

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 26th SEPTEMBER 2006

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

QUESTIONS

1. Written Questions

1.1 WRITTEN QUESTION TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE BY DEPUTY D.W. MEZBOURIAN OF ST. LAWRENCE REGARDING JERSEY STUDENTS ATTENDING UNIVERSITY

Question

For the years 2001 to 2005 inclusive, would the Minister inform members –

- (a) of the names of all courses undertaken by Jersey students attending University, irrespective of the location?
- (b) of the number of students studying each course?
- (c) of the total cost to the Department for each year?
- (d) of the number of students, if any, withdrawing from any course without completing it?
- (e) of the cost to the Department for those students who did not complete a course? and,
- (f) how many students are known to have returned to work in Jersey?

Answer

- (a & b) The attached schedules detail the names of all courses undertaken by Jersey students from 2001 – 2005. The schedules also detail the number of students attending each course.

(The schedules can be viewed at the link below.)

[Written Question attachment 2006.09.26.xls](#)

- (c) The total cost (of higher education courses) to the Department for each year

2001	£9.04m
2002	£9.07m
2003	£8.49m
2004	£8.9m
2005	£9.6m.

- (d & e) Undergraduate withdrawals from university

Year	Number	Cost (£)*
2001/2	20	130,000
2002/3	24	156,000
2003/4	15	97,500
2004/5	25	162,500
2005/6	23	149,000

* based on an average cost of £6,500 per student.

- (f) The only precise way that we have of determining if students have returned is to submit Social Security numbers to that Department to check if that number is active on the Island. From a survey conducted two years ago it was found that -
- approximately 29% of graduates returned to the Island immediately;
 - with 10 years, approximately 62% of graduates had returned to Jersey;
 - of this 62% just under quarter had brought with them a graduate partner.

1.2. WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING 'GASTRIC BAND' SURGERY

Question

Would the Minister inform members –

- (a) of the number of patients, if any, currently awaiting surgery to put in place a 'gastric band' together with the cost of such operations?
- (b) whether funding for this procedure has been agreed and, if not, the reasons why together with the timescale for resolution of any funding difficulties, if any? and,
- (c) whether any guidelines are in place that specify if such operations are treated as essential for reasons of ongoing health of the patient rather than as a cosmetic procedure of lower priority?

Answer

This question is timely, given the publication of the Medical Officer of Health's Annual Report - 2006 on Friday 22nd September. While this report makes clear that there have been many successes in improving the health of Islanders, there is a great deal to be done if Islanders are to enjoy the optimum level of health and wellbeing. The Medical Officer of Health report is frank and candid about the major health risks and challenges which Jersey must confront; not least the bleak prospect of having to manage obesity (and diabetes) which the report describes as 'the 21st Century epidemic'. Obesity and being overweight increases the very real risk of patients acquiring the 'big killer' diseases, including heart disease, cancer and diabetes. I draw little comfort from the fact that while Jersey is experiencing a marked increase in the level of obesity, it has not yet reached U.K. levels.

It is in this context that we must consider bariatric surgery (or 'gastric band' surgery). Bariatric surgery is a technique by which a 'gastric band' (a metal band) is placed around the stomach to effectively reduce the size of the stomach and thereby limit the intake of food by the patient. This radical surgical intervention is deemed to be the 'last resort' to prevent morbidly obese people becoming so obese that they suffer internal organ failure which can result in death. Bariatric surgery is an expensive surgical intervention and is relatively new, hence the numbers of surgeons who are able to perform this technique to a high level of competence are still few and far between. For many years to come, comprehensive bariatric surgical services will only be provided from U.K. major tertiary centres. In the short to medium term at least, the prospect of comprehensive bariatric surgical services being provided from local general hospitals, such as the Jersey General Hospital, is unlikely.

Clearly, the requirement for bariatric (gastric band) surgery increases as the phenomenon of increased morbidity in the population increases generally. While the Health and Social Services Department has in the past been able to secure surgery for a small number of patients on a case-by-case basis, the numbers now presenting for treatment in Jersey is such that the Department is not funded for this surge in demand without distorting other pressing health and social care priorities. This is a major political, as well as clinical, challenge for the States of Jersey. Having set the context, it is now possible to provide detailed responses to the three questions asked as follows –

- (a) There are approximately 40 patients awaiting bariatric surgery and the cost of each intervention is approximately £10,000 per patient. The Health and Social Services Department has been referring patients to tertiary centres in the U.K. for approximately two and a half years now on an ad hoc basis. However, the numbers of patients now presenting will require the establishment of a partnership arrangement with one such centre to ensure that a clear clinical pathway for patients is in place and a dialogue with such a provider to that end is now underway. Four of the 40 patients are seeking private surgery. A further four patients of the 40 have not complied with the assessment protocols required prior to that surgery and therefore cannot be considered for surgery at this time.
- (b) As Minister for Health and Social Services, I have not yet agreed funding priorities for 2007. However, the full funding for bariatric surgery for all those patients requiring it is unlikely to be agreed in 2007 for two reasons. Firstly, because of a range of other important competing priorities. These competing priorities include funding for new cancer drugs, improved accommodation for patients at two of the wards at Overdale Hospital, and the second year tranche of resources to improve services for looked after and adopted children. Secondly, because a group of managers, consultants and nurses are now examining the options as to how this form of surgery should be provided (see (a) above), this work will be included in a business case which the Waiting List Project Board will consider. Until this work is completed, the Health and Social Services Department will continue to seek and fund bariatric surgery for the most extreme of cases where the level of morbidity is such that it is life-threatening.
- (c) In the context of the above, the Health and Social Services Department deem bariatric surgery to be an important health care intervention required by certain patients if their quality of life is to be significantly improved. Given the very nature of morbid obesity in Jersey it is self-evident that bariatric surgery is most certainly not a ‘cosmetic’ procedure. (The Health and Social Services Department more generally does not allow for cosmetic surgery at the taxpayers’ expense in any field of medicine or surgery). The factors which determine the suitability of a patient for bariatric surgery are highly complex. They most certainly include a psychological assessment as bariatric surgery requires patients to comply with an exacting regime for the rest of their lives and some patients are unable to comprehend or manage this. Of fundamental importance is the need to search out far less radical procedures before clinicians and their patients feel the need to consider this ultimate and radical intervention.

