, with which he was in broad agreement?

**Senator F.H. Walker:**

The decision has been taken in conjunction with the board of the Jersey Dairy because at this point a P.P.E. (Public Policy Exemption) is totally unnecessary. Should it become necessary to protect the dairy industry during a period of transition, I would have no hesitation whatsoever in issuing one, but it is totally unnecessary at this point because there is no threat from the J.C.R.A. (Jersey Competition Regulatory Authority) to the industry at this juncture.

**4.4 Deputy R.G. Le Hérissier:**

With regard to the dairy industry, the response of the Chief Minister's Department is still awaited to the Scrutiny report, but would he tell me how he believes one can reconcile retaining a dairy that needs certain monopolistic powers to operate to retain its market mass, so to speak, and yet opening it up to competition? How does he intend to square that?

**Senator F.H. Walker:**

This is an extremely balance - as the Deputy who was a member of the Scrutiny sub panel well knows - to achieve, but we are in very constructive talks with all the players in the industry and are hopeful of a solution to which all significant members of the industry will be able to sign up. I am hopeful a solution will be forthcoming within a matter of a few weeks.

**4.5 Deputy J.A. Hilton of St. Helier:**

In response to your question to me by the Director of Human Resources, I had asked what the States' policy was in connection with employment opportunities for people with learning disabilities. I was informed that the States of Jersey do not have a policy. Can the Chief Minister confirm that he will look into this and bring a policy back to the States for people with learning difficulties?

**Senator F.H. Walker:**

I can confirm this is already being looked into and my Assistant Minister, Deputy Gorst, has been active in this respect now for some time. It is very much our view that the States should have a proactive and easily accessible employment policy to those with learning difficulties and that is exactly the aim that we are working towards.

**4.6 Deputy R.G. Le Hérissier:**

I was dissatisfied with the answer on the dairy. I wonder if the Chief Minister could tell us (a) where he stands on this particular issue and (b) how he reconciles moving from an operator who needs some elements of monopoly to one who is going to be exposed to the full force of competition?

**Senator F.H. Walker:**

There is general agreement - and I can only assume that the Deputy is no longer up-to-date with the movement in the dairy industry - that the way forward is a producer-owned, if you like, business. What my team are doing is working with the producers, with the board of the dairy and others towards achieving that objective in such a way that we prevent a turf war or a disastrous split in the industry which could merely open the gates then to external competition to the detriment of all. We are looking for a joined-up solution here and at this time I am confident that we will achieve one, although I can give no guarantees.

**4.7 Deputy P.N. Troy:**

Can I ask the Chief Minister, following the election of a new Chief Minister in Guernsey and a new cabinet, can he advise what steps he has taken to organise a meeting to progress relations between our 2 Islands?

**Senator F.H. Walker:**

Yes, Sir, I can indeed. I telephoned the new Guernsey Chief Minister within hours of his appointment. I have subsequently followed that up with a letter and we have agreed that I will be going to Guernsey within the next few weeks - I do not have a date as yet - but within the next few weeks to hold the first meeting with him. I do not anticipate that there is going to be any problem here at all because we are both committed to the Islands working together as closely as possible and I anticipate a productive meeting when I go over.

**4.8 Deputy R.G. Le Hérissier:**

As a result of the visit to the French idyllic island last weekend, would the Chief Minister tell us whether it was indeed the case that the Cherbourg-Jersey freight link was confirmed at that meeting and could he give us a date as to when it will come in?

**Senator F.H. Walker:**



Sorry, Sir, I missed that.

**Deputy R.G. Le Hérisier:**

Could the Chief Minister, Sir, tell us whether at the meeting with the French or the Normandy authorities, as appeared in the press, an agreement was announced on the start-up of the Jersey-Cherbourg freight service and, if so, when will it start?

**Senator F.H. Walker:**

Well, Sir, no agreement was necessary between the Conseil Général de la Manche or the States of Jersey because a private company is intending to start that service imminently. Both the Conseil General and the Economic Development Minister and his team and mine are supportive of this private sector initiative. There are no barriers to its commencement and, as I have said, we anticipate seeing the first service start imminently.

**4.9 Deputy J.A Hilton:**

Can the Chief Minister confirm the commitment of the Council of Ministers in delivering the town park, as agreed by the States, in approving the Strategic Plan?

**Senator F.H. Walker:**

Yes, Sir, I can confirm that commitment. Sadly though, as the Deputy is only too well aware because she has been working very hard to deliver the town park, there remain issues with contamination and there remain issues, which are within our ability to resolve and they must be resolved, in terms of providing alternative parking spaces in an area reasonably adjacent to the park. But as I think the Deputy would herself agree, every effort is being made to deliver the town park as soon as possible and the commitment remains to do so.

**4.10 Deputy D.W. Mezbourian:**

I regret having to ask this question yet again of the Chief Minister, but I wonder whether he will undertake to deliver the report on ethical investments to the House within the next few weeks, please? He did assure us at the end of last year that we would have it shortly, but there appears to have been no sign of it yet.

**Senator F.H. Walker:**

If I am looking slightly surprised it is because I was firmly under the impression that the report had been produced some time ago, but clearly that may not be the case. In any event I will absolutely commit to ensure that it is without any further undue delay but I really thought it had been produced. But, yes, if it has not it will be.

**The Bailiff:**

If there are no further questions for the Chief Minister, we will draw the oral questioning to a close.

## **PERSONAL STATEMENTS**

**The Bailiff:**

We move on to J - Personal Statements and Deputy Le Claire wishes to make a personal statement.

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

Having discussed the issue of voting rights for 16-year olds with the Deputy of Grouville and in consideration of my proposition before the Assembly P.166/2006 set down for debate on 27th March 2007, the Deputy of Grouville and I have decided that, given the research the Deputy has done and continues to do on the matter, these proposals would be better tabled by her. She is also

an Assistant Minister for Education, Sport and Culture so may be better placed to undertake the research required. In considering whether or not to continue to debate my proposals as planned, I took the following into consideration. The first thing was a delay in order to allow the Deputy of Grouville the opportunity to present this change to the Law likely to affect the ability of those who would become eligible under these proposals? I am informed by the Deputy that she will lodge her own proposition around Easter time with a view to having it debated when she has completed her secondary school visits and got feedback from school councils and the youth forum. Having checked with the Greffier, I am reliably informed that this a relatively minor amendment in law drafting terms which could be made quickly and would not, therefore, affect their potential right to vote in 2008, should the States agree to the proposal. The second thing, Sir, was what benefit would be achieved by allowing the Deputy of Grouville to table these proposals? In discussions with the Deputy recently, I have learnt that it was her intention to lodge a similar proposal 15 minutes after I had on the day that it was tabled. The fact that I had already submitted a proposition denied her this opportunity. The proposition to allow 16-year olds to vote has been something I have been saying we should do since I entered the States in 1999, Sir. It is something I believe in and would very much like to see in place. I am not, nor have I ever been, of the belief that it is more important that one gets the credit for something, so much as the best outcome for the Island is paramount. I do, contrary to some opinion, believe in team work and as long as the Island and our community benefits that is all that matters. In conclusion of this consideration I have realised through conversations with the Deputy of Grouville and studying media reports, that the young people have been actively engaged by the Deputy, helped by Deputies Fox and Gorst, in a manner which best suits the engagement process and for which I would like to congratulate them. I have therefore, Sir, decided to withdraw my proposition on the understanding that the Deputy of Grouville will be lodging her own proposition after further research around Easter time.

## **STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

### **The Bailiff:**

Thank you, Deputy. We come now to statements on a matter of official responsibility. The first statement is that of the Chairman of the Privileges and Procedures Committee.

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

Members will be aware that the Sub-Committee established by the Privileges and Procedures Committee to undertake the review of the first 12 months of Ministerial Government started work some time ago and we held our first 2 days of public hearings last week. On 18th January 2007 I wrote to Members including enclosing a questionnaire and explaining that the Sub-Committee was keen to hear the views of all Members of the States on the matters covered by the review's terms of reference. Unfortunately to date, only 11 Members have replied to us in any of the ways suggested. The Sub-Committee finds that a very disappointing response in view of the importance of the review and the purpose of this statement is therefore to urge all Members who have not yet replied to do so. The Sub-Committee feels that we are able to make more meaningful recommendations if it has comments from all Members and I hope that any Member who has not yet contacted us, either by filling in the questionnaire or indicating that they would like to give oral evidence, will do so soon. I have placed some blank questionnaires in the Members Room today in case Members have mislaid the one sent in January.

### **The Bailiff:**

Are there any questions for the Chairman of the Committee? Very well, we come to the second statement on a matter of official responsibility to be made by the Minister for Economic Development.

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

Subject to States' approval, the introduction of a Goods and Services Tax (G.S.T.) will for the first time in Jersey result in a tax element in retail prices charged to consumers on the supply of a broad range of goods and services. The Minister for Treasury and Resources and I have carefully considered the question of how G.S.T. should be charged by traders on the goods that they sell to consumers. The vast majority of jurisdictions with G.S.T. or V.A.T. (Value Added Tax), including the whole of the E.U., the Antipodes and almost all developed countries, have enacted consumer protection legislation ensuring that prices displayed is the price paid at the till. We wish to ensure that local consumers and visitors to the Island are also protected in the same way. We are particularly keen to ensure that the Island is not identified as condoning price marking policies which would effectively be illegal in almost all countries where V.A.T. or G.S.T. exists. The Minister for Treasury and Resources and I are concerned that if legislation requiring price displays to include the 3 per cent G.S.T. is not enacted, it could confuse consumers where some traders display inclusive and some do not and could even lead to potential abuse. A paper on the issue of price marking will be available to Members tomorrow and published on Thursday. We then intend to consult on draft Regulations and place the matter for final determination before the Assembly before the summer break. It is equally important to ensure that traders and consumers have certainty on this issue ahead of the implementation of the proposed Goods and Services Tax.

### **The Bailiff:**

Are there any questions for the Minister arising out of that statement?

## **PUBLIC BUSINESS**

### **7. Draft F.B. Playing Fields (Sports Hall) (Jersey) Law 200- (P.9/2007)**

#### **The Bailiff:**

Very well, then we come to Public Business and the first item of Public Business is the Draft F.B. Playing Fields (Sports Hall) (Jersey) Law 200- and I ask the Greffier to read the citation of the draft.

#### **The Deputy Greffier:**

Draft F.B. Playing Fields (Sports Hall) (Jersey) Law 200-: a law to validate the construction and use of part of the sports hall built on the F.B. Playing Fields. The States, subject to the sanction of Her Majesty in Council, have adopted the following Law.

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

Before the Minister starts, may I declare an interest in that I am the Vice-President of the Table Tennis Association but I do not feel that it bars me from the debate itself.

#### **The Bailiff:**

Thank you very much.

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

I regret having to come to the House with this minor change to the Law, but unfortunately when the excellent table tennis centre was built on the F.B. Fields, an elongated wedge shaped sliver of the building was built outside of the area covered by the 1996 Law which allowed restricted covenants permitting the erection of buildings to be built. So, in order to regularise the position of the hall, it is now necessary to augment the 1996 Law so as to extend its provisions which make the construction of a hall on the relevant area lawful to that little bit of the hall which has been built on the adjoining area. I will endeavour to answer any questions and make the proposition, Sir.

**The Bailiff:**

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

**7.2 Deputy S.C. Ferguson:**

My reading of the plan is that this is a very large sliver. If a private developer did this, he would be hung out to dry. It does seem that the departments responsible should at least investigate why this happened, so that it may not recur. With all the building inspectors and professionals and so on involved, it does seem particularly incompetent to have built over the boundary like this and I should be glad to hear the Minister's comment.

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

Building on the previous speaker's comments, I wonder if the Minister can tell us how this came to pass? Was the conveyancing inadequate? I mean, while I support the proposition, I really cannot understand how this came to happen?

**7.4 Senator P.F. Routier:**

I was, obviously, involved at an early stage when the clubroom was built and I can assure Members that the Table Tennis Association and myself did build the club in the place where they were told to build it, so there is no blame at all to be placed on the Association. We have discussed the matter with the Conveyancing Department of the States and it appears that there is very little to be gained from trying to find out exactly the detail of how it happened. It is an error that has happened in some way and if people want to have an estimation of the size of area that is involved, certainly if I was playing a backhand down on one end of the club I would just have to stand like that and that would be sufficient to this piece of the area that is at the widest part and at the very end it is negligible. I would suggest to Members that there was some discussion about whether there should be a review of how it got to this situation, but the Solicitor General has said there is nothing reasonably gained by doing that.

**The Bailiff:**

I call upon the Minister to reply.

**7.5 Senator M.E. Vibert:**

I thank those who have spoken. I believe Senator Routier has partly given a reply to the queries of Deputy Ferguson and Deputy Baudains. I asked exactly the same questions, perhaps in slightly even more harsh terms, when this was placed before me and we did look in the department to try to find out where and how this had happened. Unfortunately this was some 8 or 9 years ago now, and it has not been possible - and the Conveyancing Department of course is not within my own department - to find out who relied on the Conveyancing Department and the layout and everything and we have gone into it and we cannot find out how it has happened. It is unfortunate it has happened. It is a very minor area and I am sure the States of the day would have allowed the building, because the building was of the size it was going to be. Unfortunately, as you can see on the diagram, the alignment got slightly wrong and so a sliver of building was outside, but I believe now it is important that this is rectified so that a proper lease can be executed and I would hope States' Members would accept that it is something that happened in the past, we just have to live with and put right and I make the proposition, Sir.

**The Bailiff:**

I put the principles of the Bill. Those Members in favour of adopting them kindly show; those against? The principles are adopted. The Chairman of the Education and Home Affairs Scrutiny Panel, do you wish to scrutinise?

**Deputy F.J. Hill of St. Martin (Chairman of the Education and Home Affairs Scrutiny Panel):**

No, Sir.

**The Bailiff:**

Do you wish to propose the Articles en bloc, Minister?

**Senator M.E. Vibert:**

Yes please, Sir, and I will endeavour to answer any questions anyone may have.

**The Bailiff:**

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

**Senator M.E. Vibert:**

Yes, Sir, and I hope my Assistant Minister is ready to second me this time, Sir, thank you. **[Laughter]**

**The Bailiff:**

**[Seconded]** Any Member wish to speak on the Bill in Third Reading? I put the Bill. Those Members in favour of adopting it kindly show; those against? The Bill is adopted in Third Reading.

## **8. Draft Shops (Sunday Trading) (No. 9) (Jersey) Regulations 200- (P.10/2007)**

**The Bailiff:**

We come to the Draft Shops (Sunday Trading) (No. 9) (Jersey) Regulations 200- and I ask the Greffier to read the citation of the draft.

**The Deputy Greffier:**

Draft Shops (Sunday Trading) (No.9) (Jersey) Regulations: the States, in pursuance of Article 6 of the Shops Sunday Trading (Jersey) Law 1960, have made the following Regulations.

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

I am extremely fortunate that the Connétable of St. Lawrence has particular responsibility for Sunday trading and could I ask him to be rapporteur for this item.

### **8.1 Connétable G.W. Fisher of St. Lawrence (Assistant Minister for Economic Development - Rapporteur):**

Flattery gets you everywhere. The Shops (Sunday Trading) (Jersey) Law 1960 has got an anomaly in it - at least one anyway - which has often been used as a reason for changing the Sunday Trading Law and that is being looked into and I will come to that in due course. The present Law though says that: "Save as otherwise provided by this Law, every shop shall be closed for the serving of customers on Sundays." It goes on to say that permits may be issued by the Connétable of the Parish where a shop is located or is to be located authorising the shop to open for the serving of customers in the case of any shop on Sundays for the purpose of such of the transactions mentioned in Schedule 2 as may be specified in the permit. Schedule 2 - I will not read all of it - but one item in Schedule 2 which is (1)(i) says: "Flowers grown on a holding where they are sold" and the anomaly, of course, is that it means then that anybody who does not grow flowers cannot sell

flowers on a Sunday, but anybody who does can and that is the anomaly that has often been thrown up as being a bit of a nonsense in the way things are structured at the moment. Now, as far as Sunday trading is concerned, it has been an issue that has been going on one way or another for many, many years - a month of Sundays if not longer - but currently there is a new draft law proposed which is out for consultation. The consultation period ends in about a month's time. The consultation no doubt will throw up a number of issues that will have to be addressed; and this is not a simple issue because there are views that range from one end of the scale to the other and there are many facets that have to be taken into account. So, it is not going to be a 5-minute job to look at the results of the consultation and see whether we can just go ahead with lodging the new draft law. It is going to take time. Once the law is lodged, it will obviously need to go through the process and be debated and then go to the Privy Council, so it is going to be some time - if we do bring forward a new draft law - before that law comes into effect. So, in the meantime, we believe it is right to get rid of this anomaly so that - although Mothering Sunday is this Sunday it might be just a bit too late for that in legal terms - with Easter coming up, it will allow shops - if we agree it - to sell cut flowers on a Sunday if they have the appropriate permit to do so. So, as a result of that, I would like to move and propose the projet that we change the words in Schedule 2 from: "Flowers grown on the holding where they are sold" to "Cut flowers." I make the proposition, Sir.

**The Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles or the regulations? Deputy Le Claire?

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

I wonder if the Attorney General might indicate whether or not he would, as he has in the past when things like this fell outside of a timeframe, be willing to accept that the spirit of the States had been expressed if they were to support this and in that light not prosecute people that might intend to sell flowers on Mother's Day?

**The Bailiff:**

Perhaps the Attorney General would like to think about that? **[Laughter]**

**HM Attorney General, Mr. W.J. Bailhache, QC:**

I think I might think about that, Sir.

**8.3 Deputy G.C.L. Baudains**

Just a minor matter. It seems to me that we are causing - although we are opening it up - we are in another way causing a restriction because the previous law referred to flowers grown on the premises, this Regulation refers to cut flowers. There are places that also sell small potted plants as well, but they are clearly not included. I wondered why that was.

**8.4 Deputy K.C. Lewis:**

I think this one is following on from Deputy Le Claire in a sense of can this not be implemented with immediate effect as Sunday is fast approaching, Sir?

**The Bailiff:**

I call upon the rapporteur to reply.

**8.5 Connétable G.W. Fisher:**

I do not think I should comment on the legal position of what we should do on Mother's Day. Obviously, from a legal position, I am not a lawyer, but I would have thought that in 7 days' time means in 7 days' time if we approve it today and, therefore, technically the old law still applies on Mothering Sunday. I will make no further comment than that. Deputy Baudains talked about the amendment being a bit of a problem. It is not really because the present schedule talks about

flowers grown on the holding where they are sold. It then goes on under (l)(ii) and talks about young plants and cuttings grown on the holding where they are sold. That will not change, that is not proposed to be changed, but what we are doing is saying here that cut flowers, whether or not they are grown on a holding, may be sold. So, cut flowers can still be sold on the holding where they are grown, but they can also be sold in other premises apart from that particular holding where they are grown, so that is the proposal and therefore I move the projet, Sir.

**The Bailiff:**

I put the principles of the Regulations. As Members in favour of the document kindly show; those against? The principles are adopted. The Chairman of the Economic Affairs Scrutiny Panel, do you wish to scrutinise the Regulations?

**Deputy G.P. Southern (Chairman of the Economic Affairs Scrutiny Panel):**

No, thank you, Sir.

**The Bailiff:**

Rapporteur, you have moved the Articles of the 2 Regulations *en bloc*?

**Connétable G.W. Fisher:**

I do, Sir.

**The Bailiff:**

[**Seconded**] Does any Member wish to speak on either of the Regulations? I put the Regulations. Are Members in favour of the document kindly show; those against? The Regulations are adopted in the Second Reading. Do you move the Regulations in Third Reading, Connétable?

**Connétable G.W. Fisher:**

Yes, Sir.

**The Bailiff:**

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

**9. Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day Act) (No. 4) Act 200- (P.17/2007)**

**The Bailiff:**

We come to the Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No. 4) Act - P.17 - in the name of the Minister for Home Affairs. I ask the Greffier to read the proposition.

**The Deputy Greffier:**

Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day Act) (No. 4) Act 200-. The States, in pursuance of Article 114(2) of the Police Procedures and Criminal Evidence (Jersey) Law 2003, have made the following Act.

