

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 7th NOVEMBER 2007

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

PUBLIC BUSINESS - resumption

1. Goods and Services Tax: Petition (P.125/2007)

The Deputy Bailiff:

So, we continue now with the debate on Projet 125.

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

Just a point of correction: yesterday I did say as one of the mechanisms we could look at, one of the things I mentioned was sovereign debt, and I erred on the cautious side to say that Norway's accumulation was £250 million, rather than the billion that I first stated. I have been informed this morning by Senator Ozouf that I was correct; it was in the order of £300 billion. Thank you.

The Deputy Bailiff:

Does any Member wish to speak? Senator Vibert.

1.1 Senator M.E. Vibert:

I have a sense of déjà vu again with this debate in that we have been going back and forth over these arguments. Because one of the problems with adjourning overnight is one can ruminate and think about what one might say on the next day. So I have no intention to rehearse, yet again, arguments for and against G.S.T. (Goods and Services Tax). I do not think that is what this debate should be about. We have had those arguments *ad infinitum*. I think the debate should be about what it says on the tin: it is about the G.S.T. petition which is not “no to G.S.T.”; it is not against G.S.T. per se, but to defer introducing it until more research is undertaken and all alternatives looked at. I would very much like to quote Kevin Keegan when he was a football manager: “Love it. Love it” if I could support this proposition and what is asked for in the petition. Why would I not? More than 19,000 people have signed the petition. I have had strong emails urging me to support it. I was booed coming into the States yesterday morning; I do not particularly like that, thank you. You might be used to it, but I still do not particularly like it. **[Laughter]** I was booed coming into the States yesterday morning because I am not prepared to support it. Would it not be so much easier just to go along with this? To have a last minute conversion, just like one of my fellow Senators. **[Members: Oh!]** In a way, I wish I could. **[Interruption]** We can see the Senator not only has a last minute conversion, but wants to carry on talking about it. I wish I could support it. I was reminded, and the Senator just reminded me, that I, with other candidates, was asked 5 years ago “Would we support the introduction of V.A.T. (Valued Added Tax)?” and I said “No”. I took a lot of convincing in the years that followed that G.S.T. in the form we are proposing it was the least worst option to introduce. But looking at all the evidence, that is the position I have arrived at. So, why can I not support it? Why can I just not say: “Okay, we have had this petition; a lot of people have signed it and really are unhappy about G.S.T. coming in”? Why can I not just go along with it, defer it, and put it off? I cannot, because if I did I would not be being honest with myself or honest to the people of Jersey. Because I do not believe supporting this proposition is in the best interests of the Island. Perhaps I could briefly refer to concerns I have about the petition itself, and I would like to make it absolutely clear that I have no concerns or doubts about the people who signed the petition. No way at all. I applaud them for taking an active interest in the issue. But, petitions have much in common, I feel, with referendums, in that it is all in the wording. The wording is vitally important, and often has a strong influence on the outcome. It is often said about referendums, “Tell me what the answer is you want, and I will tell you what question to ask and how to ask it.” To have a fair referendum, and I believe the same applies to petitions, not only does the question have to be very carefully and impartially worded, but both sides of the argument need to be put before the public at the same time. That is where I have some concerns with the wording of the petition before us. I ask Members to consider: is it worded impartially; does it put both sides of the argument in a fair and balanced way? If Members would turn to the back page of

the proposition where the petition is, and the wording of the petition is laid out, perhaps I could explain my concerns. It helps to lead why, and I do want people, particularly the public, to understand why I cannot support this proposition. You have to ask how this petition would be perceived by anyone, any member of the public it was presented to for signature. Well, if you look at the petition, if Members have it in front of them, it is clear who it is directed at: the petition is to the President and Members of the States of Jersey. Absolutely fine; no problem there at all. It is clear who is responsible for the petition. It says: "The name of person or body responsible for the petition: Jersey Consumer Council." I believe that the Consumer Council is well regarded in the Island and most people would expect it to behave impartially and represent consumers' interests in a fair and balanced way. But, unfortunately, I do not believe that is what has happened in this instance. Because if we go on and then, very importantly, we have what is described as the background to this petition presented as fact. What is that background? Let us have a look at the wording: "The imposition" and I stressed earlier, the importance of words. Imposition. Not "application"; not "coming in of", but imposition, which, of course, implies something being forced upon someone else. Well, if that is the case, everything we approve in this Assembly is an imposition. To go on: "The imposition of a Goods and Services Tax in Jersey will lead to higher inflation, increased red tape and considerable extra costs to consumers and local businesses alike." Is that fair? Is it fact? Is it balanced? Well, higher inflation, is that a fact? With the best will in the world, that just flies in the face of all the economic advice this Assembly has received. Yes, it will be a one-off inflationary increase, but G.S.T., by taking money out of the economy, will be deflationary, not inflationary. I am sure Members would say: "Do not just take my word for it" but, in fact, the International Monetary Fund study of prices in 35 countries is that there is nothing inherently inflationary about the use of G.S.T. and taking money out of the economy may reduce inflationary pressures. So it is incorrect to say G.S.T. will lead to higher inflation. It is not balanced; it is not fair, because it is not saying you will have higher inflation, possibly up to 2 per cent for one year, but then it will help to reduce inflation. So that is why I am concerned about the wording, So, higher inflation. Increased red tape? Well, increased compared with what? We have to do something to fill the black hole. Will this involve more red tape, if any? So far there have not been any realistic alternatives. Considerable - not just extra costs; the importance of words again - considerable extra costs to consumers and local businesses alike. It depends what you regard as considerable. Yes, there will be extra costs. We have to raise more tax to fill the black hole, so we will have the extra cost whatever we do. This Assembly has decided on a number of occasions now, that G.S.T. is the least worst option. If I believed the background to the petition as laid out was fact, even I would be tempted to sign it. I think even my dog might be keen. **[Members: Oh!]** But I have checked and I can assure you that Maisie Vibert, springer spaniel, is not on the list of names on the petition. **[Members: Oh!]** In fact, I am afraid Maisie is against it in principle, because she cannot read or write, but she barks quite well. But, that background laid out before people, presented to them to sign a petition as fact is, in my view, not fact but a one-sided opinion that gives an unbalanced view of the position. Where does it say that, of course, introducing G.S.T. at 3 per cent will allow the States to have the funds to continue to provide the essential services of health, social security and education to the Island? Where does it say it will fill the gap in tax revenues and without it the Island will be heavily in the red in having to use up its reserves to survive? It does not. It is merely a one-sided, biased view masquerading as fact. Yet, I believe in some ways the wording of the petition itself is not good, because if you look at the actual petition, what people are saying, it says: "The Minister for Treasury and Resources is requested to take no further steps to introduce a Goods and Services Tax in Jersey until public finances have been examined independently to identify potential savings, and until alternative methods of raising funds have been investigated." Well, what is the inference from that? Well, clearly, the inference is that certain things have not been done; that public finances have not been examined independently. Well, we know they have. We have had Scrutiny looking at it; we have had other people looking at it. So, it really is the wrong inference, and the inference is alternative methods of raising funds are not being investigated. They have *ad infinitum*, and every Member of this Assembly, including those bringing

this petition and supporting this petition, have had years in which to put forward alternative methods of fundraising, alternative savings, and they have failed conspicuously to do so, and this Assembly has rejected every other alternative that has been put before it. I think the petition is worded in what a previous speaker described as “seductive”. It is as if all this can be solved by a delay. Some people have even referred to it as a “short delay”. I hope Deputy Scott Warren would reconsider and think this is not going to be a short delay, an independent review, an election year, put off, put off. Not a short delay that people are supporting this one: it is the abolition of the proposition to bring in G.S.T. that is behind a lot of the concerns, and I think that is against the Island’s best interests. It is that seductiveness, as if all this can be solved by a delay to do things that have not been done. But they have been done, but somehow a non-painful method of ‘magicking’ up the extra funds required can be found so G.S.T. is not needed. We know it is not going to happen. We know it is not true. If I am honest with myself and Islanders, I have to say I do not believe this can be done. I do not believe there is any purpose to be served by yet more reviews and more delay and, more importantly, I believe any further delay could be damaging to the Island and its people. We have set out a very successful fiscal strategy, which is already delivering dividends and making the Island more prosperous. To back away now from one of the central planks of that policy puts that success at risk. No, Jersey will not close down tomorrow; it will not be the end of the world, but it does, in my view, constitute a risk to Jersey’s future prosperity. Equally, I do not believe introducing a 3 per cent G.S.T. will be the end of the world for Jersey. In fact, I believe it is the least worst option. None of us, including the 19,000 that signed the petition and, I believe, the 53 Members of this Assembly, none of the elected Members of this Assembly - none of us - want to pay more taxes. But we have to be realistic. Is G.S.T. the least worst option, and this Assembly has voted on a number of occasions that it is, then the sooner we do it the better for the Island. The more prosperous we are the longer G.S.T. will remain at 3 per cent. Already we can see the fiscal strategy is working, and if it is followed we have heard from the Minister for Treasury and Resources that G.S.T. can be held at 3 per cent for the foreseeable future, up to 2015 and beyond. But delay puts the fiscal strategy at risk. Perhaps, as I believe it is inevitable, G.S.T. will have to come in in the future anyway. But perhaps the future will not look as rosy and that G.S.T. would have to be increased then, would the public look so kindly on those who forced the delay then? I urge States Members to vote with their consciences and if they believe, as I do, that nothing can be achieved by further delay and that such a delay carries risks for the Island, I urge them to reject this proposition and keep the fiscal strategy, which has been shown to be working, on course.

Deputy G.P. Southern of St. Helier:

Could I ask a point of clarification, if I may? The Minister mentioned that public spending had been examined both by Scrutiny and another outside body. Could he name which body has examined in depth public spending overall, and which Scrutiny report he is referring to?

Senator M.E. Vibert:

The Corporate Services Scrutiny Report and the PricewaterAssemblyCoopers Report on Public Finances.

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

Corporate Services have not carried out any research on an alternative fiscal strategy. We have not carried out any research on an alternative fiscal strategy. Can we say, therefore, categorically as a Panel there is no alternative to G.S.T.? No, we cannot. Well, you may ask why we have not researched it. In late 2005, early 2006 when my Panel was formed, my understanding was that the States had on at least 2 previous occasions agreed that the fiscal strategy, including the major elements of Zero/10 and G.S.T. were the way forward. We, therefore, felt that the States wished us to concentrate on careful and detailed analysis of these 2 measures, anyway as far as fiscal strategy was concerned. Concentrate on analysis of Zero/10 and concentrate on analysis of G.S.T. We have

so far produced 3 G.S.T. reports. The one on the financial services will follow soon, and also possibly there will be a fifth on Import *de minimis*. As regards Zero/10, Members will have the fourth report on their desks this morning. That averages in excess, I would suggest, one report a quarter on this subject. In the case of Zero/10 and with other research on things like a level playing field, I think we can say, though, that we agree 100 per cent with the need for Zero/10, but - and this is relevant - we think that there are significant risks that the black hole will grow. We think there are significant risks that the black hole will grow. In the case of the overall States financial framework, the accuracy of the forecasting and the like, I think we have separately reached a conclusion on this subject, and there will be a report soon on this forecasting process. I think we have reached the opinion that even with the recent windfall tax receipts that we have been lucky enough to receive a structural deficit still exists from 2012 onwards. A structural deficit still exists from 2012 onwards. I have to say to you this is fully minutely examined and we have come to those conclusions. So, what about this particular proposal? If the States were to decide - and only if the States were to decide - that they wished to re-examine alternatives to G.S.T., we will pull out all of the stops as the Corporate Services Scrutiny Panel and we could report back to the States probably by the end of March 2008. But let me say, my understanding, my belief, is that the States have examined alternatives to G.S.T. in great detail during 2004 and 2005, and certainly our understanding is that the States have made the decisions that G.S.T., as a result of the Zero/10 black hole, was the least worst option, and that is why we have been concentrating on examining G.S.T. itself and Zero/10 rather than the need for them in the first place. But I would like to confirm to the States that we will do our absolute utmost. It will mean dropping other work streams, perhaps, that we are working on, but by the end of March we would at least be able to re-examine possibly the alternatives to G.S.T. and raising the same kind of tax revenues if the States today agreed that that is what we should do.

1.3 Deputy J. Gallichan of St. Mary:

I seem to have made rather a lot of notes yesterday on points I thought I needed to address, but I will try to be brief because I know many of them have been dealt with. However, I do believe that where such a high level of public interest has been recorded, it would be at least disrespectful of me not to give the signatories of the petition an explanation of my standpoint on this issue. Throughout my time in the States and long before, the matter of our fiscal policy occupied me both intellectually and certainly emotionally. More than any other issue I would say, and I think that is probably true of every other Member. Indeed, the amount of work that has gone on, for example, the tremendous amount of work that the Corporate Services Scrutiny Panel has undertaken on different aspects of the fiscal strategy show just how much commitment there is to making sure that this is well thought out and well analysed. The policy itself, of course, was agreed before many of the current Members were even elected. Members have brought different propositions to try to change aspects of it. All have been fully debated and ultimately rejected. So what I would like to ask the proposer now is: specifically what has changed since 2004, either in new options available to be explored, or in the ability to procure further savings, and I look forward to his enlightenment on that. From my own research, it seems that the sea change brought about following, for example, the Public Finances Law is having a steady, if perhaps not as quick as we would like, influence on attitudes to spending which, like most Islanders, I think perhaps could have been questionable in the past in some aspects. Coupled with independent powers of the Comptroller and Auditor General, this will, I believe, continue to show improvements in time. However, I firmly believe that if we are to make really dramatic cuts and in short order then we the States have to sanction, and the public will have to accept, cuts in the levels of spending and services that go towards making life in this Island as pleasant, comfortable and secure as it is for the vast majority of people. That, as they say, is not rocket science. Let me be quite clear, though, I do not want G.S.T. Who really does want G.S.T.? But I think it is a sad fact that it will be introduced. I have concerns over aspects of it, and it is not the time to go over them now, but I have made them clear in debates in the past and I do keep watching them. There are concerns that have not gone away, and I will not let them

go away; that is part of my responsibility. This fiscal policy has not been a snap decision. It is the route which was taken ultimately in order to respond to external pressures on what had, for whatever reasons - good or bad; right or wrong - become the Island's principal industry, i.e. finance. Comments are raised in the report accompanying the proposition that middle Jersey is being penalised to pay to keep the finance industry here. What is not spelt out so clearly is it is the money generated by the finance industry that keeps the economy turning over. It benefits, of course, not only the people who work in the industry, but it benefits everybody who receives money down the economic chain, where these people spend their money. It is not an exclusive, elusive club, but it is clear that for some Islanders the finance industry remains an abstract concept, an uninvited and unwanted guest at the table perhaps. It provides much of the security that the ordinary people here take for granted: health care, education, for example. Deputy Martin said there was a difference between the introduction of Social Security, which was "political heroism", I think is akin to what she said, and this: "As, of course, for social security you get something back." Well, I ask her where does she think the money comes from for all our services if not from tax revenue, however generated? The demographic, the ageing population, means that inevitably these services will all cost more to provide in the future. That will have to mean increased revenue. Again, it is not rocket science, even if it is not particularly palatable. Like other speakers, I am certainly not going to criticise Guernsey's standpoint on their black hole. That is entirely and appropriately a matter for them. I do not intend to dwell on it, but I do think it is worth commenting that an extract that was circulated to Members yesterday from the Jersey Hospitality Association, I believe it was, made comments and comparisons about how Jersey's tourism industry would fare against Guernsey's when Guernsey could be tax-free. I have young children, and I know that if I was choosing a holiday destination, I would want to be sure that the environment I put my children in had a strong infrastructure that if anything happened to them they would be well provided, and at the very most basic level, to be able to swim in clean, uncontaminated waters **[Interruption]** because the infrastructure had been provided would be a great comfort to me. I find it is very much harder to leave things out than it is to just read my notes. However, it is true to say that I have been contacted by parishioners over this issue. I am grateful for them for giving their opinions to me and for sharing their concerns. But I have to say that what that means is not that a majority were pushing me to accept this proposal; rather, they are relying on me to do what they elected me for. I was elected to take decisions. They rely on me to analyse the facts to review things and to make the right decision, the decision that I consider to be in the best long-term interest of the Island, regardless of any possible political implications for me. Certainly, it is hard to do, but I take my responsibilities seriously. It seems to me that some Members have forgotten the implications of the graphs and projections that we have been provided with over time, and which show the potential deficit immediately after Zero/10 which the timely introduction of G.S.T. next year will go towards mitigating. Much has been said of the extra millions found in the back pockets of the Minister for Treasury and Resources or the Chief Minister. Well, I certainly wish they would share with me where they buy their suits, so as I can tell my husband. But the truth is that we have always known that forecasts are made to show the worst possible scenario: that is pure, prudent accounting practice. Even with extra savings identified, I understand there will still be a negative situation at the point of Zero/10. The proposer stated this is about the principle; not the timescale. It will be up to the Minister for Treasury and Resources then to do the actual work, so we do not have any indication as to how long we are being asked to delay this for. But timing is crucial in this. G.S.T., in order to minimise its impact on inflation for one thing, must surely be implemented at the correct part of the economic cycle. There are others in this Assembly who I am sure are better qualified to explain that, but that is my understanding and my belief. Furthermore, the words of the Minister for Treasury and Resources yesterday came back to me when I left the building at lunchtime and then came back in. Someone had leant a board against the wall near the door and on it was the poster for the campaign, and it simply said: "Say no to G.S.T." Well, that is not on the table today, but a rose by any other name will surely prick you when you grab it. Deputy Breckon also said that this motion is not a stalling tactic; it does not say "do not do it." Well, I am sorry, but that is what

precisely the campaign posters do say. If I could just conclude to say that I was forwarded today an email from someone who, while not in any way detracting from her strongly held and deeply felt concerns, which I certainly acknowledge, felt that perhaps the tone of earlier correspondence had been a little too harsh. She explained: "We are just ordinary working people who are distraught, as we believe our way of life will disappear for ever once G.S.T. comes into effect since no one really knows what the final results will be." Well, I understand that fear, but I sincerely believe that our current quality of life will be irreparably damaged if we do not carry forward our fiscal strategy according to plan, on schedule, as already debated and endorsed by this Assembly. For that reason, I will have to vote against the proposition. Thank you. **[Interruption]**

The Deputy Bailiff:

Does any Member wish to speak? Deputy de Faye.

1.4 Deputy G.W.J. de Faye:

I am sure, like many Members, I do not particularly relish the position of having to introduce new taxation. But it is not a question of standing here and saying: "I do not like it." The unavoidable fact is we must have it. It is a sales tax and all the analysis of our economy in Jersey, a small Island economy, is that we are far too reliant on direct taxation through income tax; the relatively low taxes produced by impôt duty, and it is vitally important for Jersey and our ability to produce a balanced economy that we have some form of consumption or sales tax. Again, over a considerable period of time, analysis and consultation, we arrived at a form of sales tax we have called G.S.T. Now, I too, like many other Members, was confronted by a small group of protesters yesterday morning who asked me what was my decision going to be. I said: "I shall vote in order to provide a solid base for the Island's future economy and to ensure the prosperity of this Island and the guarantees of continuing job prospects for our workforce." Because that is what we should be doing. We should be having the public interests of the Island as our focus in this debate. Let us make no mistake here, we have adopted Zero/10 as part of a fiscal strategy. The well-worn phrase "black hole" is not just a phrase; it is a reality. The black hole will not go away, indeed, as we now begin to understand it more clearly. It may well get larger than we expected as opposed to reducing in terms of its problem. So, we are, in effect, preparing ourselves for an economic car crash. I am concerned that if we get today's debate wrong, we will instead be heading for a motorway pileup as opposed to a car crash, because time and timing is of the essence. We are not in a position to delay things. The value we have in terms of time is how we may be able to head off from the difficulties imposed by the black hole. Putting things off or, in simple terms, failing to put your foot on the brake early enough is going to ensure that we will have a worse crash than might otherwise have taken place. The black hole is not going to go away and, yes, it was tremendous news to know that we had what has been described as a windfall, and all sorts of theories have been discussed as to how this has happened but, in essence, I think the Deputy of St. Mary put her finger on it. The Minister for Treasury and Resources and his department take prudent and conservative views of overall estimates. That coupled with the fact that the world's economy has been much more buoyant in 2006 has seen that we have extra monies coming in in 2007. Yes, there is no doubt all sorts of other fringe aspects are involved, but they are fringe aspects. Let us not take our eye off the ball, either, in terms of the global economy and how it is working. We are not in a position, I do not believe, to sit back and expect another windfall coming along next year necessarily. It is already clear that the so-called and famous city bonuses are likely to drop off. We have suddenly had news of the sub-prime mortgage problem in the United States, and now what is just briefly called the "credit crunch" is a very, very serious position for banking liquidity right across the entire globe. We have seen in very graphic detail the sheer panic caused to people who banked at Northern Rock when they began to wonder just how much money the bank stood for. So, we need to be aware that the windfall probably is going to turn out to be a windfall. There is no question that, although this year has probably been reasonably good, the tail end of it is looking to be pretty bad, and who knows what 2008 will have in store. So, this £41 million that popped up is not some sort of comfort

zone that we can relax in. It is just an element of the bottom line, and we are still faced with an ongoing structural deficit that needs to be dealt with. We have identified the way to deal with it. It is called introducing a new sales tax called G.S.T. Now, there has been a petition and, of course, as representatives of the public, we should have an eye to public concern. More than 20,000 signatures were put to the petition. Some of them were filtered out for various reasons, but I have been looking at the progress of public opinion as it has transpired from the delivery of that petition. I have to say I was disappointed when last week's public meeting at the Town Hall produced, according to the various estimates, an attendance of somewhere between 120 and 220 people. So, why this enormous disparity between petition signatories and those who feel concerned enough to make the effort? It is not a big effort to go down to the Town Hall, but why so few people? Why is it that on Monday with a second meeting, presumably to facilitate anyone who missed the first one, the attendance I am told there was between 40 and 60 people? What has happened to the public concern? Realistically, when you think about it, we have seen far bigger protests outside the States building. We turned up yesterday and there were between 10 and 20 people there, and they looked to me like hard-line "no to G.S.T." protesters; not people saying: "Would you please put it off a bit while we have another think?" So, what has happened to public concern exactly over the intervening weeks? Now, I do not wish to suggest necessarily that the people behind the petition have been seen to mislead the public. But I do think that the public were very much led up the garden path on the basis: "Sign here and somehow this will all go away, and things will be better." I suspect that given the amount of media attention that has been now given to the subject, the public are beginning to realise that things are not as simple as was perhaps laid out in the petition. Of course, if you are given a choice: "Do you want more tax: yes or no?" we are all going to go "No". I would have signed the same thing. But life is more complicated. Now the fact is that all the evidence is the fiscal strategy is, in fact, working, and it is a shame that people have such short-term memories. It was only a matter of a few years ago when there were real concerns about companies working in the financial services industry leaving the Island. It was a real worry that the backbone of our economy was going to slowly filter away, and go to more attractive destinations where they would not be penalised with corporation tax in the same sort of way where there were more attractive offers for economic placement. Now the fiscal strategy has dealt with that, and the economy in that sense has turned the corner. It is now very clear that we are back to the very optimistic situation of financial services operations again queuing up to do business in Jersey because they are finding out that things are better here, and the prospects for the future look more promising than they are in other offshore jurisdictions. But the financial strategy is a package. Part of the package is G.S.T. and it really is not a good idea at this stage for us to start unravelling that package, to delay sections of it, because apparently some people are not sure about it. I heard an awful lot of speeches yesterday afternoon with States Members voicing probably quite reasonable concerns: "Well, I thought that when we introduced G.S.T. there would not be any exemptions, and now there are, but I do not agree that we have the right exemptions. I think the exemptions perhaps should be different, and I would like to see exemptions on food, for example." Well, that is not the issue before us in this debate. This debate is about delay, and this debate is a delay until public finances have been examined independently to identify potential savings. Well, how long is that going to take? I suggest at minimum we have already heard from the Chairman of the Corporate Services Scrutiny Panel that even if they go flat out they do not expect to get any sort of review back before March. Well, I suggest that is highly optimistic on all fronts. We have had the 3 Assistant Ministers investigating for months now and still trying to turn up some significant savings, and I am sure I heard from Deputy Le Hérisier he will be volunteering his services. He seemed very keen on what they were doing yesterday. I am surprised he has not become involved earlier, but I am sure he will now be pitching in with them to find out where all these savings are going to be made.

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

I wonder if I could speak. I have given him several lists to the cost cutters, and I await a response. Thank you.

Deputy G.W.J. de Faye:

Well, I am very delighted to hear that. The fact is that we are not coming up with very significant savings. I have even heard yesterday afternoon a couple of numbers being bandied around. I think we heard one suggestion - I forget specifically for what it was - but it was £200,000. Well, that is fine. Only £44,000,800,000 to go then to breach the current expenditure problem with the black hole, but it is a start, is it not? But how many months and years will we be saving £200,000 at a time to fix the black hole? We do not have the luxury of waiting while all this is done. We need to take a brave decision now. But there have also been concerns, have there not, about how this has been communicated to the public, and that may well be an issue. But States Members should not forget - and, again, I thought this was a point made very well by the Deputy of St. Mary - why are we elected representatives? Why are we States Members? It is because, while everybody else has to get on with their daily work, we go on their behalf to the presentations, we go to the briefings, we attend at the workshops, or at least most of us do; there are already some self-admitted notable exceptions. We read the reports, and we talk to the experts. Most of us have done that over the last 4 to 5 years, which is why most of us have understood why certain other taxation simply will not work because people do not sell up conveniently for you to use capital gains tax when you are trying to get revenue budget in. There are simply straightforward problems with how a tax works. We understood that environmental taxes were a jolly good idea, but they do not raise revenue; they are more of a social engineering issue. We also understood that there are levels of how you analyse a tax base. A payroll tax is sometimes unfair, simply because it only applies to people who are working. Income tax only applies to people who have significant income. Sales tax, as we understood it, is the broadest based tax you can have. It even applies to tourists visiting the Island. If I can just refer Members to annex B, I think it was a debate brought forward by Senator Syvret on 6th July 2004. Senator Syvret asked for further consideration of all tax options. 2004. But by that time States Members had already had an enormous amount of work done on what all the tax options were and had rejected most of them and we are going forward with the best candidates. I did hear yesterday from a States Member who said: "Well, there is no need to go to all these workshops; you can just pick up the papers and read it yourself, and it is not very difficult to do." That States Member then proceeded to elicit a number of extraordinary statements in economic terms, the first of which was that there was no problem having a delay and, in fact, to delay now means that it is much more likely that we will have exemptions. That was politically accurate in the sense that as a body we might get so desperate to have G.S.T. accepted that there would be a number of "giveaways" made politically. But economically that was completely wrong, because economically the quicker we get G.S.T. in and have G.S.T. starting to operate as a tax, the more leeway we have in the fullness of time to look at how it might be fine-tuned. But right now the important issue is to install G.S.T. so that there is certainty within the Island, certainty particularly within our retail base where people want to know: "What sort of software should I be ordering for my tills, and do I need to?" In other words, if we are postponing it for 6 months: "I will not have to worry about it for a little while longer." So we need to settle the uncertainty. We then heard: "Well, not to worry, because if the Island's economy starts to go "down the pan" what we need then is capital gains tax to stop people getting their money out." Well, I really struggled, I have to say, to understand why in a collapsing economy, when the value of everything is going down, who is making the capital gain to tax? That left me utterly baffled. Perhaps all my years at CNBC Business News have left me somehow in a complete failure to understand real-life economy, because I was simply working out of a television studio, but I really did not understand how capital gains tax works as a function for government revenue in a collapsing economy. Sorry, it went right over my head. Let us go back to what this proposition is asking: public finances to be examined independently to identify potential savings. As I have elicited already this has been going on for a

very long time already, and very few savings are left to be identified. Most of them have been done. I would be happy for any States Member to come and meet my officers at my department. It is already a matter of record that Public Services - now Transport and Technical Services - has shed more staff than any other department over the last decade by a very, very significant margin. I have stood before you in this Assembly on numerous occasions saying that I simply do not have enough money to construct more drains; that I simply do not have enough money to continue and push out the recycling plans that I want to see in the parishes; that I simply do not have enough money for road improvements. Thank you for the £3.5 million a year, but it is just keeping road maintenance at a "head above water" level; it is not making long-term improvements. I do not have enough money to go down to Rue des Prés Trading Estate and cut all Deputy Le Hérissier's weeds. **[Laughter]** I simply do not have enough money. So where exactly are these savings going to be made, because it is going to be a real struggle in my department. I would far rather be backing the Deputy of Grouville with her I think highly enlightened plans to put some cycle tracks out. I want to be seeing safer routes to schools. I want the 20 miles per hour speed limits put up on a temporary basis outside schools. I do not have the budgets to do it. I simply do not. So I say to you: what is the point of taking a step backwards to identify these public finance savings and bringing in an independent person? What is an independent person going to do that we have not tried to do already? We have been through the issue of alternative methods of raising funds; we have thrashed it out. Let us just remind ourselves with Annex B. I will just go down the first page of it. May 2002 we kick off the publication of the *O.X.E.R.A. (Oxford Economic Research Associates) Report* second public consultation paper. One has to sometimes ask: what is going on in the media, because all this is being published with consultation but somehow no one seems to know about it. There is a third public consultation paper in August 2003. January 2004: Tax modelling workshops for States Members. Incidentally, there was another one for the public, because I can remember sitting with a very enlightened member of the public at my table, and noticing how interesting it was that there were members of the public more interested in going to the tax modelling workshop than some States Members, which I do say in terms of tax we are looking almost at a derogation of duty here. What on earth was more important? Then in February 2004 *O.X.E.R.A. Report into Options and Changes for the Economy*, and so it goes on and, yet, we want to step back and have another think. Have another review into where are we going to save a bit of money? That is ongoing. I say quite simply to Members, this is the time to make a brave decision. Put aside the worries. Yes, 19,000 signatories is very tempting in terms of the votes it might carry in a year's time, but do not be dissuaded from making the right decision. As I say to Members, in a year's time when the election comes around - and let us be quite clear, all our names are going to be down; who voted yes, who voted no - on the G.S.T. debate so let us not have any illusions about that one - my hunch is that the people, the intelligent and responsible people of the Island who make an effort to go out and vote, will be going: "Who voted in the interests of the Island's economy? Who voted in the interests of our future, our children's future; in the interests of keeping me and my family in jobs; in the interests of keeping the economy on track?" That is how people will analyse this. I say simply this: we need this spanner in our toolkit; we need it now. We can adjust the spanner in due course, but we cannot delay having the spanner in the toolkit, and I urge Members, think about this carefully, because you can turn a car crash into a near miss, or you can turn it into a motorway pileup. The choice is down to Members.

1.5 Deputy C.F. Labey of Grouville:

Unlike Deputy Power who spoke yesterday, I believe we have to go to Zero/10, even if the constitutional reasons are not altogether obvious but the competitive ones most certainly are. I also believe we have to introduce G.S.T. to make up the deficit. I am under no illusions about that which, again, may not be apparent now, but will most certainly be in 2 years' time when we go to Zero/10. Unlike the other 33 Members in this Chamber in 2004, I was one of the 11 who asked for more options and all the options to be explored. Obviously that was defeated, but Senator Le Sueur might now have a box of papers under his desk, but all the options have not been made clear and

known. Over 19,000 people signed the petition and are not convinced that this is the right time to introduce G.S.T. Senator Routier might very well dismiss this figure as being a minority of our population and only one-fifth, but I am sure he was elected into office with a far less number than 19,000. A practical and reasonable way forward, in my opinion, would be to delay the introduction until March, and March only.

Senator P.F. Routier:

I was just observing that is not what the proposition asks for at all. It does not fix a date; it just says “delay”.

The Deputy of Grouville:

Perhaps if the Minister for Treasury and Resources were to agree and the Connétable of St. Helier, we could all agree to March as a reasonable way forward for the delay. The Treasury in that time can publish the options explored and the details thereof. The Treasury might feel that has been done, but obviously the people do not, and this is important. It is important that we take the people with us. It would be at least courteous to the people who felt so strongly to sign the petition. People in this Island feel targeted above big business, and these feelings are not without foundation and need to be addressed. It will also allow us time to debate, again, exemptions. I for one believe it to be immoral to tax basic foodstuffs when we exempt conservatories. As an Assistant Minister for Education, Sport and Culture, I cannot in all honesty agree with a tax on books and newspapers. That is how the law stands at the moment. I hate to have to say this, but if G.S.T. is not delayed until after the debate on exemptions, I fear the results will be exactly the same as last time, and it will be defeated. For this reason I am minded to vote for the delay, but only until March and I would hope that the Connétable and the Minister for Treasury and Resources can agree to this, and then I think we have a reasonable way forward.