1.3 WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING RESPONSIBILITIES FOR THE JERSEY ELECTRICITY COMPANY LIMITED'S PENSION SCHEME, THE INTRODUCTION OF A PENSIONS LAW AND REGULATOR, AND PENSION PROTECTION FOR STAFF OF JERSEY TELECOM FOLLOWING A PROJECTED SALE

Question

1. Would the Minister inform members whether the States of Jersey has any input into the management of the Jersey Electricity Company Limited's (JEC) pension scheme and, if not, the reasons why given that the States own 54% of the ordinary shares of the company?
2. What consideration, if any, has the Minister given to the introduction of a pensions law and pensions regulator in Jersey, using the principles of the U.K. Pensions Acts 1997 and 2004 and, if not, the reasons why?
3. Will the Minister outline what measures, if any, he will take to ensure that the pensions of current and future Jersey Telecom employees are protected following its projected sale?

Answer

1. The Jersey Electricity Company Limited's pension scheme is managed by a Board of Trustees that discharges its responsibilities in the interests of the schemes' beneficiaries and as such negotiates with the Board of the JEC. The pension scheme is a totally distinct legal entity and independent of the JEC. The Minister is not a Member of either the Board of Trustees or the Board of the JEC and as such has no direct management responsibility or powers.

The States currently holds 54 percent of the total share capital in the JEC. Of the remaining shares, 38 percent of the ordinary share capital is owned by private investors who have purchased their shares on the London Stock Exchange where the company has a full listing.

The Board of the JEC has, under the stock exchange regulations, an obligation to meet the objectives of its minority shareholders as well as to meet those of its majority shareholder, the States.

As a shareholder of a listed company the Minister has the opportunity to express to the Board his views on any matter but ultimately the Board is responsible for making decisions in the interests of the company, not any single shareholder.

2. As Minister for Treasury and Resources I have undertaken no work in this connection. It would be a matter for the Minister for Social Security to progress, if it were deemed appropriate, to do so.

The Strategic Plan includes a commitment to prepare and start to introduce a co-ordinated plan, including a review of pension provision to meet the challenges and opportunities presented by an ageing population. Consultation in respect of this initiative to be lead by the Social Security Department will include consideration of the need or otherwise for Pension Regulation.

3. I reiterate the comments I have made elsewhere. The Treasury and Resources Department is developing measures in conjunction with the Chief Minister's Department, the Law Officers' Department, the Committee of Management for PECRS and specialist advisers. Once these measures are fully researched they will be presented to the States for approval.

1.4. WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING POWERS AND PROVISIONS TO COUNTERACT TAX AVOIDANCE

Question

Further to a recent statement made by the Comptroller of Income Tax regarding reassurances of his powers to counteract risks associated with possible increased tax avoidance by Jersey residents following recent changes to Article 9(a) of the Trust (Jersey) Law, would the Minister inform members –

- (a) what the substance of this 'risk' is and how it is to be counteracted?
- (b) whether the 'settlor reserved powers' referred to elsewhere in the statement pose a risk of possible greater tax avoidance by non-Jersey residents and, if so, how?
- (c) what consideration, if any, has been given to the possibility of a legal challenge to the actions of the Comptroller under his 'strengthened Article 134A' or the proposed 'tick the box scheme'?

Answer

- (a) The Comptroller initially made a general enquiry aimed at gaining a fuller understanding as to whether the recent changes to the Trust Law had any impact on the potential for Jersey residents to engage in tax avoidance. His enquiry was interrogative and did not attempt to pre-judge that there was such an increased risk of tax avoidance. The subsequent debate held shows that Settlor Reserved Powers are not a material issue in assessing the risk of tax avoidance by Jersey resident settlors of trusts. With or without Settlor Reserved Powers, those determined to avoid and evade tax can do so, by availing themselves of structures available on a global basis, including foreign trusts, which would allow them the opportunity, if they so wished, not to declare such interests and sources of foreign income on their Jersey Income Tax Returns. Such practices amount to tax avoidance and evasion and exist currently. The key point for me is whether this additional clause in the Trust Law, which is aimed at entirely different purposes than that of tax avoidance, unintentionally creates a new set of motives for tax avoidance and evasion. In my view it does not.
- (b) No. I do not believe that Settlor Reserved Powers pose a risk of greater tax avoidance by Jersey residents. The primary effect of the new powers is not to confirm that a settlor may reserve powers in relation to a trust, but to confirm that a trustee who follows the exercise of such powers will not be liable for doing so. Trusts that expressly allow the settlor to reserve extensive powers in relation to a trust are found in many jurisdictions, including most of our Caribbean competitors, many US States, including Alaska, Delaware, and Nevada, and jurisdictions that are increasingly our real competitors for international work, such as New Zealand. There is nothing novel in the Jersey proposals, and no reason to anticipate that the introduction of this new article into the Trust Law will pose any additional risk of tax avoidance and tax evasion. I also ought to point out that tax avoidance is legal, and does not constitute a civil or criminal offence, unlike tax evasion, which is illegal, and which the