**9.1 Senator W. Kinnard:**

This Appointed Day Act will bring into force one of the few remaining parts of the Law yet to come into force. Part 11 of the Police Procedures and Criminal Evidence Law is being brought forward following the bringing into force of the Regulation of Investigatory Powers Law which

covered most forms of covert and intrusive surveillance to ensure compliance with human rights legislation. This part of P.P.C.E. (Police Procedures and Criminal Evidence) puts the authorisation of the use of intrusive surveillance in the form of interference with property or wider telegraphy for law enforcement purposes on a statutory basis and in accordance with the protections afforded by the Human Rights Convention, particularly Article 8 - the right to respect a person's private and family life, home and correspondence. As amended, the provisions of Part 11 enabled the police and other relevant enforcement agencies to apply to the Attorney General for an authorisation to use surveillance which involves entry on to or interference with property for wider telegraphy. An authorisation will be granted by the Attorney General only if the investigation relates to serious crime or the security of the Island. The Attorney General will notify the Commissioner of the authorisations he has given and the Commissioner will keep the process and procedures under review, reporting to the Bailiff, who will cause an annual report to be laid before the States. Sir, I propose the Act.

**The Bailiff:**

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

**10. Minimum Wage Level (P.23/2007)**

**The Bailiff:**

We come now to P.23 - Minimum Wage Level - in the name of Deputy Southern and I ask the Greffier to read the proposition.

**The Deputy Greffier:**

The States are asked to decide whether they are of opinion; (a) to agree in principle that the Employment (Jersey) Law 2003 be amended to provide that the minimum wage shall be such hourly rate as may from time to time be determined by the States; and (b) to request the Minister for Social Security to take the necessary action.

**10.1 Deputy G.P. Southern:**

If the Minister for Social Security had had his way we would be now debating Amendment No. 2 to the Draft Employment Minimum Wage (Jersey) Regulations at this point. However, if Members turn to that document they will see in the Regulations no mention of the minimum wage, so technically no opportunity to discuss what level the minimum wage is at. If they were to hunt a bit deeper and turn to the Employment (Jersey) Law 2003 they would find in Article 16(3): "The minimum wage shall be such hourly rate as may from time to time be prescribed." "Prescribed" in this context means decided by the Minister in an Order. Members would not have an Order in front of them saying what the minimum wage is and, therefore, nothing to debate and Members will be aware that all Members can do with an Order is rescind it and not have it passed, in which case the old Order would be maintained. I believe - and this would be the first time they would have it, and it would be coming to this House some time later - Members would have accepted in principle a rate for a minimum wage without the opportunity to debate it, whether it is correct or not, and would see that enacted by an Order that they can do very little about - they certainly cannot amend it - at a later period. That is the way the Social Security Minister wishes to proceed. So, I have brought this motion today for 2 reasons. Firstly, I sincerely believe that the Minister and his advisors have got the level of the minimum wage wrong in this year - substantially wrong - and that it is set too low. Secondly, I believe that on such a fundamental building block for our society as the minimum wage - which has to, I believe, be set correctly - this House should have the opportunity to express its opinion as to what that minimum wage should be. Under the current



arrangements this House does not have that opportunity, it is the Minister by Order and there is very little we can do about it at all. If the House were to accept my proposition, then the minimum wage will come to this House for acceptance and, while this time I believe it is appropriate that we should have a debate on it now, I believe that most years that will be a matter to simply accept. It is not likely to be approved year after year as a debating topic because hopefully the employment advisors - the body - will get the rate right and we will get a mechanism for up-rating it which everybody agrees and it should be fairly straightforward to see it through. So, those 2 reasons are why this proposition is before the House today. So, why have the advisors and the Minister got it wrong? If Members will turn to table 1 in the report accompanying my proposition they will see the way in which the minimum wage has been set over a period of time since it was first decided in principle in 1999, through to April of this year. Of particular significance is the September 2002 column because that is the one identifiable and good piece of information we have in the entire table and that, as a result of the Income Distribution Survey 2002, set a minimum wage, I believe, around £192 per week or £4.63 and that is a single factor of the Income Distribution Survey 2002 which is known and certain. If one examines the way in which the Jersey minimum wage has risen you can see it is quite awkward because in comparison with the U.K. for example: October 2004 U.K. minimum wage £4.85, ours £5.08 - appropriately higher because of our higher cost of living, 4 per cent approximately higher. October 2005 and April 2006 £5.24 compared to £5.05, around about 4 percent appropriately higher. This year £5.35 in the U.K., £5.40 - 5p difference - under 1 per cent difference. Members can see quite easily the way in which the minimum wage has in fact slipped behind where it should be from the 2002 figure of £4.40. In fact, in October of this year the U.K. minimum wage will be going up by a further 17p to £5.52, again this leap-frogging that we do between April and October. Now, I believe - and the Employment Forum agrees with me - that the correct way to up-rate the minimum wage should be in relation to the Average Earnings Index. It is a wage so it should go appropriately up according to the average earnings. If you do that with the September 2002 figure, you arrive at a figure of £5.60, not £5.40, which is the appropriate rate for the minimum wage this year. Without going into the details of it, the Forum accepts that that is the appropriate way to operate, and if you do it on the 2002 figure you arrive at a figure of £5.60, in order that people on the minimum wage should not be in work poverty because that is what happens. So, £5.60 should be the correct rate today. When I submitted this conclusion to the Employment Forum I expected a full response, instead of which we have got the phrase - and just bear with me, I will just read out what they said: "The Forum considers that having taken 40 per cent of average earnings as the indicator for the 2007 rate, the Deputy's views on the failings of previous up-rating methods are minimised, as the figure does not reflect simply an increase on previous years and therefore provides a more appropriate base figure from which to up-rate in future." It has simply sidestepped the issue. Instead of up-rating properly from 2002, they said: "Ah, we are going to invent a new method for setting the minimum wage. We have decided arbitrarily to set it at 40 per cent of the average. This still produces a wage lower than Deputy Southern's calculations suggest it should rightly be, but we are simply not taking on board that up-rating. We are just simply establishing a new method." They then go on to say: "Of course, over time what we should be doing is slowly augmenting that 40 per cent to 45 per cent." Why, I would suggest, can we not set it appropriately now and up-rate in future according to the Average Earnings Index? Why can we not do that? In fact, what we would be setting is the rate which is 421.5 per cent of the Island's average wage and that, I believe, is the appropriate level at which the minimum wage should be set. If Members vote for my proposition they will be tacitly accepting, I believe, that the Employment Forum and the Minister for Social Security has got its calculations wrong and when he returns with his Order this year it should be set at the correct level. They will also be saying in future we expect the level of the minimum wage to come to this House for its acceptance and not to be brought on the back of an Order when this House gets no say and no input into whether or not that minimum wage is correctly set. So, I maintain my proposition and I will take any responses.

**The Bailiff:**

Is the proposition seconded? Does any Member wish to speak? Senator Routier?

**10.2 Senator P.F. Routier:**

Firstly, we need to really confirm what this debate is about, whether it is about the rate itself or just the principle of how we go about up-rating the minimum wage each year.

**The Bailiff:**

Well, the debate is about the latter, Senator. There is no doubt about that. It is a question of principle.

**Senator P.F. Routier:**

Thank you for that, Sir, and I will try and focus on that in my response. I feel I should point out to Members that the Deputy directed Members to a table on page 6 of the report which he uses as the basis for his calculations, a figure which was the minimum wage in 2002. There was never a minimum wage in 2002. The minimum wage, as I am sure Members are aware, started in 2005. That is the first time we ever had a minimum wage in Jersey and so I would just make that observation with regard to the opening comments of the Deputy. The proposition itself seems to be based on the Deputy's surprise at not finding the minimum wage rate in the Regulations. I am surprised that the Deputy has followed that route of debate because he was in the States when we debated that in the first place and that was the way which the States have decided was by far the best way to deal with the up-rating of the Regulations of the minimum wage. He also took part in the debate last year where we carried out the same process which it was clear that the offsets were to be increased in the full knowledge at that time, as we are doing again today, on the understanding that the increase to the minimum wage rate would be dealt with by Order. During last year's debate of the Regulations, Deputy Southern indicated that he was not satisfied with the proposed minimum wage rate and he stated that he intended to bring a proposition requiring the Employment Forum to consider his comments as set out in his letter, much of which is repeated in the report today. I suggested to the Deputy at the time that by far it would be better for him to submit that directly to the Employment Forum so that they would consider it in the next review. His opinions, I assured him, would be taken into consideration along with all the other responses and that is what has happened and his views were not dismissed arbitrarily, they were considered quite openly and, obviously, considered alongside the views of other people. I have to say this proposition does represent a major departure from the method previously agreed by the States. It may be that the States decide that is what they wish to do and that is where we may be heading, but the situation that we are in today is that the States decided quite clearly originally, after extensive research, that a minimum wage should be set by the current process, whereby recommendations are made to the Minister by an independent and balanced body of 9 people, so there are 3 employers, 3 employees and 3 independent people. Then, of course, from that the Minister has to then account to the States for any proposals which are different to those proposed by the Forum when proposing any Regulations or making Orders and I am sure Members would want such an important matter to have been fully consulted upon before being implemented. Members would expect a Minister to act responsibly and to be sure that all views were considered and not just to take one point of view. What is vitally important is, besides deciding on the appropriate minimum wage after thorough consultation with the community, that the Minister now and in the future - because you never know how Ministers change and there might be other people with different views - does provide sufficient notice to the community about a new rate: that is vitally important. Any Minister who did not carefully consider the advice of the Employment Forum and did not give sufficient notice for a new rate would be acting totally irresponsibly. If Members want to turn to the proposition itself and focus on what it says in the proposition. It reads that: "It could enable any Member to bring a proposition at any time during the year to increase the minimum wage without any need for consultation with anyone let alone the Forum." I do not think that is appropriate. The importance

of the work of the Forum cannot be over-emphasised. The U.K. has a similar body, the Low Pay Commission, which is also an independent statutory body that was set up to advise and make recommendations on the minimum wage and, interestingly, the U.K. Government only last week agreed the recommendation of the Low Pay Commission with no debate and looking at their press release recently, they have rates for workers who are aged over 22 which is obviously very different to what we have in Jersey. Our rate starts at the age of 16. They have a rate for 18 to 21-year-olds which is a lower rate. They also have a lower rate again for 16 to 17-year-olds. These are all going to be increased this coming October - they have given 7 months notice of this - by 3.1 per cent which just happens to be the same 3.1 per cent which the Employment Forum is suggesting to me that the rate is increased in Jersey. I have to emphasise the importance of the notice they give to people for increasing the rate. They declared it on 7th of March and it is going to come into effect on 1st of October; a 7 months' notice period. I have been advised by the Employment Forum that the notice that I have been giving should be longer and longer than we currently give.

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

On a point of information, Sir, may I ask the Minister if he would divulge to Members what those rates are that he indicated? Those rates in respect of 16 to 17-year-olds, 18 to 21-year-olds and 22 and over, does he have those figures?

**Senator P.F. Routier:**

I have not got that I am afraid, Sir. I cannot quite see those there, Sir, because I have been scribbling all over it and I would not want to say the wrong thing. The previous year was £3 for a 16 to 17-year-old and before that it was £4.25 for an 18 to 21-year-old but I do not have the current one. But as I want to emphasise the vital importance of giving sufficient notice to people. The notice that I have given to the business community this year... I announced it in January for it to come into place in April, which is not sufficient. The Employment Forum has made that very clear to me for the future. So on the basis of the responses received, the Forum's intention following the latest review is - as the Deputy in his opening remarks mentioned - to put in place a formula for setting the minimum wage utilising the Average Earnings Index. I believe that is the correct thing to do and that is obviously something that the Deputy himself supports. This is a credible way forward for the Forum to work and I believe that what they will be doing over the years is to ensure that the appropriate percentage which is applied to it will be an appropriate weight. There is an intention to increase that over a number of years. The Forum's recommendation for a formula that can be agreed one year in advance was based on evidence that businesses planned prices and wages up to a year in advance. They need greater certainty about the minimum wage for the future. Businesses will certainly have their plans already made for this year based upon the announcement and the forewarning that I have given them in January. Obviously Deputy Southern does not like what the Forum has put forward this year. He obviously wants to change that. If the Deputy is opposed to the independent process by which the minimum wage is set rather than just the outcomes of it, I would have thought he could have lodged a proposition regarding the process quite some time ago. For it to come at this very late stage - in a matter of weeks before the minimum wage is to come into effect - I am disappointed in the way that has come about. This proposition would add an unwelcome uncertainty to the process for employers and employees by delaying the announcement of new rates and also cause significant barriers for effective business planning. A proposition that allows for uncertainty in the minimum wage rate cannot be in the best interests of the Island, particular the most affected industries of tourism and agriculture and especially the interests, I have to say, of the long-term incomes and the futures of employees who are on the minimum wage. Deputy Southern refers to the minimum wage as a fundamental building block of our social structure. Of course he is quite right. This must be based on a balanced, objective report which also takes into account the economic implications for the Island. In fact that is a specific requirement of the Employment Law. You have to take consideration of the economic impact within the Island. I am concerned that this proposition could give the States

the ability to debate the minimum wage at any time, not necessarily just once a year. Such a process would make the Forum superfluous. When considering the implications of a different minimum wage rate it needs to be recognised that it is a detailed and arduous process that can only be done with the time and input of the Forum. They have the time available and they are prepared to do that work in a balanced way. While this proposition is solely focussed on the opportunity of the States to debate, it is as obvious from what the Deputy said, and his report, that he intends to rescind the minimum wage Order which I intend making very soon, after the Regulations have been debated. If anybody has any doubt on that, on page 4 is a report. You can see it there very clearly and he said it today as well. The Deputy will then seek an increase in the minimum wage above the Forum's recommendation from the 1st of April - that is in 3 weeks' time - with absolutely no warning for employers. They will have been prepared on the basis of the Forum's - I have to say - sensible recommendation made some months in advance of the planned increase. Of course if the minimum wage was set at an increased rate over and above the rate recommended by the Forum then the offsets for food and accommodation which are due to be debated in the Regulations would have to be reviewed as well and delayed. So I am afraid I cannot see much other than an outcome, if the States accept this proposition and then go on to agree to rescind the Order which I intend making, to create delay to the implementation of the minimum wage and the offsets for this year which will be of no benefit to employees or employers. Sir, I will leave it to Members to decide. That is obviously what the debate is all about but I have to say that if they wish to take the course of action to follow that it is going against what the States have previously thought was a very good way of implementing the minimum wage increases, which in the Law requires it to be researched carefully and consulted upon by an independent and well-balanced forum. The Forum has carried out its duties carefully, for which I thank them. They have considered matters maturely, in an unemotional way, in ways which obviously have taken the views of the community into account. I suppose I would expect that Members would want any Minister now or in the future to act responsibly and not go off on a personal mission. That, I have to say, is the real safeguard of having the Employment Forum make its recommendations. Sir, we often hear the comment that the States do not listen. They do not listen to the public and we ignore their views. Well the Forum has consulted the public and I believe their views should be listened to. I will leave it to Members to decide whether the process that we have is an appropriate way with the necessary safeguards but I will not be supporting the proposition.

### **10.3 Deputy P.V.F. Le Claire:**

It is a matter of whether or not the States set a rate or whether or not the Minister sets a rate. The Minister makes the point that we will be going against States' decisions but at the same time makes the point that we did not have a minimum wage until 2005 so how many States' decisions are we going against? The Minister makes the point that the Law requires that it should be reviewed and consulted upon by an independent body. The proposition says that the setting of the wage should then be determined by the States Assembly, not necessarily doing away with any consultation and not doing away with any independent review. The Minister makes the point that the public are fed up with the States not being able to make their mind up. I would counter that by saying the public - and I in particular - are fed up by being blamed by the media that the States have decided something when it was not the States' decision. It was a Minister's decision. The Minister makes the point that the announcement of the new rates would bring uncertainty if they were not done well in advance and, in particular, in advance of what we are doing now to the economy. One could counter that by saying it is the setting of the rates that we are discussing not the announcement of the date that it is set. If the Minister wants to bring a proposition that any such announcement should be set at such a date in practice, that can be done surely by the Minister. The fact that at the moment any Member can bring a proposition at any time on any matter is something that has been preserved within this Assembly, which was recently threatened. I think that that keeps the paramount supremacy of the States Assembly where it should be, as the decision maker. Surely, therefore, it is only right that the States determine whether or not the rate that is being

recommended by the Minister, based upon the consultation and the independent forum, is the one that we should be supporting or whether or not an amendment by another Member of the Assembly should be supported given the same kind of information with a different argument. Because if a different rate can be recommended with a lucid argument would we be wise to ignore it, which is what we are being told we should be doing now? We should disclude any opportunity to consider such matters and put it entirely into the hands of an independent body that has consulted with the public. We have seen the level of consultation. The public are flogged to death by consultation at the moment. We have had just about 100 respondents to the M.O.R.I. poll - one of which was me - on the consultation with the composition of the Assembly so how legitimate does that make that? That is a M.O.R.I. poll. That is far more inclusive and far more rigorous in its exercise and consultation than, I put to Members, an Employment Forum in respect of consulting with the public. Perhaps the public are fed-up or packed-up to bother consulting any more. I think it is only right that the States Assembly should listen to a lucid argument made by a Minister and a counterargument made by any Member as to whether or not the rates should be A or B. It would then be the responsibility and the objectivity and the analysis of each Member that has been elected by the Island as a whole to bring forward their views from their parishioners to support an amendment from an independent Member or to support the Minister. They could go back and they could justify their position. Otherwise what happens is, as in too many cases, we are all tarred with the same brush. The States have set a minimum low wage below that of which, in many people's opinions, should be higher. Or the States have recommended, on the counterargument, a minimum wage that is too high which should be lower. I think the principle of the argument which can be kept in focus is that the States should have the paramount supremacy in making the decision. The independence and the consultation is important but what is more important is the exercising of this Assembly's authority over the outcome of the jurisdiction that we are in.

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

There is a well-known saying that: "If it ain't broke, don't try and fix it." I think it is up to the proposer of this motion to indicate that the present machinery is broken because in my view it is far from being broken, the machinery is in very good shape. Certainly a minimum wage is a very subjective matter. It is no doubt the case that if you ask 53 Members around here for a view of what the minimum wage should be, you would probably get at least 53 different answers. That is the danger of trying to set a figure like that around this room. I think we got ourselves into the same sort of mess years ago when we tried to fix our own remuneration. In the end we said: "Let us get an outside body to look at it." In this case, as far as the minimum wage is concerned, we have got an outside body - an impartial outside body - to look and to research and to do the work. To suggest that we will come up with a better answer than they have is, I think, unrealistic. I think I was the President of Social Security at the time when we consulted on the introduction of a minimum wage and the principles were quite clearly set out in Deputy Southern's report. It was not targeted at reducing in-work poverty. The targets were to support a competitive economy, to set it at a prudent level, to be simple and straightforward, and to make a difference to the low paid. Those are the principles and one of the outcomes may well be a reduction of in-work poverty. But that is not really the issue before us today. The issue before us today is whether we change the system to substitute the impartial views - the independent views - of an Employment Forum composed of employer representatives, employees and people with no axe to grind either way. Whether we substitute that impartial, independent body for ourselves. This does not take away the right of Members ultimately to make decisions. If Members feel that the Forum is not doing a good job it is up to us to replace the membership of the Forum. The principle of setting the rate should be done by an independent body. If we are concerned about that rate it is the body we should be looking at, not the way in which it is done. I urge Members not to be swayed by thinking: "Yes, we need to show that we are the bosses." Indeed we are but as States' Members we need to be responsible in our decision making. In matters like this where really it deals with employers, employees and the economy we need to have people who are expert in understanding the way in

which a minimum wage operates and affects people rather than taking our own maybe coloured judgments. I do urge Members that however well-meaning this proposition might appear to reject it.

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

I have said this previously - but I do not mind repeating myself - and that is to suggest to Members just how many decisions do you really wish to take? I say that in this context. It seems entirely appropriate to me and I am sure to the House that the concept of creating a minimum wage is an issue, clearly, for debate. It has numerous aspects and is something that all Members are entitled to take a view on. Well that is basically establishing a principle of do we have a minimum wage or not? Clearly the States did not really, having established the principle, want to spend a tremendous amount of time deciding what exactly the minimum wage should be on an annual basis. Hence, the Forum was created to determine that. I have to say - and I find the debate has been very interesting up to now - that on the one hand we appear to have almost a meeting of minds between the Minister and Deputy Southern. Unless I have got the drift of their speeches badly wrong, there seems to be a hovering of consensus around the idea that the Average Wage Index is a useful measure to analyse and we have looked at, for instance, a formula which is 40 per cent of the Average Wage Index. It would seem to me to provide a figure that is, give or take 10 or 20 pence over the hour, broadly speaking agreed upon, which leads me to suggest to Members why if this can be dealt with so very simply by having an index that is established, measured every year, and by applying a straightforward formula to it, why exactly do we need a panel? Why does the panel have to go through all that paperwork and analysis? Why does the panel have to consult the public and then having done that why does that recommendation have to thread its way through an even more convoluted process of either an approval or recommendation to the Minister, approval by the Minister or possibly, as we are debating now, to come all the way back to the States to make a determination? I have to say that as you look back with the advantage of hindsight, I really do query what on earth we were doing in setting up a panel of very worthy and undoubtedly sensible people to handle all this when it seems to me fairly obvious that an agreed formula is the obvious no arguments way to deal with this type of problem. I would urge what I describe simply as the third way. I think it is only sensible for the States as a body to support the existing status quo. But to seriously encourage both Deputy Southern and the Minister and probably the panel themselves who have established a level of expertise, could we perhaps work our way towards establishing one or 2 very simple formulae that can be applied to the minimum wages levels on a year-by-year basis linked to the Average Earnings Index. It will save an awful lot of people's time, an awful lot of paperwork, an awful lot of consultation and it will be cheap and simple to deal with.