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

If I was to support this proposition which says that the Minister for Treasury and Resources should take no further steps to introduce Goods and Services Tax until public finances have been examined independently to identify potential savings, and until alternative methods of raising funds have been investigated, if I vote for this motion and it is carried, what do I have to look forward to in the near future, the distant future? Because there is no indication of mechanism here: who is going to do the examination? A consultant and a Panel? How long is that going to take? Is it going to be 6 months, a year? Then the consultant will be making a report and it will come back to the States and we will be debating that. So it sounds like what I have to look forward to is a lot of very much the same as we have been doing. I think, quite frankly, that when I came to the first G.S.T. debate, I was anti-G.S.T. I changed my mind during that debate, and I changed my mind because it was explained to me, and I understood it. The reason that we have a petition, I think, is that there has been a lack of public relations between the States Members, the Ministers and the electorate. The fact is the reason I changed my mind, it was explained to me that G.S.T. was only one part of a 4-prong fiscal strategy. We have 20 Means 20, I.T.I.S. (Income Tax Instalment Scheme), Income Support and G.S.T. At that time, we had the assurance of the Minister for Social Security that people on low income will be protected, and this was the issue why I changed my mind: because the people at the lower end of the earning capacity would not feel the effect of the G.S.T. I trust the Minister for Social Security to honour that promise, and I think with the lack of public relations I can see that the electorate look upon the implementation of G.S.T. as a tap that any Minister can go to at any time to turn it on to raise funds. That is sheer bad public relations. I think that I would like to see G.S.T. used as a mechanism to tune the expenditure. I would like to think that it would not be used without considerable introspection and thought. I think that at 3 per cent it is low. I am not in favour of loads of exemptions. I think we ought to keep it simple; keep it low. I think that if the Minister for Treasury and Resources could understand that, the electorate would probably accept 3 per cent, or less because perhaps we do not need 3 per cent. I think the concept of the G.S.T.

mechanism should be use it to tune the costs between zero and 5 per cent, make it easy to regulate it between zero and 5 per cent, but go above 5 per cent at your peril. I think that the Minister for Treasury and Resources has given us an undertaking that he is not going to ask for it to be changed within 3 years until 2010. It is not long enough, really, but there was an indication yesterday from the Chief Minister that it should be fine up until 2015, 2020. That is better, but there is no commitment there. I believe that we should be thinking about trust and commitment, basically. I want to trust the Ministers. I want the electorate to trust the States Members. We are here to do the best for the community. I think commitment and trust are very important. I have a lot of interest in Income Support, having dealt with welfare in the parish. It is not beyond the realms of calculation to calculate how much the vulnerable will need to be supported through Income Support for G.S.T. I have 35 welfare clients in my parish and I would think probably that other country parishes have a similar amount or even less. I calculate on a shopping basket bill of G.S.T. of about £250 per annum. That is something of the order of £8,000 or £9,000 that would exempt the vulnerable welfare clients from my parish from paying G.S.T. or be helped with G.S.T. Expand that across the parishes: 9 parishes of around about 30 to 35. I have no idea what St. Helier, St. Clement and St. Saviour have, but let us say it was 1,000 welfare clients. We are talking in terms of £300,000. That is to protect the vulnerable people at the moment. Yesterday, the Minister for Social Security promised that pensioners living on State pensions - solely on a State pension - would benefit from Income Support for G.S.T. I trust the Minister for Social Security to deliver the Low Income Support. I think basically what I am trying to say, is that we need to have commitment from the Ministers. We need to have the trust of the electorate. We need to have the trust of the Members of this Chamber. I feel that I cannot support this proposition and I would urge Members to think very carefully about it as well.

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

When I worked in the finance industry 25 years ago - a long time ago, I was Company Secretary of the Ermitage Group and we had a number of unit trusts which were based in Jersey. In every fund prospectus we used to stress the political stability and the economic stability of this Island to our potential investors. That stability, of course, is vitally important and it remains paramount even today. I think if you went to any of the investment management groups here, if you looked at their brochures and their literature, they would all talk about the political stability and the financial stability of this Island. The tax package that the Minister for Treasury and Resources brings forward has inspired a confidence in our economy that we must continue to maintain. To delay the implementation of a Goods and Services Tax would demonstrate our indecision. It would demonstrate our weakness of government to proceed with decisions that we have previously taken. Do not forget that we have already taken the decision to implement a Goods and Services Tax. We did that because after a great deal of consideration we decided that G.S.T. was the best option as part of a total package to deal with the financial shortfall of moving to a Zero/10-based economy. So why would we take a step backwards? Why should we, as we are asked by the Connétable of St. Helier, review the methods of raising funds in the hope that G.S.T. can be replaced with another option or options when really that is a pointless exercise? We have already taken the decision to implement a Goods and Services Tax. I really feel that it is worthless going backwards in time and starting all over again. It has been mentioned by others that this tax will broaden our tax base and that holidaymakers and temporary workers will pay G.S.T. and we will be moving away necessarily from collecting just tax based on personal earnings, so it broadens our tax base and helps our economy. Really, I feel that we must continue with our previous course of action. Today it really would show the weakness in this Chamber to make a decision and continue with a decision if we do as the Connétable of St. Helier asks. We should not move backwards and we should reject this proposition. We should not prevaricate. We must progress in retaining that stability, which is so important to our finance industry and of immeasurable benefit to our Island and our way of life. Do not under any circumstances today vote in favour of the Connétable's proposition. It is a regressive, backwards step.

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

The Minister for Treasury and Resources has been 'beaten about the head' because of the fact that over the years he has proved to be too prudent and cautious in giving us the predictions of our financial state. I think it is very sad because I think if anyone were going to 'get a beating', it would be the Minister for Treasury and Resources if he had done the opposite, if the predictions he has made had proved that we finished up with a big deficit. We have over the years, when deficits have been a possibility, finished up just balancing the books. I think that the abuse and vilification which he has taken in the correspondence columns of the local newspaper were totally unjustified **[Approbation]** and in my opinion show the shallowness of the argument against what he is proposing. I am old enough to remember the occasion when the Social Security Law was brought to the States. I remember well my father and grandfather being among the people who stood in the States and supported the then Senator J.J. Le Marquand's opposition to that proposition. My grandfather died still believing in what he had supported despite the fact that for 25 years of his life he had failed to receive a pension, which he would have done had he supported it in the first place. I think that demonstrates where we are today. I have received very few phone calls on this, but the phone calls I have received and the people that I have spoken to face to face signed the petition because they do not want G.S.T. They will never want G.S.T. I do not want G.S.T. But the petition said just to delay the decision. I believe that what Senator Walker said yesterday is correct, that maybe a very large majority of the people who signed that petition signed it in the belief that their signature would stop G.S.T. I have maybe been fortunate - I am not sure whether fortunate is the right word - that in 1998 when this whole process started I was a member of F and E (Finance and Economics Committee) and then became a member of P and R (Policy and Resources Committee) and now am associated with the Council of Ministers. I have been well versed in all the arguments which have led us to where we are today. Maybe if there is one criticism of the Minister for Treasury and Resources and the Council of Ministers it is that they have not managed to convince a majority of the 19,000 people who signed of the urgency for this measure to be brought in not in a couple of years' time but now. It has been mentioned that we maybe do not need it at the moment. My own personal opinion, having been involved, as I said, with F and E for quite a long time, is that our reserves are too low, that when we had plenty of money we did not put enough aside. If we got to a day where it all went wrong for us, we do not have enough reserves to support the Island over long enough. If bringing it in now means that we do have a surplus for a couple of years, then I think that it would be prudently placed in our reserves. The one thing that 37 years in private business has taught me is that when a decision needed making and when I had to decide to use my own money to make that decision, whenever I delayed it cost me more. I wish I had learnt that earlier on in life because I think I would probably be much better off than I am now. One thing that was said yesterday by Deputy Martin - and I am sorry that she is not in the Chamber - really worried me. She said that G.S.T. is "take, take, take". Now, I take it from that that her policy is "give, give, give" and I think that it is an admirable policy. But how is that policy going to be achieved without in the first place taking some tax take to be able to give and support those in need? As I said, I have been involved with the decision from the beginning and I appreciate the urgency for G.S.T. I accept the Connétable of St. Helier has acted in support of the 19,000 people who signed the petition. I do have doubts as to whether all those people, and certainly the ones I have spoken to, were aware of what the petition meant. They really felt that signing the petition would help to stop G.S.T. I have to support G.S.T. I think that it needs to be supported now. I think this proposition needs to be defeated now. We must move forward and now is the time to do exactly that.

1.9 Connétable G.W. Fisher of St. Lawrence:

I hesitated to speak because I think in a way it has all been said already, but if something is said often enough people start to believe it so it may be I will repeat one or 2 points. First of all, I can understand the seductiveness of signing the petition and I have no difficulty at all with commending

the people who have signed the petition for doing so and expressing their views. However, I do question how many of those petitioners were really in possession of all the facts. We in this Assembly are elected to make ourselves familiar with the arguments, the reasons for doing things, the reasons for voting. We read a considerable amount of paperwork. We go to considerable numbers of presentations, *ad infinitum* almost on this particular subject. I wonder how many people who signed the petition can say the same. Very, very few, I suspect, because I know in reality before I was in this Assembly I did not read every bit of paper that I am now reading today on the subject. I did not go to every presentation I have been to on this subject. So the reality is that the public in general have very little information to go on and can only base their decisions on the information they have been given either by this Assembly directly or through the media. I think we have to bear that in mind. As I say, it is a seductive thing to ask for the delay. Now, just turning around and looking at the delay, it says in the petition that public finances should be examined independently. I absolutely 100 per cent support that view, but I know because I have been in business and I have seen it myself and I have seen how long it takes, that is not a quick process. It is no good Scrutiny doing it. I am sorry, I am not critical of Scrutiny, but I think any one of us in this Assembly is too far removed from the detail to do the sort of review that is needed. What we need is an independent team that goes in and looks at everything bottom up over a period of time. That will take a considerable amount of time. We are not talking 6 months. We might be talking about a year; we could be talking 2 years. It will require a serious effort to do it. What the outcome would be I have no idea, but if we are going to do it, it is not going to be a 5-minute job, that I can be absolutely certain about. As far as other methods of raising funds are concerned, again we have been given masses of information about the results of research into other methods of raising funds. That is not to say that there are not other methods of raising funds, but as has been said many times, this is the least damaging, if you like, option. It has been said many times as well around this Assembly none of us want to pay more tax, whether we are in this Assembly or outside it. I do not want to pay more tax, but I have been convinced and I am convinced that this is necessary. In fact, it is becoming more urgent as the time goes by. If we delay this decision, I can see that a delay - what with the election coming up as well and the time it will take to deliver what is requested in this petition - could well be 3 years, 4 years, I do not know, by which time we are in serious trouble financially. I can see that is the way we are going. I think we need to bear in mind - again, something else that has been said before - we have been elected to do a job. We have been elected to review the paperwork, to go to presentations, to understand exactly what we are being asked to do. We have an obligation to our electorate to do that job well and properly and to deliver, even if they do not fully understand the position themselves, not because they are stupid or ignorant, I do not mean that at all, but simply that they do not have the information. We should not be swayed and do a bad job for our electorate because they are not in a position of as much information as we are. I think we have an absolute responsibility to our electorate and we would be letting them down seriously by supporting this petition.

1.10 Senator P.F.C. Ozouf:

Most parliamentarians call each other "Honourable". We do not call each other "Honourable". I am not sure why. Maybe we need to mature. I have to say that I have heard over the last 24 hours many speeches by Honourable Members of the States, all of us having one thing in common: wanting Jersey to succeed and prosper. I see before me a petition with 19,000 signatures on it, no doubt many people on that petition who voted for me in the senatorial elections, probably also other Senators that are sitting in the senatorial benches, maybe people who supported Senator Syvret, Senator Shenton and others. I understand the concern of the people who signed that petition. I do not criticise them for signing it and I do not criticise the Connétable of St. Helier for bringing it. I think it is entirely legitimate that taxation and new laws should be difficult and I think it is entirely legitimate that it should be tough to introduce new taxation and that we should have debates about it. I have stood for election twice. In the last election - and I offer absolutely no criticism to any other Member - I did not rule out the introduction of a sales tax. I am not saying that people voted

because of that stance. I was concerned and I did believe then that we were going to have to overhaul our tax structures. In the 8 years I have served as a Member of this Assembly, most of that has been at the heart of the Finance and Economics fiscal strategy. I too want to take some of the responsibility for the beatings that have been administered to Senator Le Sueur. I am willing to take full responsibility for the decisions that have been made. When I was put on Finance and Economics, I remember one of the first meetings that we had. The Treasurer came into the Committee and said: "I am sorry, President, I have some news for you." There was a £25 million windfall. What followed was a proposition by Senator Norman to scrap fuel duty: the windfall should be spent. "Rabbit out of the hat" were the headlines; quite the same for the headlines that have been in the last few weeks. It was my first big political job. Senator Walker asked me to go and research it and to lead the Committee's charge on the opposition to the call to reduce fuel duty entirely by Senator Norman. The Assembly debated it and I would hope that all Members, including Senator Norman, would agree that we made the right decision not to scrap fuel duty, that we made the right decision not to bank and to rely upon that windfall. It was not popular but it was right. I think that that is a lesson of how the world changes and how this Assembly needs to make long-term thinking. I remember sobering meetings on the Finance and Economics Committee when we learnt for the first time the full extent of the black hole. I remember a chill going down my spine thinking how on earth were we going to find a solution to a black hole which was blowing effectively a quarter of our revenues. But we found a solution. Senator Le Sueur yesterday spoke of "Groundhog Day". Like some of the actors in "Groundhog Day", I think I would like to forget some of the past, the endless days of discussion on alternatives, the endless charts of regressive and putting together a progressive system of taxation because this is part of a package. I remember the F and E Committee that was booed I think in 2 or 3 budgets, the Royal Square full with people demonstrating against the policies. I nearly got lynched on a St. Helier platform. There were, quite rightly, as there are today, legitimate concerns of the way in which taxation and spending was being put forward. I would ask Members to just reflect back to the early days of the 2000s. There was a real sense of uncertainty about Jersey, a real sense that we might not be able to deal with some of the international competition and some of the pressures put on us by the E.U. (European Union), O.E.C.D. (Organisation for Economic Co-Operation and Development) and others. There was concern about the value of houses, of jobs, of the ability for us to be able to fund decent public services. I say that in no way to create a climate of fear. On the contrary to fear, I am confident, more confident than I have ever been, about the future of this Island. I am confident for the future of the people because when we talk about economics, why do we talk about economics? We want economic growth because it raises the standard of living of the community which we are elected to serve. Opportunity, prosperity, jobs for all, that is what I want to achieve for our Island community. I can honestly say that this is a debate being asked to find alternatives. I have been part of finding those alternatives, finding the solution to our black hole. I have stood in this Assembly, in numerous States debates, had endless consultations, never-ending questions, and quite right, too. It is entirely right that each and every part of the fiscal strategy and taxation should be scrutinised. We have set out a bold strategy and I would respectfully argue to Members that it is the foundation of our current economic success. From the dark days, from the uncertain days of the early 2000s, we have had our economic prosperity transformed. Business is flowing to Jersey and that matters. It matters for families, it matters for jobs and it matters for the value of our assets. By pure chance - and this was not a sleight of hand by Economic Development, Treasury or anybody else - this is an *F.T. (Financial Times)* article supplement on Jersey, on Jersey only, for the first time, reaching for the first time a global audience of approximately 1.2 million readers, not only for the first time in the United Kingdom but the United States, the Middle East, Asia and beyond. It paints a confident picture for Jersey. Political stability, quality regulation, a willingness to grow and diversify and sound public finances. I will try and get copies for Members in the Members' Room. The first page: "The mood is more upbeat but there is no room for complacency." "Confidence." A comment: "Only a few years ago Jersey's role as an offshore financial centre was under fire, but things have changed." Four pages of analysis and confidence: "The art of being a successful offshore financial

centre is constant innovation combined with a willingness to move on when identifying strengths.” The final editorial: “The nature of business may change, but Jersey has many advantages. That should ensure it remains an attractive place to do business.” An overwhelming and, frankly, the best piece of marketing that an Minister for Economic Development could have dreamed of. I believe that we had lost confidence but we have rebuilt that confidence. I want to ensure that that continues. I do not want to lose it. I listened to the Connétable of St. Helier’s speech yesterday. We have dealt with the issue of alternatives. I passionately believe that this Assembly can honestly say the alternatives have been researched, fully analysed and that there is no alternative to G.S.T. I am just going to briefly deal with 3 things that he raised: the Guernsey issue, if it comes in we will spend it and it will need to rise, and the windfall has changed matters. I support a Channel Island integration. I think that I would like to see more policies adopted across the Channel Islands. It would make sense for people, and for those people such as Deputy Ferguson and Deputy Reed rightly concerned about expenditure, we would have an opportunity to save if we were to share some services. With respect, and I offer no criticism, they can make their own decision, but their solution I do not think is right for ourselves. Spending our savings is not something that I think that this Assembly should support. That is what they are doing. A choice for them, but that is what they are doing: spending half of their strategic reserves. They are raising Social Security contributions; Social Security contributions, which is a tax only on wage earners. It does not have the advantage of G.S.T., of collecting money from the financial services sector, from the visitor economy. Yes, I think it is right that G.S.T. is levied on our tourism sector. Senator Walker and I were at the briefing of the F.T. this morning with 2 leading members of the hospitality sector understanding and accepting the need for G.S.T. There is confidence in tourism. There is confidence in the future and I am confident in that, too. I do not believe in large government. I believe people, however, want to live in an Island which does have decent services. I have spent a great deal of time analysing the Guernsey situation. Guernsey has £20 million per year infrastructure spend; we have £50 million. It is a choice to be made, but I believe that £50 million is the right amount of money, the right depreciation charge, to ensure that we can continue to deliver quality, respectable public services. Yes, sewage treatment; yes, an infrastructure without putting our rubbish in a hole in the ground. The truth is that the share of taxation spent by the States, even with G.S.T., will be one of the lowest in the world. Long may that continue, and we can do that because we enjoy high levels of economic growth per capita. I do not want a Guernsey solution. I do not think that that is the right solution for our own community. The second reason that the Connétable raised was put it in and it will be spent. I do not think that that is true. The Connétable suggests that we do not need it. If he has looked at the figures, he knows that we have a black hole and that we are going to have to find a solution. We should not kid ourselves on that. What I will say is that we do not need to raise it beyond the 3 per cent. Any decision to raise G.S.T. over 3 per cent will be a decision of this Assembly, this Assembly next year, in 10 years, et cetera. Based on our current financial forecasts, yes, they may be prudent, but based on our forecasts we will not need to raise G.S.T. above 3 per cent. I believe that we can send out a clear, honest message to the community that we serve. We will have a debate about food next week and I know that there are some Members that only wish to support this proposition on the basis of food being exempted. That is a debate for next week and the Treasury has made it quite clear that that debate can happen and if the debate is to exempt food then that is the way that it will be brought in. Those Members that are concerned about food and only wish to introduce G.S.T. with food exempted, then we will have that opportunity in 2 weeks’ time and that will be able to happen. Some of us will retain the line because I think that is the responsible position for us to do, but I understand the views of some Members that they may want to change that. That may well be a decision that needed to be taken. Deputy Le Fondré said that we cannot guarantee windfalls to continue. Maybe Senator Norman is going to speak; I see his finger hovering on the button hoping to speak. I would ask him to remember the issue of the windfall a few years ago. Windfalls come and go and we should not make a decision based upon short-term thinking. Deputy Le Claire spoke yesterday about wealth funds and Norway. Yes, we will be collecting £100 million more than anticipated and putting that away in our stabilisation fund. What

a vote of confidence for the future. What security to give us. We are a small Island. We should not be entirely complacent that the world owes us a living, and having sound public finances of the like that we will have will secure our prosperity in the future. I have been part of the development of the fiscal strategy for 8 years. I can honestly say I have researched the options. I understand the concern. I understand the legitimate concern of many people and I accept that we must continue to communicate and explain right up until the point of the introduction of G.S.T. We have more work to do to persuade and to explain to the public factually and carefully why we are doing what we are doing. This Assembly has to make the decision. We have a proven track record of making the right decision and I would argue that nothing has changed from the important debates that we have had 2 or 3 years ago. Nothing has changed. The picture is the same. I would implore Members not to undermine the carefully researched foundation on which our current economic prosperity is based. I know that this is a difficult decision but I know that it is the right decision. I know it is the right decision in my head and I know it is the right decision in my heart. I hope Members will vote against it.

1.11 Senator L. Norman:

Yesterday the Chief Minister described this proposition as seductive. Well, I can tell him and the Assembly, Sir, that I am seduced. My friends - sorry, I exaggerate, my friend - on the Council of Ministers [**Laughter**] are well aware that I have never supported, never been in favour of indirect taxation. In fact, Senator Ozouf reminded me a few minutes ago of my proposition some years ago to remove impôt duty on petrol. That had nothing to do with the spending of windfall because the financial impact was relatively small, but I believe and I still believe that the economic benefit to the Island would have been great. As I say, I have never been in favour, never supported indirect taxation. Certainly indirect taxation does have certain merits, but the demerits, particularly the regressive nature of indirect taxation, more than outweighs the benefits in my view. As I have said before, the fairest form of taxation is income tax because for all its faults - and, again, it has many - it is at least based on the ability to pay. Senator Routier reminded us that 5 years ago we were together on the senatorial campaign. I was not the only successful senatorial candidate at that time who was against the introduction of G.S.T. Senators Walker, Ozouf, Kinnard, Vibert, Routier all said that they, too, were against G.S.T. No doubt about that; a matter of public record.

Senator P.F.C. Ozouf:

I must object, Sir. That is incorrect. It is well-known that I argued in favour of G.S.T. on the election platform. That is confirmed by journalists and colleagues who were on the platform.

Senator L. Norman:

If the Senator says that, obviously I accept it. It is not my recollection, but if he says that happened, that is what happened. But the others, certainly. Now, either they did not understand the issues at the time or they have changed their minds. There is no reason why they should not change their mind. In fact, I wonder sometimes if I had become a Minister whether I would have changed my mind. Well, I suppose we will have to wait until the next elections to find out the answer to that one. [**Laughter**] In his excellent speech yesterday, Senator Le Sueur - who has received much unfair criticism because I know him always, always, to be honest, sincere and caring and only very occasionally wrong [**Laughter**] - said that we had to make or we should make a difficult decision, that decision being the introduction of the Goods and Services Tax. That is where I think he is wrong. That is not the difficult decision. The difficult decision would be to set our face against more indirect taxation and, in particular, against Goods and Services Tax. The States, in fact, in my view, have not made a fiscal difficult decision in living memory. Every problem that we have faced we have solved by throwing money at it. Quite honestly, that is what has to stop. We have to deal with our cost issues, with our rising spending issues. We have to deal with our manpower issues. We have to deal with the restrictive practices which are still rife. We have to deal with the terms and conditions that belong to the middle of the last century and not today. We have to deal with our

probably billions of pounds worth of property assets which are not working properly for us. Those things need to be resolved, need to be sorted, before we start introducing new taxes. Those things have been in the “too difficult” box for far too long. The Council of Ministers are quite proud of the fact - and quite rightly, too - and they have explained to us in the last few days how savings can and have been made, something like £35 million, I think it is. That has been done, really, almost without anybody noticing, certainly with no pain as far as I can see from the great general public. That saving was supposed to be used to help fill the black hole, but the downside is, of course, the Council of Ministers has already spent that saving. So it is not really a saving after all; it is merely a reallocation of resources. I believe we can do better and we must do better. Now, I was very grateful for many of the workshops and presentations we have had on this issue over the years, but the question time last Friday was very interesting, even though it did not change my mind. What it did do was to clarify something for me. It was the economist on the Panel who explained that G.S.T. was a tax, a device to take away money from the consumer to reduce the individual’s spending power, reduce what the consumer can choose to spend their money on, so as we can increase the amount of money that the States have to spend. To me, that is just totally wrong. Jersey’s success and prosperity has been built on low tax, low spend regime. By allowing people to keep more of their income to spend as they wish rather than the States deciding how they should spend their money, that has been Jersey’s success. That is what the Island wants and what I think the Island needs. One Member of the Council of Ministers this morning tried to say that this tax will not be inflationary. I have heard this before from Members of the Council of Ministers. It is quite clear that some of them do not or do not wish to understand the difference between the Retail Price Index and the cost of living. Certainly there will be a one-off rise in the Retail Price Index and that will drop out at the end of the year, but that 3 per cent will be added to the cost of living which will remain 3 per cent higher for ever and ever. There is a huge difference between the Retail Price Index, which is temporary, and the cost of living; once you put a price rise on, it is permanent. We must not forget that; that is so important. A lot of people have derided the payroll tax. I do not like the payroll tax, but what does it do if we introduced a payroll tax? It would add cost to the employer and he would do one of 2 things, would he not? He would reduce his workforce so there would be job losses, or he will absorb the cost into his business and increase prices, probably by about 3 per cent, to compensate for his additional expense. So the impact of a payroll tax or G.S.T. would almost be identical. I do not criticise Guernsey for doing what they do, but the impact on the consumer would almost be identical, but at least they will be able to claim and continue to claim that they are a tax-free island. The other problem, as other Members have said, is by introducing this tax we will be turning on a new tap of money, a trickle at first, but capable of being turned up. I have to ask what incentive will that give to the Council of Ministers, current or future, to make difficult financial decisions. It simply will not because, like impôt duty in the past, G.S.T. will become the easy option. I have always opposed this tax. That remains my position and I will support the proposition.

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

No one thing provides an easy solution. If it was easy we would have done it, let us face it. We have 19,000 signatories there that say: “We would like a delay.” The posters say: “No G.S.T.” I have sat through, like many others, many meetings, many presentations on looking at every aspect of the various options that are available to us. Yes, from all different walks of life, including representatives of Attac, et cetera, we have gone through lots of varieties but in the main most of the people attending these presentations have one-by-one discarded them because they are too painful for too small a group of people and/or they do not bring enough revenue to be able to fill the black hole. Every time that we are being asked to have efficiency savings, they last for a little while but, in effect, they are cuts and slowly we are not producing the public sector commitments that we once did. I think we keep hearing about Rue des Prés as a small example. The big example, of course, is that we try to maintain the big spenders’ budgets because that is the area of social responsibility; that is the future of our Island, where you talk about Health, Education, Social

Security. But make no bones about it, if we do not have stabilisation, which we have been very clever and very good at and very successful at for years, and we suddenly end up with something that affects us from outside the Island, like the crisis that we have just heard with some major banks in the U.K. (United Kingdom) and especially in America, to give just one example, we could suddenly end up with a downturn that would leave us with very limited choices. At the moment, we have lots of choices, which is good, but if we had limited choices I will guarantee you one thing will happen: there will be a hue and cry when we are being asked, like we were at the business debate from P.A.C. (Public Accounts Committee) to axe £12 million from our budget. How are you going to take that? That is the sort of thing that might have to happen. In education terms - and I cannot speak for the other ones - most of the money that we are allocated is expenditure on teachers, on giving you the quality education that this Island demands, to be able to provide the quality of people and staff, to be able to keep this Island buoyant in all aspects of its employment. If we started to have to reduce teachers and increase the class sizes, we could end up with all sorts of problems and we would have to import people to sustain or not - as I suspect will happen - be able to employ anybody to sustain. So our standards would go down. These are the things that we have to think about now. As I say, no one thing provides a solution. I have heard all the arguments. I can also see the desirability of the public out there of not having an indirect taxation. I was against it for the same reasons as Senator Norman, that it is too easy to add 3 per cent and get £45 million. But if you looked at the countries that still have 3 per cent, they do not have any exceptions to the rules. So I would suggest to you when it comes to some future government wanting to increase their income, there is a warning sign that comes up every time. If you put it above 3 per cent, then it is liable to put up that that affects the low incomes, that affects your pensioners, that affects the essences and the essential elements of life. So people look positively in other ways. This proposition, this petition that is before us today, it does not give us a timescale. It does not go into any detail of what we should be looking for. It is open-ended. I cannot support it for that. Next week or the week after we will be discussing again the exemptions, and we shall wait for the result of those to see whether that impacts us less on the things that many people are concerned about. I think it is a pity that we did not have the option of discussing that at the same time today, but that is by and by. Decisions have to be made. We represent our constituents. We represent the Island and we have to think very hard about the future. We have heard about the windfalls. We have a window of being able to invest in our future. We have just set up a stabilisation fund to put some money into so that if we suddenly get this rainy day, it might not be a downpour but it might affect the quality of life and it might just prevent Ministers and others coming to the States demanding that we cut back here and we cut back there on an unscheduled event because of something suddenly happening elsewhere in the world. Let us be our own masters. Let us have the contingency. We have a very good infrastructure, unlike 2 Deputies from Guernsey described to me. They are very envious of us for the infrastructure we have and the quality of it and they wish they had the same. I am glad I am not standing in the Guernsey States having to make decisions when you do not have that additional support, but I am here today having to make what is a difficult decision but that, nevertheless, is a decision that has to be made. We have got to think about our future. We know that it is going to become difficult from 2009-2010. We do not know what is going to come over the horizon when it comes to things like higher education. We know we need childcare addition to be able to support the workforce, and we know that in health terms there is a huge amount of things, and we want to bring in Social Security additional insurance to protect our increasingly ageing population. Therefore, we have a lot to think about, but I do not think this is the time to do something that is a postponement that does not have an infinity answer to it and, therefore, I cannot support this petition.

1.13 Connétable D.J. Murphy of Grouville:

I would like to talk about the core of this proposition, which is delay. I can tell you I speak as a member of the Corporate Services Scrutiny Panel which looked into the G.S.T. proposals for the last year. We have interviewed tens of people. We have read volumes of evidence. We have taken

evidence from interested parties and we have examined and collated statistics and listened to experts. I am not going to go into the rights and wrongs of it. We all come to our own conclusions. I am sure that those of you who have read our Scrutiny reports will have realised where we were coming from on it. However, what I have to say is that this has taken a year. If we are going to go back and have a delay, we are going to be there for another year. I can guarantee that. I know that I am contradicting my Chairman and I think he was being extremely optimistic when he said that he could probably get it done by March. I do not think there is a hope ... in getting it done by March [Laughter]. I would say that I am going to vote against the proposition. I think it is wrong. I think we are well along the track and I think we are along the right track. I would not look forward to another year of grinding through G.S.T. statistics.

1.14 Deputy F.J. Hill, B.E.M., of St. Martin:

I was one of those Members who voted for G.S.T. and it got through. I voted against all the amendments with the exception of the one on health. Can I say that along the way, of course, since the day we did do the vote, there have been a number of exemptions. The goalposts have been moved and not only have those exemptions been brought in but, in common with a lot of other States Members, I have had no say in them. I believe the public themselves have become suspicious at the way in which the States have been operating and they feel that we as States Members should take another look at it. I think that is the whole purpose of those 19,000 signatures. I do not believe that all those people are against G.S.T. but what they are asking us is to look at an alternative way. I do not think they will find an alternative way. I was a member of the initial Scrutiny Panel that looked at different ways and we came up with the view at the end of the day that G.S.T. was probably the least painful of them. However, I think we owe it to those people who have taken the trouble to put their names and their signatures on those petitions, 19,000. If, indeed, it is looked upon to be a weakness to ask another Panel to look at it, and the Deputy of Grouville is not here now but I think I do share her concerns, and I think also, having heard from the Chairman of the Corporate Services Scrutiny Panel that it probably could be done by March, I ask that we do give support to the Connétable of St. Helier. I think, indeed, if we can have a short review I do not personally think they will come up with an alternative way because I do believe that G.S.T. is probably the only alternative way we have. I do think out of respect to those people who have done their signatures that we ought to support the Connétable of St. Helier. Also, it could be seen as a sign of weakness to maybe do a u-turn, but we are not doing a u-turn; we are asking people to look at an alternative and probably, as I say, they will come back with no alternative. However, I should remind the Assembly that only 2 weeks ago the Minister for Treasury and Resources reminded us that it was very, very important to debate telecoms. In fact, we had to vote on it to ensure that the debate could come through. Yet now we hear within 2 weeks there has been a u-turn. Now, is that a sign of weakness or is it a sign of strength that the Minister for Treasury and Resources has now listened to those who thought there may be a little bit more time to have a re-think? If indeed it was a sign of strength, no doubt the Minister for Treasury and Resources will tell us to delay the debate to listen to an alternative view. So be it. If it was a strength then, it is a strength now to support what the Connétable of St. Helier has proposed.