Comptroller of Income Tax will continue to attack vigorously. Tax avoidance is the arranging of your affairs in a legal manner to reduce your exposure or liability to tax. In the words of Lord Tomlin in *Duke of Westminster v CIR* ‘...every man is entitled if he can to order his affairs so that the tax attaching under the appropriate Acts is less than it would otherwise be...’ Nevertheless, the Comptroller has power, under Article 134A of the Income Tax (Jersey) Law to make assessment to prevent avoidance of Jersey income tax, as he considers appropriate, to counteract such tax avoidance or reduction of a liability to Jersey income tax if he is of the view that the main purpose, or one of the main purposes of a transaction, is to avoid or reduce a Jersey tax liability, and he does so on a regular and consistent basis throughout every tax year. But a sense of proportion must be used in judging whether a transaction should be counteracted. If an elderly person wishes to invest some capital into a capital growth bond, for the prime reason of generating capital growth to ensure that he passes on to his children a greater sum of capital than he otherwise would, rather than keeping his funds in a bank account which attracts interest which is taxable, unlike the capital appreciation on a capital growth bond which does not attract a liability to income tax, the Comptroller may very well not attack such an avoidance transaction despite the fact that it involves an avoidance of Jersey income tax. Trusts can also be legitimately used for tax avoidance purposes, just as they can be used for wholly altruistic and charitable purposes.

- (c) There has never been a legal challenge to the Comptroller in the exercising of his powers under Article 134A. This is because the powers are invoked in a sensible and proportionate manner and I anticipate him continuing to use any increased powers I or the States may wish to grant him in the same manner. However, there may conceivably, in the future, be a legal challenge to the exercise of his increased powers and it will then be incumbent upon the Comptroller to defend the use of his powers in a particular case before the Royal Court. Her Majesty’s Attorney General will, of course, examine any draft amendment to the Income Tax (Jersey) Law that will bring any new anti-avoidance powers into law and he will give his own opinion on the possibility of a challenge against these new powers. But it must be borne in mind that the States of Jersey, like any other Government, has a very wide margin of appreciation in the area of taxation and that a legislature’s assessment will be respected in the area of taxation unless it is devoid of reasonable foundation. I have no doubt at all that any proposed powers to be given to the Comptroller to assist him in tackling tax avoidance will be reasonable and will not be capable of successful challenge in the Courts.

2. Oral Questions

2.1 Deputy P.V.F. Le Claire of St. Helier of the Minister for Transport and Technical Services regarding the introduction of legislation for the compulsory use of booster seats for children under the age of 12:

Just as a passing aside, Sir, I do have a child who is under 12 but he is currently in a booster seat, which does not cover these Regulations that I am referring to. I would like to ask the Transport and Technical Services Minister what timetable will Jersey follow when introducing legislation in respect of the compulsory use of booster seats for children aged under 12 years as recently enacted in the U.K., if at all?

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

The Road Safety Training Officer and Driving Vehicle Standards have been reviewing our seatbelt legislation and are preparing a report for me with recommendations on any changes that are considered necessary. Included in that review is whether the Motor Vehicles (Wearing of Seatbelts by Children) (Jersey) Order 1998 should be amended to make the use of appropriate child restraints compulsory for children over 3 years old and under 12. At present the driver of a vehicle must

ensure that a child over 3 and under 12 years old wears either a properly designed child restraint or a normal seat belt. Children under 3 years old must wear an approved child restraint. Any prospective changes need to be discussed with the law draftsman to determine whether a bid will need to be made for law drafting time, therefore, I regret I am not in a position at this time to give a timetable for changes, if any, to be made. I would add though that while using properly designed restraints for children over 3 years old is not compulsory in the Island, Driver and Vehicle Standards through the department's website and the Road Safety Training Officer advise and encourage the use of proper restraints at all times.

2.1.1 Deputy P.V.F. Le Claire:

I do not normally press supplementary questions when I receive a comprehensive answer as I have just received, but I must ask the Minister if he shares any of my concerns in regard to the lack of a timetable from his department. The way that this has now been introduced in the United Kingdom, leaves Jersey quite well behind in these areas, and there has been conclusive evidence provided to U.K. authorities that the actual safeguarding of children while in the back of vehicles also safeguards the drivers of the vehicles themselves and, thereby, safeguards those people being transported in that vehicle and the people in the other vehicles who are in the vicinity around them. Does he not share my apprehension in the fact that Jersey does not seem to be anywhere near introducing this type of legislation that is to safeguard the lives of those children in the vehicle and those other people around the vehicle?