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

I remain to be convinced that we should change from the present system. I have a concern that if the minimum wage rate comes to the States in the form of a debate every year and with possible amendments it may become a political football, particularly every 3 years in election years when people would be tempted perhaps to try to curry opinion by trying to outdo each other in proposing what the minimum wage level should be. We have created a panel. I think we should allow that panel to do its job. I find inconsistency in the arguments in the different propositions brought by Deputy Southern somewhat confusing because later on when he is talking about a youth rate he refers to the fact that only 3 years ago the States of Jersey clearly rejected a youth vote and today less than 3 years later have been asked to change it. Well, that is as it may be but you cannot have it both ways because here the States clearly agreed to set up a system to deal with minimum wage and less than 3 years later here is Deputy Southern wanting to change it although it was clearly approved by the States. I am not saying the States cannot change their mind but it is very difficult in 2 following propositions to argue both ways at the same time. I think the sensible course of action is States Members have a way of dealing with the minimum wage if they feel strongly about it. But I think it is good if we can not create uncertainty in the minimum wage. We have a panel.

Let us keep the minimum wage issue as depoliticised as possible. We have agreed the major political decision to set up and have a minimum wage. We should try not to see it become a yearly political football and used as a tool maybe in some years for electioneering. I think it is far better that we maintain the same system which has a safeguard that the States Members can revisit it. But I have not heard any compelling arguments as yet that we should have to debate it every year with a possible plethora of amendments that would come to it each time. Thank you, Sir.

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

I do not believe that £5.40 per hour will be a sufficient minimum wage in Jersey from April 2007. Anyone living in Jersey only has to go to...

**The Bailiff:**

Deputy, I am sorry but we are not debating the minimum wage. I allowed Deputy Southern to speak about the level of the minimum wage and his dissatisfaction with it as a means of explaining why he thought that the matter should be dealt with by the States so that any Member could change the minimum wage if he or she wanted to. But we are not at this moment debating what the minimum wage should be.

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

I will just cut to the main part and just say that in my opinion it is not a question of not liking the Employment Forum's proposed rate whichever year. It is, I believe, our duty as States' Members to be able to have the ability to endorse or otherwise the Forum's proposed annual rate. I feel very much that this example we have here today - which obviously I will not go into the details of the amounts - highlights the fact that one or more States Members feel that maybe we are not necessarily all concurring with the Employment Forum's recommendations. For that reason alone we have been elected to do this job and I believe because it is so important for those on minimum wage the responsibility, Sir, should lie with us. Thank you.

**10.8 Deputy P.N. Troy:**

The process by which we set the minimum wage, it is a very sound one and it is paramount that we continue with the system that works and that is transparent. The Minister relies heavily on the work of the Employment Forum, a group as he said composed of employers and employees and independents who carry out research into current wage levels and consult with interested parties. It is only after consultation and discussion that the Employment Forum produces its recommendation to the Minister. That recommendation is made public. The business community and employees become aware of it well in advance of the implementation date. This year the Forum produced its report in early January and it can be seen as Appendix 1 in P.14 which we will debate later. The process where the deliberations of the Employment Forum are utilised is the most sensible and it is the most transparent method for determining the minimum wage rates. I hope Members recognise that the Employment Forum is vitally important in the whole process. Deputy de Faye asked why do we need an Employment Forum, why do we need a panel? Of course we need them because they can look at market conditions in the Island at a given time. They can consult with employers and employee groups. Even if we did go down the route of a formula, even then that formula needs to be reviewed at regular intervals. That is why we need the Employment Forum. It is vitally important that they continue and that we use this method that we are using. I ask Members to reject these proposals.

**The Bailiff:**

I call upon Deputy Southern to reply.

**10.9 Deputy G.P. Southern:**

It was very interesting to hear Senator Routier - the Minister's - reply. He talked about the solidity of the process that we use, the solidity that talked to and received 23 contributions in total, of whom a mere 7 were from employees or their representatives and 11 were from employers or their representatives. So to talk about the solidity and the reliability of this process is, quite frankly, a nonsense. He also spent quite a substantial amount of time talking about the rates and the notice required to change those rates, ignoring the fact that if this proposition is accepted it makes not one jot of difference to the rate. Not one jot, not one penny difference, to the rate because that will be set or not by the Order he brings to the House. I have given notice that I intend to attempt to rescind that Order. It is up to this House to decide whether that is an acceptable way forward or not. That decision is not being made today. The decision that is being made today is to decide in principle that the Employment Law of 2003 be amended to provide that the minimum wage shall be such hourly rates as may from time to time be determined by this body, the States of Jersey. It makes no difference to the Employment Forum and the way it is set up and what it decides to do. It will make its recommendation to this body and not to the Minister. That is all that we are being asked to do today. So the process can stay the same. The rates this year will stay the same because that depends on the Order. All you Members are being asked to do today is to consider whether this decision on the minimum wage is a decision given away to a Minister whether that is an effective and proper way to behave or is it the responsibility of this House to take on board the recommendations and the rates and to decide on behalf of the people of Jersey what the correct rate is? It is a decision given away. I believe it is a decision too far. I thank Deputy Le Claire for his support and Senator Le Sueur interestingly talked about: "If it ain't broke, don't mend it." The point is it has always been broken. It was broken when in 2002 despite the figures from the Income Distribution Survey suggesting that 10 per cent of people were in relative poverty - in-work poverty - setting the rate of £4.40 instead of what it should be to lift them out of poverty, £4.63. So the fact is the minimum wage has always been broken in Jersey. That nominal rate back in 2002 was set in the wrong place. It has not been properly operated ever since with the result that we are, in Deputy de Faye's words: "A few pence either way." A few pence either way - £8 a week which is significant for somebody on the minimum wage - £8 a week under the relative low income mark. We had to start in the right place and we have not. It does not matter what permanent operating mechanism is put in place. It does not matter how many people you speak to about what is the correct rate. We have got it wrong. But as I say that will not be fixed this year. It should be fixed at some stage in the future. We have the opportunity or we will have the opportunity following the Order later in the day to put it right but not now. In a sense Deputy de Faye was also correct in his criticism, why does the Employment Forum do this every year? It consults everybody it can lay hands on and comes up with a recommendation. It would have helped the first time when it came with its recommendation of what the correct rate was to be if it had got that right then. It does not need to carry on consulting left, right and centre. It can set up a mechanism and say: "Average Earnings Index that is what it should be." I believe it should be greater than 40 per cent of the average earnings. Nonetheless it could do that and that is what it should do. The Employment Forum, if it follows its own recommendations, is going to talk itself out of a job because it will set up a formula. It was interesting I think to note Senator Vibert's remarks that the minimum wage should not become a political football for use in electioneering in election years. It seems to me that it is okay for Senator Vibert to use T.V. licences in exactly such a fashion but not for anybody else to use the minimum wage in such a fashion **[Laughter]**. So I maintain this proposition and I urge Members to vote for it and bring back to Members of this House the decision which I believe has been wrongly given away to the Minister that he should set the rate by Order, bearing in mind that this makes no difference to the timing or the rate of this year's rate. I shall be coming back to the House with a rescindment motion on the Order when we can decide that. This simply accepts that this House should take back a decision which belongs I believe with this House.

**The Bailiff:**



I ask Members who wish to vote on this proposition to return to their seats. The voting is for or against the proposition of Deputy Southern. I ask the Greffier to open the voting.

<b>POUR: 14</b>		<b>CONTRE: 35</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Senator L. Norman		
Senator W. Kinnard		Senator T.A. Le Sueur		
Senator B.E. Shenton		Senator P.F. Routier		
Connétable of St. Martin		Senator M.E. Vibert		
Deputy of St. Martin		Senator P.F.C. Ozouf		
Deputy C.J. Scott Warren (S)		Senator T.J. Le Main		
Deputy J.A. Martin (H)		Senator F.E. Cohen		
Deputy G.P. Southern (H)		Senator J.L. Perchard		
Deputy of Grouville		Connétable of St. Ouen		
Deputy J.A. Hilton (H)		Connétable of St. Mary		
Deputy P.V.F. Le Claire (H)		Connétable of St. Peter		
Deputy D.W. Mezbourian (L)		Connétable of St. Clement		
Deputy S. Pitman (H)		Connétable of St. Helier		
Deputy of St. John		Connétable of Trinity		
		Connétable of St. Lawrence		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. John		
		Deputy R.C. Duhamel (S)		
		Deputy J.J. Huet (H)		
		Deputy G.C.L. Baudains (C)		
		Deputy P.N. Troy (B)		
		Deputy R.G. Le Hérissier (S)		
		Deputy J.B. Fox (H)		

		Deputy S.C. Ferguson (B)		
		Deputy of St. Ouen		
		Deputy P.J.D. Ryan (H)		
		Deputy of St. Peter		
		Deputy G.W.J. de Faye (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

**The Bailiff:**

If the Members agree, the Assembly will adjourn. I am sorry, Mr. Attorney, yes?

**H.M. Attorney General:**

I wondered, Sir, if I might before Members adjourn just take the opportunity of responding to the question which Deputy Le Claire and I think Deputy Lewis put to me in relation to the Sunday Trading amendment on cut flowers. I regret to say that I am not prepared to give any assurances in this particular case [Laughter]. I did on the last occasion which involved the Termination of Pregnancy legislation and there were some particular reasons for that which I might just remind Members. The intention of the States was clearly shown by the adoption of the amendment on the basis that the Island should not require its residents to travel to the United Kingdom or elsewhere to have a termination but should provide that facility here. Secondly, when those involved are likely to be emotionally fragile as is probably the case in the overwhelming majority of terminations it is especially appropriate to recognise the States' decision as soon as possible and avoid additional stress for both women and hospital staff concerned. Thirdly, the amendment adopted by the States once in force would make the legislation consistent with the in principle decision taken by the States in 1994. By contrast in this case there is no particular hardship, I think; no emotional fragility for those who sell flowers. Also cut flowers will be available for purchase even if not by those persons who the amendment will now permit.

**LUNCHEON ADJOURNMENT**

**NOTIFICATION OF LODGED PROPOSITIONS**

- 11. Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 9) (Jersey) Regulations 200- (P.42/2007) and Expression of Disapproval for Conduct in the name of Deputy Baudains (P.43/2007)**

**The Bailiff:**

May I first of all draw the attention of Members to 2 propositions: one which is on the Supplementary Order Paper: the Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 9) (Jersey) Regulations in the name of the Chief Minister which has been lodged; and a second proposition, Senator Syvret's Expression of Disapproval for Conduct in the name of Deputy Baudains which has also been lodged.

**PUBLIC BUSINESS (resumed...)****12. Minimum Wage: Youth Rate (P.25/2007)****The Bailiff:**

Now returning to public business, the next item on the order paper is Minimum Wage: Youth Rate - P.25 - in the name of Deputy Southern. I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion: (a) to agree in principle that the Employment (Minimum Wage) (Jersey) Regulations 2004 be amended to restrict the payment of different hourly rates and those that apply to other employees who qualify for the minimum wage to trainees only; and (b) to request the Minister for Social Security to take the appropriate action.

**12.1 Deputy G.P. Southern:**

I must admit this morning to a little wry smile at some stages during the debate when 2 Ministers referred to the fact that I was trying to change something that only 2 years ago we had made a clear decision on. Having had my proposition this morning rejected by this House, perhaps partly on those grounds, I relish the prospect of debating this second proposition, again brought for similar reasons but which clearly this House - as I point out in the Appendix - rejected only 2 years ago by a majority 25/15. If Members turn to the Appendix they can see how they voted on that occasion. Many of those Members are still present. I hope that today they will see the validity of the decision they took then because there can be no doubt that this proposition for a student rate is effectively a youth rate by the back door. That was rejected 2 years ago by this House. Unfortunately the part of the Employment Regulations of 2004 which is Article 4(b) is still in the Law so that 4 reads and I will ask Members to bear with me: "Employees who may be treated as qualifying for the minimum wage at a different rate, an Order made for the purpose of Article 16(3) of the Employment (Jersey) Law 2003, may prescribe minimum wages for: (a) trainees [and that is what we agreed]; and (b) employees who have not attained the age of 18 years." Effectively that is what we rejected 2 years ago and I believe we should continue to reject today. I remember quite clearly debating this issue and looking along the row of Constables particularly and using the analogy of a farm labourer at 17 or 16 doing exactly the same job as a farm labourer of 22 and deserving to get paid exactly the same rate because it is an adult job. Although the grounds may have changed in this particular debate I believe that principle should continue to apply. It is most simply put by the J.A.C.S. (Jersey Advisory and Conciliation Service) Report on page 21 of the Employment Forum's Report: "If an employee is not undergoing accredited training it seems reasonable they should be paid the established minimum wage in return for undertaking a non-trainee adult job." That is the case. The Employment Forum has produced a convoluted argument to say this is the most simple way of addressing the issue of students. I think it is far from simple. In fact it introduces more complications than we should need. What we need to do is get a clear definition of who should not be paid the minimum wage but who should have a separate rate prescribed for them. Once we have got that sorted out the problem becomes extremely simple. As I point out in my report, one can imagine the situation because we are talking here the majority of students working in on part-time basis - holidays or Saturdays or evenings - are working in retail. Members will note that the full-time rate for 16-year-olds in such positions in retail in one of our larger

retailers is £5.26 an hour. So it is the minimum wage that gets paid to these workers. One can imagine a situation where one 16-year-old, a full-time employee, is manning the checkout and is paid £5.26 an hour. On the next checkout is a student, temporarily in on a Saturday job or whatever, manning identical checkout, doing exactly the same job and being told he can only get paid £4.05. Apart from anything else it seems to me that 2 16-year-olds doing the same job but being paid different rates is clearly discriminatory. We should not be bringing in a situation that allows such discrimination. The argument is that an employee under the age of 18 cannot fulfil the full responsibilities of an adult job, such as legal restrictions where the sale of the alcohol is required. The fact is that such employees full-time are employed and are paid the full rate. It is an absolute nonsense to suggest that because somebody is a student we should be paying them a lower rate. In evidence, the Forum states that both the Jersey Hospitality Association and the Jersey Rights Association being in support of this student or youth rate. Now I happen to know that a member of both those associations is a very keen proponent of a youth rate. I know he contributed strongly to the J.R.A. (Jersey Rights Association) submission. I know he would have contributed strongly to the J.H.A. (Jersey Hospitality Association) contribution. If he contributed in his own right as well and sent a personal note in then he would have counted for 13 per cent, on his own, of the total contributions of the debate. But leaving that aside it has become clear to me that there has been some strong lobbying going on from one of our larger retailers to introduce a youth rate - a student rate - by the back door. By the 23 people who took part in the consultation process, the process has been heavily skewed towards the introduction of this student rate. I urge Members as they did only 2 years ago to reject this proposition. A youth rate is exploitation by the back door.

### **The Bailiff:**

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

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

Firstly, I perhaps would like to make the observation that the Deputy seems to be taking an exception to the fact that the States are being asked to consider a new proposal for a student rate when they have already made their wishes known on a youth rate in 2004. As the Deputy himself highlighted I am not quite sure how that stacks up because the States had previously agreed how the minimum wage rate was to be set. But that did not prevent him bringing his proposition to amend them to the manner in which the minimum wage rate is set. The effect of the proposed student rate as recommended by the Employment Forum is in fact very different to a youth rate which the Employment and Social Security Committee proposed independently of the Forum's recommendation in 2004. This is not a youth rate by the back door as the Deputy is saying. It is not a guise as mentioned in his report of a student rate. It is not tactical. It is simply the outcome of an issue of which the Employment Forum has been made aware which is a problem. It is also the workings of the drafting process. They have identified that student rates will be an effective, an appropriate title, for the policy intent which this proposed new rate will be. The Employment Forum's recommendations, as we have already discussed earlier today, are well researched. The Deputy laughs and shakes his head as if that is not an appropriate statement to make but even listening to the tapes of the debate in 2004, the Deputy himself claims the Forum's view should be maintained because they had not brought forward a youth rate. So he maintained that the Employment Forum's views should be upheld. I listened to the tapes myself. It is very clear they have used the argument that the Employment Forum's views were very important. So at the time the Deputy opposed the proposed new rates on the basis that it was a big change and it was moving away from the direction of the Forum. He emphasised that it was inappropriate given the huge amount of work done by the Forum on the minimum wage. Of course now the Deputy is dissatisfied with the outcomes of the Forum's huge amount of work and the careful sifting of evidence. He appears to see no inconsistency in opposing their recommendations and attacking the process by which they have been reached. Sir, I would like to make it very clear that the

Employment Forum has found a problem which needs resolving. This is its recommendation which I bring forward. It is certainly not unusual to have different minimum wage rates payable to young people. Many jurisdictions do. The Isle of Man has 4 different rates which include a 17-year-old rate, a rate for new employees in their first 6 months of work and other rates. So does the U.K. as I mentioned earlier this morning. Of course it has to be recognised that the Employment Law can only protect those who are already within the labour market. Currently there is no encouragement for employers to hire young people. It is becoming very clear there is a need to stimulate creation of jobs for local young people. We have noticed in the recent employment figures that there is a growing trend for young people - local people - to find jobs. I would hope that Members recognise that, and if there are barriers to young people getting into work that we attempt to remove those barriers. The Forum recommended this new rate based on evidence suggesting that young local students - and I emphasise the word "students" - are not getting work experience opportunities during the school holidays and weekends because employers are able to employ more experienced adults at the same hourly rate. The Deputy raised the issue of discrimination in his speech. I am also aware of reports of perceived unfairness whereby inexperienced school holiday staff must receive the full hourly rate of pay, which is obviously higher than an adult who is currently on a training programme. They are working side by side, they are on a training programme receiving the trainee rate, which the House agrees to as an appropriate thing to have, but then you have young students who are being paid more. There is discrimination there, if you like. I am being advised by the Forum and by others that differentials in minimum wage rates are essential, not only to recognise the significant cost of training new employees but also to preserve first time job opportunities and hours of work for student employees. I suggest to Members that they do reject this proposition and ensure that students - and I say students only - are given opportunities for employment in the recognition that any full time worker out of education, if they are aged from 16, will receive a full minimum wage rate. So it is just focusing on students who are in education at the present time. It is to give them the opportunities in competition, I have to say, against other people to get into the workforce. I urge Members to reject the proposition.

### **12.3 Deputy J.B. Fox of St. Helier:**

I shall be voting for this amendment. I believe that young people should be given the equal opportunity of employment with the equal opportunity of the wage. I agree that there should be a training rate. The Minister refers to the word "student" but in the original document that was circulated our Social Security Minister's response to Employment Forums Minimum Wage Recommendations for April 2007 refers to a youth rate not a student rate. We are asking our students to contribute towards their higher education by way of student grants, *et cetera*, which means that there is added pressure on them and their parents to fulfil the increases that occur in receiving their further, higher education. The result of that of course, is that the employer will benefit by the students and the additional qualifications and experience that they will gain. Indeed only in 2004 we did reject it and I will reject it again today. I think it is perfectly reasonable that a minimum wage should be included to the youth rate and I agree that the training rate, where the employer puts something in and above to provide training for gaining experience, should be at the lower rate but not for a youth rate *per se*. Thank you, Sir.

### **12.4 Deputy P.V.F. Le Claire:**

If the Island is finding itself in a position where it may be difficult to employ local people, then perhaps there could be thought given to the practice at the moment whereby if you are over 65 you are not included on that firm's manpower return figures, you are allowed to employ as many of those people as you want. Perhaps we could do the same with the youth if we are not already doing it. I certainly do not believe that we should be starting to chop and change the notion that people in Jersey need a minimum wage to survive because we are coming into an era where many things will be dovetailing. We will have an income support system that will be based upon the average individual's ability to afford things. To be able to categorise the average ability based upon the

average wage, that average ability should be set at the highest level given the fact that the implications will be from the demise of the welfare system as it is at present, there will be a lot more people falling through the net. Now, inevitably those people that do fall through the net will obviously be able to have representation with social security and will be able to contact their States Members about peculiarities that they have faced in the system and hopefully have those addressed as has been the case and is the case now. I do not think it is right that we should be starting to chop and change the rates into different categories at this stage. I think that if we are using the mantra of the Minister from the last debate then we should be supporting this proposition. If we are trying to make logical sense of what the Minister is saying in respect of employment, then perhaps, if we are not already, we should start to disallow those individuals on manpower returns to create an incentive for them to be employed in the first place.