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

I would just like to make a couple of observations. I have been listening intently over the last couple of days to the debate and there are a couple of points that need to be made. The Council of Ministers and Ministers generally have made much play about the building of confidence in the business community for the future prosperity of this Island. I would ask them perhaps to consider whether they have placed such importance on building up the public's confidence in the proposals and the changes - perhaps unprecedented as many have said in many years - that we are all being faced with in this coming couple of years. I do not think that we should dismiss 19,000 people who have put a cross on a petition. I think mainly those that have spoken to me are seeking assurances, seeking comfort in the fact that we are making the right decisions, that we are prepared to control

States expenditure. I look around this Assembly and I for one ask Members who are planning perhaps on supporting this petition, how much stomach they have for controlling States expenditure? We have just had a recent Business Plan debate where the Council of Ministers for various reasons which I will not go into proposed a 7 per cent increase. Did I hear many States Members voicing their concerns? Did the States choose not to accept that proposal? No. The reality is that time and time again - and again I say for various and reasoned beliefs by various Ministers - we continue to see an increase in our expenditure. Are we going to be successful if we set off on this spending review? Very questionable. Can G.S.T. remain at 3 per cent for longer than 3 years? We have had comments made by the Minister for Treasury and Resources that yes, it can, so let us do something about that. We can. We can change the time period in the law. Where is that assurance? Would that not be helpful? What about the small businesses that are really concerned about how this G.S.T. will affect them? Have we really spent the time and effort necessary to allay their fears? What about our Low Income Support Scheme? Everybody suddenly seems to have forgotten about that. We are back to: "Oh, we need to protect those on low incomes with exemptions on various things." I for one personally put a great caveat to implementing G.S.T., as I believe many States Members did, and that was introducing a proper Income Support Scheme that helped those on low incomes, that targeted those very people that we have heard of from many people here today and I am sure in a couple of weeks' time we will end up focusing on again. Part of the reason for introducing G.S.T. early was to utilise those surpluses so not only could we have the new Income Support Scheme, but - which we have all agreed - put £22.5 million to this transitional support as we bring in the income relief. Because we know that those at the higher end and with greater incomes will or could be initially affected in the long term, so we have been responsible. We have said £22.5 million. So what if we do not bring in G.S.T.? Where does that money come from? What about making poverty history? We all saw that line on that diagram that shows that even with our Income Support Scheme [the income of] our pensioners and other individuals are perhaps lower than otherwise should be. With the surpluses, I am not saying we do it, but we should really consider the opportunities that exist, that we can if we are responsible use the surpluses and the windfalls and everything else that are arrived at to maybe address some of these problems. Is that not more beneficial than just going: "Well, we should delay"? I for one will not be supporting the proposition. However, I will continue to fight for the assurances and the changes that will benefit our community.

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

I am afraid to say that we are going around in circles. I thought we were here to debate the delaying of G.S.T. Unfortunately, I tend to agree with the Connétable of Grouville. I thought we had been looking at G.S.T. and Zero/10 for 2 years; maybe he has forgotten that. I cannot see any way to find new alternatives to save this sort of money. I think the only way, really, realistically, if people are minded to do so, most businesses when they have financial problems cut staff. Now, £45 million is quite a lot of money to cut. I worked it out last night: roughly 450 staff earning £100,000 comes to £45 million, so if you work down the numbers you are looking at somewhere in the region of 750 to 1,000 staff cuts. I just wonder who would have the strength of mind or character to come to the debate here today or in another couple of months and say: "Right, we have found a solution for the £45 million black hole. We need X amount of jobs to go." I do not think that is palatable. I do not think there is anybody here in this Chamber who would have the strength of conviction to do that. I believe my Chairman was also a bit on the soft side of saying March. I think anybody who thinks that this G.S.T. will come back within an election year and studying all the different ways of saving this money, they are having illusions. I will not be supporting the proposition of the Connétable of St. Helier and I think it is time for the benefit of all Islanders, our families and our grandchildren, that to secure future stable economy we have to, unfortunately, go with the G.S.T. Hopefully, if we are fortunate enough to not have the requirements we think in the future, we can keep it at 3 per cent for many years to come. It is still down to this Assembly to change it. It is down to this Assembly to stop spending money and keep on making laws that the Island has to police.

[Approbation] There are many laws in this Island that are almost unpoliceable. Oh, it is wonderful: let us bring them in for the minority, and then we realise we have to have an office, staff, secretaries and assistant secretaries. Before we know where we are, we have spent another £100,000 or £200,000. Let us start to try and curb the spending in the future. We have looked at alternatives. As far as I am concerned, on the Corporate Services Scrutiny Panel we had a job to look at Zero/10 and G.S.T. It is not for that Panel to find savings. There are Members who have been in this Assembly for many, many years who keep on saying: "Let us find savings." Well, they have been in much longer than what I have and a lot of the new Members; they have not come up with any savings. It is time that we just stopped spending. I think we have done as much saving as we can. What we have to do is stop adding labour and staff to the size of our civil service. Unfortunately, the bulk of our expenditure is wages. Anybody who wants to save money has to cut staff. That is a very hard thing to do as well, and I do not think there are many that would prefer that. I think if you asked the people: "What would you prefer to have, a job and pay 3 per cent G.S.T., but no, we can find a way now, we will get rid of all your jobs", I think that is even worse. I think we should not support the Connétable and go ahead with the fiscal plan that we have always thought was the right way forward.

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

The Connétable of St. Helier promised his parishioners that he would make big savings in the parish. This he has done and the parish has not suffered. If the Island as a whole follow this model, then we will be heading in the right direction. A lot has been said today about rocket science. Well, in the 1960s the Americans spent millions developing a pen that would write in space so the astronauts could complete their reports. What did the Russians do? Well, they used a pencil. That is the kind of rocket science we need in Jersey. I agree we should stop adding to the Civil Service. I believe the gap between the "haves" and the "have nots" is growing larger by the week, and I will be supporting the Connétable of St. Helier.

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

What an interesting debate we have had so far. Unfortunately, as I think Senator Vibert said this morning, of course the speeches that happened yesterday, of which there were some important ones, have become less memorable having drifted back, it almost seems, to history. I was intrigued this morning, by a couple of comments. The Deputy of St. Mary remarked in comparing us with Guernsey about the ability to swim in clear water. Well, I think she really has forgotten that the floodtide brings anything from Guernsey further south away from their beaches and that swimming, rather like introducing new taxes, should be done with care. Deputy de Faye mentioned the spanner of G.S.T. in our toolbox and suggested that, having an early introduction, we could then adjust it. Presumably he was referring to an adjustable spanner. As an engineer, I have to advise him that an adjustable spanner is the last tool that you use. It really is the last resort. It is much better to use the right-sized spanner; it causes less damage. **[Laughter]** My main concern has obviously been ventilated by other speakers. It is of much more mundane matters: how are we going to fill the predicted black hole? Are we choosing the right options? Like some other previous speakers, I happen to think, as I always have thought, that we are not. Yesterday, it was Senator Syvret who suggested in starting his speech that there was not room for any more economies in our public service. Looking at it from a private sector perspective, I have to say the potential for savings are in my view quite enormous. As has been referred to just a moment ago by another speaker, it may not be so much in actual cuts that we have to make, although I have to say there are many opportunities that I have come across, it is the way that we keep adding to public expenditure, passing laws which are marginally necessary with no cost/benefit analysis and then we find out that more public money is required to finance them and keep them going. We should not have done it in the first place. It is a lack of political will as alluded to by Deputy Le Hérissier yesterday. I am quite sure that there are other answers to filling the black hole than the G.S.T. option. Yesterday, both the Minister for Treasury and Resources and the Chief Minister enthused about the £35 million they

claimed had been saved. Of course this is complete nonsense. If we remember, as I am sure we will, the £20 million savings that were part of the fiscal package - Grow the Economy and other items were part of the package - that was until we learnt that the £20 million had been recycled, not saved. Because taking money from one area and then putting it in another is simply not saving it. The £35 million referred to yesterday is similarly a sleight of hand. I find it particularly irritating, especially when one realises that this is almost approaching the amount of money that Goods and Services Tax is supposed to bring in. In fact, in my view it may well exceed Goods and Services Tax because I believe that the income generation has been over-estimated while the cost of administration, Income Support alleviation, damage to our economy by not only losing our tax-free status but adding to an already over-priced economy as Senator Norman alluded to, I believe these have all been under-estimated. So the net take is probably going to be less than we might have hoped for. Looking at the £35 million savings that were identified in the *Jersey Evening Post* on Monday, assuming they had recorded it correctly, we see that those savings are not really savings at all. I looked down the list and began to realise it was essentially a piece of mischief. Take, for example, the suggestion that the scrap metal subsidy is a saving. It is an accident, not a saving. The fact is scrap metal prices were so low some years ago that we were obliged to give the operator a subsidy to ensure that the material was properly dealt with and taken off Island. It now happens through good fortune - none of our doing - that metal prices have recovered, due mainly to demand from the Chinese. The subsidy is no longer required. That is not a saving. It is, in my view, disingenuous. I agree with the Connétable of St. Helier's comments yesterday **[Interruption]**. Yes, I know how the subsidy works because I happened to be on the Committee when we discussed giving the subsidy. I agree with much of what the Connétable of St. Helier said yesterday. Goods and Services Tax will, in fact, be like having a cash machine at the end of the corridor. It will, in fact, remove any incentives to cut costs, not that there appears to be much at present anyway. It will be so much easier - I think we all understand this - that rather than take the difficult option of reducing costs, as a private firm would have to do: "Oh, well, it is unfortunate but we are going to have to add another half per cent on Goods and Services Tax, another 1 per cent, we have to do that." It is so much easier than bearing down on, as other Members have already said, restrictive practices, over-manning and such things. I also agree with the Connétable of St. Helier's comments he made yesterday about the potential damage to our economy by removing the tax-free status, also adding a percentage to prices that are sky-high to start with. Let us not fool ourselves that prices will go up by 3 per cent; they will go up by more because clearly firms will have to add an administration charge to it. Something that was previously £1.99 is not going to now be £2.05 or whatever the figure is. It will end up magically at £2.49. Where I have to say that I do part with the Connétable of St. Helier is in his favourable comments regarding the Minister for Treasury and Resources. I too have a great deal of respect for him, but I am concerned with the vigour with which he is pursuing this particular strategy. It is almost daily that we have an email or a letter in the *Evening Post* and, to me, that is not the sign of somebody who is confident in their product. To me it is a sign of someone who is desperate. Psychologists may tell us that it is the actions of a person who may have something to hide. I hope he does not, because I am getting very concerned that the sale of Jersey Telecom and the introduction of Goods and Services Tax has a very alarming common denominator. Is there something we are not being told? The proposition asks for the options to be re-examined and the Chief Minister, together with the Minister for Treasury and Resources, has told us, as have other speakers during the last day and a half now, that there are no new options. Well, I do not believe those of us who might be minded to support the proposition are saying that there are. I fear that the Ministers are not listening because we merely ask that the same ones be re-examined in the light of today's situation, which is far removed from that which existed when Senator Le Sueur and company made their minds up on Goods and Services Tax. Much has moved on. The world has changed. Taxation has changed. A number of years have passed. Yesterday, the Chief Minister implored us not to break up the fiscal package, a theme continued by Deputy de Faye this morning. I am afraid the package has already been opened by the Ministers themselves when they took the £20 million savings that was part of the package to fill the black

hole and promptly spent it. So we are already £20 million adrift. There are alternatives and they do deserve honest reappraisal. Good fortune, as opposed to any action on our behalf, has meant that we do not need the money now. We have a windfall and I believe, as the Connétable of St. Helier again yesterday said in what I thought was an excellent opening speech, it would be immoral to tax people when we do not need the money. I believe that the responsible course of action is to take that window of opportunity to see how we can avoid what many people have realised is the best of the worst options I think was the theme that was used. It is a damaging tax. There are downsides. As I have said, I do not believe the income from it will be as great as expected and I believe many of the downsides have been under-estimated: I have already mentioned our tax-free shopping status. The cost of supplementing Income Support I believe is another hugely under-estimated cost. It could be we find that the generation of income from this tax may not be much more than £30 million, which I believe could quite easily be found if there was a genuine efficiency drive, so sadly lacking at present. Of course, there are perhaps new possibilities for raising tax. I notice there has been talk recently of suggestions of raising a very small tax on money invested in this Island, much of which is presumably here because it is inconvenient for it to be elsewhere. This is an idea that I bounced off the Chief Minister several years ago. I suggested that a fraction of 1 per cent levied might drive away a small percentage of investors but would have the possibility of bringing in a huge amount of money. I asked whether it could be evaluated. I seem to recall being told that it would not work but how much or how little analysis was put into that exercise I have no idea. By way of an example, if indeed there is approximately £250 billion on deposit here, a tax of just one-eighth of 1 per cent would give us probably twice what the Goods and Services Tax would bring in. A quarter of 1 per cent would bring in approximately £600 million. I hesitate to put that amount of money in the Ministers' hands; Lord knows what they would do with it. Deferring the introduction in order to investigate his alternatives as is requested in the proposition will not cause Jersey Limited to call in the receivers. I believe that the Minister for Treasury and Resources has become increasingly forceful in his rhetoric; as I mentioned earlier, certainly more frequent in his espousing. Somebody else - I cannot recall who now - reminded us of his reference to Groundhog Day yesterday. I believe it might have been the Minister for Economic Development. I happen to recall some years ago, there was a make of car tyre which bore that name, and very good grip it gave, too, just as those who oppose the Senator have a good grip on reality, including those who signed the petition. Does the Minister and those who support him really consider that those almost 20,000 signatures, that all those people are fools? Because it does seem to suggest that. The public are not fools. They fully realise that taxes have to be raised for the services that they receive, and they also believe that currently they are not getting good value for money. They realise, too, that the Goods and Services Tax is an unfair tax. The effect on the very poor may well be mitigated by the Income Support which is there to assist them. That has another unfortunate effect because the burden is then shifted to slightly higher up, those just outside the assistance of Income Support. Those just above the threshold will then be the ones who will feel the brunt of this tax. The part of society which are those usually struggling to bring up children, buy a home and so forth, in my view the engine room of our economy, is it right that we should be giving these people more difficulties than they already have? Goods and Services Tax is a tax which will do some damage to our economy because it pushes us further into a high tax/high spend culture and we have yet to have a debate on whether that is what the public want, moving as we are from a low spend/low tax. The public are astute enough to know that there are other ways of balancing our books. They have seen the mythical savings and recycling of resources. It reminds me of the previous Prime Minister of the U.K., Tony Blair, with his infrastructure investment where the same money was allocated time and time again. It was all an illusion of which Tommy Cooper would have been proud. We are starting to do the same thing here with savings. I am increasingly becoming uneasy with the feeling that we have yesterday's Ministers following yesterday's policies. What happened to all the buzzwords that we have been hearing in recent times? I do not recall hearing many of them yesterday or today: accountability, sustainability, transparency, all these wonderful words. Perhaps they have not been used because it is not convenient in this particular issue, just like engaging the

public and democracy are now seemingly only used when it is convenient. I am looking past the rhetoric and the simplistic views. We were told yesterday it would be irresponsible to go back on our decision; it is part of the package. I have already said, the package is torn already. Are we being told that it is responsible to stick to a decision even if it is wrong? I submit that would be irresponsible, especially given the present global flux in economy and the present evolution in taxation. It would be irresponsible not to re-examine the situation. We cannot afford to get our fiscal strategy wrong. It is already bad enough having to rely on whispers in the corridors to confirm that our Zero/10 is acceptable, the very foundation of our economy at the present. Let us not gamble even further by putting in place a tax which is potentially damaging without first exhausting the other possibilities. Yes, they have been looked at. Yes, they have been looked at in detail. My analysis is that they have been dismissed without any real wish to embrace them. What we need is an up-to-date, honest re-analysis. I believe that the options have been put aside more out of personal preference than out of detail. The unexpected multimillion pound windfall that we have been lucky enough to receive gives us that window of opportunity, and I believe it would be irresponsible not to take advantage of it. Because of that windfall, we can defer the tax while the further analysis that I strongly believe is necessary takes place. After all, the Minister for Treasury and Resources' plans did not include that windfall, so surely he cannot deny the need for the tax - assuming there is one and I think we believe there is certainly a need to fill the black hole - has been put back by at least a year. With the good fortune of the windfall, his plans are able to be put back because he was not allowing for that. To delay the introduction of this new tax is, therefore, in my view both morally and economically justifiable. One lesson this Assembly repeatedly fails to learn is to cut its cloth according to its means. This is why we need to review our options because government is unfortunately in a secure position. It is a monopoly. It does not have to endure the strictures of the private workplace. We, therefore, have to be extra vigilant over expenditure and taxation, as the Connétable of St. Helier found out when he took office originally and he proved that it can be done. Finally, as Senator Norman so eloquently told us earlier this morning, let us not forget the regressive nature of the Goods and Services Tax or, indeed, most indirect taxes when compared with income tax, which is based on a person's ability to pay. The options may very well have been examined. I do not say all of them have been examined, but most of them have, but not with an open mind. Here is the opportunity to achieve that situation.

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

“Darling”, “Deputy” and “traitor”, these are the ways in which I was addressed yesterday: by my wife, my colleagues and a protestor. I hope I remembered that in the correct order. **[Laughter]** No one likes taxes and it seems not many people like politicians. I will return to that. My history teacher used to say the only thing we learn from history is that we do not learn from history. Why do I mention that? Well, because we are very good at hindsight and many Members consider that some of the previous occupants of these seats have at times of plenty made short-term, politically expedient, populist decisions. Economic decisions must be taken on balance and in a full economic cycle. We must not make decisions today based on the assumption that today's conditions will remain indefinitely, particularly as I believe we are now at the top of the economic curve and we will face some type of economic downturn brought on, not least, by the credit crunch, a fact which many Members referred to yesterday, even quoting from a certain publication. I must say I was delighted to learn that so many Members seem to have taken to reading the *Accountant* daily newspaper. I trust those Members have had time to read today's edition in which is a positive supplement supporting Jersey. I understand that many present at the F.T. conference this morning praised our stability and our consistency. That stability and consistency is as a direct result of our sticking to the fiscal strategy. We do not know at this stage the depth of any downturn or its length. We should not be taking decisions like this, which are long term in nature, to delay our fiscal strategy out of blind belief that things will be all right - and, I have to say, like Guernsey - or on the basis of a single year's windfall of income or that something else will crop up. The Minister for Treasury and Resources has during his term as Minister endeavoured to make long-term decisions.

He has created the Fiscal Policy Panel. He has created the stabilisation fund and is proposing again to transfer further monies into that fund. I should also pay tribute to Scrutiny's role in these decisions. The decision before us today is one of those long-term decisions, part of the graduated, phased implementation of the approved, twice-approved, fiscal strategy. I turn now briefly to a number of the issues raised by various speakers yesterday and today, primarily to those speakers who felt they had to support the Connétable's proposition because they wished to see further exemptions and refinements to G.S.T., namely exemptions for food, books and magazines and children's clothes. Senator Shenton said, and I have heard him say it before, that he is in principle in favour of G.S.T. with the caveat that food must be exempted. Senator Syvret indicated that if we were to reject the Connétable's proposition today that would mean we could not approve food exemptions in a fortnight's time. That is not the case. We will have that debate next week and, as Senator Shenton knows, I for one at this stage am minded to support that proposition because I believe we will arrive at a refined, appropriate tax. Other Members, who I might say have in the past voted for exemptions, are now complaining that they feel that G.S.T. is too complicated or complex. I am afraid it is not possible to have it both ways. However, if you believe the legislation from the Treasury and Resources Department is complex I would put it to you to have a look at the U.K. V.A.T. legislation. There you will truly see what complexity is. Deputy Power said he failed to understand the changes to the corporation tax regime. He talked about Zero/10. He also mentioned that he thought that the tax structure in his mother country seemed to be working okay. What he forgot to go on to tell us was that their corporation tax rate stands at 12½ per cent.

Deputy S. Power of St. Brelade:

My understanding is I referred to the Irish Republic and the French Republic and I said that there are at least 3 different corporate tax structures in the Irish Republic: the I.F.S.C. (International Financial Services Centre), the country itself and 2 designated areas in the west of Ireland. In the French Republic, including French dependent territories, there are 4.

Deputy I.J. Gorst:

Thank you for that clarification. It does not deny the fact that there is a corporation tax rate in Ireland and their average rate is 12½ per cent and they are, I would remind this Assembly, our direct competitor when it comes to the financial services industry. Deputy Pitman made various points but seemed to have missed a critical point and that is that G.S.T. is part of a package. When that package is put together, which we call the fiscal strategy, they are broadly progressive in nature. I am not sure if Deputy Le Claire, who is not in the Assembly at this point, used the word "bullied" but he implied that we were changing our corporation tax structure because of outside pressure. There are 2 reasons why we are looking and proposing changes to our corporation tax structure. One is that this Assembly has decided to change its tax structure to show that we are a mature, well-regulated and co-operative jurisdiction. The second, as I have just mentioned, is to allow us and give us competitive advantage when we see that Ireland already has a corporate tax rate of 12½ per cent. Deputy Reed today mentioned that he was concerned about small businesses and businesses that needed to register understanding the implications. Well, I can tell him that the department has made around 160 visits so far and they continue apace, and if he has any small business owners who have contacted him with concerns then I would say put them in touch with the department. They are more than delighted to go through all the processes and all the implications for each business that contacts them. I would also say that the turnover threshold is high and it stands at £300,000 a year, below which businesses do not need to register for G.S.T. I am sorry to have to differ on this occasion with my colleague from St. Clement but I really must say something about his comments. I will pick only one of them. Unfortunately he seems not to understand in any way, shape or form the size of the margins under which deposit-takers on this Island work. It seems to me that his proposal has all the hallmarks of a possible J.D.A. (Jersey Democratic Alliance) type suggestion. It would not be feasible. The financial services industry deposit-takers work under extremely tight margins and whilst we in this Assembly might think that an eighth of a percentage

point has no effect whatsoever, I can assure this Assembly indeed it does and they are the type of margins which are winning us business. If we were to give that away we would again be uncompetitive. I recognise that those Islanders who signed this petition do indeed have concerns, and it is important and has been important that we have had this debate to consider those concerns. So, for a moment let me take this petition at face value and ask the question: what could be gained by delaying our long-term fiscal strategy? Are there other options which the department and numerous experts and economists have missed that might raise the required tax take and might be more acceptable? Is there some sort of magic money tree or savings formula which have not yet been discovered? Let us look at those 2 questions in turn. It is well known that I have been dubbed one of those 3 angry Assistant Ministers. I really am not sure how I came to be given the title “angry”. I do, however, agree that both Ministers, Scrutiny, along with this Assembly, must hold departments accountable and must ensure that taxpayers’ money is spent efficiently and effectively. The growth in expenditure must be controlled and cut where appropriate. It would be remiss of me not to mention the kind words of Deputy Le Hérisssier yesterday. He seems to be under the illusion that this is an easy task, to the extent that he was disparaging about me and my Assistant Minister colleagues. Why had we not produced a short report, et cetera, he said, over the last few months? Perhaps I should return the question to him, who is now so certain that the States can easily make £45 million in cuts to expenditure. Where is his short report? I have forgotten how long he has been in office. Perhaps he could remind me?

Deputy R.G. Le Hérisssier:

I gave several lists to the Assistant Minister. I have never had a response to them and I never suggested that they would add up to £45 million. I was suggesting a change in culture.

Deputy I.J. Gorst:

Indeed, the Deputy has provided suggestions to ways in which we might cut costs. My point was this is not a short-term project. It will take time and I hope he understands that. An individual who used to work at the dairy has recently produced his report about cutting States expenditure and I am sure that his main proposals will in due course be considered by P.A.C. As an aside, one of his proposals related to pensions. The Comptroller and Auditor General is currently doing a review of P.E.C.R.S. (Public Employees Contributory Retirement Scheme) and I for one await his findings with interest. Members, however, might be interested to note that Guernsey’s pension system is under-funded by £12 million per annum; hardly long-term planning. Further savings and efficiencies must and will be made. In due course Members will be presented with choices about spending. They will require political choices which some Members might find uncomfortable. However, there is no need to delay G.S.T. for an independent review of these. The Comptroller and Auditor General, along with P.A.C. and others, are already providing independent reviews. However, one thing is bothering me. Some Members supporting this delay are saying: “Delay for an independent review”, no doubt engaging firms like P.W.C. (PriceWaterhouseCoopers) in the process. But on the other hand some Members supporting delay say: “The department’s review of alternatives is flawed because they use firms like P.W.C. and are conflicted.” Surely there is some confusion here. I turn now to the consideration of other options and our comparisons with Guernsey. I, like Senator Ozouf, am a believer that Jersey and Guernsey’s long-term futures lie in much closer co-operation and working and we must increase our efforts to do that. However, let me just say if my Minister were standing before us today with a proposal of a £25 million year-on-year budget deficit alongside a wait-and-see policy then perhaps I might just turn into one of those angry young men. I think I have said enough about our sister Island. What about other options? Some time at the start of this debate the Minister very eloquently outlined various options and the review and research which had gone into these. While some Members have mentioned other options, it is clear, to me at least, that they would not raise the necessary revenue. So, where does that leave us? It leaves us with G.S.T. I could go on about why there was a need to reconfigure our corporation tax regime, about the benefits of G.S.T., but other Members have done so not only today but on

numerous occasions in the past. I have learned a lot about the life of a politician over the last few weeks. If we change our minds we are accused of being untruthful and untrustworthy. If we do not change our minds we are accused of being arrogant, proud and not being prepared to listen. I made an election promise to support G.S.T. because I believed then, as I do now, that the fiscal strategy of which G.S.T. is but one part is the right approach to fill the black hole. I ask Members to vote for the long-term interest and stability of this Island and reject the Connétable's proposition.

Deputy P.V.F. Le Claire:

On a point of clarification the last speaker intimated that I have suggested that we were bullied into this position. On the contrary, my speech was quite clear; we have elected to move to Zero/10 for competitive reasons.

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

Well, it is clearly going to be a close vote. Various Members I can see have been doing the sums and I am indebted to Senator Ozouf for the terms of 'Slytherins' and 'Hufflepuffs' and I cannot remember what the third one is from Harry Potter. I think I would rather be a 'Hufflepuff' than a 'Slytherin' but I am not quite sure. Clearly I do not propose to refer to all the speeches made by Members otherwise we really will be having a late lunch. The Minister for Treasury and Resources began the debate, or followed my opening speech, and I thought that in general his speech was a useful summary of the position to date, how we got here. It was consistent, reasonable and well argued. However, he began and finished his speech in unfortunate terms. He began by calling the petition: "A thinly-veiled attempt to say "No to G.S.T.", a vain attempt to avoid tough decisions on G.S.T." That is a theme that I will be referring to as I sum up, particularly the notion that supporting the petition is in some way the easy way out. A number of speakers have already picked up on that in their comments. But the idea that this is just an attempt to knock out the tax altogether is, of course, judging the petition by the poster. It is judging the petition on the basis of a few comments by a minority of people who were in the Royal Square yesterday, and it misrepresents the petition and I think suggests that the majority of petitioners did not know what they were signing up to. I think that is wrong. People I have spoken to know exactly what they are signing up to. They know that G.S.T. may have to come in, or some kind of sales tax may be inevitable, but they want to be sure that all the homework has been done first. In particular, I think the recent endorsement - and I come back to what I said in my opening speech - by the Hospitality Association is significant. It is not just hotels and guesthouses. These are restaurateurs, these are attractions serving tourists and Islanders right across the Island. They thought about that statement they signed up to and then they said: "No, we believe Jersey will be better off without it if that is possible." It is worth reading again. The Minister said a few other things I just want to pick him up on. He brought out the usual comment that indirect taxes are paid by everyone and, as a number of speakers said later, it is a poor argument. The 1(1)(k)s, in fact, the Minister referred to, of course, are not bothered at all by this kind of taxation. They really will not miss it. He talked about up-rating income tax thresholds and I think Senator Routier later referred to this as well. Yes, and there has been a rabbit brought out of the hat. The States can now afford to offer something as part of the upcoming budget because they have the money in their pockets to do it. I believe that many members of the public would far rather that money had been used to re-examine the case for G.S.T. rather than being offered as a sweetener in the upcoming budget. He then said that the idea that further savings can be made to avoid G.S.T. is ludicrous. He said it would decimate States services and he gave an example of what would happen to the libraries and the primary schools and so on if these savings were to be taken out of Senator Vibert's budget. I think that was the first example of a lot of scaremongering that we had during the course of an otherwise fairly rational debate, and of course it was very similar to the views that were expressed during the Business Plan debate not so many weeks ago, back in September. This morning I printed off all 58 pages of the amendment by the Public Accounts Committee. It makes for fairly depressing reading as we see those people so keen on savings melting under the fire of the Council of Ministers. You will always hear it; if you

say you want to make further cuts you will be told that you will be closing schools, libraries, hospital wards and so on. The Minister for Treasury and Resources also referred to a Deputy in the States of Guernsey and he quoted from him. Again I am not going to spend a lot of time on Guernsey, I will bring it up in my closing remarks, but the Member he referred to said that they were witnessing, and I quote: "The wanton destruction of their contingency reserve." He has been taken off the Treasury Committee because he did not agree with the majority view and, indeed, he did not agree with the majority of Guernsey members who have decided that they are going to have this tool in their toolbox. They are certainly not going to reach for it until they have made savings in the public sector. So, I think that the quote was a little misleading. The Minister ended badly too, as I said. He talked about short-term populism, and I just ask Members, is it short-termism to restore public trust in the States' ability to listen? Is it short-termism to hold off introducing a deeply unpopular and regressive tax until we have shown there are no more savings to be made? Then we had Senator Shenton, who quoted from Aristotle. I rather lost him there, but I think he rightly highlighted the growing burden of red tape on businesses. Again it is an item several speakers came back to, but I noted this morning as I was just coming through the new square in Broad Street and I was stopped by a small businessman **[Laughter]** who told me 2 things: first of all, that he would far rather pay a one-off payment every year to avoid the kind of red tape that he is now having to go through with his accountant. "How much do you want?" he said: "Let me give you a sum of money every year and I would much rather have that than G.S.T." The second thing he said was: "How can it be called fair that I am going to have to pay this because my threshold is over the level and the person next door does not have to pay anything?" How is that fair that there is no kind of sense of graduation in the way this tax is being brought forward? Deputy Duhamel put the situation very succinctly; perhaps if we had all done that we would have finished yesterday. He said: "We can either tax more and spend more or we can spend less and tax less." Then he sat down, which was a very short speech for the Deputy. Deputy Southern started off by talking about my late conversion to the cause. He has his joining-up papers there for the J.D.A. I would remind the Deputy that it is not that late a conversion and, in case I did not spell it out enough at the beginning, I was signed up to the fiscal strategy until the States proved their inability to make serious savings and decided to start spending the money they save. He also clarified that the expert who spoke to the Chamber did speak about the implementation problems that would arise and the fierce opposition from local traders, and the need to restore public support is vital when introducing a tax such as this. He referred to other alternatives such as a land value tax and, I think very usefully, just reminded us that the regressive nature of this tax is seen in that those families who are not being picked up by Income Support will be £350 a year worse off. That does not mean anything to a (1)(k) but I know a lot of people that that will make a big difference to. Senator Le Sueur said it was a broad-based tax and everyone pays direct taxation. It hits the pockets of people according to how much they can afford. I think perhaps one of the best points that the Deputy made was the slowness of the public to respond to G.S.T. It might have sounded a bit rude, but what a good point it is and how true it is that we live and breathe local politics, they do not. I am often surprised how little people seem to know about what is going on inside this Chamber, and it does take time for news to trickle out. That is why I believe we have seen a late but very passionate attempt to bring in some breathing space. Deputy Powell of St. Brelade talked about the need to diversify the economy and I will be coming back to this later on. Deputy Breckon then spoke and gave us a detailed explanation of how the Jersey Consumer Council has monitored the development of these fiscal proposals and particularly the tax. I believe that Deputy Breckon is particularly well qualified to speak of the growing public concern about this new tax. He has his finger on the pulse of the community perhaps more than any of us. He knows the price of fish, for example. I probably ought to as well. How can it be that the retired couple, the single parent and the restaurateur, examples he made, have to fund the Zero/10 improvements? He spoke about red tape, and I have already referred to that, and the business plan amendment by the Public Accounts Committee. We did not have the stomach to make savings of 3 per cent, he pointed out the Council of Ministers cannot manage with less money but the public can, and that is the message we will be sending out if we do

not support the petition. Finally, he talked about focus and it was a word that some other Members came back to: the need to have the review first, the need to really focus on saving before we bring in the tool to raise more money. Many, many people, as he pointed out, are worried about their weekly expenditure and their concern is surely, in Deputy Breckon's view, reason for another look. The Deputy of St. John gave us a number of reasons why we should support G.S.T. and introduce it straight away. He said it was simple. I must say I do not think it is nearly as simple as people seem to think. He said that taxes are higher elsewhere. Well, yes, of course they are, but the public of Jersey, who pay much higher prices for local foodstuffs and so on than their relatives in the U.K., for example, feel that Jersey is a wealthy Island and is it not time they experienced some of that in their shopping bills? The most extraordinary comment by the Deputy, however, was when he said: "If you want tax free shopping, go to Dubai." Marvellous if you can afford it, but I think most of us cannot. Then he said: "How many spending reviews does the Connétable want?"

Deputy A.D. Lewis of St. John:

I was talking about tourists coming here, not our own people.