Deputy G.W.J. de Faye:

I share some of Deputy Le Claire's concerns but not all of them. I am perfectly content that the Road Safety Training Officer and the Driver Vehicle Standards Department are following a sensible course of action in preparing a report with recommendations to me. That may well be a report I would wish to confer with Scrutiny or perhaps even bring recommendations before the House. I think we are approaching this in a sensible and considered way and while I support some aspects of U.K. legislation, I have only recently been on record as saying that in general I do not think we should follow the U.K. legislation patterns in a slavish manner but we are giving appropriate attention to this particular matter.

2.1.2 Deputy P.V.F. Le Claire:

One final supplementary if I may, Sir. Would the Minister be so good as to circulate the report to myself and any other Members that may wish to be apprised of the current recommendations, and also would he, together with suggesting that Scrutiny might want to look at this, consider whether or not the Minister for Health and his department might have a view?

Deputy G.W.J. de Faye:

As soon as the report is completed, and I have initially considered it, I will be very happy to share its content with any Members.

2.2 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding the number and cost of States and honorary police officers on duty at the recent "Sure Mobile Service" launch event:

Would the Minister inform Members of the number of States police and honorary police officers engaged on duty in connection with the launch of the Sure Mobile Service at Lower Park on Saturday, 16th September 2006, together with the cost of policing the event, how many officers, if any, were brought in from outside the Island and which of the police forces was responsible for policing the event?

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

There were 59 States' police officers and one civilian support officer engaged on duty in connection with the Sure Mobile event on 16th September. In addition to this, there were 32 honorary officers engaged from 5 Parishes providing those officers to complement those of St. Helier. The total cost to the States of Jersey Police of policing the event has been estimated to be £13,851. No officers were brought in from outside the Island. The States of Jersey Police had overall responsibility for policing this together, of course, with the valuable support of St. Helier and the other Parishes' honorary forces for which I express my appreciation and thanks.

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

May I ask a supplementary, Sir? I ask the Minister if the "user pay" proposition is adopted, approximately how much would the organiser of that event be charged for holding that event? Also, will there be any appeal mechanism put in place so that if the organisers felt they were being over-policed and, therefore, over-charged, what redress will they have?

Senator W. Kinnard:

I think that is a question that is extremely difficult to answer as indeed the States has not yet had an opportunity to debate that proposition and Members will also be aware that there are going to be discussions going on between the Ministries affected to decide how we might take this matter forward. So, I think, Sir, it is impossible to answer a question that at this stage is really not a question that can be set down in that way.

2.2.2 The Deputy of St. Martin:

If I could follow up on that question? If indeed the Minister would look at P.94 of 2006, would the Minister agree that really there is no appeal mechanism within the actual proposition? So, as the proposition stands, would she agree that there is every likelihood it will not succeed unless there are amendments made to it?

Senator W. Kinnard:

I have already agreed with my Ministerial colleagues that we will look at a different approach to this. What I would say clearly is that I have never ever said that all costs would be passed on to any of the event organisers. That would have been an issue that would have been under discussion in accordance with others involved in setting up these events. I think to ask these sorts of questions at this stage, Sir, is really not sensible because we will be coming back with a new proposition at some point and I think the Deputy would be better advised to hold his questions until a new proposition is on the table. Thank you, Sir.

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

I wonder if the Minister could comment on the risk assessment because it seems to me we have one policeman per every 80 people. Now, how does this compare with equivalent events in the U.K.? It seems somewhat of an overkill situation and I wonder about the basis of the risk assessment and perhaps that document could be made available for those of us who are interested?

Senator W. Kinnard:

I have no idea where the Deputy gets her figure of one policeman for every 80 people. There were 59 States of Jersey police officers - as I have mentioned - one civilian support officer, and there were estimated to be some 10,000 people at this event, so I am not quite sure how she does her calculation on that, but I do not really think that is the point. In terms of risk assessment, I think it is important for us not to be armchair strategists after the event. My view, Sir, as the Minister for Home Affairs, is that we in the States pay professionals to give us advice on risk assessments and those, of course, are the States of Jersey Police. Indeed, if States' Members wish to not take that advice and to think that somehow they have a better idea how to risk assess such events, I think it is

entirely inappropriate then to lay that responsibility upon the shoulders of States of Jersey Police if anything were to go wrong if there were insufficient resources at an event such as this. I think, Sir, that really the time has come for us to accept that some of us may like to think that we know sometimes better than the professionals, but indeed we do not.

2.2.4 The Deputy of St. Martin:

Given that the number attending the function at Lower Park were roughly about the same number that attended Jersey Live, will the Minister explain why it was not felt necessary this time to bring in members of police from outside the Island?

Senator W. Kinnard:

The simple answer to that question is there were not 3 events going on, over that weekend. There have been lessons that have been learned from this scenario, one of which is that if event-led tourism is going to take off in the way that it seems it is going to, there are now going to be training needs for States of Jersey Police because clearly there is a stretching of resources, particularly when there is more than one event going on. I think another lesson to be learned is better coordination by all of those involved in planning these events to ensure that we do not have too many events happening on the same occasion. It is clear that there has to be better coordination and indeed also when policies have been developed which affect other Ministries, there needs to be, I think, better discussion about the effects on other parts of the States. I do not criticise my colleagues in this at all. I have been criticised perhaps for not consulting with others sufficiently over this but indeed I am not aware that Home Affairs was consulted about the likely impact on policing resources should event-led tourism of this sort be increased in the future. Now, clearly those discussions have to go on and, as I say I make no criticism of my colleagues, I think that going forward we will come out with a policy that I think will be suitable for all. Thank you, Sir.