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

When I looked at this proposition with the others, one of my first questions is why is it called a minimum wage if it is not? Should it be the almost minimum wage, or the not even a minimum wage for those who are currently in training. If the answer is it is okay to pay people training rates per hour below the minimum wage, then I contend that the less, lower or below minimum wage should only be allowed for one year maximum. I am certainly not happy firstly, about the fact that trainees will get just above £4 per hour from April 2007. It is very low and we should not then add a youth category to this current converted concept of a minimum wage. If a young person does an adult day's work, then be he or she 16 to 18 or 18 to 65, the same wage should - in my opinion - be given; identical pay for an identical day's work. I ask that Members bear in mind the word "minimum" and certainly minimise any below minimum rate just to trainees and those trainees obviously, I believe, should only be up to a year. I wholeheartedly support this proposition by Deputy Southern today and I ask Members to do likewise in the interests of fairness.

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

There appears to be a lot of confusion around and I have never read such a confusion of words in the actual wording of the proposition. It took me a long time to try to work out what the words meant. I think I know now but I am not sure. It says: "The States are asked to decide whether they are of opinion to agree in principle that the Employment (Minimum Wage) (Jersey) Regulations 2004 be amended to restrict the payment of different hourly rates than those that apply to other employees who qualify for the minimum wage to trainees only." It is as clear as mud. The only thing I gather from the report is I understand what it is meant to achieve. Where I think there has been much confusion is the reference to the youth rate. It is quite clearly a student rate because it is restricted to students working part-time only. Anyone else over the age of 16 working full-time will get the full minimum wage rate unless they are trainees. The good news for Deputy Scott Warren is, as I understand it reading the Regulations, that the trainee rate is limited already to one year only and is only for those people on an accredited training programme. My concern, if we do not allow this and we support this proposition, is that it will mean a drying-up of jobs for students aged between 16 and 18, part time jobs, because the temptation will be for employers to employ other people, perhaps people who have just arrived, on the full rate at part-time and in the evenings. Why employ local students when you can employ an adult instead if it is the same rate. I want to encourage the provision of jobs for students. I believe there is protection in here because the student rate is by definition a maximum of 2 years for students between the ages of 16 and 18, part-time only, while they are accredited full-time students. So, I think the danger in not allowing this rate - a rate that is recommended by the Employment Forum - is that what we are doing is cutting off the supply of part-time jobs for students. If we cut off that supply who is likely to take those part-time jobs? If the job is still required the employer will look to say: "Well, if I have a choice will I take on a student aged between 16 and 18 part-time, at a slightly lower rate, or will I take on an adult, part-time, at the higher rate?" Those adults, like I say, may not be local people, they may not be people who have been in the Island for a long time so we are not depriving established

residents of these jobs. I think the danger of what we are doing is we are depriving students of having the opportunity of not only earning some pocket money - because that is really what we are talking about - we are also depriving them of that experience they get of working, particularly in retail, for a few hours in the evenings and at weekends and so on. I think Members should think long and hard and look at what is being proposed. It is a student rate not a wholesale youth rate. It only applies to students in full-time education doing part-time jobs. I believe that we want to encourage the provision of those jobs, not cut them off at source. I believe many students, when we are talking about minimum wage, are not looking for a living wage, because if they are students in full-time education between 16 and 18 they will be living at home obviously; they are looking to do part-time jobs to get the experience, and to earn a little bit of money. I think to set it at the same or a similar rate to an adult, who will be on a training rate, is the right thing to do. It is accepted that if they are working full-time they should be paid the minimum wage but I think part-time, there is a danger if we do not recognise this area, that we will be cutting off the number of jobs available for students. I do not want to do that, I want to see our students to be able to get these part-time jobs and to be encouraged to get them so that they can have the experience and earn some money.

### **12.7 Senator B.E. Shenton:**

I will be supporting Deputy Southern's proposition, for slightly different reasons. I do not believe that the Minister has done his job here. The proposed rates at £4.05 are the same for both trainee and youth. So that blows Senator Vibert's argument out the window because they are being paid the same amount. Now, this Chamber does have the tendency of having the wool pulled over its eyes on more than one occasion. The trainee rate is set at 75 per cent of the full minimum wage. For the youth rate however, the formula has not been set. The Minister does not know what guidelines are going to be used to set the youth rate but one assumes that it will probably stay at £4.05 for a considerable period of time, so that there can be a discrepancy between the youth rate and the trainee rate. If the guidelines come out and this House is not happy with the guidelines, the Minister will just turn around say: "Well, you voted it through anyway." So I will support this proposition, and if the Minister ever comes back with guidelines that are acceptable, rather than trying to sneak things through the back door, I may well support a change. At the moment I cannot support it.

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

A point of order, Sir, if I may, the student rate will be debated when I debate the Regulations straight after this debate and there will be an amount set.

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

I am quite disappointed I have to speak after the Education Minister because I thought he might have come out with some figures of how many of our students cannot get jobs. Because if you go to many of the bigger retailer shops - especially on a Saturday - they are doing the same job, and more to the point, Sir, they are also taking the same abuse. I have heard it. They take abuse from customers and we are asking them now - and we are being told from the Minister of Education - that our students... and this is Jersey, ideally they all live at home, do they, Sir? Well, no, they do not. A lot of them probably still may be living in a children's home or foster home. They do not all live at home and they do not go out just for a little bit of experience, they need to work and even pool some of their earnings on to their families because they are from very low paid families. So, I am sorry, it really does not stack-up. Where are the Regulation of Undertakings, our safeguard to immigration. When I am told if we do not pass this the employer is going to employ the next person off the boat, basically. Sorry, that does not stand-up either because we are told we have very strong Regulation of Undertakings and people cannot just walk in, that is how we manage immigration. So, again, no figures there and hopefully somebody... the Minister for Economic Development is not in the room but he will know the statistics. I think it is about 75 locals in retail, 25 non-local. So, the Minister for Education's argument again does not stand-up. The Minister for

Education or the Minister for Social Security seem to have picked a figure out of the air, gone with a few people's arguments, and done no research whereas I feel Deputy Southern has done his research. Not only that, it is a minimum wage as Deputy Scott Warren says. It is a minimum wage; people doing the same job, if it is in the school holidays, if it is a weekend, if it is over Christmas. I can tell you now the full-time workers' parents - and the Minister for Social Security wants to up people's, especially working women's hours - will not work on a Saturday. They want to have Saturdays off. That is why we do get so many students working in a lot of our larger retailers on a Saturday because that is the only reason people will take the retail jobs, they are guaranteed Saturdays off. There has never been a shortage of students to fill the jobs and until I am proven wrong by either the Minister for Social Security or the Minister for Education. As I say, I know the Regulation of Undertakings Law, Sir, because it has been rammed down my throat. Of course that will protect the youth of the Island and who is going to do the jobs. I am supporting this and I hope everybody else does. Thank you, Sir.

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

Like Senator Vibert I am confused by this but for different reasons. I have made a note here: "To be or not to be a student." Sir, I hope somebody can explain to me what is to stop a student claiming that they have finished school and they are no longer a student, therefore they are entitled to the higher wage. I am not sure. Hopefully somebody can tell me that. Or on the other hand, what is to stop an employer from saying to somebody who has left school: "Well, I am not going to pay you that money, I will pay you less; you will just have to pretend you are a student. You do not get the job otherwise." As I understand it, Sir, I may have my figures wrong, but I believe anybody who works less than 8 hours a week does not need a social security card or maybe it is 10 hours, I am not sure. So, where the identification would come from I do not know. I am not sure whether the social security card identifies a student from a non student but even if it did, given the abuses of that system that do exist, I am not sure there would be much mileage in checking it out that way. It seems to me that what is being proposed by the Minister is wide open to abuse. I am minded to go with this proposition, Sir.

### **The Bailiff:**

Could I call upon Deputy Southern to reply.

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

I think I will start with Senator Vibert who described my proposition as: "As clear as mud" when it is actually crystal clear. What it does is it removes Article 4(b), or should do, from the Draft Employment (Minimum Wage) (Jersey) Regulations 2004, whereby: "Minimum wages for trainees or, (b) employees who have not attained the age of 18 years at different hourly rates than those that apply to other employees who qualify for the minimum wage." That was put in there to accommodate a youth rate. It was not taken out, that part (b), when this House rejected the idea of a youth rate. It is perfectly clear what we intend and it is such that, the paying of a different, lower rate shall only be applicable to trainees. It is absolutely crystal clear, I cannot understand where Senator Vibert gets his confusion from and his description of this proposition as: "As clear as mud." Again, Senator Vibert really ought to go and talk to teachers and talk to students about the real world out there and what happens. The fact is that students work on Saturdays and evenings, and that teachers regularly complain that they spend too much time doing that work and not enough on their homework and on their studies. There is absolutely not one jot of evidence that this supply of jobs and experience will dry up in any way whatsoever. As Deputy Martin pointed out, Regulation of Undertakings dictates that locals should be employed first, whether it is local students or local people, and that the ratios in the retail trade - where most of these jobs will exist - is something around 50/50 between locals and non-locals. So if they were to go out and employ experienced people, the likelihood is a significant number of those people would be non-locals. It would be extra non-locals filling those jobs and not students. Plus, as I point out in my report, the



flexibility given by employing students is such that overtime and additional payments for unsocial hours does not have to come into play so it is a win-win situation. As I pointed out in my opening remarks, I believe that paying 2 16 or 17 year-olds differing rates, just because one is a student and one a full-time employee, is probably discriminatory and if not illegal, probably will become illegal in a very short space of time when we get an anti-discrimination law in place. So in fact, we should not, whatever we do, be going along this line. It has been badly thought through. There are alternative solutions to the problems outlined by the Minister for Social Security, and the review and the consultation process, I believe, has been heavily skewed. On this occasion, as distinct from 2 years ago, when I did place some reliance on the evidence, I do not place any reliance on this evidence at all. I thank Deputy Fox for his support. As he said, it should be equal opportunities and equal wages. Deputy Le Claire: thanks also for his support. Deputy Scott Warren: an adult day's pay for an adult day's work. It is very simple; it is the same principle as last time. That is what we should be doing. Finally, to Deputy Baudains, he said he was confused but he has clearly pointed to some of the pitfalls that may exist in the Minister's proposals and, as he said, the system that he proposes is wide open to abuse. I maintain the proposition, Sir, and call for the Appel.

**The Bailiff:**

I will ask any Member in the precinct who wishes to vote to return to his or her seat. The voting is for or against the proposition of Deputy Southern. I ask the Greffier to open the voting.

<b>POUR: 29</b>		<b>CONTRE: 22</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Senator L. Norman		
Senator W. Kinnard		Senator F.H. Walker		
Senator B.E. Shenton		Senator T.A. Le Sueur		
Connétable of St. Mary		Senator P.F. Routier		
Connétable of St. Clement		Senator M.E. Vibert		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Connétable of Trinity		Senator T.J. Le Main		
Deputy R.C. Duhamel (S)		Senator F.E. Cohen		
Deputy of St. Martin		Senator J.L. Perchard		
Deputy G.C.L. Baudains (C)		Connétable of St. Ouen		
Deputy C.J. Scott Warren (S)		Connétable of St. Peter		
Deputy R.G. Le Hérissier (S)		Connétable of St. Lawrence		
Deputy J.B. Fox (H)		Connétable of Grouville		
Deputy J.A. Martin (H)		Connétable of St. Brelade		
Deputy G.P. Southern (H)		Connétable of St. Martin		

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

### **13. Draft Employment (Minimum Wage) (Amendment No. 2) (Jersey) Regulations 200-(P.14/2007)**

#### **The Bailiff:**

We now come to the Draft Employment (Minimum Wage) (Amendment No. 2) (Jersey) Regulations projet 14 and I ask the Greffier to read the citation of the draft.

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

I do not know at what stage I will need to obviously ask the House if I have the ability to withdraw the Article 2 which relates to the student rate. I think the rest of the Regulations are okay, it is just a matter of asking me to withdraw that student rate. I think the rest of it hangs together.

#### **The Bailiff:**

When we come to that, Minister, you can simply not propose Article 2 of the Regulations and move straight on to Article 3. I ask the Greffier to read the citation of the draft.

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

Draft Employment (Minimum Wage) (Amendment No. 2) (Jersey) Regulations 200-. The States, in pursuance of Articles 17, 18 and 104 of the Employment (Jersey) Law 2003, have made the following Regulations.

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

Obviously we have had full debates today with regard to the minimum wage. The recommendations regarding the offsets, which are in the Regulations, will be made and these will

increase the amounts for food and accommodation, which may be made against the minimum wage. The increase is the same percentage as the minimum wage increase which will be brought forward in the Order. This matching percentage increase is vitally important so as to avoid any distortion in the rates. The Forum's other recommendations to increase the minimum wage rates will be dealt with by Order as the House has agreed. I would like to assure Members that, subject to the approval of these amendments, I will make an Order for the following to become effective from 1st April. That is to increase the minimum wage rates to £5.40, to increase the trainee rate to £4.05. On from that, Sir, I would like to mention to Members that I have accepted the Forum's recommendations set out in the recommendations, that by 2008 the minimum wage increases to 40 per cent of the average gross earnings across all sectors, as provided by the June average earnings data. That will give businesses sufficient notice of the minimum wage rates. It was clear that some mechanism had to be provided whereby increases could be recommended and approved further in advance, and more swiftly than the current mechanism we have been using. As I mentioned earlier, this is particularly important given that the 2 industries that are most likely to pay staff at the minimum wage - which are agriculture and tourism - and also the industries that are most likely to have to set their prices and tariffs a year in advance. I propose the Regulations, Sir. **[Seconded]**

**The Bailiff:**

The principles of the draft are proposed and seconded. Does any Member wish to speak on the principles?

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

Very briefly, Sir. The whole issue about the minimum wage, and the consultation and the Employment Forum, has caused me to at least become aware of the fact that there is very little in relation to responding to the consultation that took place. Would it be possible perhaps, in the future, given that the States have decided to continue with the current system - which is based upon the Employment Forum giving its considered opinion - for the Minister for Social Security to utilise the services of the States I.T. consultative process that has now begun; whereby the States are signed up to a system through the Council of Ministers' officers, a process of better consulting with the public. I think that if they were to do that, if they were to use an electronic communication form of consulting that they have set up at the moment, we could have a better response and a better idea as to the greater feeling in the community, rather than the poor responses we are seeing at the moment. I congratulate the Council of Ministers on that initiative and I think that, when it comes to consulting in relation to these kinds of issues, more should be promoted in that area because it is far easier to communicate with people on a regular updated basis electronically than through a lengthy expensive paper trail or process of public meetings.

**13.3 Deputy G.P. Southern:**

May I ask the Minister whether he has also accepted the proposal from the Employment Forum to gradually ratchet-up the level of the minimum wage from 40 per cent to 45 per cent over a number of years, and will he commit himself to achieving the 41.5 per cent required to prevent in work poverty, to be achieved in the shortest possible timescale.

**The Bailiff:**

I call upon the Minister to reply.

**13.4 Senator P.F. Routier:**

I think those were 2 positive contributions we have just had. Certainly, the existing consultation process will utilise the most recent improvements that the States' consultation process are going through. We recognise that that is something which we can take advantage of in the future. In saying that I have to say that the existing consultation process was fully open, it was open to Members even to make contributions too. I think every States' Member and every member of the

public had an opportunity, and that was already there. Deputy Southern is asking whether I have accepted the recommendation of the Forum that the formula should be ratcheted-up. Certainly, and I will be doing everything that I possibly can to ensure that does go forward at a reasonable pace. The Forum will obviously make a judgment on that each year and I will accept their recommendation on that. I maintain the proposition, Sir.

**The Bailiff:**

I put the principles of the draft. Those Members in favour of adopting them, kindly show; those against? The principles are adopted. The Chairman of the Health, Social Security and Housing Panel is not in the Chamber, is there a Deputy Health Chairman, you do not wish to scrutinise? So you propose Regulation 1?

**13.4.1 Senator P.F. Routier:**

Yes, Sir. [Seconded]

**The Bailiff:**

That is seconded. Does any Member wish to speak on Article 1? I put Article one, those Members in favour of adopting it kindly show; those against? Article 1 is adopted and we move to Article 3.

**13.4.2 Senator P.F. Routier:**

Yes, Sir, Article 3 is a technicality which substitutes the word “Any” for “The” in relation to determining the amounts that may be taken into account where an employer provides accommodation and food. As currently drafted, the Regulations imply that an amount will always be taken into account, however the proposed amendment more accurately reflects the possibility that an amount might or might not be taken into account, as determined by Article 4 of the proposed amendment. I make the proposition, Sir. [Seconded]

**The Bailiff:**

Article 3 is proposed and seconded. Does any Member wish to speak? I put Article 3, those Members in favour of adopting it kindly show; those against? Article 3 is adopted. There is a further consequential amendment, Minister, to Article 4 that I think you need to take out, if you wish to do so, the words: “Or a student.”

**13.4.3 Senator P.F. Routier:**

Yes, I would be happy to propose that if Members are prepared to vote.

**The Bailiff:**

Do you propose Article 4 as amended in that way?

**Senator P.F. Routier:**

Yes, Sir, I propose it. [Seconded]

**The Bailiff:**

That is seconded. Does any Member wish to speak on Article 4 as amended, that is to say with the words: “Or a student” deleted? I put that Article, those Members in favour of adopting it kindly show; those against? Article 4 is adopted. Do you move Article 5?

**13.4.4 Senator P.F. Routier:**

Yes, Sir. [Seconded]

**The Bailiff:**

Seconded. Does any Member wish to speak on Article 5? I put the Article, those Members in favour of adopting it kindly show; those against? Article 5 is adopted. Minister, I just wonder

whether you might think it prudent not to move the Regulations in Third Reading until your officials, and perhaps the Law Officers' Department, have had an opportunity to ensure that the amendments are in order. It does not seem to me that would prevent you from making the Order fixing the minimum wage.

**Senator P.F. Routier:**

How about the offset, Sir, would I have time to...

**The Bailiff:**

The next meeting of the States is on 27th March and it comes into force on 1st April.

**Senator P.F. Routier:**

If that is your recommendation, Sir.

**The Bailiff:**

It is only a suggestion. **[Laughter]** I am always nervous when amendments are made on the hoof, particularly in legislation of this kind. I think it is sensible to make sure there are no unforeseen glitches.

**Senator P.F. Routier:**

I take your advice, Sir, and we will ask for a Third Reading on the next sitting.

#### **14. Planning Applications Panel: appointment of members (P.41/2007) - Request of Minister for Planning and Development under Standing Order 26(7)**

**The Bailiff:**

Now we come to a request of the Minister for Planning and Environment, pursuant to Standing Order 26(7).

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

I recommend the appointment of the following Members to the Planning Applications Panel.

**The Bailiff:**

Minister, I am sorry, you have to seek leave of the Assembly first of all to reduce the minimum lodging period in respect of which is required.

**Senator F.E. Cohen:**

I am sorry, Sir

**The Bailiff:**

In fact, you have Standing Order 26(7) if I may draw your attention to: "The States may reduce a minimum lodging period if they are of the opinion the proposition relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate." I think you wish to seek the agreement of the Assembly to allow you to debate this matter today.

**Senator F.E. Cohen:**

Yes, I do, Sir.

**The Bailiff:**

Do you wish to say why the matter is so important? **[Laughter]**

**Senator F.E. Cohen:**

Sorry, Sir, I seem to be making rather a mess of this. The Planning Applications Panel sits on Thursday of this week and recently, as Members know, the Constable of St. John retired. The Constable of St. Helier has resigned from the Panel and has moved to the Environment Scrutiny Panel. It would be impossible to hold the Planning Applications Panel meeting this week unless these appointments are made. I request that the House allows the minimum term to be reduced in this way.

**The Bailiff:**

I take it that is a proposition, is that seconded? **[Seconded]** Does any Member wish to speak on that, or is the Assembly content to allow this matter to be debated?

**14.1.1 Senator S. Syvret:**

Could I just ask the Minister a question before agreeing to this proposition. How are the members of the Panel expected to conduct themselves? I ask the question because Deputy Power has campaigned vociferously for open space, for example, in and around his constituency in the west of the Island, yet has publicly gone on record in advocating and supporting development of green zone countryside zone land in the east of the Island, the opposite end of the Island from his constituency: for example, the oyster farm in Grouville. I just wondered what will be the expectation on Members who have clearly nailed their colours to the mast on issues like that, and will they be required not to participate in any decision that they have already commented on publicly in this way?