The Connétable of St. Helier:

He said: "How many spending reviews does the Connétable want?" I would tell him and many other Members who said it was my proposition, it is the proposition that I have brought, I am the messenger, but it is not me. It is the petitioners, it is the public who do not believe we are serious about certain aspects of G.S.T. He says G.S.T. is difficult to evade and I wonder whether the Deputy has heard about the levels of V.A.T. fraud that apparently are posing such a problem in the U.K. and if he is confident that there will be no G.S.T. fraud over here. I thank the Connétable of St. Brelade for his support. Deputy Le Fondré referred us, as several Members did, to G.S.T. briefings and asked why I was not at the one on Friday, which of course was half term and I was away with my family. A hastily arranged last-minute briefing clearly is not going to suit Members of the States who have children and want to go away. The Deputy of Trinity spoke next, and Senator Routier spoke about the budget allowances and how he would be giving money back as part of the overall package. I think the recent budget announcement was not really part of the fiscal strategy, it is just one way of using some of that windfall money without influencing the decision on G.S.T. He mentioned his irritation about Members who do not attend briefing sessions and I must say I was thinking as he spoke of that one in the Members' Room when I decided to support the fiscal strategy and we were being told about all the marvellous cost-cutting measures that were being introduced by the States. Then some months later we attended an update in the Members' Room and Deputy Le Fondré, who I have just mentioned, stood up and admitted that they had been unable to find significant savings. That was some time ago. I would like to thank Deputy Le Claire for his support and also Deputy Martin. She draws attention to the fact that the last-ditch attempt to exempt food and possibly children's clothing and books and so on, which some Members were asking us to look forward to in 2 weeks' time, will of course force up the level of G.S.T., and that is going to have a knock-on effect on the Income Support system. So, this simple tax is getting more complicated every day. Deputy Scott Warren said that a short delay is not a sign of weakness. It may confirm that G.S.T. is the best option. I can perhaps answer her query and the query of several Members who asked how long I was envisaging this study taking. We had various estimates from speakers of between 3 months and about 3 years. Clearly it is a matter, if this petition is successful, for the Minister for Treasury and Resources to consult Members and come back with a proposal. I would prefer that it be sorted out by the current Assembly. I would prefer it to come back next year and be the subject of a debate by the end of the summer and I believe that that is possible. The Chief Minister spoke next and he said that there was no popular way forward. He said the right thing is not necessarily popular. I would say to him: "Yes, true, but the popular thing is not necessarily wrong." He talked about having the courage of our convictions, and again I do not hold the view that supporting the petition is easy and I certainly do not hold the view that making cuts in our expenditure is going to be easy. He enumerated the various bodies and organisations that have

supported G.S.T. and he mentioned the Chamber of Commerce. I should remind him that the Chamber of Commerce's latest position is that they are split on their views of the new tax.

Senator F.H. Walker:

The Chamber of Commerce is supportive of G.S.T.

The Connétable of St. Helier:

It is yes. I cannot remember the split, but they are split. Deputy Le Hérissier made a very important comment given the number of speakers who decided to hang their hats, really, on the brave example of Philip Le Feuvre in bringing forward the Social Security Insurance Scheme. It is good to have an historian in this Assembly. We have lost all our lawyers and various other useful people but we still have an historian. It was good to hear an historian speak against the hijacking of that brave States Member and trying to suggest that what the Council of Ministers were doing was of the same order. He pointed out that it is a very different matter indeed. I think importantly he focused on the lack of trust in government. He talked about disconnectiveness, and what Members have to ask themselves is - they have to decide how important restoring that trust in government is. That really is the key question for today. Senator Syvret said that saving money was easy, glib and populist. I shall come back to that. However, I do not want to put him off voting for the petition entirely. I thought in a very thought-provoking speech he did talk about alternative tax measures, and I think he was really the only Member of the Assembly who addressed the changing political and economic climate that we are now in. That was certainly absent from the opening remarks by both the Minister for Treasury and Resources and the Chief Minister, but Senator Syvret was concerned about what we are moving into and whether G.S.T. is going to be fit for purpose. Senator Vibert doubted about increased red tape and I wonder whether he does talk to small businesses. I find it incredible that anybody could say that G.S.T. will not impose an administrative burden and an extra cost on small businesses. **[Interruption]**

Senator M.E. Vibert:

It is a correction. I did not say that. I said it would be comparable.

The Connétable of St. Helier:

Deputy Ryan of the Corporate Services Scrutiny Panel said that his Panel had not explored alternatives to G.S.T. They were willing to do so, or certainly he is willing to do so, I am not sure about his Members. **[Laughter]** I was left a little unsure of how he is going to vote but not half as confused as I was after Deputy Scott Warren. **[Laughter]** The Deputy of St. Mary asked a number of specific questions which I will endeavour to answer. She asked what had changed since the fiscal strategy was developed. Senator Syvret, as I have mentioned, partly answered one of her questions. He queried whether the tax proposals do not need looking at again in the light of a changing world. What else has changed? Well, the Council of Ministers has shown certainly the public their inability to control expenditure in a meaningful way, and that is where I parted company with the strategy originally. The tourism industry has asked us to defer and to reconsider the need for the tax, but most importantly in terms of what has changed the public has, albeit late in the day, realised how the tax will affect their pockets and has asked us to defer. Deputy de Faye, who is always entertaining, even before lunch, questioned the turnout in the Royal Square and in public meetings and suggested that because so few people comparatively had turned up that the public perhaps were losing their interest in stopping G.S.T. I would remind him that we are not here today to consider the turnout at public meetings. We are here to consider the petition, which is on the table before us. He mentioned that 3 Assistant Ministers have been investigating savings for months and I wrote down Q.E.D. (*Quod Erat Demonstrandum*). Then he said that someone yesterday had told him of a saving that would net £200,000 and he mocked it and worked out that £44 million would be required to fill up the space. How revealing that is about the Council of Ministers' attitude to saving money. The Deputy of Grouville feels that G.S.T. is inevitable but that a delay is

reasonable because public buy-in to taxation is important, and I fully support that. The Connétable of St. Ouen accepts that more should have been done to convince the public that we need the sales tax but he is adamant that we must bring it in. He says that delays cost money and some Members did refer to the fact that not bringing in the tax next year will cost money. I would only remind Members of what I said in my opening speech that it is not our money yet. The Connétable of St. Lawrence was doubtful that an independent review would do the job in time, and Senator Ozouf was among several speakers who laid the success, the economic prosperity of the Island and our undoubted success, at the door of fiscal strategy. I think that is somewhat disingenuous. It does involve a re-writing of history. I have been in the States long enough to know that it was things like the *Edwards Report*, it was the States' determination and his Finance Committee, or the committee he was on, the determination of the States to get a really robust and well-regulated finance industry alongside the infrastructure and the flight connections and the other things that are important to finance, alongside the legal services industry and so on. It is all of that that has made us a successful destination. It is not the promise of G.S.T. I have checked back with a number of business leaders who say, quite honestly: "Bring it in or do not bring it in. We are not really interested. There are much more important things than that." I did not say we do not need the tax. I said we do not need it yet. I thank Senator Norman for his support. He says that the States have not made a fiscally difficult decision in living memory, which I think is a wonderful quote. I am going to save that one up and use it. The Connétable of St. Martin said the States should stop spending money. Well, we all think that and everybody said that in the amendment to the Business Plan, but you will not do it unless your feet are held to the fire. Several other speakers towards the end of the debate pledged their support for the new tax, and I hope they do not think I am rushing through them but I know the clock is ticking towards lunchtime. I will just take Deputy Gorst up, I think, on his attack. Attack is sometimes the best form of defence and he was really quite scathing of Deputy Le Hérisser for some reason, in particular for not having done the job of identifying savings for him and his fellow Assistant Ministers, which I thought was pretty rich but he seems to have got away with it. Finally, before I just make my closing paragraphs, the position on Guernsey needs restating because several Members referred to it and several could not resist the obvious remarks about sewage and things like that. As I heard it 10 days ago, what Guernsey is planning to do is to have the interest on their strategic reserve there to cover any shortfall that they cannot make from alternative fundraising methods and from the attempt to grow the economy. Most important, their government's view, and it is not just the Deputy I spoke to, the government view is to make meaningful savings first and bring in a sales tax after if you need to, and I believe that that at least is right. Finally, I just want to make a few general comments before we go to the vote. I have been disappointed that very little has been said about terrorism. One Member did talk about the need for a diverse economy, Deputy Power I think, but we often hear Members talking about the need for a 2-legged or 3-legged stool for Jersey, for a diverse economy. But how many Members have really thought about the endorsement by the Hotel Association? I know that if we had a Tourism Minister - and it is a thing I refer to in my report; Senator Ozouf does not like it - he or she (and it is hard not to recall old blue eyes standing there in the corner) would have been on their feet supporting the petition in the name of tourism. I think it is a shame we have not had that. Glib statements in support of tourism are cheap. Members who value the tourism industry, who value the costly steps the private sector is making at the moment to improve hotels and restaurants, must recognise that the absence of a sales tax can only be good for Jersey's brand. The reference to brand; I cannot resist referring to the Golden Bird, total cost one-third of a million. The Golden Bird would soar that much higher if its wings were not clipped by G.S.T. But what of the people of Jersey? What of the stream of letters in the *J.E.P. (Jersey Evening Post)* that have cogently, thoughtfully and for the most part unopposed argued that we can afford to step back and re-examine the need for this tax? What of the cynicism? What of the widespread belief that once elected we simply stop up our ears? These are not sirens calling. Why, only a few weeks ago the Deputy was singing their tune. How many members of the public share the Council of Ministers' confidence that this new, improved recipe for in-Assembly working group will deliver meaningful savings in our public sector? The

Council of Ministers knows that we do not need to close libraries or nursery schools or the youth service to make significant reductions. We do need to take tough decisions. We will, mark my words, face bigger crowds in the Royal Square if we make the kind of decisions that we have to to cut our costs. It is not an easy way out, it is not glib and it is not populist to cut public expenditure, but it cannot be done, says the Council of Ministers. How often do we hear that in States meetings? Well, I believe it can be done and I know that my fellow Connétables, even if they will not back me with this petition, share my view that it can be done. The parishes have a system for setting taxation that is probably unique, that does not lead to chaos or the dysfunction of public services. It relies on trust between the ratepayers and the parish authorities. “*Vive la différence*” I say. Let Treasury officials examine all of our accounts, I say. They will find the Comité des Connétables, which meets every fortnight, our door is open and we are willing to talk to the Treasury about how to save money, how to increase revenues and how to keep rates down. One of the most interesting statements of the entire debate I think was from Senator Routier. Senator Routier said, “Money raised from G.S.T. is going to be spent on the people. We spend their taxes wisely.” Oh, if it were true! And oh, if it were believed! I am afraid the trouble is at the moment that we can only restore public confidence, we can only heal the rifts, if we listen to the public’s petition. The process of healing will start today. So, I urge States Members to use their “pour” buttons and vote in support of this petition of 19,000 Islanders. Let us show the people we are a government that listens. I maintain the proposition and ask for the appel.

POUR: 23

Senator S. Syvret
 Senator L. Norman
 Senator B.E. Shenton
 Connétable of St. Mary
 Connétable of St. Clement
 Connétable of St. Helier
 Connétable of St. Brelade
 Connétable of St. John
 Deputy R.C. Duhamel (S)
 Deputy A. Breckon (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.A. Martin (H)
 Deputy G.P. Southern (H)
 Deputy of Grouville
 Deputy J.A. Hilton (H)
 Deputy P.V.F. Le Claire (H)
 Deputy D.W. Mezbourian (L)
 Deputy S.S.P.A. Power (B)
 Deputy S. Pitman (H)
 Deputy K.C. Lewis (S)

CONTRE: 28

Senator F.H. Walker
 Senator W. Kinnard
 Senator T.A. Le Sueur
 Senator P.F. Routier
 Senator M.E. Vibert
 Senator P.F.C. Ozouf
 Senator J.L. Perchard
 Connétable of St. Ouen
 Connétable of St. Peter
 Connétable of Trinity
 Connétable of St. Lawrence
 Connétable of Grouville
 Connétable of St. Martin
 Connétable of St. Saviour
 Deputy J.J. Huet (H)
 Deputy P.N. Troy (B)
 Deputy J.B. Fox (H)
 Deputy S.C. Ferguson (B)
 Deputy of St. Ouen
 Deputy P.J.D. Ryan (H)
 Deputy of St. Peter
 Deputy G.W.J. de Faye (H)
 Deputy J.A.N. Le Fondré (L)
 Deputy of Trinity
 Deputy A.J.D. Maclean (H)
 Deputy of St. John
 Deputy I.J. Gorst (C)
 Deputy of St. Mary

ABSTAIN: 0

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

The adjournment is proposed. Adjourned until 2.15 p.m.

LUNCHEON ADJOURNMENT

PUBLIC BUSINESS - resumption

2. Draft Price and Charge Indicators (Jersey) Law 200- (P.149/2007)

The Deputy Bailiff:

The next matter on the agenda is the Draft Price and Charge Indicators (Jersey) Law 200- (P.149/2007) lodged by the Minister for Economic Development, and I will ask the Greffier to read the citation.

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

Members may be reassured to know that this platform is not here for the price marking debate. This is actually here for the I.M.F. (International Monetary Fund) stuff for which we have a bit of fairly complex legislation. I hope that the Price-Marking Bill is not, in fact, going to require me to stand here for too long. As Deputy Breckon has raised the issue of the lodging period, the reason why this has been put forward for reduced lodging period is, of course, because effectively the same law has been lodged for much longer than the 6 weeks and I will go on to explain why. Unlike most other countries, Jersey has not in our history had to consider how prices of goods are to be displayed for customers. However, with virtually certain introduction of G.S.T. and, of course, Senator Norman put forward a proposition that wanted to deal with the issue of price marking before we go on to deal later on this afternoon with the Appointed Day Act, he did want this. This is why this debate is happening before the actual Appointed Day Act debate next. I have responsibility for Economic Development but also Economic Development is responsible for consumer protection and, therefore, in the context of G.S.T. we have had to consider very carefully how price marking is to be dealt with, with the new proposals for G.S.T: how customers are to be protected from potentially misleading price indications, what legislation is needed to achieve protection and, perhaps most importantly, if legislation that is in place in most other places is appropriate and proportional to the Island's needs. I will admit to Members that I have been somewhat surprised at the nature of the debate concerning inclusive pricing. I personally have always believed because everywhere else had introduced G.S.T. on an inclusive price basis, that that is how we were going to introduce G.S.T. here, but I fully recognise the importance that there is a separate debate. I gave an undertaking to the Assembly last April that we would lodge a stand-alone Price-Marking Law and that that would originally have been debated before the summer break. This was because in the April debate Members clearly wanted to separate the issue of price marking from the arguments, which we have of course rehearsed this morning and yesterday, on the introduction of G.S.T. itself. Price marking is an absolutely vital consumer protection issue. The fundamental question is, in theory having made the decision that we are going to introduce G.S.T., should traders be allowed to add 3 per cent at the till or should it be added to the actual price indicated to the consumer on the shelf? Should we legislate or should we let traders do what they wish? As events developed, the Economic Affairs Scrutiny Panel, after I made the commitment of lodging the law, announced their intention to scrutinise the law. Effectively what happened was that, on hearing that, I put the original proposition on hold and withdrew it. The Economic Affairs Scrutiny Panel and I do not often agree, but I am delighted to say that having scrutinised the law they are in agreement with the provisions of the law. I have to say that I think their report is a good, searching and thorough one. I think it has taken a very balanced view. They called to evidence a whole manner of people for and against the arguments and their fundamental conclusion is consumers have a right to know the total price that they have to pay for goods. Therefore, the Panel has recommended that prices are marked and displayed inclusive of G.S.T. One of the Panel's key findings was also certainty to business management. Retailers, they said, need to know if a single price-marking method will be imposed and, if so, what it should be. They need to know, they said, as soon as possible, and I agree with that and that is why we are having the debate today. I am going to come back to the timings of the

introduction of inclusive in just a few moments. Deputy Ryan, before the weekend, circulated a note on this whole issue and he has commented - and no doubt he will comment in the debate - on G.S.T. as a use in our weaponry against inflation. He seems to be stating that more work needs to be done on how G.S.T. could be used to control inflation, and he has argued that we should put on hold the price-marking issue until we have done more research. Members will know my interest in economics and I have given this matter considerable thought, but I have to say the conclusion is I do not believe that the issue of inflation and the use of G.S.T. has really anything honestly to do with inclusive or exclusive pricing. I accept that there could be circumstances where G.S.T. could be used to control inflation. Where demand is running high, inflation generating demand, outstripping supply, G.S.T. could in theory be used as a fiscal tool. However, it is certainly not a panacea and it could be ineffective. I certainly do not want to give Members an economics lesson because I would not be very good at doing that, but there are certainly circumstances in which if demand would be high - because, for example, investment is booming or there is high export demand - then we would not want to dampen demand in any event. G.S.T. is not the only fiscal mechanism for managing inflation and if we were in a situation that we were lifting G.S.T. up and down as a fiscal tool I think that there would be serious cause for confusion and indeed distortion in the market. I also think that when Members are considering these arguments we should not forget that we have made a commitment on a 3 per cent rate; a 3 per cent rate certainly for 3 years and, if some of us have anything to do with it, a long time to come in future. I realistically would argue that I do not think that G.S.T. is the right tool to effectively control inflation. I do not think the public is also ready to accept G.S.T. as a tool to fight inflation, but that does not mean to say that we are not needing to continue to be tough on inflation. Indeed, our inflation report card is very good and there are all sorts of other things that I think Members can rely upon to control inflation: stabilisation funds, fiscal policy panels, all designed to ensure that we are making good economic decisions against the fight on inflation. I have to say that none of this really has to do with inclusive pricing at the till. There are sound reasons why we need shelf-edge pricing. Consumers need to compare prices. We need to make a decision on this issue today: inclusive versus exclusive when G.S.T. is going to be implemented. I do want just to explain to Members what the timing of the introduction of inclusive pricing will mean if we go on to accept this piece of legislation. If the Assembly passes this law today, we will immediately commence consultation and publication of the Regulations that will lie underneath this Bill and these would be lodged after an appropriate period of consultation with the Scrutiny Panel, too, in the New Year. I will propose in those Regulations that the date of introduction, in accordance with a commitment given a number of months ago, should be somewhat after 1st May. That will give retailers time to prepare but there are 2 "howevers" to that. The first is that if the Assembly chooses to pass this Bill and we go on to the Regulations, Members will be able to amend those Regulations and it will be up to this Assembly to decide what the date of introduction of inclusive pricing will be. I fully expect - in fact, I have been told - that there will be an amendment to those Regulations on that date and that is a debate we will need to have on that basis. From our own point of view, a commitment has been made and there is always going to be, I think it is reasonable to accept, a period of time after the implementation of G.S.T. for people to make ... we are quite late in the day in making this decision and I accept that. What I would say, which is the more important point, is that once the decision on the fundamental law today has been made, retailers will be clear. Somebody mentioned in the earlier debate yesterday, that Jersey Telecom has already spent £250,000 on the introduction of G.S.T. Indeed, many retailers are already planning for the introduction of G.S.T. on an inclusive basis. What they do need to do is to have certainty. I fully expect that if we pass this law today, even though the Regulations on the final date will be decided in the New Year, retailers will be planning and investing on the basis of inclusive pricing. So, this is just a short enabling law of 9 articles; the most important provisions are in Article 2. They are the ones that make the States able to make Price-Marking Regulations later and it is Article 2 that is the critical one. It gives direction that Regulations will provide for G.S.T. on the default position of an inclusive basis. I will propose inclusive pricing within the time scale that I have indicated, but there are other important issues

such as unit pricing which will follow later on and that will be after a suitable period of consultation with industry. This is the enabling law; the Regulations will deal with inclusive pricing. The issue of unit pricing, which I think is an important future tool for consumer protection, will follow within, I imagine, one or 2 years. This is a fundamental issue of consumer protection. It is one that has been supported by the Council of Ministers and, I am pleased to say, the Scrutiny Panel. I would just repeat, finally, that nowhere in the world has introduced G.S.T. or V.A.T., as opposed to the North America form of sales tax which is different, on an exclusive basis. There is powerful evidence from throughout the world of other jurisdictions who have introduced G.S.T. on an inclusive basis and I urge Members to support the preamble.

The Deputy Bailiff:

Is that seconded? [**Seconded**] Does any Member wish to speak on the principles? Yes, Deputy Southern?

2.1.1 Deputy G.P. Southern:

It is with some surprise that I find myself here today more or less supporting the Minister for Economic Development because when I started out to look at this, my position was the opposite of his and I intrinsically preferred the arguments in favour of exclusive pricing over inclusive. However, having studied this particular topic, it was clear to us from the very beginning that whatever method of pricing was decided upon, there were additional costs to business in converting and adapting to G.S.T. As a result of our investigations, we have come to the conclusion that it is 6 of one and half a dozen of the other. It is swings and roundabouts. There are costs with whatever system we use, and what appeared to be the objections to inclusive pricing, on-the-shelf pricing, largely concerned those large food retailers who were in the habit of accepting food from the U.K. market already pre-priced. This is a significant cost to have that re-priced either in the U.K. by siphoning off whatever it would be - 1 per cent of the food stream - and having it re-priced either in the U.K. or over here. That is a costly process and there will be a cost in that and somewhere in the system that cost, indeed, will be passed on to consumers. But the problem therein with these large food retailers is not intrinsically in inclusive or exclusive pricing. It is on the fact that this Assembly decided not to exclude food from its G.S.T. Regulations in the first place. This is where the problem is. That issue may be dealt with for good and all in about approximately 4 weeks' time, but that is where the root of the objections to inclusive pricing were rooted. The evidence that we found was that it was, 6 of one and half a dozen of the other. We can go either way, but we had to conclude that what it did come down to was the consumers' rights and it is 2-fold. The Panel believes that Jersey consumers have a right to know 2 things. They have a right to know the total price they have to pay for goods when they walk in the shop, and they also ought to know the G.S.T. payable on their purchases. So, it is 2 things. It is 2-fold. That is the conclusion we have come to in SR 16/2007 which we published recently and I am sure everybody has read. I will just pick a few quotes from page 23. Most importantly, what we found was that retailers were crying out for one thing above all and that was certainty: make a decision. Briefly, Mr. Breakspear who gave his evidence: "I found the worst decision that the States could have made was not to make a decision at all for 12 months. If we advise our people to go down one route and then in 12 months' time the States say: 'You are going to have to go this way,' then we are going to have to change it all back again. Another cost implication." Then, further on: "We, the retailers, need stability because time goes so fast and 12 months is going to have gone like that. We need clarity. It does not matter. Just give us a system." Then, finally, this plea: "Please make a decision. You know that is the absolute thing." So, I am glad to hear today that we are going to have a time scale and we are, I hope, going to make a decision today. However, it must be said that these 2 rights, the right to know how much you are going to pay and the right to know how much G.S.T. you are going to pay, are not included in the price-marking legislation before us today. We think a further amendment is necessary in order to get the second part of those rights into action. I apologise to the States. We thought we could amend the current law or the Regulations to do so and we were certainly trying to

have brought that amendment by now, by this debate. However, we are told that we cannot amend the Draft Price and Charge Indicators Law (Jersey) 200- to achieve this. It was not the most appropriate way. It will have to change almost the name of the law in order to encompass what we envisage. What we envisage is that there will be a mandatory right for people, for retailers over the threshold, G.S.T.-charging retailers, to indicate on a receipt how much tax was paid on the purchases paid. We are working at the moment on amending the legislation to ensure that second part of the right is put in place. So, the overall message was, make your mind up, get on with the decision, we can cope with either but as soon as we know what we are going to have, the better it is. The secondary issue is that food pricing is a problem because a lot of our food is imported from the U.K. pre-priced and that is a problem we need to deal with. Thirdly, we will be returning with an amendment at some stage to the appropriate part of the legislation to ensure that consumers have a right to know how much G.S.T. is paid on their purchases via their receipt. So, with that, I would conclude that I support the principles of this particular law.

2.1.2 Deputy A. Breckon:

Sometimes the devil is in the detail and, of course, some of the detail will be in the Regulations which are not in front of us. We have the problem if we do not express a concerned opinion at this stage, then when it comes later it is said: "We have already decided this and you are now nit-picking and trawling it over." The reason I want to speak, is to make it clear that I think where the problem will be is with low ticket priced items and I think that is generally where the concern comes because of the rounding issue. In the report attached to the law, it does say that there is still much uncertainty as to what will be required at the end of the 12-month period: "In light of the Scrutiny Report, the Minister now feels that the States must make a decision as soon as possible and considers in the strongest terms that decision must be for G.S.T. inclusive price marking." I would say for that my support is qualified in that in the main, if it is a big ticket item, if it is cars and white and brown goods, then it is not necessarily a problem because there is a degree of transparency. I think there are also some problems with things that do not round up. Fifty pence, for example, does not very well round with 3 per cent. There has been some discussion, certainly in the community, about at the till or on the shelf and the general opinion that I have picked up is, certainly in what I would consider supermarket shopping, it is at the till and that is for logistical reasons. That is because to programme, especially for companies that operate in both Islands, they would have to change their software in one Island but not the other. There are lots of items which come in pre-marked which would have to be either over-marked or, in some cases, there is a threat - that is what it is - that they would also be withdrawn. What it also says is that Regulations that would deal with the many aspects of price displayed to consumers, if the enabling law is passed in the States then there will be presumption in favour of inclusive pricing. Again, that is a problem especially in supermarkets. There has been a degree of consultation but the problem I have is that I have been approached by individuals and organisations and people in the trade and they have said: "Well, has the Minister really listened to what we have said? Because we do have a real fear that if we have to start re-ticketing a lot of the small stuff then it is not a one-off exercise. We would have to do it for ever more and there would be a staffing issue and there would be cost issues with that." Although the Minister said: "Perhaps it will not be inflationary," if it goes down to that level then perhaps it will. Without that transparency there is a suspicion of decimalisation and other things. Well, that was that then and how much is it now? Weights change and things like that and consumers want a level of comfort and I think the traders want a level of comfort so that if prices are seen to rise they will not be blamed for 3 per cent being something else. They have real fear of that. I would also like to refer something to the Solicitor General. My understanding under the Licensing Law is that there is something about displaying prices, and that is outside and inside premises, and it is something, perhaps, I do not know if it is relevant, but I wonder if I could call on the Solicitor General to answer that.

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

Yes, there are a number of provisions throughout the Licensing Law relating to different categories of licence but they are all in the same wording. So, it is enough if I simply refer to one of them. It is a requirement to keep posted at the exterior and close to the entrance where customers can see it a notice and then the wording is: "Specifying the charges made for the various descriptions of liquor sold according to the measures by which they are sold and to keep every such list displayed." So, it has this to display how much beer is per pint or how much whatever the drink is per measure it is sold in.

Deputy A. Breckon:

Could I ask the Solicitor General what the situation is if an establishment has a 10 per cent service charge and how they should display that and whether, indeed, they do?

The Solicitor General:

The service charge is not the charge for the liquor sold. It is justified as a charge for the service. So it does not come within the wording of the Article.

Deputy A. Breckon:

That much is clear, but what I am trying to demonstrate is that it is possible to display a price at the moment and, in fact, when you pay you actually pay something else although for the actual price of the item, the food or the drink or whatever it may be, you do pay a price but there is a service charge added to that and we are used to that. Is that a correct assumption?

The Solicitor General:

Yes, I think as a matter of practice a lot of places will simply say at the foot of their menu that there is a 10 per cent service charge or whatever it is service charge. They do not display it as part of the individual price of each thing. But generally, certainly in places where I have been, it does put you on notice that there is a service charge and, indeed, that there is not a service charge in places where there is none.

Deputy A. Breckon:

I just want to demonstrate that there are practices already where prices are perhaps not what people think they are and we are used to service charges in some areas but not others. Also, there is a High Street firm, and I will not advertise for them, but they do charge a premium on their foodstuffs at the moment. I also understand - and the Transport Minister is sitting on my left - I think taxis and cabs also have some add-on charges for various things which are not on the meter, for suit cases and stuff like that as well. The reason I say that, is because if we are talking about price marking and indications, I just wonder why nobody has made a lot of noise about some of those issues before. Because if we talk about certainty, some of the things that I have touched on perhaps do not give that certainty. I know I did want to say that, again, in the explanatory note attached to that it said: "As a general rule, the price or charge will include any Goods or Service Tax chargeable on the supply of goods or services, although States would have the power to make exemptions to the rule." I wonder how the Minister feels about whether supermarkets could have some exemption away from the price marking on the shelf because I can really see this being an absolute nightmare if it has to translate on to many things where 50 pence is an example. If you buy a quantity of good, say you buy 10 items at 50 pence, you do not pay 3 per cent if you round it up to 52. Instead of paying £5.15 you pay £5.20. You can say: "Well, it is only 5 pence". But it is 33 per cent more and it is 4 per cent instead of 3 per cent and that is as clear as whatever. But it is a mark-up. I have a good working relationship with many in the High Street and they have a fear that if this happens and they have to do it then they will be accused of perhaps profiteering. The other thing with it, there is a trick of the trade where if something is a fast-moving line, what you can do is say: "Well, we have not put any G.S.T. on that." But if you sell a lot of them you can absorb it in the margins because you are doing that. If something else is there you say: "Well, we have done it in other

areas.” I think there is a fear of not having this transparency. I know the Minister has a difficult position here and perhaps in his summing up he could give some indication of which way he might go on this because, as I say, there is some genuine fear out there. Of course, for the ordinary people who are regular shoppers it will have an effect on them of how much they pay out each pension here and there. We do not have anything and I noticed in one of the Articles it mentions about the fraction of a penny not being able to be displayed. In this, some of this will be critical areas especially in the supermarket shops. I would just ask if the Minister could note those concerns I have at the moment and, perhaps, if he could give some indication when he sums up.

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

It is always good to be on the Economic Affairs Scrutiny Panel and, seemingly, agree with the Minister for Economic Development. I have a feeling my Chairman might not be quite awake this afternoon because we do say in our report 2 parts; the total price they have paid for goods, and G.S.T. payable on purchases. Now, I have concerns either way. As the Chairman of the Panel, Deputy Southern, has already said, there will be costs to both retailers and consumers. We published our report on 25th September and it is that same Price-Marking Law with the preamble in the front basically with our recommendations was then lodged again on 4th October. What worries me is part 2, and we are very clear that the consumer part, not the retailer, the consumer part knows exactly how much G.S.T. they have paid. We know we can work it out if it is 3 per cent but, as you know, there may be variables and the person doing their shopping is not going to be walking around with a calculator. Could I just bring Members’ attention to page 4 of the Price and Charges Indicator Law? It all goes very nicely, and the Minister for Economic Development, under the bullet points, is very pleased and delighted with Scrutiny, and informed customers how much G.S.T. they have paid. But it says: “It remains to be seen if such a requirement may be a step too far in the terms of cost imposed on businesses to achieve compliance.” We are back to businesses, and I obviously understand that if we put too much cost on to businesses they will pass it on to the consumer. But if they have to show exactly how much tax that they have passed on, I am not so sure that it will go over the 3 per cent. So, this is the quantifier, I thought, the Scrutiny Panel put on the prices inclusive. Now, my Chairman has already stated we are having difficulty. We cannot amend this law. We have been told it is part of the G.S.T. law. I would like to hear from the Minister for Economic Development in summing-up why - and I know we have had the debate from Senator Norman that he had given retailers at least a year from before the G.S.T. comes in to decide on which way they will go - he has not brought a Draft Pricing and Charges Indicator (Jersey) Law that will do exactly what the Scrutiny Panel is asking. Because I also feel that all the time, as the Minister has said, he seemed totally surprised that G.S.T. in Jersey was not going to be treated like it is in the rest of the world, but most of the rest of the world shop, probably, in the U.K. and they fully understand what V.A.T. is. I know, that it is inclusive, but I do not think it is a step too far. It is a consumer protection and even though I was on this Panel, if I do not get the right answers from the Minister I want to know, will it be a step too far; when or if - well, it will be when - we can sort out which law we have to amend and what the wording will be and when we bring it. Can I have an assurance from the Minister for Economic Development that it will have his support because he knows exactly what we are trying to do because all the time G.S.T. has ever been talked about by the Minister, that was always his hope that it would be inclusive but people would know the amount of tax that they have paid. That was always my understanding of his understanding. So I do not think it is a step too far and I would really like his assurance that whoever brings this amendment to the law that fulfils what Scrutiny asked for, it will have at least his support.

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

May I just admit, firstly, to being conflicted in that I run a retail establishment, but I would with your permission just speak in general terms. Having been on the Scrutiny Panel involved in this, I am well aware of the detail but I would ask the Minister who alluded earlier on to the timing arrangements to perhaps be a bit more precise on the transitional plans because clearly there will be a lot of establishments which will need a considerable amount of time to comply sensibly without incurring enormous costs. I refer to establishments which have vast numbers of stock items which perhaps do not turn over as rapidly as others, and they will probably need, I would have thought, 12 months to be able to fully comply with the proposed law.