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

I would like to ask the Minister if she was aware of the implications that having 3 events on one weekend would have such an effect as it did? Was she aware before the event of this and was she consulted whether there was anything that could be done to alleviate such a position? Thank you.

Senator W. Kinnard:

The States of Jersey Police do not organise the timetable of cultural events. We are responsible for policing the Island to the best of our ability, whatever is going on in the Island, but quite clearly that event did show a stretching of resources. We did what we had to do under those circumstances which was, according to the risk assessment, to bring-in assistance through our mutual aid agreements. Clearly, if there were not 3 events going on that risk assessment might have been different and indeed fewer officers would have been included in the policing from the U.K. But as I say, what that has taught us, I think, is that there are going to be training needs which we are going to seek to address in the States of Jersey Police to ensure that more of our officers have the necessary training in policing these sorts of large events so that we will not perhaps need to call on resources so much from the U.K. But clearly, if there are going to be lots of events going on over a weekend when we maintain a force which is the right size for policing this size of Island, we have to accept that there are going to be costs in terms of overtime, in terms of re-rostering and so on. We cannot get away from that. Thank you, Sir.

2.3 Deputy J.A. Martin of St. Helier of the Minister for Treasury and Resources regarding the numbers of persons paying income tax under ITIS:

Would the Minister inform Members how many more people, if any, are now paying income tax under the new ITIS (Income Tax Instalment System) arrangements up to the end of July 2006, compared with the previous annual payment system? Thank you, Sir.

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

Since the introduction of ITIS in January 2006 the total number of new taxpayers registered up to the end of the July amounts to 12,116. Of this figure, just over 5,000 are expected to be liable to pay income tax and roughly 7,000 will be exempt from tax but still have to register. Since there are some new entrants registering even now, these totals will continue to rise and the most up-to-date figures I have is that total registrations amount to 13,400 of which just under 6,000 are expected to be liable to pay tax.

2.3.1 Deputy P.V.F. Le Claire:

It seems like a large number. May I ask the Minister if these 13,000 additional or new people paying tax through ITIS are people that his department might believe are people that have not up to now been paying their tax as they should have been? Or are they new employees and new entrants to the Islands' community?

Senator T.A. Le Sueur:

I think the number would be built up, Sir, from a variety of places but I think Members should remind themselves that under the new income tax arrangements there is a liability to income tax which is not offsetable in full by the allowances that one can claim. In the past, Sir, people working part-time or seasonally have been able to set a full year's allowances against that income. The change in legislation, which makes the allowances proportional to time spent in the Island, has brought a lot more people into the tax net. There are, as I say, a variety of reasons and by the end of the year we will be in a better position to analyse just what contributions are made from each source.

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

I would like to ask the Minister, when we discussed this in the Chamber, I believe that the general public were under the impression that anybody that came to Jersey would be paying tax irrespective of how much they earned. Could the Minister confirm that I think this has now been proved wrong because it does appear that many are not because they are declaring a low wage? Thank you very much, Sir.

Senator T.A. Le Sueur:

I think the Deputy may have slightly misunderstood the debate. As from this year - in fact, even in the past - everyone has been liable to pay income tax if that income is sufficiently high. But a person in the Island with a very low income will still be exempt from paying income tax because there are still personal allowances. The reason there is an increase in number, as I said in answer to the previous question, is that those allowances are now given proportionately for length of time the person spends in the Island.

2.3.3 Deputy J.J. Huet:

A supplementary, Sir. In that case, Sir, would the Minister say that really we are doing the correct thing by allowing thousands more into the Island that are on a low wage and not paying anything into the Island?

Senator T.A. Le Sueur:

I am not aware, Sir, we are allowing thousands more into the Island. I think that is a figure that I certainly cannot substantiate and perhaps the Deputy can help me explain that.

2.3.4 Deputy P.V.F. Le Claire:

May I ask the Minister - straying a little - how the department intends to address the issue of overpayments, if any, that have been made from ITIS? Will they be credits into the future or will they be repayments to the person or individuals that have paid?

The Bailiff:

May I just say that if Senators wish to conduct a conversation, I would be grateful if they would do it outside the Chamber. Minister?

Senator T.A. Le Sueur:

In the normal course of events, Sir, a taxpayer overpaying his tax can be entitled to expect to recover the overpayment effectively by a reduction in his future tax payments. It will depend on the size and scale of the overpayment whether it is worth repaying or simply offsetting against a future month's payment. It will depend on individual cases.

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

Can the Minister inform Members whether the workload of income tax officers has been increased by the imposition of ITIS?

Senator T.A. Le Sueur:

Yes, Sir, and so has the revenue.

2.3.6 Deputy G.P. Southern:

How much has the revenue been increased?

Senator T.A. Le Sueur:

It is not possible to give a full year's answer to that yet, Sir, because many people are working seasonally, but we still seem to be on target for the projected figure of £5 million which is the figure that I quoted when the Law was being promoted.

The Bailiff:

Final supplemental, Deputy.