**14.1.2 Deputy G.P. Southern:**

May I ask whether there are in fact urgent planning applications that need the attention this week, rather than in a fortnight's time or 3 week's time?

**14.1.3 The Connétable of Grouville:**

It may seem a bit facile, Sir, but would it not be a solution if the Constable of St. Helier withdrew his resignation and resubmitted it when this was sorted out.

**14.1.4 Senator M.E. Vibert:**

I second it because I think it is a very sensible move to put some new Members in, some reserve Members. I have not seen, in the past, a great clamour of States Members who want to serve on the Planning Applications Panel and I would have thought Members would like to get it done as soon as possible.

**The Bailiff:**

Members are debating, at the moment, the question for the reasons set out by the Minister in his letter, and subsequently in the Assembly, the importance of debating this matter today in order that the Panel can be constituted. Does any other Member wish to speak on that subject?

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

Surely any changes in the future can come up with another time, Sir. If we move on this today then the Minister will be able to get on with the work that he has.

**The Bailiff:**

Can I put the matter for the Assembly? Those Members in favour of allowing the matter to be debated ...

**Deputy G.P. Southern:**

Is the Minister not going to reply to our points?

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

Firstly, Members are expected to put aside any particular local parochial view they may have, and to deal fairly with all applications cross-Island. If a Member has expressed a view publicly in relation to a particular application, then it would be expected that they would not participate in the decision making if they subsequently became a member of the Planning Applications Panel. Are there urgent planning applications to be dealt with? It depends how you define “urgent planning applications.” There are planning applications to be determined this week that have been in the system for a considerable period of time and I think unless there was very good reason, it would be unfair to delay those. As far as reappointing the Constable of St. Helier, I do not think that is really an option, so I do hope Members will consider this proposition favourably.

#### **The Bailiff:**

May I put the proposition of the Minister that he be allowed to move this proposition. Those Members in favour of allowing it to be debated today kindly show; those against? Very well, the proposition is carried and I will ask the Greffier therefore to read the proposition of the Minister for Planning and Environment.

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

The States are asked to decide whether they are of opinion to appoint, on the recommendation of the Minister for Planning and Environment, and in accordance with Article 9(c) of the Planning and Building (Jersey) Law 2002, the following Members of the States as members of the Planning Applications Panel with immediate effect and for a period of 3 years - the Connétable of St. Saviour as a full member, Deputy Sean Power of St. Brelade as a reserve member, and the Connétable of Trinity as a reserve member.

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

I recommend the appointment of the new members of the Planning Applications Panel as follows as you have heard; the Constable of St. Saviour, Deputy Power and the Constable of Trinity. It is with regret that through ill health the Constable of St. Saviour is unable to be in the States today for his appointment. I do hope that you will join me in wishing him well and a very speedy recovery. [Aside] I would wish, at this time, to note my thanks to the recently retired Constable of St. John for all his hard work as chairman of the panel during its first year, and to record my thanks to the Constable of St. Helier for his important contribution as a reserve member of the panel on a number of occasions. I recommend the appointment of the 3 new Members to the House.

#### **The Bailiff:**

Is the proposition seconded? [Seconded] Does any Member wish to speak on the proposition? Deputy Baudains.

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

The only comment I would make, and I do not cast any aspersions on anybody, but I am concerned that we will probably have a situation where both the Constable and the Deputy of Trinity could be looking at an application. It does seem to me then that the parishioners of Trinity would effectively be disenfranchised, they would not have anybody to put the case for them.

#### **14.4 Deputy P.V.F. Le Claire:**

Please forgive me for asking but how many reserve members are the Panel restricted to? If they are not restricted to a number then perhaps we could include somebody else. I think maybe perhaps in the future the Minister might inquire as to who is interested, and then we will really see who wants to do the work.

#### **14.5 Deputy R.C. Duhamel of St. Saviour:**

Members will note that under F this morning it was recorded in this House the resignation of Deputy Power of St. Brelade from the Environment Scrutiny Panel. Sir, it goes without saying that one panel's loss is another panel's gain. In supporting the Minister for the Environment in his proposition P.41 to take Deputy Power under his wing, I would like to pay tribute to the work that Deputy Power has done for the Environment Scrutiny Panel and hope that, on occasion, he will be in a position to assist us in some of our deliberations.

**14.6 Connétable T.J. du Feu of St. Peter:**

Taking up the point made by Deputy Le Claire, the position he cited as conflict of members does not occur because I can assure Members of the House that, as a Panel member, in that event the members concerned stand-down and they take no part. Clearly if there was any conflict with getting to Deputy Baudains' point with 2 members from the same Parish, indeed there are 3 other members that would deal with the application.

**14.7 Deputy J.A. Martin:**

It is just a question to which I do not know the answer. What would happen with Deputy Power, because I know the Deputy of Trinity had to resign from my old Scrutiny Panel when she became a member of the Planning Panel, and Deputy Power is now heading the Housing Scrutiny Review. I just wonder where he stands, if he is a reserve on the Planning Panel. I understood you could not be on both sides of the House - not that we have 2 sides of course, Sir.

**14.8 The Deputy of Grouville:**

Could I ask if we are going to be taking all 3 names together, or if we can vote on them separately because I, like Senator Syvret, have reservations because Deputy Sean Power has made his views very, very clear in the past, accusing the Constable of Grouville and myself of N.I.M.B.Y.ism (not in my back yard) when we were representing our parishioners, and yet countryside zone in St. Brelade comes with different policies, it seems, in his eyes. I would like to take each of the applicants separately.

**14.9 The Deputy of Trinity:**

I just want to answer a couple of questions from Deputy Martin. I resigned from the old Scrutiny Panel because I became Assistant Minister and, as I understand it, Deputy Power is resigning because he is on the Environmental Scrutiny Panel, not because he is a Scrutiny member. Just to look at the composition of this Planning Application Panel, it is a very difficult area. The Panel members are all very much aware of conflict of interest, and we go by caution before anything else. We do follow policy, we do listen to officer advice. We do not always take it - as Members are aware - but we are very aware of our responsibility. I urge Members please, to look at the 3 new members that are proposed. We do need them and anyone else who wishes to come in in the future we would welcome because it is a difficult job but a very interesting one.

**The Bailiff:**

In answer to the Deputy of Grouville's point, I must say I think it is difficult to break up the proposition in the way in which it is suggested. If a Member had been unhappy about it, I suppose that an amendment to the proposition could have been brought to delete a particular name but there has not been time for that. Minister, what is your position on this?

**Senator F.E. Cohen:**

I think it would be preferable if we stick to the proposition and vote for the 3 proposed members together rather than to separate, and I would have some comments in relation to Deputy Power's suitability in a moment.

**The Bailiff:**

Yes, indeed. Very well, does any other Member wish to speak? Deputy Le Hérissier.



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

Just on the issue - although I have been partly overtaken by the Minister in that regard - of Members who make strong statements before they move into positions where these strong statements could be held in evidence against them. The only view I would have, Sir, is that we all do that. We all get into trouble. I do not think from the beginning of our career we could all start life as Trappist monks and maintain a silence across a whole range of issues. We have to be seen as people who, at the point at which we move into different offices, adopt a professional attitude and then we do take the Trappist vow, so to speak. So, while I totally acknowledge what the Deputy of Grouville is saying, Sir, I think we have to rely... and I know the Deputy of St. Brelade has gone through another baptism of fire in another area in this regard, and I am sure we can rely on his professionalism. There is an issue though, Sir, there has developed this rather small convention, that because the Environment Panel monitors the Environment Minister, therefore one should not be on both bodies at the same time and that has been acknowledged but there is no doubt, as we move into studies like the review of social housing, we are moving into studies that more and more are cutting across different panels' work. Quite frankly, in terms of that particular Panel, we might well need to review that particular issue because that is a study into the whole issue of planning for social housing and so forth, and inevitably it spills over into not only housing but planning itself.

#### **14.11 Senator W. Kinnard:**

Thank you, but the recent speaker has stolen my thunder in that I was going to say we need to disassociate individual pronouncements from the expectations of the office. I have confidence that the Deputy, I am sure, will be able to see the difference and the different expectations in those roles. I would also say that I have confidence that the panels are very fully aware of the potential for conflicts of interest. Although I have experienced this in the past, before we moved to the Ministerial system, where in St. Peter both the Deputy and the Connétable were involved in something and they had to call upon the Senator, who happened to live in the Parish, to assist them. That is not an ideal situation and I do believe matters have moved on. I am reassured by what I have heard from the Deputy of Trinity about the attendance that they do give to conflicts of interest. So despite what we have, again, heard from the Deputy of Grouville, I have confidence that the Deputy Sean Power of St. Brelade will be very cognisant of the issues that we have raised this afternoon.

#### **The Bailiff:**

I call upon the Minister to reply.

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

Many of the Members who have spoken have answered previous Members' questions, so some comments I do not need to answer but I would say that having now been in my post for over 12 months, I am very impressed with the care that all members of the Panel - both present and past - take in relation to not just conflicts of interest but perceived conflicts of interest. There have been a number of cases where Members have stood aside in relation to a particular decision because they were concerned that there may be a perceived conflict of interest, whereas in fact there was not a real conflict of interest. All Members are expected to stand aside if they have given or made their opinions known in public in the past. So, in relation to specific issues where a Member, before they became a member of the Planning Applications Panel, has offered a public opinion - or in fact even a private opinion - they would be expected to stand aside. Members will note that in relation to specific planning matters that come to the House, Members - if the Panel is going to determine the application - are expected to abstain which is why the members of the Planning Application Panel and me, as Minister, abstain more than anyone else in the House. The Panel is being extended shortly, as Members know, and there will be more appointments at that time. Just to clarify, members of Scrutiny, with the exception of the Environment Scrutiny Panel, are eligible to stand for the Planning Applications Panel. In relation to Deputy Power himself, I have been extremely

impressed over the last 12 months with Deputy Power's interest in planning matters. He is passionate about issues such as design for homes. He believes that houses and apartments should have adequate room sizes. He is in the middle of completing the preparation of a paper on just this subject. He is passionate about good design; he wants to see good design in all new buildings in Jersey. I am absolutely delighted that he wishes to join the Planning Applications Panel. I think he will make a significant and very worthwhile contribution to not just the Planning Applications Panel but to extending his ideas within the planning department, and I have already offered him that opportunity in relation to some of the matters that he is currently dealing with. So I do urge Members to vote in favour of the appointment of the 3 members. Thank you.

**Deputy P.N. Troy:**

Sir, before you take the vote I should just say that I was out of the Chamber when this started and I came into the Chamber so I did not get the chance to say that, as I normally would, I am a developer and of course that I go before the Applications Panel every now and again. So I will, Sir, be abstaining though I think that every single Member in this Assembly, Sir, would be competent to serve on the Panel.

**The Bailiff:**

I ask any Member in the precinct who wishes to vote to return to his or her seat. I will ask the Greffier to open the voting, which is for or against the proposition of the Minister for Planning and Environment.

<b>POUR: 40</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 2</b>
Senator L. Norman		Senator S. Syvret		Deputy P.N. Troy (B)
Senator F.H. Walker		Connétable of Grouville		Deputy S.S.P.A. Power (B)
Senator W. Kinnard		Deputy of Grouville		
Senator T.A. Le Sueur				
Senator M.E. Vibert				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of St. Clement				
Connétable of St. Helier				

Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S. Pitman (H)				
Deputy A.J.H. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

**15. Former Jersey College for Girls: proposed sale (P.30/2007) - deferral**  
**Deputy R.C. Duhamel:**

Sir, might I be allowed a quick word on P.30?

**The Bailiff:**

Yes.

**15.1 Deputy R.C. Duhamel:**

Members will be aware that this particular item was tabled in order to secure a debate before the 15 days were up, which is tomorrow, for the finalisation of a deal with Jersey College for Girls. Towards the end of last week I was contacted by the Treasury Minister, who outlined some difficulties or potential difficulties on which he needed legal advice, and he requested me, under the Standing Orders, to move the debate to the next available meeting, which is 27th March, on the firm understanding, I think Members will have received an email to this effect, that he does not intend, and perhaps he might wish to say a word to reconfirm, to finalise any particular deal as outlined with the Girls' College until after the debate has taken place on the 27th. So with that assurance, Sir, I have applied under Standing Order 30 to move the P.30 debate to 27th March.

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

Can I thank Deputy Duhamel for acceding to my request. I think without that we would not have been able to have a full debate. I have reassured Members but I repeat my reassurance, that no sale will take place until the proposition has been debated or alternatively withdrawn. Just as a point of correction, the 15 days has already expired but I have already given the undertaking and will continue to maintain that undertaking that the property will not be sold prior to a decision. So, with that, my thanks to the Deputy and to the House in general.

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

**Senator S. Syvret:**

Just while we are dealing with propositions, could I ask that it is the case, I presume, that P.40 ("President of Chairmen's Committee: vote of no confidence") will be first item of business at the next day of sitting, this is the vote of no confidence.

**The Bailiff:**

Do you mean the vote of disapproval?

**Senator S. Syvret:**

No, I was coming to that in due course, Sir. **[Laughter]** I did think that the vote of no confidence against the Chairman of the Environment Panel was of more importance.

**The Bailiff:**

Senator, may we can come to that in the context of the Chairman of the PPC addressing number paragraph M.

**Senator S. Syvret:**

I just thought that it might be better to have these issues sorted out now rather than perhaps doing it in 2 day's time if half of us are lying at home in a darkened room.

**The Bailiff:**

We are going to move on to deal with it straight away but rather than before we move to sit in committee I wanted to ask the Members whether they thought it would be sensible to deal with the arrangement of public business for future meetings. Then I will retire with the mace and return unrobed to preside over the Assembly sitting in committee. **[Laughter]** Chairman of the P.P.C.

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

I would like to propose the arrangement of public business for future meetings which are listed on the pink paper. Would you note that P.30 is already listed for 27th March. There is one amendment and that is P.166 - Public Elections: reduction in voting age to 16 - was withdrawn this morning. That should be crossed off the list. I do not think that P.43 has yet been officially lodged, which was Senator Syvret's "Expression of Disapproval for Conduct".

**The Bailiff:**

It was lodged immediately we returned this afternoon.

**The Connétable of St. Clement:**

In that case the proposer has indicated that he would like that to be included on 27th March.

**16.2 Senator S. Syvret:**

It is customary, Sir, that votes of no confidence are always taken as first item of business, and I would propose that P.40 is the first item. I would also propose that P.43, the proposition against me, is taken as second item.

**The Bailiff:**

Very well. Does any other Member wish to speak?

**16.3 Senator P.F. Routier:**

Regarding the Third Reading of P.14 (Draft Employment (Minimum Wage) (Amendment No. 2) (Jersey) Regulations 200-), I hope to have that inscribed.

**The Bailiff:**

Projet 14 at number 3, yes. Senator Vibert.

**16.4 Senator M.E. Vibert:**

Could I ask about P.145 and the amendment, which is "Composition and Election of the States Assembly: proposed reform", and P.4, which is "Electoral Reform." P.P.C. have set a timetable so we are going to move into the in committee debate. Are these still items to be put forward on the 27th, or are we going to follow the timetable as proposed by P.P.C?

**16.5 Deputy G.P. Southern:**

If I may, on P.4, Sir, Electoral Reform, could I seek permission of the House to bring that, without Part (a), which refers to voting at 17 plus. I do not wish now to conflict with what the Deputy of Grouville's intentions are but I am seeking permission to bring the rest of that proposition, which I think contains important matters. I wish to still have that debated but I wish to withdraw Part (a).

**The Bailiff:**

Just (a)(i), the Greffier tells me, is it, Deputy? Very well. Does any other Member wish to speak? Deputy Gorst.

**16.6 Deputy I.J. Gorst:**

Just to press Senator Shenton on his proposition P.145 ("Composition and Election of the States Assembly: proposed reform"), whether his intention is to carry on with it on the 27th or not.

**Senator B.E. Shenton:**

Yes. I moved the proposition to that date at the request of the Privileges and Procedures Committee and I think it should be debated. We could make some decisions at that debate so I would like to go through the process.

**16.7 Deputy R.C. Duhamel:**

In relation to P.30 (“Former Jersey College for Girls: proposed sale”), which has now been appended to the workload for the 27th, I just wondered if I could test the mood of the House to see whether or not Members felt that this particular item as well - due to the pressing need to finalise deals - should be moved somewhat higher up the agenda.

**16.8 Senator M.E. Vibert:**

Sorry, Sir, perhaps I could be advised how many times it has been put back, but it seems to me that to persist in asking for a debate on the Composition and Election of the States, when a States’ Committee has been charged by the States to get on with it and do it, is perverse almost. We are going to have the in committee debate and I believe, as a result of the in committee debate, P.P.C. will consider its timetable and so on. I really do not think it would be helpful to - within 2 weeks - be debating a stand-alone proposition. I would ask that if it is possible, if it is not the third time as I understand it, that P.145 and the amendment is put off to a later date.

**Senator B.E. Shenton:**

May I suggest that we put off the in committee debate and run through the issues and vote on them.

**The Bailiff:**

I think we have to take one thing at a time. There is a proposition of Senator Vibert is there, that projet 145 and the amendments to projet 145 be moved to when, Senator?

**Senator M.E. Vibert:**

What is the latest date we can have, Sir? We are trying to do the job set up by the States and I know that Senator Shenton is concerned that we are not doing it quickly but we are trying to get all the information required and do it in a structured way. So, I would like to put it to the 19th June, Sir, please.

**The Bailiff:**

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

**16.8.1 Senator L. Norman:**

I would like to second that, Sir, because, either we have to do that; put off projet 145 or put off the in committee debate. We cannot debate both of them within a fortnight because we will be having a day and a half, probably, of the in committee debate and then having exactly the same debate on projet 145 in a fortnight’s time. It is absolutely ridiculous.

**16.8.2 Deputy G.P. Southern:**

May I object to the putting-off of taking any decisions whatsoever about electoral reform until the end of June, because the likelihood is we will end up running out of time to do anything in time for the next elections. In particular, part of my particular amendment is to hold a May or June election and that, if it were to receive the blessing of this House, would need to be gotten on with pretty pronto otherwise we will miss the possibility of doing that.

**The Bailiff:**

Senator Vibert, I am just wondering - I am just trying to find some middle ground and to create a breathing space for Members and for the P.P.C. - whether you might like to amend that to 1st May, which will give 6 weeks after the in committee debate and plenty of time, I would have thought, for the Members either to agree that it is sensible to debate Senator Shenton's proposition or otherwise. But putting it off to 19th June is quite a long time away.

**Senator M.E. Vibert:**

I am quite happy to go along with that. I just feel that, as Senator Norman said, the debate in committee today and then 2 weeks later to debate a stand-alone proposition just does not make sense.

**The Bailiff:**

That is the proposition, Senator Vibert, that the project 145 be deferred until 1st May. Does any other Member wish to speak on that, or can I put that to the vote?

**16.8.3 The Deputy of St. Clement:**

Possibly another compromise would be we have taken the Order of Business prior to the in committee debate today, which seemed reasonable about 5 minutes ago. Unfortunately it does not quite look quite so clever now. Perhaps we should revisit the Order of Business for the 27th, after we have had the in committee debate today because it will give us an indication of what Members are thinking about this issue. Thank you.

**The Bailiff:**

Can I put the proposition of Senator Vibert?

**Senator B.E. Shenton:**

If my proposition is not thrown back, would it be possible for me to put forward a proposition that we postpone the in committee debate and debate the issues over my proposition?

**The Bailiff:**

Senator, I was just contemplating whether it would be possible for you to move an amendment to the proposition of Senator Vibert but I do not think it will because it is an entirely separate matter that you wish to propose, i.e. that the in committee debate be put off. I think that Members must essentially decide upon whether that is a sensible proposition in determining whether or not to defer debate on your proposition.

**Senator B.E. Shenton:**

But if Members do not support Senator Vibert's proposition, can I then put a proposition forward that we forgo the in committee debate?

**The Bailiff:**

Yes, you can do that.

**Senator B.E. Shenton:**

Which I will do.

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

Yes, I would just like to speak in support of Senator Vibert's proposition. I personally feel that a constitutional reform or electoral reform is not something that we should contemplate under any pressure of time and I am equally convinced that the in committee debate will be useful to the House and I am reasonably sure it will also throw up some ideas and suggestions that Members

may want some time to mull over indeed. So I think that, while June may have been perhaps an extended mulling-over time, 1st May seems an entirely sensible approach to this matter to me.

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

Could I just also speak in favour as being one of those pushing to get some reform? I am now asking for a debate to be delayed and I think the reason would be, really, if we do throw up things in line with what Deputy de Faye has said, it gives us an opportunity to put in amendments, otherwise we discuss it today and there is no time to put an amendment in. So I would certainly be asking Members to support what Senator Vibert is proposing.