2.1.5 Deputy G.W.J. de Faye:

The price marking is a fascinating issue and, indeed, has provided quite a lot of column inches in the media and discussions on the radio airwaves, particularly with regard to the theories of rounding up. It does seem to me, though, that the vast bulk of this has been entirely misleading and various shopping baskets have been selected, the 3 per cent applied to varied prices, rounding them all up and figures have been then extrapolated across an entire year to show how local housewives will be savagely punished by rounding up, although this does seem to predicate some sort of communist pricing system where the prices never change from one week to the next, which, certainly, is not my experience. I can only gauge that these days journalists do not get out enough and do not really do enough shopping to have spotted the 2 for the price of one bargains, the 50 pence off this week and the offer ends 31st of the month, and so on and so forth because consumer shopping is a slightly more interesting experience than fixed prices year round. Nevertheless, the rounding-up theories have supported the concepts of charging at the till. This is the idea that on that basis you are only rounding up against one final figure; therefore, you will have a more accurate result. That seems to be one of the major arguments in favour of charging at the till. Therefore, I think we are looking at something which is fairly straightforward here, as a choice. If you charge 3 per cent at the till or at the end of the service being completed and so on and so forth, it is going to be 3 per cent of a certain figure. I would think that almost everybody presenting a bill will put down: "Here is the charge. Here is the total. Here is the 3 per cent that the States of Jersey have insisted on putting on the bill" and everyone will end up paying 3 per cent. What I would like to gauge the view of the Minister on - who, I am sure, has had the ears of more experts than I have been able to get around to discuss the subject with - is that the contra argument is that by having pricing on the shelf there is a certain level of flexibility and the suggestion that price marking might run the other way, that there will be a pressure on retailers to absorb, to some extent, certainly the round-up or even a portion of the 3 per cent tax itself within their profit margins. This theory has been hung on the back of a number of U.K.-based operations, chain stores that have branches in Jersey. The general theory seems to be that their goods are normally priced up in the U.K. to take account of the U.K. level of V.A.T. at 17.5 per cent, shipped here with the price generally staying as marked on the goods, and they are then sold here currently, one assumes, allowing for a little bit of the increased margin to be spent on the cost of transportation, effectively skimming local consumers by, as it were, charging us V.A.T. by stealth. The argument is that when V.A.T. is put on, these organisations will, in fact, absorb the tax within their existing profit margins. I would like to, firstly, ask the Minister if he could broach this in his summing up. Is 3 per cent 3 per cent when charged at the till or it may be less than 3 per cent, as it were, overall to the consumer if we go for price marking on the shelf? I would like to know from him how realistic is that, in fact? Is that a choice we are looking at? I would also like to know that, given this seems to be a theory that applies to United Kingdom chains with branches in the Island, is this impacting in any way unfairly on local businesses? I think when I can have some clarification on these issues I will find it very easy to make up my mind in terms of which way to vote. But as I am on my feet and the subject has come up, interestingly, I have not yet devoted my attention to how G.S.T. might be applied to taxis. As Members I am sure will know, the industry is split into 2. Radio cabs are unregulated by myself or the department. Rank taxis are and rank taxis are allowed to charge extras for things like

numbers of people in the cab plus suit cases and so on. It will interesting to determine how we will accommodate G.S.T. because, clearly, there is going to be a different charge according to how many people in the cab, how many people on board and how far you go before you get out. So, I rather suspect it will turn out, in all events, to be effectively a charge on the till because we will not know what the charge is until we have arrived at the final destination. I would suspect we would have the software available that the drivers would simply punch a button and 3 per cent will be added on at the end, which, clearly, is not pricing on the shelf but then that is another argument for another day. To conclude, I would be grateful if the Minister would put me straight: is this a simple choice between 3 per cent is 3 per cent if we put it on the till, but if we price on the shelf there is the possibility for flexibility here and G.S.T., as it were, may be marginally absorbed into profits or at least the rounding-up problem is not, in fact, a problem, as has been suggested? Also, is he confident that pricing on the shelf - given the example I have offered up about how U.K. chains that operate in the Island might respond - will not impact unfairly by contrast on local retailers.

2.1.6 Deputy J.B. Fox:

As an ex-retailer in my early life, I have inside knowledge up to a point, but it is about 40 years old so we are a bit outdated now. Having said that, when decimalisation and when V.A.T. came in and everything else, there was a lot of appeals. At least we do not have to have that. I would suggest that all these arguments about what could be exempt or zero rated and what is not on a particular product, or whether it is a taxi or a hire car or a bus or whatever, has already been through all the courts and all the challenges that there are. So, we have a great advantage. It is still, nevertheless, not an easy subject because it depends on how you look at it. If you are the retailer, in a simple case, 3 per cent at the till is a nice straightforward and simple way of putting it on and taxing. That does not mean to say that the client, on the other hand, will be just paying 3 per cent. It is just like when we have impôt duties, the Chancellor puts a figure on it, the brewery adds an extra bit of figure on it, and it goes up by a margin greater, and I suspect the same thing could happen. We already have and it has already been mentioned other taxes that have been included because of the charge of bringing over goods, et cetera. From the retailers' point of view, of course, it also can be confusing. We all travel around the world now. Last week I was in Norfolk visiting my son and my grandson and it had an extra bill on the bottom of the receipt for a hire car for V.A.T. Now, that should have been included in the price but it was not. It told you exactly that there was a charge for V.A.T. Of course, the question is, was that V.A.T. included in the price and they were just telling you how much tax you were paying or was it an extra price on the bottom? It was £6-odd so I did not bother to inquire and, in any event, it was after the event when I discovered it but, nevertheless, it is still a question mark and it does happen. On the other hand, if I am in America or New Zealand or somewhere else like that, South Africa, I suddenly find that I have an additional amount to pay and usually because it is a foreign currency it does not cause me undue. But, certainly, when I was in the grocery trade it does make an effect on people who have fixed incomes especially and know how much they can afford to spend on specific things. There is nothing worse for them to go to a till and find out they have not enough and then they have to decide what they have to put back, unless you are generous to them and, as a retailer in those days, we often were generous to our local customers. But I doubt if that happens so much nowadays. But, in any event, these are things that we, as States Members, should think about and should bear in mind. The easiest thing, of course, is to decide one or the other because no system is perfect. I must admit, when I am on the nearby coast of France they have these nice little machines that read the bar code and you can go and put whatever item of goodies on to the bar code and it tells you instantly how much you are going to pay. In fact, it is a far better system, to me, than it is to have things marked on the shelf because children go along and move things and very aptly move things. So, unless the item is in great detail, it does not tell you a lot. Legally, I understand the retailer is responsible for whatever is marked. So, every time the child does that and moves something along the line, if it is lower than the price the retailer does not have to accept it. This is an interesting thought. Of course, there are other electronic means that if you are sophisticated you can add to your computer and subtract from your

computer and it will automatically show up underneath the item on the shelves. But I suspect that we do not have sufficient volume or trade for our retailers or our shops to consider that as an investment that they wish to go down and you cannot blame them for that. This is really 2 things that the Minister is, obviously, going to have to weigh up and which we have to weigh up. Are we thinking about the retailer or are we thinking about the consumer? Because the 2 will never meet. We might have some compromises somewhat but at the end of the day, neither is going to be happy unless the States have picked what they want. Unless the Minister can enlighten me as to something I might not have picked up but, somehow, I do not think so.

2.1.7 Senator T.A. Le Sueur:

As far as I am concerned, this bit of legislation is primarily in the interests of the consumer. Picking up on something that Deputy Breckon raised earlier about the price of drinks being displayed outside pubs, I think if I consult that price list it will tell me that my price of beer is £1.90 a pint. It does not say it is £1.63 plus 27 pence duty. If it said £1.63 on the sheet outside and I went to the bar and I paid the chappy £1.90 I would probably be a bit cross because what I see on the price list displayed is what I expect to pay at the bar. So I think just as the price is currently displayed inclusive of duty, then when the time comes in future that price will be displayed inclusive of duty and G.S.T. As for the details being clearly evidenced to the consumer, I am reminded, moving as Deputy Fox does across to France, that if I go into a pub there and have a round of drinks, at the end of the session I will receive a little bit of paper which gives me a total price which reflects the prices of the individual prices shown on their bar price list or on their cocktail list or whatever it will be. Then, on that little bit of paper coming off their till, it will also say: "Drinks 8.20 euros, T.V.A. (*Taxe à la Valeur Ajoutée*) 1.80 euros, total price 10 euros." If the French have a mechanism of calculating what 19.6 per cent of the total price is and sticking it on a piece of paper in their till, I am sure we can manage to calculate or have the same sort of software which will calculate and show us what 3 per cent is. I think, from the consumer's point of view, what I wanted to pay for and what I wanted to see is what I am going to pay.

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

I totally support inclusive price marking. I have seen several shoppers at a certain store in King Street refuse to pay the additional 4 per cent at the till. I believe the consumer needs to know how much each item costs and, in fact, has the right to know how much each item costs and, therefore, I welcome and support this proposition.

2.1.9 Deputy P.J.D. Ryan:

What I want to talk about with Members is a little bit of a difficult concept. Members will note that I have put around a paper earlier on this week which talks about a possible secondary use of G.S.T. The problem is that none of us here know the answer. The purpose of the paper was simply to inform Members that this is a possibility. I do not know if it is practical one. None of us here know if it is a practical one. It would require some very detailed analysis by economists. Is it feasible? Who knows? I think at the end of the day I am still going to support this legislation at this stage but I will only be doing that because I know we will be bringing back an Appointed Day Act at some stage. If I were to just ask Members what they felt was the single more important government intervention that we can make economically, I think that the control of inflation would have to be the top of everyone's list and I think that is something we should think about. If we are missing a trick, it is worth at least an investigation. I do not know whether we are or whether we are not. That is why I asked the Minister for Treasury and Resources particularly. We are about or we have already appointed 3 Members to our F.P.P. (Fiscal Policy Panel). We could start there. We should carry out the analysis of the tools that we have at our disposal to control inflation. It seems that when a few people first looked at my paper the first word that came into their mind was something like "barking". The trouble with revolutionary ideas is that, at some stage, slowly people sometimes come round to the realisation that they are not quite as stupid as they appeared at the start. I see

some people nodding [**Laughter**] and I see others smiling. But are we expert economists? Those of us that are smiling, are we expert economists? We have had several high-ranking economists, that have told us that we need to use fiscal measures. We need to seriously consider fiscal measures to help control inflation. One of those fiscal measures might be G.S.T. Might be G.S.T. Price-marking legislation would have the effect, principally, of having inclusive pricing, inclusive shelf-edge pricing. That is the thrust of the legislation. I do not think even those of us who would agree that we are not economists, we know enough about business, most of us, to know that for a business that might have to change all of its prices on the shelf if there was going to be a change of G.S.T. rate, possibly, then that would be a significant extra administration cost on businesses. It would be much simpler, if that were ever to be the case, if all that one had to do as a business was to change one's till. That is all that one would have to do. I simply make that point. I am not going to go on at length. I have put this into the public domain. It is revolutionary but it is worth looking at, and I wait to see whether the Minister for Treasury and Resources, not necessarily now, but I will have conversations with him the near future about whether we are going to seriously look at these items and see whether they are feasible or practical in any way.

2.1.10 Senator L. Norman:

For clarity, I wonder if the Deputy could tell me how often he thinks we should change the G.S.T. rate as the prices on my supermarket shelves change every 2 or 3 weeks. Does he intend to change the rate of G.S.T. more often than that?

2.1.11 The Connétable of St. Martin:

I am a little bit surprised. I do not know whether I have been in a time warp because the last year when this question of G.S.T. has come up, shoppers, retailers, people in the street, people in the public hall, they said: "What do you think about G.S.T. then? The pricing at the till? At the till." I have not heard one person who has said: "On the shelf." I do not know whether I have sort of slipped out of reality and come back into a different world, but I am sure that every States Member in this Chamber has had the same questions and answers as I have. It is at the till. I think the Minister for Economic Development is going to have to explain in his summing up why I should change my mind now because I cannot vote for this if, by default, if it is going to be on the shelf.

2.1.12 The Deputy of St. Peter:

If I could reassure the previous speaker that in St. Peter, in a well known supermarket there where it would appear I hold my surgeries, or that is what it feels like when I go in to buy something, I have exactly the same view expressed. They come to me and say: "This G.S.T., yes? On the till." So it worries me when we are possibly giving them the misleading approach that the consumer is demanding but it is elsewhere. Certainly, within the food industry and the supermarket, that is not what I am hearing. Furthermore, the management within that supermarket has been consulted on that issue and I know they would certainly prefer to have markings on the till purely from the business angle. The difficulty I have here is that we appear to be out of step in the way we are progressing the proposals that are coming before the Assembly because, certainly, if there was an exemption on food, a lot of the arguments that are being placed with regard to "at the till" would fall away. So my concern is by voting this in today I would seek some reassurance from the Senatorial benches. I would look for reassurances that due consideration would be given to the proposition that will be coming up certainly within the next fortnight over the exemption of food.

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

Just looking at the figures, I think we are over-complicating things. If we do the maths or the arithmetic behind the situation, it looks as if there are going to be 4 classes of rounding that are going to take place. It is not going to be a case of applying 3 per cent across the board and coming up with a small decimal number and then doing the rounding. What will tend to happen is that the numbers will fall into 4 categories, as I said before. So, in effect, that means that anything that is

priced in whole pounds will equate to a whole number of pence because 3 per cent of the whole number of pounds equates to a whole number of pennies. The only question arises as to what happens when it is an odd number of pence. Any values falling between zero and 16 pence, when you do your 3 per cent calculation will arise to zero tax having to be added on. Anything between 17 and 49 pence will go up by a whole penny. 50 to 83 pence will go up by 2 pence and 84 to 99 pence will go up by 3 pence. There are only 4 classes to look at. It is not very complicated. I think the interesting part for the customer will be to determine whether or not, in order to save the odd pence on the prices that have been given, they will be looking at the boundaries. So they will be interested in something that is between 16 and 17 pence for the odd penny; between 49 and 50; 83 and 84; or 99 and £1. Simple as that and I think we are being misled if we think it is going to be complicated. It is not and the customers and consumers will get used to it very, very quickly and differentiate.

2.1.14 The Deputy of St. Ouen:

Briefly, I would like to echo some of the comments of a number of speakers who have basically said that all the arguments have been for the G.S.T. to be taken at the till rather than inclusive but, as yet, I do not think we have heard any reason why that should change. We have been told that consumers should know the price of goods. Absolutely agreed. They do that now and I am sure nothing will change. In fact, consumers are extremely good at selecting the best purchases and the same will apply whether or not the prices are inclusive or the prices are taken at the till. We were told, furthermore, that one of the primary issues with the G.S.T. is to be simple. I would ask, is inclusive pricing simpler than taking the price at the till? Everybody that I have spoken to, including businesses both large and small, seem to suggest that the general programmes that they are now using enable them very easily to take a 3 per cent at the till. However, an inclusive pricing package is far more expensive and will entail more cost. Then one has to ask, if inclusive pricing costs more, what will be the effect on the consumer? Businesses normally, if they are faced with an additional cost such as this, will look to pass it on. Not only could you have the effect of the G.S.T. rate at 3 per cent. You could have a percentage to cover the cost of the additional administration that goes with an inclusive pricing system. Maybe either States Members or, in fact, the Minister himself will explain to all of us why, indeed, inclusive pricing is the best option.

2.1.15 Senator L. Norman:

Firstly, can I say thank you to the Minister and his colleague, the Minister for Treasury and Resources, for accepting my proposition of a few weeks ago and bringing about this legislation so quickly. One thing about his tax, if it is going to receive even limited acceptance from the consumer it is going to have to offer clarity. It is going to have to offer fairness and equality. In my view, the most important of these is fairness. Not just fairness to the retailer, which is what has been foremost at the front of the Minister's mind over the last few months, but I think what is much more important is fairness to the consumer. Without this price marking legislation, the choice of how, where and when to levy the tax is delegated exclusively to the retailer. That in itself, not passing this legislation in itself, will be an abdication of our responsibility. The States have decided that this very unpleasant consumption tax should be introduced; therefore, the States should decide how it should be charged and, in making that decision, should do it in fairness to the consumer. The consumer should be at the top of our mind. Without it, the retailer will have the choice, basically, to have inclusive pricing, marking the full price on the shelf or ticket; or exclusive pricing showing the net price of the item and adding the tax at the till. Without the legislation, in fact, as I will show in a moment, it could do both. So, what is the problem? What is the problem with the retailer deciding how to levy the tax rather than the States? As I see it, the problem starts because the retailer is in business to provide a service from which he seeks to make a profit. This profit is used to reinvest in his business but, primarily, it is there to pay dividends to the shareholders. Nothing wrong with that; that is what boosts and maintains the economy and preserves jobs, generates taxes which, in turn, provide our high level of public service. But, at the end of the day, the retailer's

business is driven quite properly by the profit motive. So, faced with the choice of how to levy G.S.T., all would almost certainly employ the method which preserves and, where possible, increases their profit margin. That is normal. That is reasonable. That is understandable. But is it fair to the consumer? Of course it is not. If every retailer and every service provider charges tax in the same way, part of my difficulty with the lack of legislation would go away, but that is not going to be the case. Every individual retailer will need to decide for himself how each shop, how each department in each shop, and even each shop within a larger shop, will collect the tax. Imagine the confusion. Some supermarkets may have inclusive pricing. Others may have exclusive. That would be confusing in itself. Some retailers may have inclusive pricing in some of their stores, and I am thinking chains, and exclusive in others depending on the market conditions. Some retailers may have inclusive pricing in one department, say, food, thinking about supermarkets, and exclusive pricing in another, say, hardware. Some stores, De Gruchy, Voisins, the place that used to be House of Dupré, the markets, they have shops within shops. Confusion would reign supreme if some of those units have inclusive pricing and others exclusive, as they are bound to. I say every retail unit has to charge the tax in the same way and without price-marking legislation that will not happen. It will get worse because without the legislation every retailer will be able to chop and change how they charge the tax. One week they might have inclusive pricing, another week they will have exclusive, until they find the best method to protect their profit margin. All perfectly proper because all they would have to do is have a sign up to say what they are doing on a particular day. Total abdication of our responsibility. We have been told that some retailers intend to absorb some or all of the tax, particularly those who already charge U.K. V.A.T.-inclusive prices, The question we have to ask ourselves is without price-marking legislation, why should they? If they can get away now with charging us 17.5 per cent more than they should do, then why, with our blessing, should they not add another 3 per cent to preserve and increase their profit margins? That is business. Just think for a moment why do these firms, these chains charge V.A.T. inclusive prices anyway. Well, there are 2 reasons, basically. One, because they can get away with it because we are mad enough to pay those prices. But it is also because those items come down from their warehouses in the U.K. already pre-priced and it is just more convenient for them to leave those items priced at U.K. prices. It is also more profitable but that is beside the point. If we have price-marking legislation in place then these retailers will continue in the main to charge the U.K. price because the law would require them to sell their goods at the price marked on the shelf. But without the legislation they will be absolutely free to leave the shelf prices exactly as they are, as they come down from the U.K., then charge another 3 per cent at the till. All with our blessing and with our encouragement. Not very sensible. Confusion will reign, consumers are exploited, and that is not what we want. But without this legislation that is exactly what we are going to get. Food prices: I have changed my mind about having G.S.T. on food prices and we will debate that in a fortnight's time. But let us assume G.S.T. stays on the food prices. One supermarket gave evidence to the Scrutiny Panel and explained that a small amount of their stock, yes, does come down from the U.K. pre-priced, no V.A.T. on it. They say it simply would not be worth their while repricing all of those items that come down from the U.K. if we have inclusive pricing. Not worth their while to do it. So what is going to happen if we pass this legislation and have inclusive pricing? Those prices will remain the same. But if we do not have this legislation and we let them charge whatever they like, 3 per cent will be added at the till. Consumer, you are going to pay more if you have the prices at the till. That is clear, that is obvious. There will be even more confusion at the petrol pumps. Currently the price shown at the pump includes impôt duty. What will happen when G.S.T. comes along? Some garages will include G.S.T. in their pump prices, others will simply add 3 per cent at the till. Price comparison will become difficult, and that is a big thing for us at the moment, particularly with prices now reaching £1 a litre in the U.K., probably here as well. So price comparison will become difficult. Some garages could even exploit our abdication of our responsibility even more and remove the impôt duty from their pump price and add that at the till as well. How great will that be? They can do that now but they do not. Why not? If we are going to make it easier for them, if we encourage them to do this, we exploit the customer to confuse the

customer to preserve their profit margins, then no one will know what the price of petrol is. Nothing we can do to stop that unless we have price-marking legislation. Now, retailers and service providers might agree that every store, every shop, every shop within a shop, every market stall, every service provider will voluntarily agree that all of them will have one system of charging and collecting G.S.T. and not one of them will do anything different and, of course, pigs might fly. At the end of the day, the situation may not be as bad without this legislation as I fear it might. I think it will be but it may not. But that is not the point, is it? The point is that without this legislation the situation could be and might be, and if it gets to that stage there will be nothing, absolutely nothing, that we could have done about it. The people of Jersey will have let the consumers down. We will have abdicated our responsibility and leave the consumers to reap the whirlwind that will surely follow. Sure, we might be able to put things right eventually but what a mess. What a mess in the meanwhile. What I am arguing today for, why I am supporting this legislation 100 per cent is for clarity and fairness for the consumer. Indeed, fairness and clarity for the retailers in that there should be one method and one method only of charging the tax, and that method, in the interests mainly of the consumers, must be inclusive pricing. To do anything else would be an absolute disgrace and a total abdication of our responsibilities, unfair to the consumer who will be lumbered with a full impact of G.S.T. and an absolute gift and blessing to the retailer who will have his profit margins protected and even enhanced with the blessing of the States. We must pass this legislation.

2.1.16 Deputy S. Power:

I would like to speak very briefly on this. I had occasion to be in France last week and I visited a number of stores over there. I have a receipt in front of me from a typical French large supermarket group and there are 6 T.V.A. codes on it, varying from zero per cent up to 2.5, 4.25, 5.5 and 19.6. On this French supermarket summary total they showed the T.V.A. inclusive price and the itemised subtotal being the T.V.A. price in 3 different subtotal categories; that is zero percent, 5.5 and 19.6. That is the one model that is being recommended to us which is pricing at the shelf and an itemised subtotal of the T.V.A. on your receipt. There is another system which is the American system that Senator Ozouf referred to, which is the general sales tax. Now, that lends itself to a system where there is one flat rate of sales tax, 3 per cent, 4 per cent, whatever. That works quite well in North America because you will have one state, like Delaware, which will charge maybe 3.5 per cent, Maryland will charge 4, Virginia might charge 4.5 and there are no exemptions and no variations and it is a straight sales tax. You know what the price is at the shelf, you get to the till, you present your goods in your basket and then they add the 3, 4, 5 per cent, whatever it is. Now, we do not have that situation because now we are dealing with 2 rates of G.S.T., zero and potentially 3 per cent. So we are going to have exemptions. What I suggest is my interpretation of this, and Senator Ozouf should correct me if I am wrong, and he is grimacing **[Laughter]** - I hope he does not grimace all the time when I get to my feet but he is now - my view on the model for Jersey for the future is that it should be priced on the shelf, and that it makes it easier because if we are going to have G.S.T. coming in at 3 per cent and we are going to have exemptions and we are going to have large stores which sell pharmaceuticals, prescriptions, food, other things that it may or may not have different rates of G.S.T., then I think we should price inclusively at the shelf and show the subtotal and/or if it happens different rates of G.S.T. itemised underneath the final total. So I will be supporting the proposition.

2.1.17 The Deputy of St. John:

The thing I am slightly confused about with this whole debate, and the public debate, picking up on what the Connétable of St. Martin was saying, is that I have had many parishioners come to me and say: "It should be at the till." That has really confused me after what Senator Norman was saying, and I have tried to explain to them in the words that Senator Norman used as to why that seemed like an odd reaction for them. I can only assume that there has been a much better P.R. (public relations) campaign, if you like, run by the Chamber of Commerce than there has been by our government because they have been very convincing in their arguments as to why it should be at

the till. We clearly have not got the message out very well because the message that Senator Norman spun out just now, and others have said the same, is very clear. If we do not have this legislation it is a gift to retailers. How many times in the debate over the last 24 hours have people mentioned the cost of living in Jersey, the price of things, and how G.S.T. was going to affect it? They were talking about retailers in the main. Prices in shops. If we do not have the legislation, as Senator Norman said, this is a gift to the retailers. I am not suggesting all retailers are vagabonds or anything like that at all. We have got plenty of responsible retailers here, but it is well documented the fact for a number of multinationals simply it is not worth their while changing their price tags, and Members have mentioned that today. Deputy Power mentioned the United States. There are some very good reasons there which he sort of articulated as to why they have pricing at the till. They have large multinationals, they have different states with different rates of G.S.T. so it is an absolute necessity for them to do it that way in a country of that size. As Deputy Power said, there is no need here. We simply do not need to go down that route. Price-marking legislation is essential to protect the consumer and I am disappointed that the Minister for Treasury and Resources has not got that message across yet to the public. This protects them. It is not about having a go at them at all. We simply, somehow, missed a trick there and I hope those listening today will understand the arguments better because we clearly have not got the message across. This is the best way to deal with it, legislation of this kind, to deal with effectively consumer protection which I hope Deputy Breckon will acknowledge as well eventually.

2.1.18 Deputy P.N. Troy:

I have had people approaching me and a large majority have said that they want pricing at the till. They do not want to have inclusive pricing because they know that they are going to lose out on the roundings, exactly as Deputy Breckon said. I went to buy my *Jersey Evening Post* today and it is 45 pence. When I add my 3 per cent to G.S.T. it becomes 46.35 pence. Now, of course, everybody is going to absorb the .35 pence, are they not? The *J.E.P.* is, everybody is sure of that, but I doubt it. They will probably put it to 47 pence because if they are selling 30,000 newspapers per day that rounding of .35 pence, they are going to charge me 1.35 pence which works out to them on their 30,000 newspapers at £405 G.S.T. per day for them as a company to pay over to the States. On their 30,000 newspapers I have now got a rounding of .65 pence, the difference between 2 pence if it went to 47 pence and down to 46.35, I have a rounding of .65 pence. So that is £195 extra per day that people are going to pay in, in the roundings, to the *Jersey Evening Post*, and the *Jersey Evening Post* then would have an extra profit of 30,000 times .65 of a penny per day and over 300 days that would work out at an extra £58,000 profit for them on their roundings. So I think the *Jersey Evening Post* are not going to say: "We are going to absorb the .35 pence" because if they absorb .35 pence that is going to cost them £31,000 to be generous to all of us and say: "Well, you are going to take it up from 45 to 46." So they are not going to take it to 46 pence because they will lose £30,000 a year turnover. So I am positive that they will take it to 47 pence, and I will bet on it that this becomes **[Members: Oh!]** 47 pence. It will not be 46. But I will be pleasantly surprised if the *Jersey Evening Post* says: "We are going to be generous to you people of Jersey and we are going to give you some of our money this coming year." It will be just like Mr Kirsch giving out a little extra bonus. But all these roundings are going to add up and people will go to the till, if they go to the supermarket and they put in 30 items into their trolley, when they have got all these little roundings, 30 items, half a penny here, half a penny there, they are up to 15 pence extra on the roundings, and this is where really ... people are not fools. They know that they will be taken to the cleaners by the retailers. Some retailers will say: "Well, let us even take it even further than that, let us not go up the 3 per cent, let us chuck in a few extra pennies profit for ourselves as well." That is why I really do feel that we should be having at the till pricing. I have had people coming to me and they are all saying to me: "We want at the till pricing. We understand that we will have 3 per cent placed on top of our bill at the end of it" and they are content with that. So I have had a lot of people saying to me they want it at the till and I am prepared to go with what my people want, what the parishioners want. So I will not be voting for this today. I am going for at the till.

The Deputy Bailiff:

I call upon the Minister to reply.

2.1.19 Senator P.F.C. Ozouf:

An interesting debate. Deputy Southern started by rightly saying that, absolutely correctly, if the Assembly would agree for exempting food that some of the arguments and some of the people that have been arguing against inclusive pricing, some of those issues will fall away. I fully accept that and if the States is going to make a decision on food then some of the opposition which has come from - I think wrongly, and I will go on to explain why - some of those concerns will fall away. He raised the issue of till receipt, as did Deputy Martin. My position is quite clearly the default position for price marking should be exclusive but people should get a till receipt showing what the G.S.T. is. I am indebted to the Deputy of St. Mary who sent me an example of a till receipt from Macedonia. I do not think I understand the language but I think I understand the issue. There is a till receipt showing exactly, as Deputy Power has said, what the amount of G.S.T. is, and that is what consumers want, and the Economic Affairs Scrutiny Panel has my undertaking, and I think we agree, the Minister for Treasury and Resources and I, that that is exactly what the end situation should be. Members have asked why there is some confusion on this issue and perhaps I should have asked Senator Norman to be the rapporteur for this because he did a very good job, of explaining. If I am honest with Members, it has been difficult because the 2 major consumer voices that people listen to in the Island, both the Consumer Council and, if I may say, the *J.E.P.* price watch column, came out in favour of exclusive pricing. People are confused. They have been told that the issue of roundings is more important than the fundamental issue of knowing what the price is on the shelf. I cannot explain why the Consumer Council at some point went completely against what is the default standard O.E.C.D., E.U., Australian, New Zealand, Singapore, the whole world, of consumer protection. Consumer protection means, as Deputy Scott Warren absolutely right and Senator Kinnard made, knowing exactly what the price is at the till. The issues of price points has been raised. Interestingly at the *F.T.* briefing this morning, a retailer who was asking questions said: "Well, as a retailer we prefer to put it on the till because effectively we could pass on that margin." A revealing comment from a retailer this morning. Where are the arguments coming from who are wanting to put pricing at the till? I am afraid it has to be said that it is from the business community themselves, and on this issue we need to fall and I am using my responsibilities primarily as the Minister with responsibility for consumer protection. That is the overriding principle. I am afraid the issues of price rounding, and I thank Deputy Duhamel, he is a far better maths teacher than I ever would be, is absolutely right about the comments that he made. As for the issue of cost of software, well, all of the software that is available on the English speaking world is made for the U.K. model, the E.U. model of inclusive pricing. One thing I did not say was that there is an E.U. directive requiring all E.U. countries, as part of the single market, to have an inclusive form of taxation. So it is not just something the Minister for Economic Development in Jersey is cooking up. This is the default position across the European Union, and it is so important and regarded as such an important consumer protection issue that there is a directive that supports it and requires it. I have to say that the issue of prices is down to competition. If you believe that a business is in a position to set a price they are in a dominant position, and it is the competitive market price, the comparable competitive market price that delivers low inflation. There is no escaping the fact from that. The Connétable of St. Brelade raised the issue of transition, and I appreciate that there is a debate on the Regulations to be had on the timing of it. We will stand by the commitment to bring it some months after the introduction of G.S.T. but there will be another debate on that issue of when it would come in. What we are doing today is basically setting the direction and putting the default position of inclusive pricing, but we will deal with any exemptions, we will be dealing with the date when we have the debate on the Regulations. Deputy de Faye wanted absolute clarity of whether or not this is the default position of inclusive. Yes, that is what the Regulation says, and yes, I agree with the comments made by a number of people concerning the issue of U.K. V.A.T. prices in

Jersey. That is another point. I think it is quite clear that if we were to, foolishly in my view, allow for a requirement of exclusive pricing at the till we would not only see U.K. V.A.T. prices but we would see U.K. V.A.T. prices plus 3 per cent. The remarks of the retailer that I heard this morning about absorbing some of the tax are absolutely relevant in terms of the issue of the U.K. retailers already charging inclusive V.A.T. prices. Deputy Fox agreed and I am delighted to hear that. Deputy Ryan, well, I am not sure that he was here for my introductory remarks. I am pleased to hear that he is going to be supporting the legislation. I do need to say that there is not going to be an Appointed Day Act because it is coming into force 7 days after the bill is lodged, but he does have the opportunity of discussing this, as I say, when we have the Regulations. I am more than happy to go out for a long lunch, a long dinner, a long discussion on the issue of inflation, and I will pay [Laughter]. But what I said, because I think it is only - it is nothing to do with corruption, Deputy Southern - it is just that there is an economic argument about the use of taxation on inflation but I have to say that it is a bit of a leap of faith to say that we are suddenly going to have our Fiscal Policy Panel making decisions on a monthly basis of setting a G.S.T. rate. That would be, frankly, completely unacceptable to the people that have elected us to serve. Taxation is an issue for political determination and I am not at all sure that the public is ready, not only to see a change of 3 per cent of G.S.T. but also it going up and down according to economic demand. I think, with respect, it is a jump too far. Deputy Troy, [Laughter] It is clear I cannot speak for the *J.E.P.* management, but they understand that we are heading for inclusive pricing because that is the default position. They have been very cute because what they have done is they have raised the price of their *J.E.P.* publication to 45p and they, like other retailers, are going to be able to say: "Free tax, no G.S.T. here, we are not moving our price." But it will be inclusive. So I cannot predict, I do not know what they are doing, but I think that they have raised their price in preparation of the tax, but we shall wait to see. The Connétable of St. Martin and Deputy Egré, I hope that they have been persuaded by the arguments of Senator Norman on the fundamental issue of consumer protection. He was absolutely right when the Deputy of St. Peter raised the issue of food. He is absolutely right that the issue of exemptions will make price marking, and some of those people have raised it, less.