2.3.7 Deputy G.P. Southern:

Given the stretched nature and the increased workload on income tax assessors and officers, is the Minister aware that should we require additional powers for tax avoidance purposes with his new proposals under the taxation schemes, that this will further create a greater demand on these officers?

Senator T.A. Le Sueur:

I am aware, Sir, that every time we introduce new legislation or more complicated legislation it invariably increases the workload. We will have to meet that when it comes, Sir, but I am anxious to ensure that the Income Tax Law remains properly administered and properly policed.

The Bailiff:

Do you wish to claim your final supplementary?

2.3.8 Deputy J.A. Martin:

Yes, Sir. Given that there are now 13,000 extra people registered that apparently are not new but have been here, and 6,000 of them are liable to pay tax at around an estimate of £5 million, is the Treasury Minister telling the House that at least 6,000 ... or we were losing up to £5 million per year under the old system? Thank you.

Senator T.A. Le Sueur:

Under the old system, Sir, we were losing - if that is the right word - effectively £3 million a year by not taxing people who were here part of the year because of the allowances that we gave them.

Changing the allowance system has generated an extra £3 million a year. The remaining £2 million comes from cash flow because income tax being collected now on a monthly basis rather than on an annual basis has improved our cash flow considerably, and the interest in a full year will amount to approximately £2 million.

2.4 Deputy D.W. Mezbourian of St. Lawrence of the Minister for Social Security regarding the definition of “long-term unemployed”:

Will the Minister explain how the term “long-term unemployed” is defined within the department and do the unemployment statistics include those who are in receipt of Long-Term Incapacity Allowance?

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

There is no definitive measure of unemployment in Jersey. Neither has long-term unemployment ever been properly defined. A person registers with the Social Security Department as unemployed predominantly to obtain contribution credits and to use the job seeking services we provide. But of course individuals need not register with the department to be seeking employment. They may use services of private employment services. Even at times of relatively high unemployment the majority of people registering as unemployed found work within 8 to 10 weeks. Of the 430 registered with the department in August, 284 (66 per cent) had been registered for 10 weeks or less, and only 51 (12 per cent) had been registered for more than 30 weeks. This shows that there are relatively few people who could be regarded as long-term unemployed, that is if the number registered with the department is a reflection of unemployment in the Island. Long-Term Incapacity Allowance claimants do not need to register as unemployed as they are awarded contribution credits in their own right when they make a benefit claim and they can also use the job seeking services if they want to. There are currently 55 people on L.T.I.A. (Long-Term Incapacity Allowance) making use of the department’s services to prepare for and seek employment. Those are not included in the 430 registered as unemployed for the purposes of obtaining credits.

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

Could the Minister advise as to whether there are any equivalents of the U.K. job seekers allowance scheme within the current arrangements, and if not, what provisions are made to help and encourage the long-term unemployed to get back to work?

Senator P.F. Routier:

There is not proposed to be a job seekers allowance, as in the U.K. system. Certainly the new income support system we are bringing in is going to encourage people - or it is going to be a requirement for them - to get back into work; to seek work if they are able to, unless they have particular reasons that they cannot. Perhaps being over the age of 65; having a disability; caring for a child under the age 5 - those will be particular valid reasons for not getting work. But the income support system itself will encourage people to get back into work. We will help them as best we can with our resources within the department - with our work zone advisors - and also we are working closely with the Education Service for people coming through the schools to ensure that they are helped with their careers.

2.4.2 Deputy G.P. Southern:

I am glad the Minister mentioned resources. Given that both LT.I.A. and low income support are supposed to be in-work benefits, what resource does he envisage - or what resource is he planning - to enable more of these people to return to work and, in fact, return to full time work which I believe is contained in the low income support scheme?

Senator P.F. Routier:

The resources, which we have already planned for, revolve around our Work Zone advisors and also for people who have a disability or further needs - we have the services of the Jersey Employment Trust who assist people with training to get into work. We have put additional resources into the Jersey Employment Trust. The building has just been refurbished and that will be opening-up very soon. That will allow far more people to use the services of Jersey Employment Trust than have in the past.

2.4.3 Deputy D.W. Mezbourian:

Will the Minister explain what systems are in place to ensure that those people who are registered as unemployed are removed from the register when they find employment?

Senator P.F. Routier:

There are regular checks carried out with the lists of people who are registered with us. It is done on a 3-monthly basis where people go through the lists to find out what has happened to the people and, as I say, we do that on a 3-monthly basis to ensure that the list is not exaggerated in any way.

2.4.4 Deputy P.V.F. Le Claire:

There are 2 elements to these questions: one is assisting the unemployed to find work and the other one is trying to ascertain an economic planning value from the numbers derived that are being collated. Given that the Minister has indicated that it is not a requirement to collate these numbers and given that some Members are trying to ascertain the fluctuation of unemployment in the Island, would there perhaps be another method for calculating the unemployed; a requirement perhaps that the department could implement? If not - if the Minister does not have any idea for that - would it not be possible through the Income Tax Department, for those people that are not working, to establish through their income tax return a submission to that effect for the months where they are unemployed so that the States can derive a reliable unemployment statistic for the years ahead?

Senator P.F. Routier:

I thank the Deputy for that question because that is exactly what the Council of Ministers was discussing last week at its meeting. We met together to discuss the unemployment figures and we have concluded that it is really important to have a figure which is very useful for the Island as we are identifying that the figure that my department has is only a minor part of the whole picture. The manpower returns which the Economic Development Department help to feed-in figures to the Statistics Units are all going to be collated by the Statistics Unit and a 3-monthly return - or publication - will be made so that people get a full picture of the unemployment issues within the Island.