#### **The Bailiff:**

Very well, I put the proposition of Senator Vibert. Those Members in favour of deferring projet 145 and the amendments to 1st May, kindly show; those against? The matter will be deferred until 1st May. Now, does any other Member wish to speak on the matters relating to the arrangement of public business, otherwise the matters put forward by the President of the P.P.C. are approved? Very well, they are approved and if Members will allow me, I will now retire with the mace and return in a few moments' time.

### **17. The States sat in committee to discuss "Composition and election of the States Assembly: options for change" (R.97/2006)**

#### **The Bailiff:**

The Assembly is now converted into a committee to consider the question of electoral reform and perhaps I could ask the Constable of St. Clement to open the debate?

#### **17.1 The Connétable of St. Clement (Chairman of the Privileges and Procedures Committee):**

I do not intend to speak very long because P.P.C. really wants to have the opinion of the Members and not my opinion or the Committee's opinion because I think we have put that forward in the paper that is the subject of this in committee debate. But I would like to ask Members to focus on the way ahead and not do a lengthy critique on the paper. So, what we are looking for, really, is to establish from Members, whether they genuinely want to have a reformed States: whether they want this Assembly to be reformed. We know that from the M.O.R.I. poll there definitely is a push for the States to be altered in some way. Do we want the same number of Members or do we want less? To aid people - to aid Members' deliberation on this matter - we did put on Members' desks, a possible model for the reduction to 42 elected Members. That is something that Members, I think, should continue to consider. On the back of that piece of paper is also the proposed timetable of change and these are the places where we should get to if we want reforms to be in place by the end of next year. In other words, in time for the elections in October and November next year. It may be that we also might consider whether a single election day is more appropriate. What we also need to consider, I think, are the constituencies. Do we want the present arrangement, in other words, for Parishes to continue to send representatives here or would it be more appropriate to have an extended all-Island representation? I think, lastly, what we need to consider also is the length of the term that Members serve, whether it should remain 3 years or whether it should be increased to 4 or maybe 5 years. Of course, this will all add up to - we hope - some sensible proposals, which the P.P.C. can consider and eventually agree to a proposition to put forward in the form of a referendum, again, if this Assembly agrees. So, I hope everybody will join in the debate but I hope that their contributions will be brief. Thank you, Sir.

#### **The Bailiff:**



Does Senator Shenton wish to speak early in this discussion? No, or Deputy Southern? Do you wish to speak early in this discussion, having lodged an amendment to Senator Shenton's opposition? No. Deputy de Faye.

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

Yes, Sir, I do wish to speak early. I think if we start with the brochure that was sent out to members of the public: turn over the first page. There, early on, are 2 words. It is probably the only 2 words that I can agree on with the Privileges and Procedures Committee: "Why Change?" Indeed P.P.C. then outline the reason why we should make changes and it is because too few people vote in Jersey. There are some statistics to back that up; in the 2005 elections only 42.6 per cent of registered voters voted for Senators. Indeed only 33.8 per cent voted for Deputies a few weeks later. However, the information reveals to us that opinion polls indicate that people in Jersey are genuinely interested in issues affecting Island life and indeed we want to encourage people in that way. So, apparently, encouraging voter turnout is the *raison d'être* of the leading criteria in these options that were then presented to the general public. But I have to say, try as I might, I find very little correlation between the options being presented and how they are going to affect voter turnout. It seems to be if P.P.C. was seriously concerned about voter turnout, as they say they are, we might have seen some perhaps more radical approaches. Australia, I understand, has compulsory voting and it is not simply a duty or obligation; failing to turn out to vote results in fines. Now, I am not standing here this afternoon advocating that we should take that sort of approach but that is certainly a technique with which to deal with voter turnout. While we are on that subject of voter turnout, there really has been nothing presented to me to indicate as to why exactly this is a problem, other than it would obviously be a nice thing if more people voted. There is no hard evidence before me to suggest that higher turnouts somehow produce better parliaments or indeed that lower turnouts means that the voters do not necessarily know who they are voting for and why. It strikes me that the logic is in fact the higher the turnout, probably the more unreliable sort of results you are going to pick up because of straight statistical randoms. But if voter turnout is important, let us encourage it. Indeed, the Privileges and Procedures Committee went out last year and, if I recall correctly, at the last election they spent something in the order of £30,000 on marketing to produce, apparently, a fall-off in voter turnout. Well, I would suggest that, if Privileges and Procedures are seriously interested in voter turnout, they might consider perhaps putting up £31,000 prizes that voters would win, simply on the basis of turning up to vote, getting a ballot ticket, one piece of which can torn off and put into the ballot box and the other retained to claim your prize. I can assure Privileges and Procedures that there is nothing that the public enjoy more than a free ticket to a lottery prize and would that not have been, possibly, a better use of the £30,000 that was spent on marketing? But is that a valid reason to turn up to a poll? So is voter turnout the thing we really want? I see no serious exploration, no intellectual rigour applied to this argument of voter turnout and why it is so important and why it requires all these changes. But there are 2 reasons that we see and this may be, as it were, the stalking horses riding on the back of our alleged voter turnout problem and that is that we have, apparently, no general election and we also have unbalanced representation. We know there is interest in a general election because indeed we have the results of a M.O.R.I. poll that says, indicates to us that 71 per cent of those polled, believe that there should be a general election for all States' Members on the same day. Well, first of all let me say that I think that M.O.R.I. polling is a very dangerous and rather thin basis on which to base electoral reform but let us look into M.O.R.I. polling a little more seriously. A M.O.R.I. poll is demographic testing and if you look at the Island in a demographic way, we all know that the Island is largely composed of people who have not been here for many generations. In fact the rough demographic breakdown is around two-thirds of those people who live in Jersey in fact probably come within a generation or so from mainly the United Kingdom, Scotland, Wales, Ireland but also from a number of nearby E.U. nations; Poland, Portugal and France being the obvious ones. All of these people entirely worthy, honest., upright citizens they may be but coming from cultures where general elections are the norm and so if you have a demographic poll and you

put the question to people in a demographic way and say: "Do you think general elections are a good idea?" it is fairly clear that about two-thirds of the Island are going to say yes, because that is what they are used to in respect of their culture. It does interest me to see how closely this poll reflects a demographic breakdown of the Island. There is not far off 66.6 per cent of the poll breakdown says: "Yes, a general election is a good idea." But I wonder how many people who are used to Jersey politics over the decades, who have got family roots down that go back generations, I wonder how many of them were in favour of general elections? I know I am not and not for the reasons that Members may suppose **[Laughter]** because I fancy my chances in a general election the same as anyone else. Well, perhaps not against Senator Syvret, for example, but nevertheless... General elections do not necessarily do and achieve what people think they do and one of the big reasons for putting general elections out to the public - because it is something that they might like - is, of course, the theory that we are all useless and stupid and we need to be swept out and replaced with an entire new shiny, varnished bunch of suits and pretty frocks who will do a much better job. The theory behind a general election is that you can get rid of the horrid red party and replace them entirely with the nice new blue party at the next general election. Of course, what proponents of general elections forget is that if you have say, for example, a 5-year term of appointment, you have to endure the red party for 5 years before you can get rid of the whole lot of them. Now, it can be done and it has to be said... and, again, from memory, I believe it was the Canadian Labour Party that got virtually annihilated in the general election and were reduced, I think, to one seat. Sorry, the Conservatives, thank you, I stand corrected but of course, you know, party politics is not my forte. Clearly it can have value but are general elections what Jersey wants and are general elections a suitable political format and in an Island that relies so totally on the financial services industry, where, quite frankly, stability is the name of the game? The one thing that you can perhaps stick on the tag for general elections is that if there is one thing that might just take everyone by surprise, it is a general election result on one day. So is a general election (a) in the interests of the Island? I would suggest that there is an alternative and I happily put forward the theory of rolling elections. It is not entirely a theory because our worthy Senators are elected on a rolling basis; 12 of them but 6 at a time. Now, why was that devised? I would suggest strongly to the House that rolling elections, in respect of Senators, were devised to ensure that even at worst, there would always be 6 Senators in power to govern the Island, whatever the chaos pertained anywhere else in terms of electoral results. Now, instead of junking that as a concept, I put it to Members that just might be an idea that is worth rolling-out and pertinent to a bit more study. Because, if we just consider a theoretical case of, again - red party A are dominant in this Chamber and the huge and massive desire of the electorate to boot them out and replace them with red party B - if we had a rolling election i.e. some of us got elected on an annual basis, let us for example say we are looking at a 5-year term of office, 30 Members elected on a rolling basis because I am deferent to the favoured banque to my right. I am excluding Connétables from anything to do with rolling elections and I will explain why. People seem to have forgotten, in the course of all this, who administers elections. Well, it is the Connétables through their warm services around the Parishes with their friendly cohorts of volunteers. They run the Deputies and Senators elections so whose bright idea it was to have the Constables elected on the same day as well, I do not know. Because they are supposed to be running the election with the Jurats **[Laughter]**. Now, the advantage of the rolling system is that the public are able to inject a view into politics on an annual basis. Now, I suggest to people who are looking far too comfortable at the moment, like Deputy Le Hérisier, who is responsible for many novel ideas over the years, I suggest to the Deputy and others that perhaps the concept of allowing the public to have an interplay in politics every year, instead of every 3 or 5 or 6, might make them feel a little more attached to what is going on here. It might have an effect on voter turnout therefore the concept is possibly as entirely valid as having general elections and it has this additional advantage. If, Sir, you had 5-year terms, 30 places that were dealt with, 6 stand for election every year, giving you your 30, that means that you can change 20 per cent of the make up of this House each year. That means that you can achieve change in the composition of the House over a 3-year period when people are running 5-year terms. That is 2

years faster than if you had had a general election. In other words, you would get rid of the nasty red party A more quickly than if you wait for a general election to do what people perceive as a more comprehensive job. But you also do it in a more graduated manner so you retain a level of stability and you do not suddenly present your local financial services industry with a nasty surprise. They can see things coming more clearly. A more comfortable, more stable approach, plus regular intervention by the public - by the voters - in what this House is doing. Possibly that would increase voter turnout. But I do not know because I have got very little material on which to discuss how voter turnout is affected. Now, the other element that I want to move on to look at is this second area of concern by Privileges and Procedures; unbalanced representation. I think, when we look at this polling as a whole, it is very difficult to determine what the polls are trying to tell us, but in the general sense it seems pretty clear that just about everybody is agreed that we need to reduce the numbers. Now, how we do that and whether it is by eliminating Constables or scrapping Senators that is a wider issue, but I think there is clearly general agreement on eliminating numbers. What I find, sadly, is really very poorly dealt with, is having identified that we have unbalanced representation. For example, in Grouville where there is only one Deputy, whereas in St. Lawrence there are 2 - even though the population of the Parishes is identical - the Privileges and Procedures Committee seemed to have locked-on to the wrong aspect of unbalanced representation. The unbalanced representation in this Island relates to the fact of if you live somewhere, there is 11 Connétables you cannot vote for, like them or not; there are in the order of 28 - or if you live in St. Helier No. 3, 25 - Deputies who represent somewhere else, that you cannot vote for, like them or not; and there is a very strong feeling in the Island that there is a bit of merit in an Island-wide franchise because you can always vote for Senators because they have to run on an Island-wide basis. It seems to me extraordinary that, in a small Island, that we are resorting to this outdated, outmoded level of parochial representation that is so blatantly unfair to the electorate where huge swathes of our population are not in a position to vote for even half the people who represent them in this House. It really is quite astonishing. If Members just sit down for a moment and think about what unbalanced representation is, it means that if you are a parishioner in St. Ouen, you can vote for the very worthy Deputy of St. Ouen or not, or his rival or you can vote for the Connétable and you have got the 12 Senators on a rolling basis but you cannot vote for or against anyone else. Now, that is unbalanced representation and, quite frankly, to home-in on the fact that there is a bit of a population problem about numbers of Deputies to be allocated per capita per Parish, is rather missing the point. We have a very serious unbalanced representation problem, which is why, I think, that this whole process is taking us in the wrong direction. We do have value in the Connétables, I have to say, and as a voter who is prepared to play the turkey role, I am a turkey who will vote for Christmas. I think we have a major difficulty in how the Deputies, starting originally, I believe - as reported in the *Jersey Evening Post* - at the number of 15 and with a clear concept that the role was to support the Constables, that the role of Deputy has now grown like Topsy over time, to the point where, banded together, the Deputies can out-vote both the other officers in the House. 29 plays 12. So, in theory, Deputies are in here permanently and the shaky people are on the other side of the Chamber. Now, I am prepared to tolerate parochial representation but only in the form of *les banques des Connétables*, frankly, because the Constables have powers, the Constables have certain authority. I find, as a Deputy, I do not. I cannot close roads [Laughter] I have real trouble closing some Parish roads, I can tell you that. Some people say I close too many roads but just drive on them afterwards and feel the difference. I think the Constables have enormous merit at the parochial level. They are, after all, the epitome of what the parochial thing is all about. I think we have allowed our system to get out of hand by ending up with 29 Deputies, based, effectively on just numbers of people who happen to be living in certain areas of the Island. As a result of that, we are always going to have to be fiddling around with boundary changes, like it or not. We will not like boundary changes because we are very parochial. So, St. John and St. Mary will resist very heavily any suggestion they should somehow share Deputies, although they have very outstandingly talented Deputies in St. John. I see Deputies nodding. There will be huge resistance to any form of boundary issues, which, to be fair to the

P.P.C., are highlighted here. Boundary issues: how many Deputies should there be? Do we just keep multiplying and shifting them around? No, it is a problem that needs to be addressed. It is not addressed at all in this electoral reform process and I suggest to Members it is the biggest problem, this non-representation of the voter and what are we going to do about it? Well, the obvious thing to do is to have much more Island-wide voting - the Senatorial model. But we all know what the problem with that is, do we not? It is that you end up with a ballot paper that has got 150 names on it, in a general election. That is why I say do not go there. A general election is a formula to imbed this Island in parochial dislocated politics on an almost permanent basis and it is not good for our local democracy. So, what I am saying to the House - and I am not ashamed to have taken up an amount of time because, believe me, I have got plenty more to say on this subject - is that we are going down the wrong track, including how we present these options. This is not the way to consult the public, by simply confusing people. You can mix A with C and you can have a bit of D and F. We need to clarify some basic issues and this is not how to do it. I do not think many people who answered this poll probably knew in any detail what a Constable does, how they are elected, what a Deputy does, what is the difference from a Senator. I do not think anyone was really seriously informed before they started ticking the boxes and, in any event, if we are looking at constitutional issues and electoral reform, we need a debate with a bit of intellectual rigour in it and I have not seen that and I would like to hear some of it this afternoon. So, I will now sit down and shut up and look forward to some interesting contributions.

### **17.3 Deputy J.A.N. Le Fondré of St. Lawrence:**

The way you were writing my name down before, I thought there was a whole ream of speakers in front of me. Just before I start, I would like to seek a clarification in relation to R.97, which is on page 12 there, which is the table at the bottom which is headed: "Total Members 10 per cent rule rounded, as required and maximum in the Executive." The query is - potentially because I might have to amend my speech - if we have to reduce numbers broadly in favour of the 49... but my understanding of the 49 was that that is the lowest number we can get to without changing the numbers of the Executive, i.e. that the maximum in the Executive would be 23, the clarification I therefore seek is the 10 per cent difference rule. My understanding would be it would be 23 in the executive, plus 10 per cent, which would be 2.3, rounded up to 3, which makes 26 and that would therefore get to numbers of 49. My interpretation from this table is that the 10 per cent rule has been applied to the total number of Members so, essentially we start at 40, we take 10 per cent of 40, being 4 and then that gets applied downwards. Which way is it? In other words, is it 10 per cent of the Executive which is added in to the non-Executive or is it 10 per cent of the total? In other words at 49, can the maximum in the Executive be 23 or 22? The table says 22. I would like to know which way, if it is a 10 per cent difference I think it should be 23. Shall I carry on with my speech and we put in the caveat of whether it is 49 or 50?

### **The Bailiff:**

Very well, does the Constable want to deal with that now, or not?

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

I understood that the 10 per cent rule applied that you divide the total number in half and it is 5 per cent either side of that. So, if we do that, if it is 50, for instance, 25 and you want 10 per cent of that, which is 3 people, then you take that off each side of it. So you get 22 and 28, which is 6 people.

### **Deputy J.A.N. Le Fondré:**

So, just for further clarification, the numbers recommended then by both Senator Shenton and Deputy Southern, at 49 - which in theory would not require any restructuring within the States - are therefore incorrect. Is that right? Because at 49 you would have to reduce the Executive by one.

**H.M. Attorney General:**

Can I help with what the Law is? The States of Jersey Law provides that the number of Assistant Ministers shall not cause the aggregate of Chief Ministers, Ministers and Assistant Ministers to exceed 23 and that number can be changed by Regulation. So, wherever the States finishes, in its debates about the subject, you increase or decrease that number of 23, if you need to.

**The Bailiff:**

The answer seems to be do not get hung up on percentages. [Laughter]

**Deputy J.A.N. Le Fondré:**

It could well be, Sir. It is relatively important from the point of view of the amendments that are coming through, but anyway, I think, Sir, really, where I started was this debate has obviously been going on for years. Clothier was presented to the States on 19th December 2000 and that was not the start of the process. So, to me, there has been an awful lot of debate around the subject of the composition of the States but with relatively little result. There are many divergent opinions and many honestly and strongly held. But how do we get to the right decision? That has always been the problem we have faced. I do agree with the fact that I think the public do expect us to do something but I also strongly believe that we must achieve some form of change in time for the elections in 2008 and I think we have got to stay fairly focused on that date. Achievable changes rather than grandiose changes, for want of a better expression, incremental and practical changes. I also think it is worth thinking about history, as in the history of this Assembly. The role of the Connétable goes back many hundreds of years and they do represent, as we have been told in previous times, one of the 3 estates comprising the States of Jersey, namely the Parishes. It is just recently that the position of Deputy marked 150 years and Senators were created approximately 59 years ago. Although there are criticisms, the system has generally worked incredibly well and, to me, it is one of the things that adds that special Jersey twist to the way we do things. It will probably come as no great surprise to Deputy de Faye - although he is not in the Chamber - that I do not necessarily agree with all of the views he has just expressed, although I do agree with some. I would say that one of the special things about Jersey is the community feel and the direct links of the States into that grassroots community. The bedrock of this system are the Parishes and it is the Deputies and particularly the Connétables that reinforce that community contact with the Legislature. So, to me, the system we have is fairly good in terms of its potential in respect of democracy and democratic rule. So, to reiterate, when it is working well, the key thing about the States of Jersey is its ability to engage with the community at a grassroots level through the Parish representatives. There are already murmurings that people do not feel engaged by the government, therefore, to weaken those grassroots links will only further damage the system we have and to weaken that structure, to me, is to weaken a very precious thing. Now, I cannot remember who it was but I believe a Member, some time ago, stated that the first M.O.R.I. poll showed that the Island was in favour of Island-wide constituencies. Now, I will refer to the actual M.O.R.I. poll documentation that we were sent, part 17 in that first poll. My reading of it is that Islanders want us to deal more with running the Island as a whole but did not comment, in that particular question, on the method of election. A review of chart 20 indicates that while 46 per cent would prefer Island-wide elections... I shall wait for Members to turn to that page, if you wish. Chart 20 is on page 25 of the M.O.R.I. poll. But in there, although 46 per cent would prefer Island-wide elections, 43 per cent want either all or some Members to be elected on a Parish or district basis and a further 7 per cent want districts bigger than Parishes but do not want Island-wide elections. So, there is not any clear conclusion on whether we want all Island-wide elections or whether we want all constituency elections and, again, I do not think that is really a good basis for forming that decision, apart from we have a huge diversity of opinion and no clear majority, in my view. So, at the end of the day, I was elected by 1,000 people in St. Lawrence to represent them. If they are happy or not with how it turned out, they will show it when I come up for re-election. On those terms, my leaflet