The Connétable of St. Martin:

If I could raise a point of clarification, The G.S.T. at the till, I believe that all the parishioners who have insisted or hoped that I would support G.S.T. at the till, I am sure that they wish to see the amount of tax, the actual list of items on their grocery bill coming to a certain figure and the tax underneath, but not marked up at the shelf. I think they can work out what 3 per cent is of £10 so I think that they want to know what the G.S.T. is but not included in a lump sum price. They want to see it separate. Can I ask the Minister if that is his understanding of G.S.T. exclusive?

Senator P.F.C. Ozouf:

That would be my understanding of G.S.T. exclusive but fundamentally, just as Deputy Scott Warren has said, what we are prescribing is a form of G.S.T. which will require the price that you pay at the till to be marked on the good and on the shelf. That is the default position that is right for consumer protection, and on this occasion we have to fall, I would argue, on the side of consumers, not on the side of retailers. But I fully accept that the arguments, because there has been this conflation of arguments, and because the very people that are there to present and promote issues of consumer protection, they have sent out the message, and perhaps we have not done a good enough communication job, that they are better off with inclusive. I am afraid I can give way to him if he really wishes, but we may be in a position that we will have to agree to disagree on this issue. I will give way if he wishes to.

The Connétable of St. Martin:

I believe, Sir, that the shoppers in this Island do not wish to have the price on the shelf. I do not think they want the G.S.T. to be included at the shelf. They would like to pay it at the till.

Senator P.F.C. Ozouf:

We will have to agree to disagree. I fundamentally disagree with that. The fundamental issue is knowing the price of the good when you arrive at the till. I think one other aspect of confusion has been what the difference is between a sales tax in the United States and in the rest of the world. Deputy Power also raised the issue of the United States, and the fact is the United States has a different form of sales tax. It is a tax which is fundamentally different in its design, it is collected at the till. The form of G.S.T. that we are introducing is the standard form of G.S.T. which is in place in Australia, in New Zealand, in virtually the whole of the developed world. It is an input/output tax and that is one of the reasons why it has to be on an inclusive basis. The United States is a different form of tax. I would summarise by saying that we cannot legislate for exclusive pricing in my view. We are introducing an input versus output form of tax. We cannot have a free for all, as I think has been very clearly and rightly explained by Senator Norman. That is why all the places that have introduced a form of consumption tax on an input/output basis have fallen on the side of the consumer. I ask Members to vote for consumers and not to retailers for an inclusive form of tax, and we will go into the detail in the Articles. I move the preamble.

Deputy A. Breckon:

I did ask the Minister if he could give some indication because it says in there that Regulations would deal with the aspects. If he could give us some indication of what that may be because in the Articles it does say that but in the preamble he has not mentioned the fact that there could be exemptions, say, for supermarkets and it is unfortunate we have not had the food debate and we are debating this now. I wonder if he could do that, because that will depend on how I vote.

Senator P.F.C. Ozouf:

The situation is that if we exempt food from the tax then it will be clearly on an inclusive or exclusive basis, but the price that you see is going to be the price that you pay at the till. That is one very important argument of having an inclusive pricing regime. Because effectively, irrespective of whether or not it is zero rated, exempted or whether or not it is at 3 per cent, you know what the price is. So the exemptions which we will go on to potentially discuss under price marking can be prescribed in Regulations. There could be a case, for example, for exempting newspapers, but we would need to get on with that when we deal with the detail in the Regulations in a moment. We have said enough about the preamble, so I move the preamble and I ask for the appel.

POUR: 37

Senator L. Norman
Senator F.H. Walker
Senator W. Kinnard
Senator T.A. Le Sueur
Senator P.F. Routier
Senator M.E. Vibert
Senator P.F.C. Ozouf
Senator J.L. Perchard
Connétable of St. Ouen
Connétable of St. Mary
Connétable of St. Clement
Connétable of St. Lawrence
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. John
Connétable of St. Saviour
Deputy R.C. Duhamel (S)

CONTRE: 10

Connétable of Trinity
Connétable of St. Martin
Deputy A. Breckon (S)
Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy P.N. Troy (B)
Deputy J.A. Martin (H)
Deputy S.C. Ferguson (B)
Deputy of St. Peter
Deputy P.V.F. Le Claire (H)

ABSTAIN: 0

Deputy J.J. Huet (H)
Deputy C.J. Scott Warren (S)
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy G.P. Southern (H)
Deputy of St. Ouen
Deputy P.J.D. Ryan (H)
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy G.W.J. de Faye (H)
Deputy J.A.N. Le Fondré (L)
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy I.J. Gorst (C)
Deputy of St. Mary

2.2 Senator P.F.C. Ozouf:

Article 1 is the interpretation provision. I move Article 1.

The Deputy Bailiff:

Is that seconded? [**Seconded**] All those in favour of adopting Article 1 kindly show? Those against? Article 1 is adopted.

2.3 Senator P.F.C. Ozouf:

Article 2, this is effectively the fundamental of the law. It is the power for the States to make Regulations requiring the price of goods or the charge for services to be indicated when they are offered for sale. Paragraph 1 creates the power; paragraph 2 elaborates on what may be included in the Regulations; that is the price or charge to be indicated. The power also is Regulations could require a charge by the unit of measurement, and that is the issue that I described earlier. There is effectively a 2 part for price indications. One which is an inclusive issue of tax, but also, at the moment in Jersey, we do not have any prescription for the requirement of displaying prices by unit of measure. Members, I am sure, go to different shops and supermarkets and they will see, for example, in some stores that you cast your eye across the toothpaste shelf and you see the price per unit of measure. This would be the provision that would come in at some future point. That is the enabling provision that I would propose would come in some considerable time after a period of consultation as that will be the big issue for price charging later. Paragraph 3 creates the general rule that there will be a requirement to indicate a price inclusive of G.S.T. However, there are certain circumstances that the States may exempt for that requirement to be made. For example, if there was a particular issue with the importation of newspapers, for particular issues of food; if we did not exempt food then you could create particular exemptions on an item by item basis. So I think that that explains Article 2.

The Deputy Bailiff:

Article 2 is proposed, and seconded? **[Seconded]**

2.3.1 Deputy A. Breckon:

I thank the Minister for doing that. The reason I asked for that is that there are some issues in there that I think that Members should be aware of. Article 2, paragraph (1)(c) mentions a part of a penny. Now that is splitting hairs, as it were, but I think that is important in some areas, and I know it will be technology that will calculate some of that, but I think, as Deputy Troy mentioned, that will be where perhaps some of the margin is. But the important issue of this, which I want to test the Minister on, is this gives the States power to make Regulations, or the Minister to present them and the States to approve them. Under paragraph (2), under Article 2, it says: "Without prejudice to the generality of paragraph (1) Regulations made under this Article: (a) may make provision as to the manner in which any price or charge is to be indicated." I think that is the detail which I would like the Minister to respond on because we have talked about the inclusive and the exclusive and there was a view which other Members have expressed that if you have big signage that says 3 per cent will be added to all these prices then that is perhaps a way round. Just to give you some idea, Woolworths, for example, would carry 30,000 lines. So that is what we are talking about if somebody is going to go round putting labels on shelves or sticking labels on stuff. That is the sort of issue that we are talking about. Setting aside what they do as a pricing policy, that is the logistics of it, and some of that I gather could disappear if they have to get into the minutiae of it because apparently their Head Office do not really understand, and that is part of the problem that we may have. Under that, I wanted to ask the Minister if he could give some indication of his view of how he might interpret that because I understand that he would have some discretion there about the way in which any price or charge is indicated. I think the commonsense way that others have perhaps moved towards is that it should be at the till. Now, I understand the arguments and on many issues, if you are talking about Mercedes or something like that, I do not think there is a problem - not that I am advertising that particular car - but it would be able to be shown. It is when you get to the smaller price stuff, and I think people really have a fear, or a suspicion, that without the transparency, without being able to say everything is the same except when you get to the till this happens, then I think that suspicion is there and that is where the fear is of the cost, the inflationary effect, and I think with the *Jersey Evening Post* they have been fairly cute. They have already built in what may happen so I do not think there will be another increase for a number of years, although eventually obviously it will feed through because they have other costs as well, and that came from a discussion I had with a senior executive there. But I would ask the Minister, if he could bear that in mind. The other thing is price per unit. It does not sound much but the complications of that, for example, for a farm shop, and I know farm shops are becoming Tescos in Grouville, or whatever they are now these days, but they are growing, but with that what it means is if you have, say, carrots you have to be able to demonstrate that per kilo you can compare organic with something else, with something else. For some businesses that could be difficult, especially corner shops. They would have to demonstrate that, for example, a bar of somebody's chocolate per 100 grams was 56 pence and somebody else's was 64, so you could see that. That is not quite as simple as the Minister claims because if you look in department stores now, they do it but they do it because it is a national pricing thing. But smaller outlets could have a problem with that, so again that is something. It is all right to have E.U. Regulations but sometimes they have got nothing else to do but to sit around and think of things to do and impose on us, so we must be careful with this stuff because, as I say, to the smaller trader this sort of thing, there would be a real serious compliance issue so that you can see something which you could work out yourself and it is perhaps a personal choice as well. I would just close, by thanking the Minister for taking this Article separately.

2.3.2 Deputy R.C. Duhamel:

As indicated previously, I think the confusion that is likely to arise in bringing forward this system will be in terms of whether or not the rounding rule has been applied or not applied. I take issue with the Minister's comment at the moment that he thinks an element of time might be required in order to allow the system to bed down before certainty is brought to the marketplace in order to determine these issues. I take some comfort from Article 2, part (c), which does however indicate that: "Prices of such goods or charges for such services are not indicated in a manner which is inappropriate and that no part of a penny is specified in the amount of an indicated price or charge." It is common knowledge that the smallest unit of currency is a penny, and in relation to the rounding up we must, at all times, seek to round everything up or down to a penny. So, I would ask the Minister to reconsider his comment that he made and perhaps put into the Regulations when they come to the Assembly, or indeed accept that there may be other Members who would wish to introduce changes to such Regulations if indeed the intention is not to bring forward a clarity in the rounding rules from day one.

2.3.3 Deputy C.J. Scott Warren:

I just wanted to clarify, in the event that G.S.T. does remain on food, surely very small shops, corner shops, may well not have the sufficient turnover to have to worry about this at all.

2.3.4 Deputy P.V.F. Le Claire:

To declare a very small interest in the fact that I do sell some of my music online, although I doubt I will ever get to the point where I have to start paying G.S.T., although I live in dreams. I just wanted to, on behalf of the other people having declared their interest, I would just like to ask in relation to online sales how these are all going to fit in with this and whether or not in the future there will be specific regard to online merchandising for people?

The Deputy Bailiff:

I call upon the Minister to reply.

2.3.5 Senator P.F.C. Ozouf:

I will take the comments backwards, if I may. The comment by Deputy Le Claire about online retailing. I think, if my memory serves me correctly, the distant selling provisions that this Assembly passed has a requirement to indicate an inclusive prices basis. Now, we do not have, of course, a G.S.T. on exports and on fulfilment businesses, and online retailers do not have a tax, but I believe that the Distance Selling Law, which this Assembly passed, already requires an inclusive basis because, again, that is the default position around the world that the price that you indicated is the price that you should pay, not in case at the till but when you are paying it on your credit card. But this will give the further protection, in fact, in that situation we have a better protection for online retailing for exports than we have for the domestic but without this bit of legislation. Deputy Scott Warren raised the issue of small retailers and she is absolutely right that if we did continue with food that on an exclusive basis if we had not passed this legislation there would be a lack of clarity because businesses would have to ... effectively you would know, I guess, whether or not they were above the £300,000 threshold. Putting a default position of inclusive pricing means that the consumer simply knows whether or not what the price they are going to be paying at the till, and I hope that is helpful to her. Deputy Duhamel raised the issue of pennies and roundings, yes, absolutely happy to consider that. I have not spoken to Deputy Duhamel about this issue of pennies, but I am to do that and there will be consultation on the details of the Article. Deputy Breckon raised this issue of the fraction of a penny and I think my answer to that is that if you are passing a piece of legislation which says the price that you are going to pay is the price that is on the ticket, then by definition you need to have declared whether or not what that rounding figure is, and I think there is almost a disconnect between having a price on a shelf which would say half a pence but knowing full well that we did away with half pennies a number of years ago that you would not

know what the price is, and I think that is the reason. I am happy to deal with the Regulations and consult with him on that, but I think that that is the reason, is we do not have half pennies, you pay on a rounded penny, and if you are putting in a system where you are telling people what the price is, then you have to have that rounding dealt with then. He also raised this issue of thousands of prices in different stores. Jersey retailers, whether or not they be Woolworths, whether they be Checkers, the Co-op, they are no different from any other retailers. They are having lines and thousands of lines and making price adjustments all the time. There will be a one-off adjustment when we move to G.S.T. on an inclusive basis but thereafter there is not going to be an additional cost because inclusive pricing is required. Functions of businesses are that they will move their prices, and there are examples of good retailers who are already doing the full disclosure that I would call of unit pricing. I would single out Boots as an example. If you go to Boots today you will see exactly what the different prices are per unit and what you will price at the till. By the way, I think they take off V.A.T. too. Clearly the issue of farm shops, yes, they are growing. I am not sure that we have quite got Tescos in Grouville or the top of St. Helier yet, and I hope we do not, but certainly there could be provision for exemptions for small farm shops, et cetera, and that again could be dealt with in the Regulations. At the end of the day, what you need is a transparent consumer choice situation that effectively the consumer can see what the price is and they can compare it, either by looking at the shelf or comparing with different retailers. It is the transparency of the marketplace that ultimately drives consumer choice and drives down inflation. On those remarks, I move Article 2.

Deputy S.C. Ferguson:

I am just saying the Senator spoke of distance selling being an inclusive price set-up and that, as somewhat of an expert on internet purchasing, this is not correct. Some stores have an inclusive pricing, some stores have an exclusive pricing, and some just do not bother with any tax at all.

Deputy A. Breckon:

I did ask the Minister if he could give some indication regarding the Regulations because it says: "... may make provision as to the manner in which any price or charge is indicated" and I did ask him if he could give some indication of which way he may go on that, whether there would be an either/or and it could be general signage with a price at the till or whether it was inclusive.

Senator P.F.C. Ozouf:

I stand to be corrected, but I will research and circulate an email later to Members that our distance selling provisions, I believe, has an inclusive basis approach, which was the question I was answering. I will answer that, I will circulate to Members later on exactly what the provision is, but I am pretty sure it is on an inclusive basis. But it is not directly relevant to the issue here because all businesses, whether they be selling on physical stores or whether or not they will be online, I believe will be covered by the arrangements for an inclusive basis approach. Deputy Breckon asked about the issue of what the position in the Regulation should be. I can tell him that, in my view, and this is what is set out in the law, the default position should be that each item should be clearly displayed either on the actual packet or on the actual shelf so there is absolute clarity for everybody, for each item, exactly what you are paying. There could be some exemptions and we will consult on them, but that is the default position. As regards any sort of notices in shops about whether or not the generality of the issue, whether they are going to be putting it on at the till, that is not going to be an option for them. They are going to have to be required as a result of this to have everything on an inclusive basis unless there is a compelling reason, and this Assembly is convinced. I hope that is helpful for him. I move Article 2.

POUR: 34

Senator L. Norman
Senator F.H. Walker

CONTRE: 6

Connétable of St. Martin
Deputy A. Breckon (S)

ABSTAIN: 1

Deputy G.C.L. Baudains (C)

Senator W. Kinnard	Deputy P.N. Troy (B)
Senator T.A. Le Sueur	Deputy J.A. Martin (H)
Senator P.F. Routier	Deputy S.C. Ferguson (B)
Senator M.E. Vibert	Deputy of St. Ouen
Senator P.F.C. Ozouf	
Senator J.L. Perchard	
Connétable of St. Ouen	
Connétable of St. Mary	
Connétable of St. Clement	
Connétable of Trinity	
Connétable of St. Lawrence	
Connétable of Grouville	
Connétable of St. Saviour	
Deputy R.C. Duhamel (S)	
Deputy J.J. Huet (H)	
Deputy of St. Martin	
Deputy C.J. Scott Warren (S)	
Deputy J.B. Fox (H)	
Deputy P.J.D. Ryan (H)	
Deputy of Grouville	
Deputy of St. Peter	
Deputy J.A. Hilton (H)	
Deputy P.V.F. Le Claire (H)	
Deputy J.A.N. Le Fondré (L)	
Deputy D.W. Mezbourian (L)	
Deputy of Trinity	
Deputy S.S.P.A. Power (B)	
Deputy S. Pitman (H)	
Deputy K.C. Lewis (S)	
Deputy of St. John	
Deputy I.J. Gorst (C)	
Deputy of St. Mary	

2.4 Senator P.F.C. Ozouf:

Article 3 provides for inspectors as being the Trading Standards officer with the necessary powers to enforce the Regulations. Article 4, imposing restrictions on the use of information obtained by inspectors. Article 5, the offence to aid and abet or counsel the procurement of a commission of. Article 6, the offences article. Article 7 creates the right for persons whose goods or documents are seized for various different provisions. Article 8, the exemption for inspector's losses. So I move Articles 3 to 9.

The Deputy Bailiff:

Is that seconded? [**Seconded**]

2.4.1 Deputy A. Breckon.

Can I just ask the Minister, there is a staffing issue here, if that is included in the general G.S.T. or if this comes under his department?

The Deputy Bailiff:

I call upon the Minister to reply.

2.4.2 Senator P.F.C. Ozouf:

The issue of resources that is set out in Financial and Manpower Implications, this is going to be something that is going to be an additional responsibility of Trading Standards. I have had extensive discussions with them about their abilities to do this and it is going to be done with the existing complement of staff which has recently been increased within Trading Standards. Sir, I move Articles 3 to 9.

The Deputy Bailiff:

All those in favour of adopting Articles 3 to 9 kindly show? Those against? Articles 3 to 9 are adopted. Do you propose the Bill in Third Reading?

Senator P.F.C. Ozouf:

Yes, please.

The Deputy Bailiff:

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

3. Draft Goods and Services Tax (Jersey) Law 2007 (Appointed Day) Act 200- (P.121/2007)

The Deputy Bailiff:

We come next to the Draft Goods and Services Tax (Jersey) Law 2007 (Appointed Day) Act, Projet 121, lodged by the Minister for Treasury and Resources.

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

I do not imagine there are many Members in this Assembly who are not aware of the Goods and Services Tax Law, but I just remind that we lodged it in March and it was registered in the Royal Court early this year. This Act now brings into force the Goods and Services Tax Law in 2 tranches. Firstly, from January it will allow various notices to be issued to businesses in anticipation of the law coming into place and the second Appointed Day Act brings it into force as of 1st May 2008. I think, therefore, Sir, the Act is very straightforward. I make the proposition and ask for any questions.

The Deputy Bailiff:

Is that seconded? **[Seconded]**

3.2 Deputy A. Breckon:

Can I just ask the Minister if he could confirm that it is estimated that 10 staff will be needed? That changed in the Business Plan. I understand it is 13 and the Minister for Economic Development has just mentioned other staffing issues there. I wonder if the Minister could give some indication of how many staff will be involved.

3.3 Deputy P.V.F. Le Claire:

We have recently agreed, or going to agree, that online gambling can occur and disaster recovery online gambling can occur or facilitate an occurrence in Jersey for a limited period of up to 9 months if a company has a disaster and needs to operate in Jersey for that period with a licence from the Minister for Economic Development. If that occurs and a company suddenly starts to operate within Jersey because of a disaster recovery necessity, will that company be paying G.S.T. and how will all those things trickle down and will other businesses be in a position to come to Jersey under a disaster recovery mechanism? If they come will they be paying G.S.T.?

The Deputy Bailiff:

I call upon the Minister to reply.

3.4 Senator T.A. Le Sueur:

I am used to having googlies bowled at me but I think that one has really taken me by surprise. **[Laughter]** Particularly in the context of an Appointed Day Act. But I would simply say in seriousness to the Deputy and others, if there are services which become available in the Island subsequent to this and they are liable within the existing framework of the law then they will suffer 3 per cent G.S.T. If they are not within the purview of the law they will not. But the more direct question asked by Deputy Breckon about staffing and the Business Plan is one which concerned me as well, and I am happy to confirm that the staffing estimate is still an additional 10 staff. It is one of the vagaries of accounting that I have to account within the Treasury and Resources Department for all my head counts, and so I have to allocate that head count, we have got the Treasurer and Deputy Treasurer and so on, across every department within the organisation. So, of the officers in the Treasury not directly related to any one particular function I have to allocate a proportion to each area, so in this case I have allocated 3 staff to G.S.T. and 5 staff to income tax, 2 or 3 staff to processing and so on. It is not an addition of numbers from 10 to 13, the numbers stay the same, it is just the way that the information is displayed, allegedly for the point of clarity. I therefore thank the Deputy for raising that question and giving me the chance to answer it. I should also perhaps add for the sake of completeness if should, in 2 weeks' time, a proposition on further exemption be successful, that could still be achieved within this timescale and I will simply bring the appropriate Regulations at that time. Meanwhile, I maintain the Act, and I ask for the appel.

POUR: 29

Senator F.H. Walker
Senator W. Kinnard
Senator T.A. Le Sueur
Senator P.F. Routier
Senator M.E. Vibert
Senator P.F.C. Ozouf
Senator J.L. Perchard
Connétable of St. Ouen
Connétable of St. Mary
Connétable of St. Clement
Connétable of Trinity
Connétable of St. Lawrence
Connétable of Grouville
Connétable of St. Martin
Connétable of St. Saviour
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy P.N. Troy (B)
Deputy C.J. Scott Warren (S)
Deputy J.B. Fox (H)
Deputy S.C. Ferguson (B)
Deputy P.J.D. Ryan (H)
Deputy of Grouville
Deputy of St. Peter
Deputy G.W.J. de Faye (H)
Deputy J.A.N. Le Fondré (L)
Deputy of Trinity
Deputy I.J. Gorst (C)
Deputy of St. Mary

CONTRE: 9

Senator L. Norman
Senator B.E. Shenton
Deputy R.C. Duhamel (S)
Deputy A. Breckon (S)
Deputy G.C.L. Baudains (C)
Deputy J.A. Martin (H)
Deputy P.V.F. Le Claire (H)
Deputy D.W. Mezbourian (L)
Deputy S.S.P.A. Power (B)

ABSTAIN: 0

4. Draft Financial Services (Amendment of Law) (No. 2) (Jersey) Regulations 200-(P.114/2007)

The Deputy Bailiff:

We come now to Projet 114, Draft Financial Services (Amendment of Law) (No. 2) (Jersey) Regulations lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

4.1 Senator P.F.C. Ozouf:

Members will be aware that we have 15 projet de loi down for consideration; 6 by me, 3 by the Minister for Treasury and Resources and 7 by Home Affairs. The majority of them relate to essential changes required to be put in place before the International Monetary Fund (the I.M.F.) assessment of Jersey in 2008. Such is the scale of the legislation programme that Ministers had dubbed today I.M.F. day and - well, yesterday I.M.F. day - but we seemed to have been jilted in having a G.S.T. day, but nevertheless this is still a whole series of extremely important legislation. I am going to make some background to the generality of all of these laws to the extent that they cover a number of the laws that will then come forward and hopefully we can deal with the detail of it rather more quickly so that we do not have to repeat. Before describing in more detail my own suite of laws I thought that it would be important just to explain very briefly what the I.M.F. is and what their role is. The I.M.F. is an international organisation of 185 countries and it was originally set up to promote international monetary co-operation and, among other things, the ability to foster economic growth and high levels of economic growth. The offshore visiting programme commenced in June 2000 in order to consider the potential vulnerabilities stemming from weaknesses in the financial systems of 44 identified offshore centres and to assess the risks that the offshore centres could pose to the international financial system. The I.M.F. visit will examine the strength of Jersey's financial services supervision and the overall capability of the Island in our combating of financial crime. The assessors will consider how the jurisdiction, how Jersey measures up against international standards. They are going to be considering the regulatory legislation, anti-money laundering, counteracting the financing of terrorism and the effectiveness of our supervision. Also, importantly, the resource capabilities of all the relevant agencies. This will be the second assessment of Jersey following that of 2003. The visit, which will last approximately 4 weeks, will examine not only the Rules and Regulations but also the operational effectiveness of the police, customs and other law enforcement activities in Jersey. Jersey will be assessed by the same team of I.M.F. inspectors who will review the Isle of Man and Guernsey. The report will be published and will probably be the single most important evaluation of Jersey's supervisory arrangements for some years. It is going to be an incredibly important test and a benchmark of our standards against other jurisdictions. It is also going to have actions by other jurisdictions that will flow from it. It will, for example, be regarded by the E.U. in determining whether Jersey is an equivalent in anti-money laundering and counteracting the financing of terrorism jurisdictions. Many businesses will benefit from the application of a concessionary regime for equivalent jurisdictions which we only get with an appropriate assessment by the I.M.F. The E.U. will consider that I.M.F. assessment in order to see if Jersey will be given the concessionary regime in the longer term. There is a need to put this legislation in place before the I.M.F. visit. Not only will they assess the Rules but whether or not there is operational effectiveness in the application of the Rules. This is such an important issue that there was an overriding organisation chaired by the Chief Executive of the Chief Minister's Department that comprised the Financial Services Commission, the Attorney General, Law Officers, Police and Customs and all have been working on the individual areas of legislation. Economic Development's amendments cover 4 primary regulatory laws. In fact, all the primary laws that are administered by the Jersey Financial Services Commission; the Financial Services Law, the Collective Investment Law, Banking Law and Insurance Law. Most of the principal proposals fall into, effectively, 2 categories. Some are there to ensure the regulation of financial services business can be demonstrated to be consistent with international best practice for the I.M.F. visit. Others are to achieve a greater deal of compatibility

with the European Convention on Human Rights. Just turning to that first category, international standards are applicable to one area but not necessarily to all areas of financial services. The aim is, at the end of all of these issues, to achieve a consistent approach and statutory powers for all of these regulatory laws. They will ensure that all businesses in financial services are effectively treated on a level playing field. The European Convention on Human Rights provisions are requirements to ensure that all regulatory laws effectively allow for appeals against decisions in very simple terms. It is believed that such standards are currently followed; however, it is the view that the fair and proper process should be set out in the governing laws so that Jersey not only is seen to follow best human rights practices but is required to do it. In simple terms, all of these E.C. (European Community) provisions are to ensure that the decision-making processes are fair and that there is an appeal from all decisions. The proliferation of international standards and the amount of necessary changes identified means that there has been an enormous amount of work and pressure on the Commission industry and the States and the regulatory authorities to make these changes in time. These are a substantially large piece of work and the work involved has been extremely extensive. A consultation has been carried but it is accepted that, in some cases, this has been in a compressed timetable. Concerning the regulatory changes, a position paper was published in June 2007 which set out all of the design changes. A series of seminars was then held for the finance industry by the F.S.C. (Financial Services Commission) and all the proposals were described and discussion comment was invited. I can say that neither the position paper nor the discussion elicited any adverse comment on the law proposals themselves. The Financial Services Commission recommends that the legislation is passed. Jersey Finance, wearing its consultation role, has been of course very involved and supports the legislation. There are certain key issues that have arisen in relation to each of the laws. Once, as I have said, an issue is raised once in one law, I will propose not to repeat it again in detail for the following laws if that is acceptable to Members. The first of the 3 proposed amendments are linked to the I.M.F. requirements to put in place a framework to receive codes of practice as well as facilitating greater consistency in Regulations. They principally deal with the transfer of the regulation of most functionaries from the Collective Investment Law to the Financial Services Law. The Financial Services Regulations will enable, firstly, the integration of the regulation of fund functionaries under the same law as all other classes of business to establish a more coherent and effective regime; secondly, to enable the move towards a regime where most fund functionaries will only have to register once in order to carry out fund business in the Island; thirdly, the Commission to issue codes of practice which is one of the requirements of the I.M.F.; fourthly, to include various related ancillary and consequential provisions. The proposals have been comprehensively discussed with the industry in relation to the first issue that started in February 2006 and a further consultation in March 2007. Sir, the first issue, therefore, is the Draft Financial Services (Amendment of Law) (Amendment No. 2) (Jersey) Regulations and I move the preamble.

The Deputy Bailiff:

Is that seconded? [**Seconded**]

4.1.1 Deputy G.P. Southern:

I would just like a response from the Minister for Economic Development as to why these particular Regulations have come forward just before the next I.M.F. inspection. It seems to me a bit tardy. We have had these recommendations since 2003. It appears to have taken 4 years to get them to the table just before the I.M.F. come knocking again to make sure that we have done what they asked us to do in 2003. What reason has there been for this apparent tardiness in responding to the I.M.F. from 2003?

The Deputy Bailiff:

Does any other Member wish to speak on the principles?

4.1.2 Senator P.F.C. Ozouf:

I do not think that is correct that the Island has been tardy. The Deputy will be aware - and I am happy to arrange briefings with the Financial Services Commission and Jersey Finance and other relevant authorities if he wishes - that the fact is the world of regulation and international best practice is rising. The bar is raising and, indeed, many of these issues - of which we will go on to discuss in more detail in a few moments - are relatively recent innovations. So some of it is certainly introducing some of the provisions of 2003 but most of them, as I understand it, are the requirements of the new provisions that have been set out which is the new gold standard for jurisdictions which has been set out. Jersey is well-known and the Deputy will be aware that we have a good track record and have regarded a good track record of being pretty quick to enforce and put in place the necessary international standards. Sir, I move the preamble.

The Deputy Bailiff:

All those in favour of adopting the principles of the regulations, kindly show? Those against? The principles are adopted. Deputy Southern, do you wish these to be referred to your Scrutiny Panel?

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

No, I do not wish to scrutinise this, Sir.

4.2 Senator P.F.C. Ozouf:

The Regulations themselves are quite short and effectively they transfer the regulation of functionaries from the S.I.F. (Social Investment Fund) Law to the Financial Services Law. Regulations 1 to 3 amend the definitions contained in the Financial Services Law to extend the application to persons carrying out fund service businesses and the necessary consequential changes. Under the proposal, all fund functionaries will be regulated under the Financial Services Law and not under the S.I.F. Law. Regulation 4 contains provision in order to grandfather across to the Financial Services Law persons who are already registered under the S.I.F. Law. This enables obviously persons who are regulated under the S.I.F. Law to continue to do what they are doing under the new arrangements of the Financial Services Law without the Commission having to literally issue thousands of new certificates. There will be 5 orders to be consequentially made. Four of the 5 are made under the Financial Services Law consequentially to permit its full application to funds functionary. Sir, I propose Articles 1 to 5.

The Deputy Bailiff:

Is that seconded? [**Seconded**] Does any Member wish to speak on Regulations 1 to 5?

Senator P.F.C. Ozouf:

Can I ask for the appel, please, Sir?

The Deputy Bailiff:

Very well, the appel is called for in relation to Regulations 1 to 5. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 29

Senator F.H. Walker
Senator T.A. Le Sueur
Senator M.E. Vibert
Senator P.F.C. Ozouf
Senator B.E. Shenton
Senator J.L. Perchard
Connétable of St. Mary
Connétable of St. Clement
Connétable of Trinity
Connétable of St. Lawrence
Connétable of St. Brelade
Connétable of St. Martin
Connétable of St. John
Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy P.N. Troy (B)
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy P.J.D. Ryan (H)
Deputy J.A. Hilton (H)
Deputy G.W.J. de Faye (H)
Deputy P.V.F. Le Claire (H)
Deputy D.W. Mezbourian (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

CONTRE: 0

ABSTAIN: 1

Deputy G.C.L. Baudains (C)

The Deputy Bailiff

Do you propose the Regulations in Third Reading?

Senator P.F.C. Ozouf:

Yes, please, Sir.

The Deputy Bailiff:

Does any Member wish to speak in Third Reading? The Regulations are adopted in Third Reading.

5. Draft Collective Investment Funds (Amendment No. 4) (Jersey) Law 200- (P.139/2007)

The Deputy Bailiff:

We come next to P.139/2007, Draft Collective Investment Funds (Amendment No. 4) (Jersey) Law lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

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

This is subject to an amendment in my own name.

The Deputy Bailiff:

Very well. Do you wish to propose?

Senator P.F.C. Ozouf:

Yes, Sir.

The Deputy Bailiff:

But the amendment, no doubt, is to a particular Article, is it?