2.4.5 Deputy P.V.F. Le Claire:

May I press the Minister because during the Scrutiny process we did identify in the Immigration Panel through Deputy Southern's Shadow Scrutiny Panel that the review of 3-monthly licences through the then Economic Development Minister were not occurring because of staffing levels within the department. Given that we were given evidence that those reviews were not occurring and we were not able to derive reliable numbers from the people employed under 3-year licences, will the Minister not perhaps consider my suggestion that there is some collation in the long term with income tax, and indications through the tax returns as to when people were working and for how long they were unemployed?

Senator P.F. Routier:

I was not aware of the lack of resources within the Economic Development Department to carry out that function but certainly it is the desire of the Council of Ministers to pull all the information together, and I thank the Deputy for his suggestion the Income Tax Department may be able to

assist us in that. I am sure that the Statistics Units will inquire of the Income Tax Department to make sure we get a fuller picture.

The Bailiff:

I will take 2 more supplementaries. I saw Deputy Martin; Deputy Le Hérissier.

2.4.6 Deputy J.A. Martin:

As the Minister explained, under the new system there are only 2 types of person who will automatically be exempt from the requirement to work - i.e. job seeker - and that is someone over 65 years and someone looking after a child of 5 years. Given that there are at least 7,000 households now receiving some sort of benefit from Parish or family allowance or a housing benefit, is the Minister completely satisfied that he has the staff or has he any idea how many people will then be registered compulsorily as unemployed because they are then job seekers? Thank you, Sir.

Senator P.F. Routier:

Firstly, Sir, the Deputy just quoted 2 circumstances where people would not be required to work and it was over 65 and looking after children. There are other exemptions as well: people who are caring for somebody with disabilities; obviously people who have a disability or long-term illness will not be required to work. Those people will not be required to actively seek work. The remainder will be required to actively seek work.

2.4.7 Deputy J.A. Martin:

I am sorry, Sir, I really do not want to interrupt but this is the Minister's consultation document and we have been scrutinising it. It says on page 14: "There are only 2 groups that will automatically be completely exempt from work requirements" and that is in the Law, Sir. Would the Minister not, please, mislead the House. Thank you, Sir.

Senator P.F. Routier:

Thank you to the Deputy for that. The consultation document does highlight 2 different levels. Certainly we would not be ... the Deputy is quite right. There are over-65s and looking after children which are complete exemptions; I quite agree. There would be an expectation that for people who are either caring for somebody who has a disability or has a disability themselves, that we would think about their suitability for work? It would be an understandable reason for them not to work if their circumstances did not require them or made it possible for them to work. So, there are those other areas where people will not be required to work. With regard to the resources that will be needed to help people to get back into work ...

The Bailiff:

Minister, please try to be concise.

Senator P.F. Routier:

I will do my very best, Sir. It was a longish question. Certainly we recognise that there will be resources that are required and we will do our best to provide them.

The Bailiff:

Final supplementary: Deputy Le Hérissier?

2.4.8 Deputy R.G. Le Hérissier of St. Saviour:

Is the Minister aware that there may well be a high degree of hidden unemployment in the sense that a lot of people have been taken off permanent work, for example in the finance industry, and are only able to do contract work? Attempts often to get back in the permanent workforce are

countered by the allegation that a (j) category person has been imported. What is the Minister's view of that situation?

Senator P.F. Routier:

That, I think, would be a question that would be better directed to the Economic Development Minister who has more control over these matters with regard to (j)s. Certainly we have not had any evidence of that coming through to our department because we usually find that people who are in the finance industry do not attend our department. They would use the private or recruitment agencies. So, as far as our department was concerned, we have not had any evidence of that.

2.5 Deputy R.G. Le Hérissier of the Minister for Housing regarding the imminent requirement for 400 sheltered units of accommodation:

How did the Minister reach the conclusion that 400 sheltered residences are required in the immediate future?

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

At this moment, some 17 per cent of Jersey's population is of retirement age with some 5 people working for each pensioner. By 2030, 30 per cent of Jersey's population will be of retirement age and the position will have changed in that there will be only 2 people working for every pensioner in retirement. As for the need for sheltered housing, I am talking about last-time homes fit for purpose, which therefore, will cater for elderly people throughout the remainder of their independent lives. I am not talking about sheltered housing offering additional specialist services. Bungalows, as I say, are for independent living and I believe, Sir, there is a subtle difference. I will shortly be bringing to this Assembly details of the Housing Department's 10-year property plan. Within that plan is a commitment to create within our stock some sheltered homes to meet the challenges already highlighted by me. Although this will require some acquisitions, it will also necessitate amalgamating bits of accommodation to create fit-for purpose one-bed homes. Bed-sit accommodation is totally unsuitable for current needs, and most certainly will be the case with an aging society. Currently Housing have 369 bed-sits, many of them occupied by elderly people. It is the aim of my department to eliminate the majority, of bed-sit accommodation over a 10-year period. This, together with the adaptation of some existing one-bedroom homes, will lead to a net loss in sheltered accommodation within our stock of approximately 170 homes.

The Bailiff:

Could you wind up, please, Minister?