stated the following: “I believe that the Deputies and Connétables are essential for a continuation of a strong Parish system which still has a place in our Island life. I believe that elections of the Deputy, Senator and Connétable should take place on the same day, within any given year” and I therefore intend to stick to my election commitments on that matter. Sir, in my view this has been going on long enough. Let us try to achieve some small, incremental steps for change in time for 2008. To me, we really need to be doing 2 or 3 things well rather than trying to do many things with the likelihood that we may end up doing them badly. So, okay, let us start by specifically considering the questions in the letter sent out from P.P.C. last Thursday, in the order of that letter, and I believe that is what the Chairman of P.P.C. did ask us to try and address during this discussion today, although I am afraid, apart from one answer, they are not as short as he might prefer. (1) How many Members should there be in the Assembly? Which is why I was getting slightly hung-up on numbers. In my view - originally I was stating 49 - it should not be any less than the number required. What I do not want to do is set-in a low number of Members, which then requires us to restructure the States. If we get too low and start either losing Assistant Ministers or Ministers - particularly Ministers - and if you refer to that table that we were given which suggests a model for 42 Members, on the face of it it sounds very attractive, but I would like to know what the consequences of that are. There is a very oblique reference to 2 departments being merged. Now, to me, that is not going to be achievable by 2008. It may be, in the longer-term, desirable from a cost point of view and efficiency, *et cetera*, but to focus on trying to achieve something tangible by 2008, is not going to happen if we go for too low a number. So, on that basis, I think that probably puts me in agreement - oddly enough - with potentially Deputy Southern and Senator Shenton in considering the maximum numbers we can cut out of the States, if that is desirable. At the end of the day I very certainly agree that the 10 per cent rule or the Troy rule is important and I will go back and make sure I get my understanding fully complete on that one. Now, I think it is very easy for the public to stand up and say: “Yes, [as Deputy de Faye was saying] we have got to get rid of X number of Members; we want 30 in the House and along those lines.” I am not aware of that many people having nothing to do. We are all fairly busy. Are we constructively busy or not? I do not know; I have only been in here for a year and a half. I believe I am constructively busy. I will leave that for other Members to decide but the point being it is about consequences and if the public are not aware of the consequences of significantly reducing numbers in this House, then I do not think it is fair to put that question to them. I did refer back to a submission I made to Clothier - oddly enough - in 1999 and although times have moved on I do find the principles of what I wrote at that time are still, for me, valid today. At the time, I wrote: “In the recent senatorial elections [which was back in 1999] we had 19 candidates standing for 6 seats. Some were highly qualified and had previously served in various capacities within the Island. Others seemed just to be taking advantage of an opportunity to air their views and had very little chance of ever succeeding. [You might turn around and say that is democracy, at the end of the day.] The result of elections of this nature have more in common with a lottery, to me, than with any expression of democracy and I personally consider the previous status of Senator to have been severely diminished as a result. My personal feeling, having regard to the above points, is that the role of Senator has been weakened to the extent that I do not believe it warrants having 12 Senators in the States today. Surely one part of that process is not only to allow the electorate to have a reasonable choice of candidate but to allow that same elector a choice of reasonable candidates. These days it seems to me that the electors are literally so spoilt for choice that they do not really have any choice at all. A large number of candidates appear to be standing either just to promote a particular point of view or their candidacy for the following Deputy elections. This does not seem to imply that they have seriously considered their chances of being elected as a Senator.” Those were my views then and, broadly speaking, I do consider them to be relatively relevant today. So, accordingly, Sir, I would agree with the principle of Senator Shenton’s proposition that if we are going to reduce numbers, if it is deemed necessary, that it is on the Senators that that should fall, but it is a case of is it necessary and is it achievable? How should Members be elected? Now you cannot really deal with that question without looking at the various positions; Senator, Deputy and Connétable. For

me, the Deputy and Connétable are part of the Parish system and are essential for the continuation of the community aspect of Island life that not only makes Jersey particularly unique, but also makes us properly approachable and accountable and it is literally down to the point of does the Connétable go into the Parish or to community market in St. Lawrence on the Friday or do Deputy Mezbourian and myself go up there and do we get accosted - for want of a better expression - by a parishioner who has an issue? In other words, are we being seen to be approachable? That is the bit I mean about grassroots. As part of the role of a Parish representative, you have to go out and meet your parishioners. But having said all that, one must also recognise that many Islanders like the Island-wide vote and hence, I think, having gone round a little bit in circles, I would keep the system broadly as it is, i.e. you keep the Island-wide vote but potentially for a lesser number of Senators, if that is considered desirable and keep the Deputies and the Connétables on a Parish based electoral system. Now, there are issues in relation to population differences between - for example - St. Lawrence and Grouville but, again, I do not think we can sort that out in time for 2008 and I think that issue has to be set aside for another day. If we are trying to achieve something for 2008, let us keep it practical and let us keep it achievable. Now, I think 2 further points on this matter; the impression I get from many people in this Island is a certain level of fatigue at the moment. They do not really want change for change's sake. We are at the tail-end of a huge amount of change in the system of government, the system of benefits and the tax system. I think, to an extent, people have had enough and would like a period of stability. So, minor tweaks would be welcome but not a wholesale change in the way we do things - and, Sir, I think I would like to say, for the avoidance of doubt, I do not support large constituencies - I think it is naive to say that that would not threaten the Parish system and the community we represent and I could not support that particular suggestion. I hope that helps, Sir, if you can see from my perspective, on the second question. The third question: "Should the Connétables remain as Members of the States?" Yes, for the reasons I have stated; yes and double yes. I would also like to take the opportunity to address the comment that keeps being made about them not being elected to the States and that Connétables are only elected to be head of a Parish. To me, this is hair-splitting to the extreme. Being part of this Assembly has become as much a part of their job description, and that is really for want of a better expression, as running the Parish and, as far as I am concerned, when I vote for a Connétable, I am voting for him to be a representative of the Parish in this Assembly as well as running that Parish. To be honest, I find it insulting to imply that I am not considering this when I am voting for that individual. You might as well argue - people might - that the President of the United States of America is not democratically elected to be President given that it is the College of Representatives that appoint him, not the electorate directly. So, please, do not denigrate either the electors or the position of Connétable by this level of hair-splitting. How long should the term of office for Members be? Short answer; let us stick with Clothier on this one and let us go for 4 years. Should there be a general election or is the continuity that comes from staggered elections preferable? Now, in my election leaflet I said that I believe that elections for Deputy, Senator and Connétable should take place on the same day within any given year and that in itself should be achievable. I can remember being involved in a set of elections in St. Lawrence and the turnout for the Senatorials was excellent. The Deputies was lower - this was before our time, okay - and by the time we got to an election for Connétable, I seem to recall the Parish was suffering from election fatigue. Low voter turnout, to me, is a major concern. Having everything on one day, I believe, will also force candidates to stand for the position for which they feel most suitable. It is quite often the case that the same candidate keeps popping up at different elections and we have seen examples of that relatively recently. It is not always entirely clear what that candidate stands for. So, to me, one of the most important points that should come from this whole discussion and which is totally critical is that it should be in time for the next elections in 2008, to have all elections in any one year, occurring on the same day. If that does not have an impact on voter turnout, I am not sure what will. I appreciate there may be some potential difficulties over who runs the election but surely that is not beyond the wit of P.P.C. to resolve. We do have the Jurats in attendance on election day and surely their role can be expanded to deal with this matter. If it needs one or 2

other officials from the Parish, and perhaps the procureurs, I do not know, surely that is an achievable matter. Now, where I do agree with Deputy de Faye is that there is one aspect to this whole idea of a general election over which I retain certain reservations; if we did have a 4-year term, do we therefore have a general election once every 4 years and potentially have a complete change in the House, or do we stagger the period in a similar way to the Senatorials, like they are now? Under a 4-year term, 50 per cent of the House is elected every 2 years, but each for a 4-year term. Deputy de Faye - and I do agree with him on this - has commented that the big strength of Jersey is its political stability, which makes it very attractive to foreign investors. As the government of a small Island, which investors do not really understand, anything that potentially makes us less stable, to me, should not be welcomed. Therefore, I remain unconvinced that it is wise for the entire House to be able to change as the result of one series of elections. Please note that is different to any elections in one year occurring on the same day, because, to me, from the experience of seeing 3 lots of elections in one year, by the end, people were getting fed-up with it. Even on the Deputies' elections, when I was elected, when I started out, they said: "We have only just had the Senatorials and you are coming around already." It is this month gap that just causes difficulties. So, I remain unconvinced and as such I do notice certain individuals have referred to this matter in their submissions as well. So, to me, again, the greatest asset of Jersey has been its political stability. To me, we touch that at our peril and I therefore do maintain my views on that point. I do accept a comment that has been made to me, that such a system would have to be considered in light of Ministerial government and the impact on positions held by Members, whether in the Executive or the non-Executive. Moving on, should there be a referendum? I am probably going to get a lot of flack on this comment but I do not think there should be. I do not particularly like the comments that have been made that suggest, on the one hand, a referendum would not be binding but that it would be very difficult to ignore. That is a bit too wishy-washy for me. I really would need to have far more information on to what was being proposed. Would a referendum, for example, be mandatory voting, i.e. is it going to be based on the total population eligible to vote or is it just the percentage voting? So what happens if we get a 40 per cent turnout? We do not have a majority mandate there to make a decision, which does not help us at all. Do we assume that anyone not voting is happy with the *status quo*? What happens if 45 per cent of the population do not vote? That is not an overwhelming endorsement of any decision we were to come to if it was based on that sort of data. More importantly, how can we ensure that people fully understand the issues that they are voting for and the wider consequences of particular actions? Do the States get to approve the leaflet and the questions that will be voted upon? Referenda, to me, are often held up to be the sort of panacea to many ills. I have yet to be convinced that they solve this sort of problem and the one that always springs to mind is the flooding of Queens Valley. I did not elaborate on it but I think it is worth mentioning, of course, that there was huge popular swell at the time of not doing it. I think, was it 8,000 people who signed the petition and all this type of stuff? Yet the information that, as I understand, was not in the public domain was that the Island was literally within hours of running out of water in 1976. So, I am hugely in favour of proper consultation but the turnout, for example, of public meetings in this matter, has really been appallingly low. I think P.P.C. would probably agree, I do not know, but that does not encourage me for the fact that there is a great appetite for further discussion. I think, on something like this, I was elected to make informed decisions on behalf of my parishioners and I do not really want to cause too much further delay. So let us try and come up with some practical, achievable decisions. So, in conclusion, what is practical and in time for 2008? Let us get everyone on to a 4-year term. That is a recommendation of Clothier and it seems imminently sensible and I have not heard that many Members speaking against that and that includes from retired Members as well. Let us get all elections in any one year to be held on the same day. Those, to me, should be our 2 primary objectives for next year. Now, I would welcome the opportunity to vote on whether we should stagger elections, for example, every 2 years on this rolling basis. I know what my personal preference is. I am not going to get too worked-up if that is not achievable but I would like it seriously considered. Let us not mess around with the Parish or district boundaries. I think that is



going to bog us down too much and do not adopt super constituencies; keep the Connétables. If it is the wish of the House to reduce numbers - and I am sure there will be one or 2 people opposite me who will stand up and disagree - then I would slightly reduce the number of Senators in time for the next election. To me it is not a big issue. The biggest issue is elections, only one a year held on the same day and the 4-year term. If you can achieve that, we will have made a considerable change to the way we do things, a practical change without throwing everything out. So I do think we need to move on. We do now have the debate from Senator Shenton scheduled for 1st May. I appreciate Senator Vibert's views on that matter but I would like to have that debate. I think it would give us a clear view at least on that proposal and we also do have time to bring amendments. I am going to conclude on that. I hope that was helpful to the P.P.C. from my perspective and let us see where we go from there. Thank you, Sir.

**The Connétable of St. Clement:**

Could I just clarify my answer earlier? That is, the 10 per cent is based on the total number, rounded-up to the next whole number. So, 41 would be rounded up to 5.

**The Bailiff:**

Does nobody else wish to speak? The Deputy of St. Ouen?

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

Yes, I do not want to stop the discussion just yet. I, like the previous speaker, believe that if we are to make any progress, we need to do it in bite-sized chunks and it certainly seems to be clear, from the various polls and things that have been carried out, that a general election is certainly probably the clearest indication from the public that it is certainly required. I equally am concerned about 2 things: (1) that the public, I believe and certainly prior to the time I was elected, were looking to change and believed that the States were signed-up to Clothier completely. I think they felt perhaps slightly robbed by the fact that the States - rightly or wrongly - concentrated on the reforms of government but did not consider the other part that was included in that report, which was the reforms of the States as a whole. I think that is possibly why there is perhaps the disillusionment that we hear about today. I think it is also interesting and important perhaps that the Constables and the Constables' Committee spend a bit of time explaining exactly what the role of Constable entails, because I think there are a lot of members of the public that do not fully appreciate what is expected and required from a Constable. Equally, I think that there a number of questions that are still unanswered and in fact even I cannot find the answers to it. If we are to look at the general election and the idea of having an Island-wide election, how on earth do we do it? How practical is it? Can all Members, as I say, be elected on the same day if everybody was on an Island-wide mandate? How should the Parishes be represented in the States? We have certain ideas whether the Constable should not sit in the States; adjusting Deputies; but equally it is very important and it is been acknowledged by this House that the Parishes have a role to play in government. I do not think that we have probably given that sufficient thought to see how that happens. This issue that certain individuals believe that the Parish Deputy is only simply concerned with Parish matters is way off the mark. Again, I hold my hand up as saying, I am guilty that maybe I have not made sufficient effort to explain my role to the parishioners and public at large. But a lot of our efforts - I would say probably 80 per cent of the time my work - is focussed on Island issues, like many others in this Assembly. I do believe when I speak to people that they enjoy and like the closeness and the contact that they can achieve through their Parish representative. Whether that is Constable or Deputy. I cannot speak for the Senators' role because I have never experienced that side; however, as I say those I speak to, if you ask them: "Who do you speak to if you have a concern?", there are 2 names that come out time and time again and that is the Constable and the Deputy. I very rarely hear anyone say the first port of call is a Senator, so again, is that important? I believe, as I say, that the general public or some of them certainly feel it is important. I think it is also interesting to note - and we speak about Island wide elections - if you look at the results of the Senatorial

elections and even the recent ones, I think that whether we are voting in St. Ouen or St. Helier, the same names are selected. So, if that is the case and obviously we have got a cross-section of individuals that live in all the Parishes, why is it that important that we need to have this Island wide mandate, because the same people that are selecting me, are selecting Senator Shenton. Yes, Senator Shenton's position was underlined by all 12 Parishes but equally, his position as far as I was concerned, was underlined in our Parish so there is a question mark. I think that Clothier raised this when they asked: "Is it really necessary to have an Island-wide mandate?" Now, again, I go back to the bite-size chunks and I think that I would prefer evolution rather than revolution. I think until we have answered clearly and plainly some of the fundamental questions, we are unable to move forward. We are able to start the process of adjusting the times of election and even considering the numbers as we progress forward and as we develop our new Ministerial form of government with Scrutiny alongside. I wonder when people say: "Yes, let us have a smaller number of States' Members because we will save X amount of pounds." I wonder whether one of the consequences of dramatically reducing the number of States' Members, would in effect cost this government more money, because certainly some of the tasks and work that is carried out by States Members would still need to be carried out. Therefore, the savings or perceived savings perhaps, would not be as expected. That is all I will say for the moment. Thank you, Sir.

### **17.5 Senator W. Kinnard:**

I will not delay Members on the mechanics, the pros and cons, the whys and wherefores of the various different models. I am sure we can devise as many ways as there are Members in this House and more, but the one issue that I would like to raise that I do not think particularly has been raised and that is the wider issues around representation. I think that those issues around to what extent are we a representative House in terms of gender and ethnicity, need to be asked and need to be addressed, so I think we need to look at issues of representation in a much wider political and cultural context. I will take the issue of women, as that is the one I can speak from with some degree of experience. I know that there are now marginally a few more women in this House, than there has been previously, but we still do not make up anywhere near the element of the population that we have to, in a sense, represent. There are more than 50 per cent of the population of Jersey that are female and yet we do not anywhere come near that particular level of representation in the House. I am particularly concerned that there are now no women Connétables and that I am also particularly concerned that there is now only one female Senator. One of the things that I would like us to look at is why is that? Is it something to do with the way in which individuals achieve those posts? Is it something about the way in which we run the Senatorial elections? Is it something to do with the way in which the majority of Connétables - I know now things are changing and this is perhaps less so - have come through the ranks of the honorary police and the vast majority of members of the honorary police are and have been male. So, I do think that there are wider cultural issues here that need to be addressed if we are going to make this a properly representative Chamber, or at least a bit more representative than it is at the moment. From my perspective, I can see that there are elements of value in all of the 3 different types of roles performed in the House, whether it is Connétables, whether it is Deputies or whether it is Senators. I think arguments can be made to support the people of all 3 roles, if one wishes to. My bigger concern is what are we not doing, or what are we doing wrong that means that we are not becoming a more representative House? It is no more representative, and on some benches - and I have mentioned the Connétables and the Senators - it is less representative now than when I entered the House in 1996, so, Sir, I would say for me that is the biggest and widest issue. We need to know why we are not achieving that and part of that must be as well that we are not connecting with the public sufficiently. Turn-out must be connected with that somewhere. People are not necessarily engaged enough with these issues either to get involved in voting in the first place, or secondly for particular categories of people that we know we need to encourage into politics, why are they not feeling engaged? Why are they not coming forward? It is not just about it is open to individuals. It is about wider social structures and cultural issues which I think really - frankly - this House and

Privilege and Procedures have not addressed. I really recommend that they do so, because I do not think that we are going to get the sort of significant change and the sort of connection with the public that we really do need if this House is going to go forward into the future with the level of legitimacy that it is going to require, if it is going to tackle the difficult challenges that face us in the future. Sir, I will just leave it there. As I say, there is probably much more debate to go on, but I think this is a point that has not really been made or at least it has not been made strongly enough. I really recommend that we as a House, and particularly P.P.C., attend to these structural and cultural issues with some haste. Thank you, Sir.

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

Yes, I feel I must reply to Senator Kinnard. I am often heard to say: "I need a wife." Basically your average woman, if she is working, if she has got aged parents to look after, if she has got children to look after, you have not time to stand for politics. Forget it. You know, it is not possible, so you know it is not only a cultural difference and I do not think quotas would work either, because that is a nonsense. What we need are role models encouraging people, so that the old saying that every soldier has a field marshal's baton in his knapsack, it is that sort of approach. Going on to the main business, we had a meeting at St. Brelade and I think, Monsieur le Connétable, I am right in saying that the general feeling of the meeting was that they would like - we were discussing the reform of the States - to keep the Deputies and the Connétables, but they were not quite so enthusiastic about the Senators. I am sorry that none of the Senators in our district happened to be present at the meeting because they could have answered the comments. Talking about numbers, last night I mentioned Turks and Caicos who have one member per thousand of population. I throw it in for thought. This clarion cry for reduction which compares us with Westminster, it takes no account of the multiple layers that they have in the U.K. through District Councils, Rural District Councils, Parish Councils, County Councils, Regional Assemblies, you name it. They have got somebody there. It also, as other Members have said, ignores the necessity for having sufficient bodies to make Scrutiny work. Scrutiny is an absolutely essential part of the new Ministerial system and if we do not have sufficient bodies on the ground or boots on the ground perhaps, we cannot make it work. I agree with the other Members that partial changes every so often provide continuity and the concept of a general election which will remove the Senatorial scrum. I do wonder if it is the death knell for the Senators. A thought: I was discussing the concept of larger constituencies with a resident of St. Ouen. He was very enthusiastic about it - St. Peter, St. Ouen and St. Brelade all together - but I pointed out that on the basis of the numbers, the likely electoral winners were likely to be from St. Brelade. That did not go down at all well. So, when people think these things through, it is perhaps not as exciting as they thought at the first flash of enthusiasm. I understand from Connétable Gray that the results of the M.O.R.I. poll have not sub-divided the results per Parish, which I think is a pity because if I remember rightly on the first M.O.R.I. poll, there were quite different emphasises between the town and the country. I would also note to the Connétable that many occupants of Don Farm did not receive copies of the leaflet and those that are politically aware were really quite miffed. Deputy de Faye, if you take his theory to its ultimate limits, all we need is one all-Island Senator and 12 Connétables. This business about representation, nobody anywhere can vote for all their representatives. In the U.K. you vote for someone, which if you are down in the southwest is probably a Lib Dem and you still do not have any say in who your Prime Minister is. I think we do get ourselves tied-up in knots, so basically I agree with the previous members. Bite-sized chunks of change. Forget the large constituencies, keep the Connétables, 4-year term of office, perhaps a slight reduction in the numbers - the 49 that has been banded around is attractive. I like the staggered idea. Referenda, I do not think so.