Senator P.F.C. Ozouf:

Okay, I will take it separately, Sir. The purpose of the Collective Investment Fund (Amendment) is to, firstly, provide a mechanism for the regulation underlying collective funds, investment funds, once funds and functionaries are regulated under the Financial Services Law rather than under the S.I.F. Law. Secondly, to implement international standards in the regulation of collective investment funds in Jersey and in the preparation for the I.M.F. visit. Thirdly, to improve compatibility under the European Convention on Human Rights. In particular, in relation to the first point, it is proposed that most of the regulation of functionaries will transfer and take place under the Financial Services Law but there are exceptions. It is proposed that the underlying unclassified collective investments funds will be regulated under the S.I.F. Law through issuing of a certificate. To allow the underlying fund to be regulated in this way requires the replication of many of the regulatory powers that are under the Financial Services Law within the S.I.F. Law. Certain changes proposed by the amendment incorporate standard regulatory provisions currently absent from the Financial Services Law or bring the law into line with current international standards for the I.M.F. visit. As these appear in a number of the laws, I propose only to mention them here and not to repeat them again in the subsequent law. The major points for Members are that the amendment sets out in greater detail than at the present for refusing an application for registration or revoking a registration. This is necessary to show transparency in the Commission's decision-making processes although, in practice, such a criteria, I am advised, is already followed. The amendment grants the Commission the right to require a registered person to publicise not merely the fact that it is registered but also such conditions attaching to a registration as the Commission may specify. This is a regulatory requirement introduced across all the regulatory laws and is an important safeguard to ensure that persons are aware of the limitation placed on any financial services business. The amendment extends the provisions that are currently applied to principal persons such as directors, shareholders, controllers and to other key persons such as compliance officers whereas, currently, such persons have been limited to limited regulation on a voluntary basis. This provision also grants the Commission the power to ban principal persons and key persons of financial services business in appropriate circumstances. It is believed that a power probably already exists under the existing law but it is important that a strong power which could have an effect on a person's livelihood is clearly expressed as under this proposal. A breach of these provisions would be a criminal offence. The amendment clearly sets out the circumstances and criteria in which the Commission can issue directions including expressly granting the power to ban any person from being employed in a financial services business. This is done in a similar manner to those adopted across all laws and is required in relation to certain areas of financial services business by the international standard I.A.I.S. (International Association of Insurance Supervisors) core principle 15 implied by I.O.S.C.O. (International Organisation of Securities Commissions) principle 21. This is a very important power and it can only be used in appropriate circumstances as set out. Proper checks and balances are set out in the provision to ensure compliance with E.C.H.R. (European Commission on Human Rights). The amendment also establishes a power for the Commission to apply to the court for the appointment of an independent manager to manage part or

all of the affairs of a registered person in the prescribed circumstances. The provision is amended in order to achieve consistency across all regulatory laws and demonstrates compliance with I.O.S.C.O. principle 9. Other minor changes include revising the definition of relevant supervisory authority to ensure, again, consistency and to allow the Commission to co-operate with other bodies in other countries and territories. No measurable cost or manpower arises for the Commission or the States or the industry. Sir, I move the preamble.

The Deputy Bailiff:

Is the principle seconded? [**Seconded**] Does any Member wish to speak on the principles of the law? Very well. All those in favour of adopting the principles, kindly show? Those against? The principles are adopted. Now I must ask the Chairman of the relevant Scrutiny Panel, Deputy Southern, whether he wishes to have this matter referred to him. He is not here. Is the Vice-Chairman of his Panel present? Is any member of his Panel present? He is here. I fear, Deputy, you may get quite a few questions as these laws go on.

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

Yes, Sir. Yes, I am aware of that. No, Sir, we do not wish it to be referred to the Scrutiny Panel. Thank you.

The Deputy Bailiff:

Thank you very much. Very well. Now how do you wish to propose the Articles, Minister, and of course, as you say, you have a number?

Senator P.F.C. Ozouf:

En bloc I think, Sir.

The Deputy Bailiff:

Very well. I think I will ask the Greffier then to read the amendments so that Members are aware of the amendment you are putting.

The Deputy Bailiff:

Minister, do you propose the Articles as amended?

5.2 Senator P.F.C. Ozouf:

As amended en bloc, Sir. The amendments to the P.139/2007 are minor technical amendments brought about as a result of changes to the Financial Services Regulations. I would draw Members' attention to Article 5 of the amendment which sets out in greater detail the criteria for refusing an application for registration and also Article 6 of the amendment introducing the means to regulate the underlying fund through the introduction of a certificate issued by the Commission; Article 9 extending the provisions that currently apply to principal persons such as directors and key persons as I explained; Article 10 setting out the circumstances the Commission can issue a ban on a person and 25, establishing the power for the Commission to apply to the court for the appointment of an independent manager. Sir, I move the Articles as amended.

The Deputy Bailiff:

Is that seconded? [**Seconded**] Does any Member wish to speak on any of the individual Articles?

Deputy P.N. Troy:

Sorry, Sir, can you just clarify which Articles you are covering?

The Deputy Bailiff:

One to 28.

5.2.1 Deputy P.N. Troy:

Yes, I would like to refer to page 21, number 8 and then reference to number 2 on page 22. So, on page 22, number 2 says: "A person who contravenes paragraph one shall be guilty of an offence and liable to imprisonment for a term of 7 years and to a fine." Then when you refer back to number one, it says: "A person who is a company issuing units that is an unclassified fund." So referring back to number one, a company can be sent to prison for a term of 7 years. Now what that perhaps should say is: "A director of a company" because in parts (b) and (c), it refers to a "trustee or a general partner of other items", so in part one, it is saying "a company" rather than "a director of a company". Maybe you would send a director of a company to prison and not a company to prison. Sir, I just wanted to point that out to the Minister and just check with him whether he needs to change that in any manner.

5.2.3 The Deputy of St. John:

On the same point as well, I wonder if the Minister could clarify is it a maximum of 7 years or is it a statutory 7 years and, on the fine, is it on a scale because most of the other Articles refer to scales?

The Deputy Bailiff:

Does any other Member wish to speak?

Senator P.F.C. Ozouf:

I look across the Chamber to the learned Attorney General who is the master of all knowledge on offences and fining provisions and perhaps he would explain to Deputy Troy the answer to the question he raised. Clearly, I do not believe that you can put a company in prison but I will give it to the Attorney General, if I may.

Mr. W.J. Bailhache Q.C., H.M. Attorney General:

I obviously do not have to answer the first part of the question because you cannot put a company into prison. That is correct. It is drafting mechanism that allows for the various offences in paragraph one of Article 8 to render those committing them liable to either a term of imprisonment of up to 7 years or to a fine. So there is no question of the Crown moving for a sentence of imprisonment against a company but it would move for a fine and yet for the offences under 8(1)(b) and possibly 8(1)(c), it may be appropriate that such a person receive a custodial sentence. That is why the draftsman has framed it in the way he or she has. There is no particular difficulty with it. In answer to the Deputy of St. John I think it was, "liable to a term of 7 years and to a fine" means liable to a maximum of 7 years and to any fine of whatever amount the court thinks fit.

Deputy P.N. Troy:

Sorry, Sir, I need to go back to the Attorney General on that because if you can send a trustee to prison and you can send a general partner of a limited partnership, then surely in relation to a company there should be a person who should be responsible and that should perhaps be a director of the company. It means that you could set up a company and thereby exclude yourself from going to prison if you did anything incorrect, whereas if you were a trustee or a general partner in a limited partnership, you would be liable to go to prison. So I would, of course, decide to set everything up in a company thereafter, not that one would be trying to do anything illegal [Laughter] but if one was, one would set up a company because you would not be liable to go to prison. So I personally think that should say: "A director of a company would be liable to go to prison." That is my point.

The Deputy Bailiff:

Mr. Attorney, would it be the case that this law has the provision which most statutes do about a director who contributes?

The Attorney General:

Well, Sir, the States passed some legislation automatically including that provision that directors of a company would be exposed to that criminal liability, but I was just looking for the principle law to see whether that provision is in the principle law as well. Just a moment.

The Deputy Bailiff:

The Attorney is going to check whether there is the standard provision which does in fact enable a director of a company to be imprisoned for offences committed by a company. Now, do we wish to proceed in the meantime to a vote or do you wish to wait for the response?

Senator P.F.C. Ozouf:

I think we can be informed of the outcome of the Attorney's quick deliberations but I think that we can still move to a vote.

Deputy P.N. Troy:

I think it will be subject to clarification on that section 8(1), Sir.

The Deputy Bailiff:

Well, if we move to a vote, then the vote will stand. If, on the other hand, you wish to know the answer before you decide how to vote, we will wait for the Attorney's response.

Deputy P.N. Troy:

I think it is best to know the answer, Sir.

The Deputy Bailiff:

Very well. We will wait for the Attorney's response. Are there any other matters you need to deal with in reply, Minister?

Senator P.F.C. Ozouf:

Yes, sorry. I do not think there are any other issues that I would wish to draw Members' attention to.

Deputy P.N. Troy:

Could I ask the Minister for a point of information whilst we are in this limbo? In between the visits of the I.M.F. and their future visit, there will obviously be these moves as we have seen today to change, improve and tick the boxes in our legislation and our Regulations. I am just wondering if the Minister would be prepared to circulate a list of what they asked us to do last time or recommended that we did and what we have done and what we have not been able to achieve or what we will be looking to achieve from that last visit. If it could be circulated to States Members, is that something that could be done?

Senator P.F.C. Ozouf:

I am happy to work with the other Ministers. Obviously, the issues of the I.M.F. we are establishing this afternoon are extremely wide-ranging and bring a number of different authorities, both the Commission, police and customs, et cetera, and if it would be helpful, certainly I will try and find a summary in order just to explain that earlier question that Deputy Southern raised about the issues that are new versus the issues of the 2003 assessment. We will do our best to do that, Sir.

Deputy P.N. Troy:

I thank the Minister and I hope that has given the Attorney General enough time to ... [Laughter]

The Attorney General:

No. That is the trouble when one is held out so obviously very negligently as knowing everything about this legislation. Article 19 of the Collective Investment Funds (Jersey) Law 1988 is not in the usual terms. That is why I took rather longer finding it than would normally be the case but it says: "Any person who aids, abets, counsels or procures the commission of an offence under this law shall be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence." So it is not quite in the same terms as is the custom more recently but, nonetheless, it is hard to see how a director or a principal person of a company who has taken the relevant steps could not be charged under Article 19 for aiding or abetting or procuring, so I think we arrive in the same position.

Deputy P.N. Troy:

Then the sentence under Article 19 would be the exactly the same as under Article 8. Is that correct?

The Attorney General:

Yes.

The Deputy Bailiff:

Very well. All those in favour of adopting all of the Articles, kindly show? Those against? The Articles are adopted. Do you move the Bill in Third Reading?

Senator P.F.C. Ozouf:

Yes, please, Sir.

The Deputy Bailiff:

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

6. Draft Banking Business (Amendment No. 6) (Jersey) Law 200- (P.136/2007)

The Deputy Bailiff:

We come next to the Draft Banking Business (Amendment No. 6) (Jersey) Law, P.136/2007, lodged by the Minister for Economic Development. The Greffier will read the citation.

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

Just as the changes to the Collective Investment Funds Law, this banking amendment has 2 principal aims, so the necessary changes for the I.M.F. to demonstrate consistency with those international standards and various European Convention on Human Rights changes. The changes are setting out more detail for the criteria for refusing an application for registration or revoking a registration, granting the Commission the power to require publicising of conditions attaching to a registration and extending the provisions that currently apply to principal persons to other key persons. This includes the ability for the Commission, again, to ban principal persons and key persons of a financial services business in appropriate circumstances. It also extends the criminal sanctions that already apply to principal persons to key persons if they act in a breach of these provisions. It grants power to the Commission to issue codes of practice granting a broader power to the Commission to issue directions and grants a power to the Commission to appoint an independent manager to manage part or all of the affairs of a registered person. However, an I.M.F. change which is unique to this amendment is contained in the Bill requiring the Commission to

refuse to register a shell bank and to revoke the registration of a bank that becomes a shell bank at some point. Although there are no shell banks in Jersey at present, it is necessary for us to set out this policy in legislation for the I.M.F. visit. There are 3 other changes; better provision to facilitate the transfer of deposit taking, a revision to the definition of relevant supervisory authority to, again, ensure consistency, and expanding the circumstances where an inspector can be appointed to investigate breaches of codes of practice, regulations, conditions and directions. Sir, I move the preamble.

The Deputy Bailiff:

Is that seconded? [**Seconded**] Does any Member wish to speak on the preamble? All those in favour of adopting the principles, kindly show? Those against? The principles are adopted. Deputy Southern, does your Panel wish to ...

Deputy G.P. Southern :

No, thank you, Sir. I would like to refer it to Deputy Troy. He has an eagle eye but, no, I do not.

The Deputy Bailiff:

Very well. How do you wish to propose the Articles?

6.2 Senator P.F.C. Ozouf:

En bloc, Sir, if I may.

The Deputy Bailiff:

And the schedules?

Senator P.F.C. Ozouf:

And the schedules please, Sir. I just will draw Members' attention to that issue that I raised concerning shell banks. A shell bank is a financial term that describes a bank that does not have a physical presence in any country as there is no ability to exert control by the host jurisdiction and the structure could be easily used for money laundering purposes. In order to prevent money laundering, standards are put in place to effectively prohibit shell banks. As I said, there are no shell banks in Jersey and the I.M.F. visit assessments are putting in place this legislation that will ensure that that remains the case. I would also draw Members' attention to Article 21 which sets out provisions to better facilitate the transfer of deposit taking business. The details are contained in the schedule to the law which sets out the process which is to be followed in such circumstances. This is an important change at present. A separate law has to be passed by the States in order to permit deposit taking businesses in Jersey to be transferred. That issue is not an I.M.F. issue. Article 15 expands the circumstances when an inspector can be appointed to investigate breaches of codes of practice, registration conditions and directions. The Commission can currently appoint inspectors to investigate deposit taking business. It is important that its inspectors are appointed under the law so that they are able to investigate a breach of secondary legislation and orders, et cetera, as well as other matters. The amendment is designed to have this effect. Sir, I move the Articles.

The Deputy Bailiff:

Are the Articles and the Schedules seconded? [**Seconded**] Does any Member wish to speak on any of the Articles or the Schedules?

6.2.1 Deputy P.V.F. Le Claire:

One of the most important parts of Amendment No. 6 falls within the second category of improving compatibility with the European Convention on Human Rights in relation to the appeals and I would like to ask, in reality, what will happen if the Commission finds that somebody has been

acting, in their view, in an improper way, issues a statement and then that statement has the right now, as it would be, to be put in to an appeal and the court decides that the appeal is upheld and, under 43(c)(6), the court issues the fact that they stop making the public appeal? I would like to know, in reality, how that will translate to the public if somebody has been found by the Commission to have been involved in something that they decide to make a statement on and then it appears somewhere publicly and then there is a court judgment to say: "Change the words that appear or retract the statement." The bottom line is if it appears on page 2 of the *J.P.* in a full page as a statement to the public, once that has gone to court for an appeal, is there going to be any direction that an equal statement of redress is printed or will it appear on page 9, column 3, hidden away behind the crossword or something? Will these statements, in the future, if they have been successful in the courts - because this is the most important part of being told - be given due prominence and how will that occur?

The Deputy Bailiff:

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

6.2.2 Senator P.F.C. Ozouf:

I think I would say to Deputy Le Claire that, effectively, what you are having here is the ability for somebody to appeal against the decision that has been made by the Commission and you cannot effectively put a blanket of secrecy in the event of a court case being made. The most important provision here is that, if somebody is banned under any of the provisions of any of these laws or that the Commission is threatening to make a ban, they have a right of appeal and, therefore, if that appeal is successful, then they will not be banned or they will not have conditions put on their licence. This is a standard convention right that somebody should have an appeal and, of course, this law and these provisions are not any different from anything else. It is the right of appeal that we are prescribing in law and that is the thing that matters at the end of the day. Sir, I move the Articles.

Deputy P.V.F. Le Claire:

Maybe I am confused but that certainly did not answer the question I was putting to the Minister inasmuch as that if they were told in the preamble that the most important part of this is their right to challenge the statement and have an appeal - and the Minister just stood up and enforced that importance - what I am asking is if a statement is being made about the public director in regards to an activity that, on challenge, is proven to be too stern or incorrect, will due prominence be given to that retraction of that statement in direction under codes or in law?

Senator P.F.C. Ozouf:

The Attorney General may be able to assist but, frankly, what we are dealing with here is the effect of a decision to stop somebody from carrying out a certain activity and ...

The Deputy Bailiff:

I think the question was about statements issued rather than banning of people carrying out activities. It is about statements issued which is referred to in the report.

The Attorney General:

If I may help Members, the provisions about the statements are to be found at Article 48(a) which is on page 22, I think, of my version of this projet and the Commission is generally required to serve notice in advance on the person before making a public statement about a registered person. It may not be practical to do that on some occasions, in which case that obligation is not placed on the Commission, but assuming that it is practical, the Commission is to give notice that it intends to issue the statement and then there are provisions for not publishing the statement for a month after

that under Article 48(b) and there is provision for appealing to the court and there is particularly a provision in Article 48(c) for the court to make any interim or final order as it thinks fit including an order that the Commission may not issue the relevant public statement. So there is built in to the process a provision for the registered person to go to court and seek an interim order pending the hearing of his appeal that the public statement not be issued. One would hope, therefore, that the circumstances that the Deputy refers to, generally speaking, will not come to pass at all because there is a process for dealing with it before the Commission issues a statement. If that person does not apply to court for an interim order and the statement is made, then, no doubt, the court - if it holds against the Commission - would be entitled to make it plain as a public judgment that the man's reputation or the registered person's reputation was absolutely reinstated.

Deputy P.V.F. Le Claire:

That is most helpful. Thank you. I apologise for causing any concern.

Senator P.F.C. Ozouf:

I apologise to the Deputy. He is absolutely right. At page 32 at paragraph 5, I think it explains exactly what the situation is.

The Deputy Bailiff:

Very well. All those in favour of adopting Articles 1 to 25 and the schedule, kindly show? Those against? The Articles and the Schedule are adopted. Shall we move the Bill in Third Reading, Minister?

Senator P.F.C. Ozouf:

Yes, Sir.

The Deputy Bailiff:

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

7. Draft Insurance Business (Amendment No. 6) (Jersey) Law 200- (P.137/2007)

The Deputy Bailiff:

We come next to the Draft Insurance Business (Amendment No. 6) (Jersey) Law P.137/2007 lodged by the Minister for Economic Development and I will ask the Greffier to read the citation.

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

As with the changes to the Banking Law, the insurance amendment has 2 aims - necessary changes for the I.M.F. visit and European Convention on Human Rights changes and some other minor changes. I think that all the substantial points have already been made under the Banking Law changes and so I move the preamble.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does anyone wish to speak on the principles? All those in favour of adopting the principles of the Law, kindly show? Those against? The principles are adopted. Deputy Southern?

Deputy G.P. Southern:

No, thank you, Sir.

The Deputy Bailiff:

Very well. How do you wish to propose the Articles en bloc, Minister?

7.2 Senator P.F.C. Ozouf:

En bloc, please, Sir.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Articles? Articles 1 to 19 are adopted. Do you propose them in Third Reading?

Senator P.F.C. Ozouf:

Yes, please, Sir.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak in Third Reading? The Bill is adopted in Third Reading.

8. Draft Financial Services (Amendment No. 4) (Jersey) Law 200- (P.138/2007)

The Deputy Bailiff:

We come next to the Draft Financial Services (Amendment No. 4) (Jersey) Law P.138/2007 lodged by the Minister for Economic Development. The Greffier will read the citation.

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

As with other provisions, the provisions relate to I.M.F. consistency for international standards and European Convention on Human Rights. Again, all the substantial points have been addressed in other matters already discussed. I would just point out, Sir, there is one point relating to I.O.S.C.O. principle 21. This requires users to have access to relevant information regarding investment business. In order to comply with this standard, the proposed change will enable the Commission to publish names of certain persons connected to an investment business to the public. These persons include directors, dealers, discretionary investment managers, advisors and supervisors of investment business. It is believed that the passing of this provision will enable Jersey to demonstrate compliance with the I.O.S.C.O. principle. I move the preamble, Sir.

The Deputy Bailiff:

Is the principle seconded? **[Seconded]** Does any Member wish to speak on the principles? The principles are adopted. Deputy Southern?

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

No, thank you, Sir.

The Deputy Bailiff:

Very well. Do you propose Articles 1 to 17?

8.2 Senator P.F.C. Ozouf:

Articles 1 to 17 en bloc, Sir.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Articles? Articles 1 to 17 are adopted. Do you propose them in Third Reading, Minister? Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? The Bill is adopted in Third Reading.

9. Draft Criminal Justice (International Co-operation) (Amendment) (Jersey) Law 200-(P.134/2007)

The Deputy Bailiff:

We come next to the Draft Criminal Justice (International Co-operation) (Amendment) (Jersey) Law P.134/2007 lodged by the Minister for Treasury and Resources. I will ask the Greffier to read the citation.

The Deputy Bailiff:

Minister.

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

May I ask that my Assistant Minister be rapporteur for this law and the next 2 propositions, Sir?

9.1 Deputy I.J. Gorst (Assistant Minister for Treasury and Resources):

After my speech earlier today, one of my colleagues said that I sounded like a Member who was a teacher in a previous life. I would like to apologise for sounding like a teacher. I will now revert to course and sound like an accountant [Laughter] I fear that some Members might find these propositions rather dusty. All I ask is that Members wake up for the vote on the propositions. I would like to thank Senator Ozouf for his introduction which really broadly covers the next 3 propositions lodged in the name of the Minister for Treasury and Resources. Again, these propositions are changes to various laws to meet the recommendations of F.A.T.F. (Financial Action Task Force) in preparation for the I.M.F. visit in the coming year. So if we take this first proposition, there are 2 changes to this law. Firstly, failing without reasonable excuse to comply with a notice issued by the Attorney General. There is an amended Article 5 which includes a provision which makes it an offence for a person to fail to provide evidence in accordance with a notice issued by the Attorney General. The Attorney General frequently receives requests for mutual legal assistance from other jurisdictions requesting his assistance in obtaining evidence in Jersey. It may be in connection with criminal proceedings that have been instituted or a criminal investigation that is being carried on in a particular jurisdiction. The Attorney General has recently noticed that some financial services providers are not complying with the terms of the notices issued by him under the law in a timely fashion. This is important because it hampers Jersey's ability to respond to requests for mutual legal assistance quickly and can result in criminal proceedings and investigations in other countries grinding to a halt if we hold evidence here. Jersey's ability to be able to respond to requests for assistance is paramount to Jersey's international reputation. Currently, there is no penalty in the principle law for failing to respond to the terms of the notice issued by the Attorney General. This law will introduce a penalty and it is hoped that the introduction of this penalty for failing to respond without reasonable excuse to a notice issued by the Attorney General will ensure that, in future, evidence requested is submitted to his office in a timely manner. The second change is a change which is not only in this law but also is included in the Drug Trafficking Offences Law and the Draft Proceeds of Crime Amendment which we will be coming on to shortly. This is a change regarding the enforcement of overseas forfeiture orders specifically abandoning the list of designated countries. This is in response to recommendation 38 of F.A.T.F. which requires countries to have appropriate laws and procedures in place to provide an effective and timely response to mutual legal assistance. Under the proposed amendment, the enforcement in Jersey of an external forfeiture order will no longer be conditional on countries or territories being designated. The amendment enables external confiscation orders from any jurisdiction to be capable of being registered by the Royal Court with of course specific safeguards. It also follows developments in U.K. legislation on which this legislation is based.

The Deputy Bailiff:

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

9.1.1 Deputy G.C.L. Baudains:

Rather like the previous batch of propositions which we had where the Minister explained the wish to speak about the generality, so do I on the forthcoming propositions, not only this one in particular, Sir, so I will, if I may, reserve my comments into this particular proposition. I do have some concerns about co-operation with other countries. As we see in the report, we are talking about requests for mutual legal assistance from other jurisdictions. It is a 2-way process. It has occurred to me for some time, Sir, that whilst Jersey is anxious to portray its international profile, of course it has no influence on the world stage. Such a position would, frankly, be laughable but it is a serious matter because propositions such as this and ones that follow assume that we are working to a level playing field and, unfortunately, Sir, we have no political clout. What do we do if a country refuses to co-operate or we find that the traffic is one-way and we assist them but they do not assist us, as an example? We cannot apply sanctions and there is nothing we can do. Another matter which is easy to forget, Sir, is that we are so used to the quality of British justice, other jurisdictions have a completely different justice system to our own. For instance, Sir, I was surprised to learn a while ago that, especially in Europe, their justice system allows all evidence to be admissible. Even evidence known to be a lie or a forgery is admitted as evidence. Now, if we are working with a system of that sort of the European system, I would suggest we are not working to a level playing field. It is also the case that when I was trying to assist a local person in a foreign country, Sir, I discovered that just a couple of years ago, they had had a clearout of corruption in his judiciary where several judges and other people ended up in jail. I have to say, Sir, I do not believe they were 100 per cent successful in clearing it out from my personal experience but what I am trying to say basically is we must surely be quite wary of entering into agreements for mutual assistance when we may well find that those agreements are only used when it is in the other country's interest to do so. I just make that observation, Sir.

The Deputy Bailiff:

Does any other Member wish to speak on the principles? Very well, I will call upon the Attorney General.

The Attorney General:

I think, Sir, I would like to speak, if I may, about the contribution that Deputy Baudains has just made because I well understand those concerns. What I would say to Members is that mutual legal assistance internationally is either treaty based; it is based on a formal agreement between the different jurisdictions or it is based on goodwill from one jurisdiction over to another. In Jersey's case, we are not treaty based and we never have been so far and part of the reason for that is that we are not a sovereign state. It is only part of the reason. The United Kingdom is not treaty based either. Although there are some United Kingdom treaties for mutual legal assistance, the United Kingdom does not require that there is a treaty before it agrees to give mutual legal assistance. So if one looks at the framework here, it does not require mutual legal assistance to be given. It is framed that the Attorney General may make an application to the court for an order to be made or may issue a notice in writing for a person to produce the evidence. So, in other words, the Attorney has the discretion. Because Jersey tends to receive more requests than it makes, it is not really possible to go much further on the whole than asking the other country to agree that there would be a reciprocity if the roles were reversed and certainly if I were to make a request to another country and it were to be refused, I would certainly take that into account if I were subsequently to receive a request from that other country. Indeed, that particular matter has arisen at least once in the past with a country I am not going to identify but there was, subsequently, some very serious discussions between me and the relevant Justice Ministry and, as a result, the misunderstandings were cleared up and all, I think, is now well. But I wish to tell Members that I have every sympathy with the Deputy's concerns about reciprocity. I think they are well-founded and if we are to act as a country would act, then it is necessary that, on occasions, we are prepared to say to other countries: "I am sorry. If you will not help us, we will not help you and we expect to be treated as you would

expect to be treated as well.” On the second point which really relates to the quality of justice in other jurisdictions, this is always a difficult issue and, quite frequently, there is very significant investigations made in my department before the request is going to be actioned. The investigations that are made may well lead to requests for undertakings from the other country to us as to what might be the position if a prosecution were to be brought, particularly in cases where that other country has the power under its domestic law to impose physical punishment which is the case in some Middle Eastern countries where one might be very hesitant about giving evidence over to the other jurisdiction if the result was going to be a flogging in a public square or something of that nature. So I would like to reassure the Deputy and Members that these issues are looked at very carefully before assistance is given by us. Thank you, Sir.

The Deputy Bailiff:

Does any Member wish to speak? Very well, rapporteur, do you wish to reply?

9.1.2 Deputy I.J. Gorst:

Yes, I would like to thank the Attorney General for his very helpful comments. I think it is also important, however, for us to remember that international co-operation and fulfilling our international obligations become much more important in the financial world and I hear exactly what the Deputy is saying about a level playing field. I think, if we are looking in this respect, it covers the other laws that we have debated and in regard to the I.M.F., I think that is the international adjudicator to ensure that there is a level playing field and the 40 F.A.T.F. (Financial Action Task Force) recommendations are recommendations which apply to all jurisdictions and jurisdictions are judged in the same manner; their compliance or not with those recommendations. I think it is also worth just reminding Members that it is very important for us to be seen to be compliant. We see what has happened to those jurisdictions with financial industries where they have not complied in the past and that certainly is not somewhere that I would want us to be and I do not believe it is anywhere that this Assembly would want us to be. Thank you, Sir, I maintain the amendment.

The Deputy Bailiff:

All those in favour of adopting the principles of the Bill, kindly show? Those against? The principles are adopted. Deputy Ryan, this is a matter for your Scrutiny Panel. Do you wish to have it referred to you?

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

No, thank you, Sir.

The Deputy Bailiff:

Do you wish to propose Articles 1 to 7?

Senator T.A. Le Sueur:

Yes, please, if I may, Sir.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any other Member wish to speak on any of the Articles? Articles 1 to 7 are adopted. Do you propose the Bill in Third Reading?

Senator T.A. Le Sueur:

Yes, Sir.

The Deputy Bailiff:

Does any other Member wish to speak in Third Reading? The Bill is adopted in Third Reading.

10. Draft Proceeds of Crime (Amendment) (Jersey) Law 200- (P.129/2007)

The Deputy Bailiff:

We come next to the Draft Proceeds of Crime (Amendment) (Jersey) Law P.129/2007 lodged by the Minister for Treasury and Resources. I will ask the Greffier to read the citation.

The Deputy Bailiff:

Yes, Deputy.

10.1 Deputy I.J. Gorst (Assistant Minister for Treasury and Resources):

This is a slightly longer, more complicated set of amendments, so I ask that Members bear with me as I trudge through them. First of all, we have a failure to disclose a knowledge or suspicion of money laundering. This, again, is a change to this law and we will see the same changes or very similar changes to the Drug Trafficking Offences (Jersey) Law which is up next and, indeed, it is an amendment which is already included in the Terrorism (Jersey) Law which the Minister for Home Affairs will come on to shortly after we finish this one and the next one. 2 new offences have been created here under Articles 34(a) and (d). 34(a) applies to a person in the course of his trade or profession, business or employment who comes to know or suspects someone who is engaged in money laundering and who fails to disclose that knowledge or suspicion to a police officer. This offence does not apply if that person comes into that information carrying out their business or their business is financial services business. That offence is created under 34(d) and it states that it is based on information a person knows or suspects or has reasonable grounds for knowing or suspecting that another person is engaged in money laundering and fails to disclose that information to a police officer or nominated officer that they commit an offence. This newly creates a negligence test for those working within a regulated industry of which the financial services industry business is such. Again, the reasons for the change is that this is to comply with F.A.T.F. (Financial Action Task Force) recommendation 13 which states: "Where a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of criminal activity or are related to terrorist financing, it should be required directly by law or regulation [that is the important bit] to report promptly its suspicions to the Financial Intelligence Unit." The second is customer information and account monitoring orders. This, again, is similar to changes in the Drugs Trafficking Offences (Jersey) Law and to an Article which is already included in the Terrorism (Jersey) Law. The amendment here in the principle law will give effect to a new Schedule 3 which is drafted to enable account monitoring orders and customer information orders to be obtained in relation to money laundering investigations. The Bailiff may make either order on the application of a police officer of at least the rank of Chief Inspector if certain criteria are met. Again, the reason for this change is to comply with F.A.T.F. recommendation 28 which: "... requires competent authorities responsible for conducting investigations of money laundering and terrorist financing offences to have powers to be able to (a) compel production of (b) search persons or premises for and (c) seize and obtain transaction records and identification data obtained through the custom of due diligence process, account files and business correspondence and other records, documents or information held or maintained by financial institutions and other businesses or persons." As I said, this is a similar amendment which is already included in the Terrorism (Jersey) Law. The third change is the enforcement, again, of external confiscation orders and the abandoning of the list of designated countries which we covered in the previous law. Fourthly, there are changes regarding the terminology and description of asset sharing agreements. Article 14 amends the term "asset sharing arrangement" which is currently contained in Article 24 of principle law and replaces it with the term "asset sharing agreement" which is defined as meaning "Any agreement or arrangement made by or on behalf of Jersey." The change there is that, previously, it specified the Attorney General. That has been changed to say: "On behalf of Jersey with a country or territory

outside Jersey for the sharing of proceeds of criminal conduct that, as a result of mutual assistance, have been confiscated or forfeited either in Jersey or elsewhere.” The reason for this change is to have compatibility across all 3 laws so that we have the same terminology and description. There is also a change which clarifies the status of the Criminal Offences Confiscation Fund which has previously been omitted from the list of special funds in the Public Finances Transitional Provisions Regulations 2005. It will mean that it is, in future, included in that list. Fifthly, we have the prevention and detecting of money laundering. The F.A.T.F. recommendations 4 to 12 provide for certain measures to be taken by financial services businesses to prevent and detect money laundering and terrorist financing. This is a slight change to broaden the scope of the current Article 37 to ensure that it covers preventing and detecting of money laundering. Again, the reason for the change is to bring consistency and to ensure that it is wide enough. I think I will shut up there, Sir; I need a drink. Thank you.

The Deputy Bailiff:

Are the principles seconded? [**Seconded**]. Does any Member wish to speak on the principles of P.129? The principles are adopted. Deputy Ryan, do you wish this matter to be referred to the Panel?

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

No, thank you, Sir.

The Deputy Bailiff:

Deputy Gorst, do you wish to propose Articles 1 to 16 en bloc?

10.2 Deputy I.J. Gorst:

Yes, please, if I may, Sir.

The Deputy Bailiff:

Does any Member wish to speak on any of Articles 1 to 16? Articles 1 to 16 are adopted. Do you propose the Bill in Third Reading, Deputy?

Deputy I.J. Gorst:

Yes, Sir, thank you.

The Deputy Bailiff:

Is that seconded? [**Seconded**]. Does any Member wish to speak in Third Reading? The Bill is adopted in Third Reading.

11. Draft Drug Trafficking (Offences) (Amendment) (Jersey) Law 200- (P.128/2007)

The Deputy Bailiff:

We come next to the Draft Drug Trafficking (Offences) (Amendment) (Jersey) Law 200-, P.128, lodged by the Minister for Treasury and Resources. I will ask the Greffier to read the citation.

11.1 Deputy I.J. Gorst (Assistant Minister for Treasury and Resources):

Hopefully this one will be slightly quicker because the amendments to the previous law are rolled out into this one. Firstly we have failing to disclose a knowledge or suspicion of money laundering. Again we have a separation of 2 offences, one for those involved in non-finance businesses and one for those involved in financial services industry. The second change is a restriction on disclosure. These Articles' changes restrict the onwards disclosure of information about drug money laundering which is disclosed to a police officer. The same provisions are being introduced into the terrorism law, which we will come on to shortly. The reason these are being made is because it was considered desirable to ensure the position on police disclosure under the principle law is both clear

and identifiable not only to I.M.F. assessors but also to members of the general public. The third change we have is customer information and account monitoring orders which we covered in some detail earlier. Again, the fourth change is asset-sharing agreements which we have also covered earlier, and fifthly, the enforcement of external confiscation orders abandoning the list of designated countries, which again we have covered in the previous 2 amendments. I maintain them. Thank you, Sir.

The Deputy Bailiff:

Does any Member wish to speak on the principles? The principles are adopted. Deputy Ryan, do you wish for this matter ...

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

No, thank you, Sir.

The Deputy Bailiff:

Then do you propose Articles 1 to 12?

11.2 Deputy I.J. Gorst:

Yes, Sir, thank you.

The Deputy Bailiff:

Are they seconded? [**Seconded**] Senator Vibert, do you wish to talk on this matter?

Senator M.E. Vibert:

No, Sir, I was just regarding the time and what we should do after this matter, Sir.

The Deputy Bailiff:

Yes, very well. All those in favour of adopting Articles 1 to 12, kindly show? Those against? Articles 1 to 12 are adopted. Do you propose the Bill in Third Reading?

Deputy I.J. Gorst:

Yes, please, Sir. Thank you.

The Deputy Bailiff:

Is that seconded? [**Seconded**] Does any Member wish to speak in Third Reading? The Bill is adopted in Third Reading.

ADJOURNMENT PROPOSED

The Deputy Bailiff:

As Senator Vibert has pointed out, it is 5.30 p.m. Do I take it Members wish to continue to try and finish this business? Very well.

The Deputy of St. Mary:

I would like to propose the adjournment under Standing Order No. 45, Sir. We have in the past discussed adjournment at 5.30 p.m. and it has become patently obvious that there are a number of commitments which need to be reorganised if we do decide to continue, Sir. I would like to propose in the circumstances that we adjourn for 10 to 15 minutes now to allow people to make arrangements to enable them to be in the Assembly to hear the debates which we think are very important and we need to carry on to do, Sir.

The Deputy Bailiff:

Very well. You are certainly entitled to propose that. Is that seconded? **[Seconded]** So the proposal is to adjourn for how many minutes?

The Deputy of St. Mary:

I would say 10, Sir.

The Deputy Bailiff:

The proposal is to adjourn for 10 minutes, if people wish to make calls. Those in favour? Very well. The appel is called for in respect of the Deputy of St. Mary's proposition.

Deputy I.J. Gorst:

I think we are not going to be any more than 20 minutes, hopefully.

The Deputy Bailiff:

Then you vote against, Deputy?

The Deputy of St. Mary:

I would just like to say that I agree we may be a very short amount of time, but every proposition that comes before the Assembly deserves to be fully debated and fully considered, Sir. I would not like to rush any on the grounds that people have appointments. We have discussed this at P.P.C. (Privileges and Procedures Committee), Sir, because it has been raised several times. I do think it is important, Sir, thank you.

The Deputy Bailiff:

Very well. The appel has been called for on whether to adjourn for 10 minutes and then continue.

Deputy J.J. Huet of St. Helier:

Can I also ask, I am not sure that we should be coming back in tomorrow. I do not understand why we are expected to get all through this in 10 minutes. That is not correct. That is not the right way to do business.

The Deputy Bailiff:

Well, can we take one proposition at a time? So the proposition now is that of the Deputy of St. Mary to adjourn for 10 minutes and then return.

POUR: 15

Senator P.F. Routier
Senator M.E. Vibert
Connétable of St. Clement
Deputy J.J. Huet (H)
Deputy C.J. Scott Warren (S)
Deputy S.C. Ferguson (B)
Deputy P.J.D. Ryan (H)
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy G.W.J. de Faye (H)
Deputy P.V.F. Le Claire (H)
Deputy D.W. Mezbourian (L)
Deputy of St. John
Deputy I.J. Gorst (C)
Deputy of St. Mary

CONTRE: 27

Senator L. Norman
Senator F.H. Walker
Senator W. Kinnard
Senator T.A. Le Sueur
Senator P.F.C. Ozouf
Senator B.E. Shenton
Senator J.L. Perchard
Connétable of St. Ouen
Connétable of St. Mary
Connétable of Trinity
Connétable of St. Lawrence
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. John
Connétable of St. Saviour
Deputy R.C. Duhamel (S)

ABSTAIN: 0

Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy P.N. Troy (B)
Deputy R.G. Le Hérissier (S)
Deputy G.P. Southern (H)
Deputy of St. Ouen
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)

The Deputy Bailiff:

Do I take it from that that Members do wish to continue now?

Deputy J.J. Huet:

I would like to propose that we adjourn, please, Sir. Thank you.

The Deputy Bailiff:

Very well. There is a proposal to adjourn completely. Is that seconded? **[Seconded]** Very well. The appel is called for on whether to adjourn and come back tomorrow or whether to continue. **[Interruption]** I think the States had already agreed to sit for up to 3 days, Deputy, so I am taking it that, therefore, the proposal ... is that correct, Deputy? So just to be clear, the proposal is from Deputy Huet to adjourn now and come back at 9.30 a.m. tomorrow.

POUR: 19

Senator T.A. Le Sueur
Senator J.L. Perchard
Connétable of St. Clement
Deputy R.C. Duhamel (S)
Deputy J.J. Huet (H)
Deputy G.C.L. Baudains (C)
Deputy C.J. Scott Warren (S)
Deputy G.P. Southern (H)
Deputy S.C. Ferguson (B)
Deputy of St. Ouen
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy G.W.J. de Faye (H)
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy S. Pitman (H)
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. Mary

CONTRE: 22

Senator L. Norman
Senator F.H. Walker
Senator W. Kinnard
Senator P.F. Routier
Senator M.E. Vibert
Senator P.F.C. Ozouf
Senator B.E. Shenton
Connétable of St. Ouen
Connétable of St. Mary
Connétable of Trinity
Connétable of St. Lawrence
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. John
Connétable of St. Saviour
Deputy of St. Martin
Deputy P.N. Troy (B)
Deputy R.G. Le Hérissier (S)
Deputy P.J.D. Ryan (H)
Deputy S.S.P.A. Power (B)
Deputy of St. John
Deputy I.J. Gorst (C)

ABSTAIN: 0

The Deputy Bailiff:

So I think the result of that is we carry on.

12. Draft Terrorism (Amendment No. 2) (Jersey) Law 200- (P.131/2007)

The Deputy Bailiff:

We come now to the Draft Terrorism (Amendment No. 2) (Jersey) Law 200-, P.131, lodged by the Minister for Home Affairs. I will ask the Greffier to read the citation.

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

The amendments contained in the Draft Terrorism (Amendment No. 2) (Jersey) Law have been made to implement the criteria set out in the recommendations of the Financial Action Task Force the dates which Jersey will be assessed. The amendments will also address inconsistencies in the current operation of the Proceeds of Crime (Jersey) Law 1999, the Drug Trafficking (Offences) (Jersey) Law 1998 and the Terrorism (Jersey) Law 2002. The draft law amends Article 23 of the terrorism law so that a person working for a financial institution does not commit the offence of failing to disclose a knowledge or suspicion of a terrorist offence under the terrorism law if he or she does not know or suspect that such a terrorist offence has been committed and has not been given training by the employer in the prevention and detection of money laundering. It is considered inappropriate for those who have not had adequate training to be expected to be able to identify transactions which may be indicative of money laundering. The new Articles 24A-C of the draft law will provide an express statutory basis for the disclosure of information by a police officer for particular purposes. While information can be disclosed by a police officer under the established common law principles on police disclosure, it was thought desirable to include express disclosure provisions in both the Terrorism and Drug Trafficking (Offences) Laws so as to ensure that the position on police disclosure under these laws is both clear and identifiable, not only to the I.M.F. assessors but also to members of the public for human rights purposes. Currently assisting other jurisdictions to enforce external restraint or forfeiture orders depends on their being listed as a designated country in the Terrorism Enforcement Regulations 2003. Under the draft law, forfeiture or restraint orders from any jurisdiction will no longer be conditional on countries or territories being designated. Forfeiture or restraint orders may be registered by the Royal Court as long as the court is satisfied that the order is enforced and not subject to appeal at the time of registration and that enforcing the order in Jersey would not be contrary to the interests of justice. Although helping designated countries only is unlikely to be criticised by the International Monetary Fund, Jersey may have been considered to have been giving ineffective mutual legal assistance should the designated list of countries have not been kept up to date. It is, therefore, considered that the best solution is to abandon the list of countries and offer assistance on a case-by-case basis. Proposed changes to the Regulations are necessary in order to remove any references currently made to designated countries or territories. As a result of comments made by the I.M.F. during their last visit to the Island, consideration has been given to amending the Terrorism Law to introduce provisions facilitating the sharing of assets. The draft amendment provides for the proceeds of assets forfeited in relation to terrorist offences to be realised by the Viscount and paid into the Criminal Offences Confiscations Fund. The fund can then be utilised for fulfilling Jersey's obligations in relation to asset-sharing agreements with other countries. Sir, I move the principles.

The Deputy Bailiff:

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

12.1.1 Deputy G.C.L. Baudains:

Notwithstanding the assurances from the Attorney General subsequent to my previous comments, for which I am grateful, I would merely draw attention to the fact that the amendments enable external forfeiture or restraint orders from any jurisdiction. That does cause me a little concern, Sir. When we look on page 5, 8(c): "It is of the opinion that enforcing the order in Jersey would not be contrary to the interests of justice", it is obviously a safeguard though I am not quite sure how one could ensure that matter when one is dealing with any jurisdiction. There are varying levels of justice and competence around the world.

The Deputy Bailiff:

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

12.1.2 Senator W. Kinnard:

Again, like others, I share some of the concerns that Deputy Baudains has expressed, but I think the Attorney General gave a full explanation. Essentially, Sir, in this matter the Attorney General is the gatekeeper. I do not know if the Attorney wishes to add anything.

The Attorney General:

Just to say I am only the first gatekeeper. The second gatekeeper is the court which has to make a forfeiture order.

Senator W. Kinnard:

I maintain them.

The Deputy Bailiff:

Very well. All those in favour of adopting the principles, kindly show? Those against? The principles are adopted. Now, this is a matter for the Education and Home Affairs Scrutiny Panel, I think. Deputy Mezbourian, do you wish for this to be referred to your Panel?

Deputy D.W. Mezbourian (Chairman of the Education and Home Affairs Scrutiny Panel):

No, thank you, Sir.

The Deputy Bailiff:

Very well. Do you propose Articles 1 to 9, Minister?

12.2 Senator W. Kinnard:

Yes, if I may propose them en bloc, Sir.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on any of the individual Articles? Very well. All those in favour of adopting Articles 1 to 9, kindly show? Those against? Articles 1 to 9 are adopted. Do you propose the Bill in Third Reading, Minister?

Senator W. Kinnard:

I do so, Sir.

The Deputy Bailiff:

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

13. Draft Corruption (Amendment of Definitions) (Jersey) Regulations 200- (P.130/2007)

The Deputy Bailiff:

Then we come to the Draft Corruption (Amendment of Definitions) (Jersey) Regulations 200-, P.130, lodged by the Minister for Home Affairs. I will ask the Greffier to read the citation.

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

The purpose of the draft Regulations is to amend the Corruption (Jersey) Law 2006 so as to enable Jersey to request extension of the United Kingdom's ratification of the O.E.C.D. Convention on combating bribery of foreign public officials in international business transactions. Correspondence

with the Department for Constitutional Affairs highlighted that, for the purposes of implementing the O.E.C.D. Convention in Jersey, it would be necessary to make some adjustments to the scope of the definitions of “agent”, “public body” and “public official” in the 2006 law as enacted. The definition of a foreign public official in the O.E.C.D. Convention is, and I quote: “Any person holding a legislative, administrative or judicial office of a foreign country, whether appointed or elected, any person exercising a public function for a foreign country, including for a public agency or public enterprise, and any agent or official of a public international organisation.” Under the draft Regulations, the definition of “agent” would be widened to cover elected or appointed officers in an administration in foreign countries as well as other public functionaries at a regional or national level overseas and officials of public international organisations such as the United Nations working overseas. The opportunity, Sir, has also been taken to include in the definition of “public body” ...

Deputy G.C.L. Baudains:

It does occur to me we could save a lot of time, Sir. Surely we are quite capable of reading the report ourselves.

Senator W. Kinnard:

Well, I shall cut that short and say then, Sir, I propose the principles.

The Deputy Bailiff:

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

13.1.1 Deputy R.G. Le Hérissier:

Just to confirm, Sir: “public body” would include the J.E.C. (Jersey Electricity Company), for example?

The Deputy Bailiff:

Does any other Member wish to speak? Minister?

13.1.2 Senator W. Kinnard:

I would think that would be a public body, yes, Sir.

The Deputy Bailiff:

Very well. All those in favour of adopting the principles, kindly show? Those against? The principles are adopted. Deputy Mezbourian, do you wish for this to be referred to your Panel?

Deputy D.W. Mezbourian (Chairman of the Education and Home Affairs Scrutiny Panel):

No, thank you, Sir.

The Deputy Bailiff:

Then we come to Regulations 1 to 5. Do you propose them en bloc?

13.2 Senator W. Kinnard:

Yes.

The Deputy Bailiff:

Are they seconded? [**Seconded**] Does any Member wish to speak on any Regulations 1 to 5? All those in favour of adopting Regulations 1 to 5, kindly show? Those against? The Regulations are adopted. Do you propose the Regulations in Third Reading?

Senator W. Kinnard:

I do so, Sir.

The Deputy Bailiff:

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

14. Draft Crime (Transnational Organised Crime) (Jersey) Law 200- (P.132/2007)

The Deputy Bailiff:

We come then to the Draft Crime (Transnational Organised Crime) (Jersey) Law 200-, P.132, lodged by the Minister for Home Affairs. The Greffier will read the citation.

The Attorney General:

I am very conscious of trespassing in political territory here, but all the legislation we have just been dealing with has had a commonality to it. It has been very similar. This legislation and some of the new laws that follow are substantial pieces of legislation and new pieces of legislation. I really wonder whether it is appropriate that they are dealt with tonight. It is entirely a matter for the Minister.

Senator W. Kinnard:

I am in the hands of the Assembly, really.

ADJOURNMENT PROPOSED

Deputy P.V.F. Le Claire:

I think we had better test the mood of the Assembly, Sir. On the advice of the Attorney General, I would like to ask for an appel to adjourn for tomorrow. Based upon that intervention, Members can make their own minds up.

The Deputy Bailiff:

Very well. It is always possible for such a proposal to be made. Is it seconded? **[Seconded]** Very well. So the proposal now is that the Assembly should adjourn until tomorrow with the remaining matters to be dealt with tomorrow.

Senator F.H. Walker:

I will be putting another proposal to the Assembly, if I may, that we adjourn these items until the next sitting.

The Deputy Bailiff:

Well, we had better be clear ...

Deputy R.G. Le Hérissier:

Sorry, Sir, I know the Connétable of St. Ouen has a couple of items and I do not know if they are contentious or non-contentious. Then we could defer these to the next sitting and perhaps deal with these 2 items.

Deputy P.V.F. Le Claire:

I am trying to assist the Assembly, Sir, but I would also like to make sure that we are doing the right thing. I do take cognisance of when the Attorney General stands up to speak on these matters, which is not very often, and maybe we could just ask him on reflection, if these things are left over, if that is something that would be of concern or, if not, he would reiterate his advice to us that we perhaps leave these over until tomorrow morning or the next sitting.

The Deputy Bailiff:

Well, I think Members will need to know which proposition to form, whether to adjourn until tomorrow or whether to adjourn until the next sitting.

Deputy P.V.F. Le Claire:

I would like to get a steer from Her Majesty's Attorney General, Sir, in regards to ...

The Deputy Bailiff:

Can we have some quiet, please? Excuse me. Can we please have one conversation going on in this Chamber?

Deputy P.V.F. Le Claire:

I am getting advice from all the States Members, Sir, which I do not need and I do not require and I do not want. What I would like, Sir, is advice from Her Majesty's Attorney General as to whether or not leaving these matters over until the next session is of consequence.

The Attorney General:

I had thought that the Assembly was going to reconvene tomorrow. If it is not going to reconvene tomorrow, the last item, the Crime (Sentences) Act 1997 is a matter where I think it would be convenient if the Assembly could deal with it quickly, but the others, I think, could safely wait for 2 weeks.

Senator W. Kinnard:

I would certainly be content with that, although it gives me an awful lot of work to do on that sitting. I would be prepared for it if we were to leave it until the next sitting on 20th.

Deputy C.J. Scott Warren:

There is another issue here. Certainly I believe at least a few people in this Assembly are going to want to attend a funeral tomorrow morning which means probably leaving the States Chamber to attend it at about 9.50 a.m. because it is going to be well attended.

The Deputy Bailiff:

Well, Senator, are you proposing to adjourn now, leaving it until the next meeting?

Senator F.H. Walker:

In one word, Sir: yes.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Yes, all right, that is seconded? Well, I think we will take that one first, if I may. So Members are being asked now to adjourn and debate all the matters except the Crime (Sentences) Act in 2 weeks' time, to be added to the agenda of the next sitting. The appel is called for, so the vote, if you wish to vote ...

The Attorney General:

I am sorry, Sir, does that mean that Members are being asked to debate the Crime Sentences matter tonight?

The Deputy Bailiff:

Now, yes. Apart from that, all the other matters will be put off for 2 weeks and we will not sit tomorrow.

POUR: 32

Senator F.H. Walker
Senator W. Kinnard
Senator P.F. Routier
Senator M.E. Vibert
Senator P.F.C. Ozouf
Senator B.E. Shenton
Senator J.L. Perchard
Connétable of St. Ouen
Connétable of St. Mary
Connétable of St. Clement
Connétable of Trinity
Connétable of St. Lawrence
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. John
Connétable of St. Saviour
Deputy G.C.L. Baudains (C)
Deputy P.N. Troy (B)
Deputy C.J. Scott Warren (S)
Deputy R.G. Le Hérissier (S)
Deputy S.C. Ferguson (B)
Deputy of St. Ouen
Deputy P.J.D. Ryan (H)
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy A.J.D. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy of St. Mary

CONTRE: 7

Senator L. Norman
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy J.A.N. Le Fondré (L)
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy I.J. Gorst (C)

ABSTAIN: 0

15. Crimes (Sentences) Act 1997: extension to Jersey (P.124/2007)

The Deputy Bailiff:

So then we will just deal with the Crimes (Sentences) Act 1997: extension to Jersey - P.124 - lodged by the Chief Minister. The Greffier will read the citation.

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

May I ask my Assistant Minister, the Connétable of St. Ouen, to act as Rapporteur, please?

The Deputy Bailiff:

Very well. Yes, Connétable?

15.1 The Connétable of St. Ouen (Assistant to the Chief Minister):

As Members will realise from reading the report, this is an extremely technical proposition but nonetheless an extremely important one. In 1997, the Westminster Parliament passed the Crime (Sentences) Act. Section 41 and Schedule 1, and Section 56, paragraph 2, and Schedule 6 of that Act are expressed in terms to apply to Jersey. This part of the legislation concerns mostly the transfer of prisoners from one part of the British Isles to another. It also extended a provision in the Prison Act 1952 allowing the arrest in the British Isles of a prisoner who was unlawfully at large and who had escaped. The United Kingdom Government proposed that Act to Parliament, having carried out extensive negotiations and discussions with the Island authorities in the months prior to the Act being finalised. At the time, therefore, Parliament only enacted these provisions which apply directly to Jersey with the full consent of the Island authorities. In 1997, that consent was given through discussions between the Law Officers and the Policy and Resources Committee. Where the substance of the legislation is very technical, as it was in the case of the Crime (Sentences) Act, the act of discussion took place between the prison authorities and the Law Officers' Department. The legislation was needed to ensure that there were adequate arrangements for the transfer of prisoners in Her Majesty's Prison La Moye to prisons in the United Kingdom and vice versa. The powers in the legislation are conferred upon the Home Secretary to make orders for the transfer of convicted or remanded prisoners when he or she thinks fit from one jurisdiction to the other. In practice, the arrangements for the transfer are made by the Prison Governor in Jersey with his colleagues in prisons in the United Kingdom. Accordingly, an English person, for example, sentenced to the prison by the Royal Court in Jersey for an offence committed in Jersey may be transferred back to the United Kingdom to serve his sentence in a prison somewhere close to his family. Similarly, the position can work the other way around, if a Jersey person is sentenced to a period of imprisonment in the United Kingdom, with the result that he can be transferred back to Jersey to serve his sentence close to his family, thus making prison visits easier. The extension of the section in the Prison Act 1952 allows for the arrest without warrant of a person who has escaped from prison. It is thus essential that the police should be able to arrest without warrant a person who is in Jersey, having escaped from prison in the United Kingdom and is therefore unlawfully at large. There would be difficulties in using this power of arrest if this was not approved today. Since 1997, the arrangements have, in fact, worked very well in practice. The problem arises because of an oversight. The United Kingdom did not arrange for the Act of Parliament to be sent to Jersey formally for registration in the Royal Court despite some requests that it should do so. Registration in the Royal Court is an important part of the Constitutional protection which exists in the Island. Registration of an English Act of Parliament in the rolls of the Royal Court is the method by which Islanders have notice of the terms of the Act through its publication in Jersey. When the States of Jersey Law was passed in 2005, provisions were inserted to protect the democratic rights of the people of Jersey by ensuring that the States should give consideration to the principles of legislation which was to be enacted by an Act of Parliament prior to the legislation being registered in the Royal Court. The Act of Parliament has now formally been sent to Jersey and although it has been in force and operating for some years, it cannot now be registered unless the States signifies its approval. Some Members may wonder what happens if the States do not approve this proposition. The results would be that the court would not be able to proceed with registration of the Act of Parliament in the rolls of the court and there could, at any stage thereafter, be a challenge to the lawfulness of any transfer of a prisoner or arrest of an escaped prisoner that was made in Jersey as a result. In determining whether the challenge was successful, the court would have to go back to first principles to determine whether an Act of Parliament could have effect in Jersey without registration by act of the Royal Court. That would be an unfortunate piece of litigation to have with potentially significant constitutional implications. Such a piece of litigation is to be avoided if possible. I therefore ask Members to treat this proposition as something which arises from a sequence of oversight and coincidence but is nonetheless very important to have put right at this time. I so propose.

The Deputy Bailiff:

Is that seconded? [**Seconded**] Deputy Hilton?

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

Just a couple of points of clarification, and I will be brief. I was wondering if the rapporteur could just give me a few examples of where the Secretary of State might use his power to order the transfer of a convicted or remanded prisoner from Jersey to the United Kingdom. That was the first thing. The second point I would like to make is that I welcome this proposition today because, if my memory serves me correctly, I think a couple of years ago we were faced with the very situation where we had a murderer on the run, I believe, who was detected in St. Helier. Obviously this legislation is going to make it far easier for the police to act when they are aware of these situations. So I welcome this very much. The other point I wanted to make was I understand, according to the proposition, that rules governing the release of prisoners in the sentencing jurisdiction, i.e. Jersey, prevail over the rules which would otherwise apply to the prisoner had he or she been sentenced in the United Kingdom. The only exception to this is, I understand, where a prisoner is sentenced to life imprisonment. Can you tell me, in the case of a prisoner committing the act of murder in Jersey and being convicted and sentenced in Jersey but then being transferred to the United Kingdom for whatever reason, am I correct to think that they would only serve half their sentence in the United Kingdom because at the present time I understand that they have a parole system and prisoners only tend to serve half their sentence? In Jersey, at the present time, it is two-thirds, so there is a difference. So really I want to know if somebody has committed the act of murder and been sentenced in Jersey but then transferred to the U.K., will they serve half their sentence or two-thirds of their sentence? Thank you.

The Deputy Bailiff:

Does any other Member wish to speak?

15.3 Deputy P.V.F. Le Claire:

The second point is something I was going to ask as well, Sir, just on reflection to the parole system whereby, as pointed out by the previous speaker, given the vice-versa situation, would somebody be sent to Jersey and then be facing more of a prison sentence than they otherwise would have been expecting had they been sentenced in England?

The Deputy Bailiff:

Does any other Member wish to speak?

15.4 Deputy P.N. Troy:

I noticed that correspondence on this issue began in 1996. Given the questions that we have now, I think we could have put this over for 2 weeks.

The Deputy Bailiff:

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

15.5 The Connétable of St. Ouen:

I can reply to the first point which Deputy Hilton raised, and that is that in fact in practice the Home Secretary does not get involved in the decision making. It is done between prison officers or prison governors. As far as the second point is concerned, the convictions in a Jersey court and what happens with that conviction, may I, Sir, through the Chair, ask the Attorney General to maybe address that?

The Deputy Bailiff:

Yes.

The Attorney General:

The questions governing the release of Jersey-convicted persons who are sent to the United Kingdom to serve their sentence, it is correct that under the arrangements which exist at the moment they are governed by Jersey rules and not by U.K. rules. Deputy Hilton mentioned the exception for life imprisonment. The States passed the Criminal Justice (Mandatory Minimum Periods of Actual Imprisonment) (Jersey) Law 2005 which sets out the basis upon which those who are convicted of murder will have recommended sentences made by the Royal Court of Jersey. Those should, therefore, take effect for the purposes of the sentences which those persons are going to serve. The arrangements, Members may remember, used to turn on the exercise of discretion by the Home Secretary on release. Those arrangements were found to be inconsistent with the European Convention on Human Rights. Changes were made in the United Kingdom to introduce the Mandatory Minimum Periods of Actual Imprisonment Act and we have adopted a very similar piece of legislation in Jersey which ensures that the judicial decisions are the trigger for the release later on in the service of the sentence. So there is a minimum period of sentence, particularly in the case of murderers, which the court in Jersey fixes before the person is released.

The Connétable of St. Ouen:

I was just going to thank the Attorney General for his help, Sir, and maintain the proposition.

The Deputy Bailiff:

All those in favour of adopting the proposition, kindly show? Those against? The proposition is adopted. All other Items of Public Business have been deferred.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**The Deputy Bailiff:**

We come then to M. - Arrangement of Public Business for Future Meetings. I invite the Chairman of the Propositions and Procedures Committee to address the States.

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

I would like to propose the arrangement of business outlined on the pink sheets with the addition, for 20th November, of the items not dealt with today.

The Deputy Bailiff:

Very well. Does any Member wish to say anything?

16.1 Senator P.F.C. Ozouf:

I am mindful of the Home Affairs Minister's heavy duties on 20th with these additional matters. I wondered whether or not we might put, interspersed in the order of business, other business in order to give the good Minister a rest because otherwise she is going to be on her feet for some time. I am aware that on the last item of business, she may want to take the Criminal Justice Strategy as first item. She then might wish to have a break. I am mindful also of P.169 which currently sits at the bottom of the list. This is the Zero-Rating for Foodstuffs, something that the Assembly may wish to put higher up the agenda than some of the other issues. It is something that we are going to have to create certainty on. There is a debate to be had. So just looking at the Minister for Home Affairs, would she be willing to have her Criminal Justice Strategy number one, the issue of Goods and Services Tax Zero-Rating as 2, and then for the rest of the business to follow in the numerical sequence?

Senator W. Kinnard:

I would be content with that.

16.1.1 The Deputy of St. Martin:

I do not know if Senator Ozouf was in the Assembly last time when we discussed, but I think what we need to do is have P.161 before we have P.118. We will obviously discuss debates of Criminal Justice Policy but it will have an effect on whether we discuss all of Criminal Justice Policy. Also, Sir, while I am on my feet, I know most Members will have looked at P.161, but could I just ask maybe you will read it again closer to the date so you are well aware of what the ramifications are of the Jonathan Cooper Appeal.

The Deputy Bailiff:

I did not understand Senator Ozouf to be suggesting any changes to the ...

Senator P.F.C. Ozouf:

Sorry, I should have been clearer; P.161, P.118, then food, then the rest of the business.

16.1.2 Deputy P.J.D. Ryan:

I would like to either amend what Senator Ozouf has proposed or else to form a new proposition, I am afraid -I am not sure which - in relation to the shareholder legislation. That should be taken as the first item of business. I will explain why, Sir. There are 2 reasons.

The Deputy Bailiff:

So which one is that?

Deputy P.J.D. Ryan:

That is P.156, Sir, and our amendments to P.156. Again to ask if this is possible, I have had discussions with the Minister for Treasury and Resources. He is very happy to do that. I have also had discussions with the Minister for Home Affairs who is also happy for that to happen. The reasons for this, Sir, are that we intend to bring over our technical advisor for this and do we bring him over at the start, do we bring him over halfway through or what do we do. We would like to know that by having it as item one on the agenda we can bring our Panel advisor over for that day, Sir, and then minimise costs obviously to the States Assembly.

The Deputy Bailiff:

The Deputy has just asked whether the Minister for Home Affairs is content with that.

16.1.3 Senator W. Kinnard:

Yes, Sir, I apologise. In fact I was contacted by email and I am content for the Criminal Justice items to go second.

The Deputy Bailiff:

Very well. So the proposal is that P.156 should be dealt with first. Then the various Criminal Justice Policy matters, then P.169, that is the zero-rating for G.S.T. and then today's matters and the other matters following on. Now, does the Assembly agree to proceed in that way?

16.2 Senator J.L. Perchard:

Yes, Sir. Can I just ask through the Chair how many days does the Chairman of P.P.C. expect Members to put aside to debate this enormous agenda?

The Connétable of St. Clement:

What is normal practice at the moment, Sir, is 3 days.

The Deputy Bailiff:

Very well.

16.3 Deputy I.J. Gorst:

While I appreciate that we just made a decision not to come back tomorrow, and Members have already filled their diaries in their own minds, I am sure, the more I look at the agenda for a fortnight's time, it seems that we will be in exactly the same position again this time. In a fortnight's time, we will be delaying, delaying, until we get to Christmas, Sir. I believe we should reconsider our decision of some moments ago and come back tomorrow, Sir.

The Deputy Bailiff:

Well, the difficulty is it has been taken, I think, that the Assembly has voted. I suppose it is always open to the Assembly to change its mind.

16.4 Senator P.F.C. Ozouf:

I maintain the proposition. It is, of course, up to Members to decide. We have certainly put aside 3 days, but if necessary the option is there to meet on the following Tuesday if Members do not want a number of following consequential days. I keep the proposition. It is clear that Members do not want to come back tomorrow. That decision has been made and we have an order and I move the proposition, as I indicated and you more clearly explained.

16.5 The Deputy of Grouville:

This is a ridiculous state of affairs. We are asked to put 3 days in our diaries for a States sitting which most of us have done. Some of us are prepared to come back tomorrow. Now it has been proposed that we come back next Tuesday. Most of us are committed.

Senator P.F.C. Ozouf:

Two weeks' time, on 20th.

The Deputy Bailiff:

Nobody is suggesting next Tuesday. I think Members must take responsibility for decisions they have taken. They have just voted, for better or for worse, not to come back tomorrow and to add this to the list. I am not sure we can have another vote every time anyone thinks that we ought to change our minds.

16.6 Deputy G.C.L. Baudains:

Could I just make the observation, Sir, that had we had a full day's work for tomorrow, I would be mindful that we should come back, but of course the only work, as I understand it, we could do is what is left over from today. So it is hardly worth coming back tomorrow. Probably we would finish before lunchtime. We cannot drag work forwards from the following sitting.

The Deputy Bailiff:

Well, I think the States did pass a decision not to come back tomorrow and to put these matters off until the next sitting. That decision has been taken and now the proposition is to debate next time in the order as I have outlined.

16.7 Deputy P.J.D. Ryan:

Excuse me, Sir, just one small further point. P.157 should be included with P.156, and I am not sure that you mentioned that.

ADJOURNMENT

The Deputy Bailiff:

I see, thank you very much. Well then, the Greffier will list that accordingly. Very well. Do Members agree to take matters next time in the order we have just discussed? Very well. So that concludes the business. The Assembly stands adjourned until 20th November 2007.