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

General elections are all on the same day. That is principally what I want to just talk about. The Deputy system provides a means for Members to enter the States, learn the ropes, find out how it

works and in many cases - or not in many cases - decide whether they would like the so-called all-Island mandate and to go for the Senatorial elections. If you have a general election on the same day with the Senators and Deputies, leaving aside Constables completely for a moment, you are going to lose that I believe. You are definitely going to lose that. I think you run the risk that Deputies will be very reluctant once they have joined as Deputies, they will be quite reluctant to try and to win a Senatorial election. I notice that at the moment, 8 out of 12 Senators used to be Deputies and of the Council of Ministers, 8 out of 10 used to be Deputies or in fact still are Deputies, counting obviously Deputy de Faye. So, we seem to have a system whereby the vast majority of both Senators and Council of Ministers used to be Deputies and came through the Deputies ranks. I think we run the risk of losing that and I think that may well be a mistake. I think though you could still accommodate the general wish for a general election by altering the length of term, certainly of the Senators, from 6 to 4 years and make all 8 - as is suggested, if we are going to reduce them, by Senator Shenton to 8 from 12 - of those elected on the same time within a 2 month period of time as we have at the moment between Senators and Deputies. So, that is really the only point I would like to make at the moment. If we go for a general election - Deputies and Senators on the same day - we are going to lose this ability, the apprenticeship that the Deputies' benches allows and I think that would be a great shame. I think it will sound that the death toll. In the end it will be the end of Senators as we know them. You will only in the end find new people come into the States applying to become a Senator, or attempting to become Senators and is that really what we want? Theoretically in 10 years' time you could find that it is all new Members on the Senator benches and all of them are going to be Members of the Council of Ministers. I do not know whether that is really what we want. Perhaps it is. To me I think that the apprenticeship scheme of the Deputies' benches is essential for our system, without party politics I hasten to add. If you had party politics it might be different, but we do not and the general feeling from the public is that we do not want party politics. Until that changes, I think that you have to have separate elections between Deputies and Senators. That is the only point I would like to make at this point anyway.

### **17.8 Senator F.H. Walker:**

I think P.P.C. have done the right thing by bringing this to the House in an in committee debate, but having said that my concern is that we could debate this for hours, perhaps days, and end up with not giving them a clear pointer as to the way forward. I do not think that is what the public are looking to us for, but it is without doubt a problem to which there are many, many possible solutions. But even if the majority of the public do not exactly know why, it seems pretty clear that the majority do opt for, or do want some sort of reform. There is no clarity among the public about what the specific structure should be and so that is a problem for us as well. I, too, believe on balance that reform is desirable. I do not think it is the panacea for all the alleged Island ills that some people are putting forward. I do not think it is going to end up with a major shift in policy. I do not think it is going to end up with huge millions, tens of millions of pounds of savings. I just do not think that is possible and those who stand up and suggest that we are failing the Island in those ways, because we are not bringing in reform, I really do not think are looking at the matter through practical eyes. As I have said, despite the fact I do not believe it is panacea, I do favour reform for 2 reasons. I think the Assembly could be more efficient if it was reformed and indeed, reduced in size. I do think the reform brings with it the possibility of more connectivity with our voters and better turn outs, which I think is the ultimate goal in many respects of what we are trying to achieve. Why do we have such low turn outs in Jersey? Well, there are all sorts of suggestions. Many Members make suggestions. The public make suggestions. Well, we are not well governed. The States do not listen. Members do not listen. We are not connected or whatever. But at the end of the day we are certainly no worse in that respect than either Guernsey or the Isle of Man, where the turnouts are significantly greater than they are in Jersey, so there has to be, I think, another reason. It seems to me that P.P.C. may have got it right. We do not know obviously, but they may have got it right when they suggest that we in Jersey may be suffering from a sort of form of

election fatigue, or something of that nature because of the way our elections are structured and the number of elections we have. I think that is something that is worth them thinking further about. I suspect that may well lie behind it, but P.P.C. do deserve clarity and they deserve, I think, each of us to stand up and say where we stand on this matter. I would opt, as I always have, for option 2. I went to the Clothier Panel and, even though I was a relatively new Senator, I did suggest that I thought option 2 of the large constituency with the House made up of Deputies and - it has to be said - Constables as well, was the best way forward. Constables are different, they make Jersey different, but the large constituency structure is pretty well what the Isle of Man has. It is certainly what Guernsey has moved to with, if the results of their last election are to be or their turn out rather - perhaps not the results, but the turnout - of their last election is anything to go by has been a conspicuous success. I think we have models here in both of our other Crown Dependencies - both the other small Island communities - that we can learn from, so I do think they have got that better than we have in Jersey. I move by that as I always have been indeed, to opt for option 2. Going through the questions that P.P.C. have posed in I think their very helpful letter to us, how many Members should there be in the Assembly, well option 2 very clearly says 42. I think 42 is a good number in terms of the weight of representation it would bring to Jersey. I think it is a good workable number in terms of a balance that would inevitably still have to be struck between the Executive and the non-Executive. There is no proof or firm evidence here, but I think it is likely to lead to a more effective and efficient Assembly. Then how should Members be elected? Well, I think I have already given my views on that, that it should be at the large constituency structure, but with the Constables, who I do think should be elected on a single day, in my view, I think we do need to retain a strong link with the Parishes. I would opt for the Constables being elected on a single day, but not on the same day as the Deputies, that is a preference and certainly not something I necessarily hold strong views on, but I certainly think the Constables should remain in the States. I certainly do think they should be elected for a fixed term of office, obviously on the same day. I think the current system where different Constables are elected on different days simply has passed its prime. I think it will create more interest if there is, in effect, an Island-wide election for Constables. Now, I do accept that option 2 is not widely supported in the poll that is being conducted, but equally there is no option that anyone can look at and say: "Oh, yes, with great clarity, that is what the public want" so I am merely putting forward what I think are the best suggestions. I think the Constables should remain in the States because if you have a single election, for what in my structure option 2 structure would be Deputies only, you do run the risk of a lack of continuity, whereas if the Constables were remaining in the States, and elected on their own day as it were, I believe that would almost ensure a degree of continuity which I think would be helpful. I do think that all Members should have a term of office of 4 years. I think most Deputies will agree 3 years is too short to really get your teeth into the job. I think most Senators would agree that 6 years is just too darn long. It seems like an interminable length of time at times. I think that all Members should be elected for the same period of office, all Members, and I think that 4 years is probably the most practical, so should there be a general election? Well, if you retain Senators, Deputies and Constables, I think a general election with everyone being voted on, on the same day would be chaotic. The length of ballot paper you would have and what people are voting for, I just do not think it would achieve the result that Members would like it to achieve. I think, in fact, it could add to the confusion of voters and add to the turn-off of voters. But if you go for option 2, then obviously you would have a general election for all Deputies in their constituencies and you either vote for Constables on the same day, or as I have suggested you have in effect a general election for Constables, but on a different day but I have no particular strong feelings about that. So, on balance I think reform is desirable, but I do not think it is essential. I do not think it will achieve, as I have already said, the unbelievable objectives that some Messiahs of reform believe, but what I do think is that on balance it could make us more efficient and would, I hope, connect us better as has happened in the Isle of Man and Guernsey, where and unusually I think we really can learn lessons from, I hope it would connect us better with the electorate, but I think the important thing now is let us do it or kill it. We have been speaking about this now for, well, how

many years is it? I do not know. I have lost count and I am sure most members of the public have lost count. We really need to come up with a result here. I think we need to say: "Yes, we are going to go ahead and reform in whatever way" or: "No, we are going to stay where we are and just get on with the job of governing the Island" but let us not go on having interminable and damaging, in the eyes of the public, delays about whether we should do something or not. That is not, in my view, the way forward.

### **17.9 Constable K.P. Vibert of St. Ouen:**

I think that the first thing that this Assembly needs to consider - and I think it is probably the most important point which we need to consider - is whether or not we want to preserve the parochial system, because I think that any decisions we make could inevitably undermine a system which is the basis of this Island. Certainly the basis of the government of this Island and I think the basis of much of the prosperity of this Island. I think that when we consider options it is very important that we decide before we consider an option, whether the preservation of the parochial system is important. I think that when we are doing that - when we are making that consideration - I think it is important that we realise that when we are looking at the parochial system, we are looking at a system beyond a political system, because there is more to a Parish than political representation. I could probably say in the same way as there is probably more to a Connétable than looking at a political perspective on the Connétable, but I certainly agree with most of the speakers that when someone is voting for a Connétable, they are interested in someone who can run the Parish, who can keep the Parish ticking over in the way that they are accustomed to and, in all probability, in someone who is going to lead the Parish into bigger and better things into the future. But at the same time, I am absolutely certain that the greater majority of those people who come and vote for their Connétable are also well aware that he will be - or she will be - a political representative as well and that if they have a problem parochially, that is the person they turn to. If they have a problem politically, that is probably also the person they talk to, but they do have the Deputy to turn to as well. Certainly, it is my experience over the last 13 years that people do come and talk to the Connétable about political matters, so that the people are not unaware of the fact that the Connétable represents them politically as well. I would just like to turn to the comment which my own Deputy made about the role of the Connétables. I can tell him that he only has to wait about another week because it is with the press at the moment and he would be able to read all about it in the next issue of the *Gris Ventre*. As far as the Connétables are concerned, we as a body accepted the principle of all being elected on one day following Clothier One, which was now in the dim and distant past of the history of this Assembly but, like the pregnant elephant, we have been waiting for a long time for this Assembly to decide what it was going to do and at that time we would put our weight in to a one-day election. There is an element of argument as to whether that one-day election should be for all Members including the Connétables, but certainly the Connétables in 1990 made the decision that they wished to have all the Connétables of the Island elected on one day, when everybody would know that that was the day that their Connétable was to be elected. Senator Kinnard mentioned the lack of female representation and possibly it was because of the fact that traditionally the honorary police has been served by male members of our community. I can reassure her that times they are a-changing. There are far more lady members of the honorary police now and so it may not be that long before we have female Connétables again elected and it may well be that it is the beginning of a system whereby you may finish up with a whole Constables Committee of females, although I do not think it will be in my time. **[Laughter]** I think that it was Senator Walker who mentioned the fact that although there is a ground swell for some change, certainly from the people who have approached me and the people that I have spoken to. There is not really a great appetite for whole-scale change. I think that a large number of the community out there are probably suffering from a comfort factor. They in fact do not have a problem with the way that the Island is run. They do not have a problem with the way that this Assembly governs the Island and in fact are rather comfortable living in our Island, so I think that any changes that we look to make, we have to ensure that we are not making them for the sake of a

smaller minority. We have to be sure that the decisions we make are made for the majority of the Islanders. Yes, we will upset the minority because it will not be what they want, but I am afraid that is a fact of life and that is how government works. I think that, yes, we do need some change but I think - like my Deputy said - we need evolution, not revolution. We need to make the decision what changes we think are essential now and as Senator Walker said, let us get on and do them, but please let us not try and design a totally new system just for the sake of it.

**The Bailiff:**

I wonder if I could ask Members whether they wish to continue until slightly later perhaps than normal, in order to finish this debate, or whether we are going to continue tomorrow in which case, do Members want to adjourn at the customary time?

**Senator M.E. Vibert:**

Can I say as a member of PPC and I am making notes on what everybody said, we have had about, perhaps you have got the list 8 or 9 people speaking. I would have hoped that every Member of the States will give their views to P.P.C. on this. Therefore, I think we are foolhardy if we think we are going to manage that in the next hour or so and I would recommend that we adjourn at the normal time and come back tomorrow so that people can give their views to P.P.C.

**17.10 Deputy I.J. Gorst:**

I am not quite sure how I have managed to follow my departmental colleagues, but if it proves one thing, it will prove that there is not a departmental line on this issue. I wish to coin a phrase which a greater Member of this place has already used today: "If it ain't broke, don't fix it." There is a perception that the current electoral system is broken and needs some fixing and we have heard from various members of the public what their views are about what needs fixing, or what their solutions are, but I think the question that we must ask ourselves today is, what is broken? It is only in asking that question that we can then prescribe any remedies. So, what is broken? Well, I think we would all agree that low voter turn-out is broken and something which needs to be addressed. Voter apathy about the political process: some would say we have a system which they find difficult to understand. Some say they are dissatisfied with Jersey as a place to live. However, interestingly if we look at the M.O.R.I. poll, when questioned 78 per cent of residents said that they were generally satisfied with Jersey as a place to live. Satisfaction with the States as a whole: again, if we look at the M.O.R.I. poll, only 32 per cent said they were satisfied with the way the States ran the Island. The cost of running the current Chamber - is that something which is broken with our electoral system? We should of course always be looking to reduce our costs and our expenditure, but certainly not only in regard to States' Members but across the public services as a whole. Sir, I believe that is critical that we approach the question of reform in light of these questions and issues. I therefore turn to P.P.C.'s 5 options, together with the proposition lodged by Senator Shenton. It seems to me clear that those members of the public who took part in the latest M.O.R.I. poll certainly had a preference for option 1. The second largest group of people seem to support option 3. We could of course at this point take these statistics at face value. However, to do so would leave my opening questions unanswered. I therefore ask Members to turn with me to page 12 and 13 of R.20, if they have it in front of them. This is a section about the reasons why various members of the public questioned preferred various options. We see that those questioned who chose option 1 did so because they were of the belief that Jersey has too many politicians and that 46 per cent of those choosing option 1 did so because they believe that we have too many politicians. Interestingly, only 42 per cent of those choosing that option state convenience, or that it would be cheaper, or that it would be easier, or that it would result in better turn-out. If we then move down the page and look at why those questioned supported option 3, we see that 75 per cent of those preferring that option did so because they believe it addresses the issues - which I touched on at the start - of convenience. Yes, it could save some money, but it would certainly be easier and they believed it would result in better turn-out. Interestingly, only 4 per cent of those cited the

issue of us having too many politicians. I turn now to the details or specifics of the options before us today, or should I say hot potatoes. The Connétables: should they stay or should they go? I personally believe that their removal from the States would rip out the heart of our prized Parish system. It would also rip out the honorary principle that that Parish system encourages and supports. Having said that, I also recognise that the Constables have a heavy workload and that that might be an argument that some find compelling to advance that they ought to be removed. However, if we look at the only option before us today that does remove the Constables from the States, that is option 5, that option allows the Connétables to stand not only for the office of Connétable, but also for the office of Deputy. Therefore to my mind, the argument that the Connétables are overworked and should not sit in the States does not stack-up, because we are saying that they can then do 2 or even 3 jobs. They can run the Parish or 2 jobs and they can sit in the States again, so to my mind that argument removing the Connétables is a non-starter. We move on to the other areas of option 3 and that is a general election day. We have heard other Members say that they felt possibly a general election day would not work because people may initially stand for Deputy as an apprenticeship. That is certainly one way of looking at it but we must also remember that in this House every Member has one vote on every issue. I agree with the public, that to my mind it is not acceptable for someone to stand in a Senatorial election to be unsuccessful and then to stand again in the Deputy election. The term of office: I agree as others Members have said, 3 years although a year and a half down the line might seem quite a long number of years, but if we look at it openly and honestly, I think probably 3 years is probably too short a term of office for any political term of office and 6 years seems to be too long; 4, therefore to me, I would agree is reasonable. The numbers of States' Members: on reflection, I do think that we can probably lose about 4 States' Members, which would take us down to the number of 49 and why do I suggest that? I suggest that because at the start of this session, I am not sure if it is still the case now, but we certainly had 3 or 4 Members which had no other role within the States Chamber other than that, to which they were elected to, i.e. the office of Senator, Deputy or Connétable. Therefore, there is possibly latitude to reduce the numbers by 3 or 4 taking us down to 49. Of course, it becomes a little bit more fraught on knowing quite where to make that small reduction. It has been suggested that we could do it on the Senatorial benches, however it is also possible that we really should look at some of the representation issues on the Deputy benches and the number of individuals that each Deputy is representing, but whatever we decide there, it is important that we do it in a timely fashion, so that we can move and make sure we are moving towards the changes for the election in 2008. I believe that we must endeavour to ensure that any remedy that is prescribed, or decided upon, will have the effect or the outcome that we are aiming for. Senator Shenton may therefore be distressed to realise that I roughly agree with him and the meat of his proposition. On balance, I think that change - some change, reasonable change - is needed and therefore I broadly support option 3 as Senator Shenton sees it, put forward by P.P.C. Thank you.

#### **17.11 Senator S. Syvret:**

I want to just begin by mentioning the word "power" and that is really what is at the heart of these discussions about government. We speak about whether there should be this category of Member, that category of Member, terms of office. Whether there are too many of us, whether X or Y Member is superfluous and they could be thrown out and who will run in which election and so on.

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

Sorry, on a point of order. I thought there had been general agreement that we would adjourn at the normal time. I did not interrupt because I thought Senator Syvret's part of the House was getting up to propose the adjournment.

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

Well, I did not plan to speak for long.



**The Bailiff:**

Well, perhaps Senator Syvret could finish his speech and then move the adjournment.

**Senator S. Syvret:**

I was talking about power and that really is the issue that we never seem to discuss in this Assembly. We never really talk about power. If we are serious about the issue of modernising Jersey's democracy and turning it from the dysfunctional democracy that it is into a fully functioning democracy, you have to begin with an analysis of power. Who wields the power in Jersey? How do they do it? On whose behalf do they do it and does that concentration of power reflect the broad wishes of the large majority of the population of the community? I think on that basis, we do fail with our current system. If we are serious about delivering power to the community, then we have to be far more radical than the views we have taken so far. I am more persuaded that if we are serious about modernising democracy and delivering proper power to the people of the Island, if we are serious about democracy, then we do indeed need to move to a single-day general election. We have to give people the opportunity to change their legislature if that is their wish, so I do think we have to go down that path. I also think that if we are going to be serious about power and making sure that it is properly distributed to the community, that we have to forget all about the Parish boundaries, Constables and all the rest of it. We have to, if we are going to go down that path; it has to be all or nothing. We have to move into an era where there is an electoral commission that routinely reviews the boundaries, so that the people who are elected and who are sitting in this Assembly accurately reflect the population numbers in areas of the Island. That is what every other functioning democracy you care to look at does. That is what we would have to do, so in my view, it is all or nothing, but perhaps not quite nothing. If we are going to remain with something similar to our current system, then I do think we could do things like move to a single-day general election, but retaining the different categories of members, like Senators, Constables and Deputies. We could do that. Now, some of these options, some of those possibilities are not popular with the public, but of course, asking the public whether they like politicians, whether they like current electoral systems, is like asking them if they want to pay more taxes, or undergo root canal work twice a week. The answer is quite plain and obvious, what you are going to get and there comes a time, though, where you have to exhibit leadership politically. I have never been persuaded for example, that it is the right thing to do to reduce the number of Members in the Assembly. I think a certain critical mass is required and what people often forget is that the fewer Members there are in this Assembly, the easier it becomes for this clique or that clique to control and dominate the Assembly and not really have a fully representative debate on all the issues. So, I have never been persuaded of the need or the appropriateness of reducing the number of States' Members at all. But I do think that if we are going to retain some kind of vestige of the Parish system, and I personally agreed with a lot of what the Constable of St. Ouen was saying, then I do think all we can do is modernise our current system a little bit, for example, moving to a general election with everyone elected on the same day, but keeping the Parish system, keeping the Island-wide mandate. Senator Walker and others have argued for the removal of the Island-wide mandate and the retention of the Constables. I really think in the light of the debate and the light of the kind of general views expressed by the public, that outcome would be the most, literally, incredible of all of the options, because I have in the past supported the continuation of the Constables in the States, although I have always said that they need to modernise or be elected on the same day and things of that nature, but there are certain issues and problems with the Constables position that you cannot duck. One of them is the complete unrepresentativeness of their constituencies. You have the Constable of St. Mary who has exactly the same power in this Assembly as the Constable of St. Helier, yet one is representing vastly, vastly greater numbers of constituents. That is a democratic dysfunction and I just do not think it would be credible for one moment to keep that in the Assembly, if on the other hand you scrapped the Island-wide mandate. The one chance people get to express a collective view across the whole community, from one end of the Island to the other. So those are my comments on the subject. Somehow, I doubt that we

will get to a single big bang general election day any time soon. Although, I am more and more inclined to support it, as I said, but it is interesting that when you look over the entire 800-odd years of Jersey's independent history as an entity, there is not one single episode with the exception, I beg your pardon, of the Nazi occupation. There is not one single episode during that entire 800 years where power has not been completely controlled and captured pretty much permanently by one faction of the Island's traditional ruling elite. I grant you that the makeup of that elite has changed over the centuries - farmers, agriculturalists, lawyers and whatever it may be. The makeup has changed but certainly it has always been the Island's elite in one form or another, so it is quite interesting that if we are starting to talk about democracy and power as we progress our way into the 21st century, we really should reflect upon the fact that there has not been one single episode in the Island's 800-year history when the great mass of ordinary people have had control of the destiny of this community over and outside the hands of the ruling elite. I think for that reason we probably will not get to a big bang general election, at least not any time soon. I mean, let us face it, there was '20 means 20', 'Zero/10', G.S.T., a whole raft of other extremely difficult and testing issues and times that are going to arise for the community and I am not a gambling man, but if I was, I would guess that if you went into a general election against that background with every Member of this Assembly up for election in a couple of years time probably three-quarters of us would not be here after the election. I propose the adjournment, Sir.

## **ADJOURNMENT**

### **The Bailiff:**

The States are adjourned until 9.30 a.m. tomorrow morning.