Senator T.J. Le Main:

These homes will very much need to be replaced so, therefore, must be added to the equation when considering need. With regard to a waiting list both for existing tenants and those living in the private sector, there are some 352 individuals in need of shelter-type housing.

2.5.1 Deputy R.G. Le Hérissier:

The Minister mentioned 369 people in apartments. Has he, Sir - or has his department - carried out a survey of how many of these 369 occupants - if indeed they are single occupants - will be possible occupants of his sheltered housing programme? Secondly, Sir, has he carried out a survey within each Parish or obtained data within each Parish in order that he can reach the figure of 400?

Senator T.J. Le Main:

The figures given to me by the department are the figures that my department hold in regard to requests and waiting lists, and I am not sure whether the department has, in fact ... I am not sure; I do not think the department has contacted the Parishes or Connétables in regard to requests. But

most of the requests we get are on an Island-wide basis and the accommodation is coming in on figures that we hold in the department.

2.5.2 Deputy of St. John:

As part of his deliberations, has the Housing Minister been able to gauge how many people are likely to downsize to sheltered housing thus providing additional vacant housing units which could be acquired by growing families? Thank you, Sir.

Senator T.J. Le Main:

Yes, Sir. The officers in the department advise me there is a huge demand for people wanting to downsize to 2-bed smaller properties, particularly with a garden. When we talk about last-time buyer homes there are a large number of people of retirement age and those approaching retirement age who are living in large family houses. Many of them will have found themselves with a reduced income and the large overheads of a big property. They are asset rich, cash poor. You would be very surprised by the number of requests my department receives from those pensioners who are property owners but are finding it very difficult making ends meet. Think of the benefits for all concerned if these people - and those approaching retirement age - could access a last-time buyer home fit for their needs. Not only would it release a family home into the property market, it would give people some equity in which to enjoy and provide for their retirement. Sir, I understand through the department that estate agents have got a constant huge demand for people who are wanting to sell family homes and downsize on accommodation.

2.5.3 Deputy G.P. Southern:

For how many of the 6 years of his tenure as Island Minister or President has he known about this crying need for sheltered housing?

Senator T.J. Le Main:

It had been a growing problem over the 6 years, so it has been a growing problem since before 6 years - since the first rezonings of the later years in 1999 and 2002, during the Island Plan debate. Not one house or one site has been built on of those rezoned sites for sheltered homes. In fact, it is only the Parish of St. Martin and the Parish of Trinity in the last few years that have built some sheltered homes for retired persons. Apart from that, it has been a growing problem and as I have highlighted, Sir, by 2030 30 per cent of our population will be in retirement, and it is getting worse by the month and by the year.

2.5.4 Senator L. Norman:

In his answers the Minister has consistently, on several occasions, referred to "last time buyers" but his press comments have been trying to push the Parishes to provide sheltered accommodation on a rental basis. Could he tell us where the demand really is and which it is that he is really seeking? Is it last time buyer homes or is he trying to persuade the Parishes to spend millions of pounds in providing retirement homes?

Senator T.J. Le Main:

No, Sir. As I said, we have got a waiting list at the moment in Housing of existing tenants and those in the private sector of 352 in need now. In need now for rental accommodation. Accommodation that needs to meet their needs. We get constant requests, Sir, from elderly people that want to be moved to where their children are living - in St. Brelade, St. Mary and other places - where they can have care and attention and assistance, but are still able to live independently. The last time buyer is a huge demand that is separate to the rental demand. There is a huge demand by people who want to downsize who have 3 and 4-bedroom houses. They have children that have left. They have got large gardens and will make ideal family homes. Originally many of them were first time

buyer homes and they cannot release that equity because there are no properties that would suit their needs to be able to purchase.

2.5.5 Senator J.L. Perchard:

Does the Minister have any idea as to how many vergées will be required to facilitate the building of 400 sheltered residences bearing in mind by nature, Sir, they will have to be ground floor developments. Would he be able to advise the Assembly as to how many vergées would...

Senator T.J. Le Main:

No, Sir, I cannot do that, but as I say, it is intended that a property plan will be coming to Members. I am sorry about the delay on the property plan but the property plan has several recommendations in it but at the moment it is with the Treasury. It is with the Treasury for assessment but certainly it is intended that within the property plan, there is very much unsuitable accommodation that does not meet the needs of the elderly - particularly not wind and watertight - and there are recommendations to get rid of some of that accommodation and to replace it. The issue is we can take some from out of our stock and out of the land we currently own, but there is quite a demand for parochial village developments. I cannot give the Senator the figures; I have not got theirs.

The Bailiff:

May I implore that Members asking questions, and Ministers, to be concise in their questions and replies, and then I think a great many more Members would be able to ask supplementary questions. Deputy Fox, a final supplementary, please.

2.5.6 Deputy J.B. Fox:

I wonder if the Minister would advise whether his department is also looking at urban sites? This subject came up last Friday in the development and regeneration of St. Helier, and it is obviously a big urban area, and I just wondered if this has also been included in the department's consideration? Thank you.

Senator T.J. Le Main:

Yes, Sir.

The Bailiff:

Admirable, Minister. **[Laughter]** We come next to the question by Deputy Southern of the Minister for Treasury and Resources.

2.6 Deputy G.P. Southern of the Minister for Treasury and Resources regarding tax evasion arising from recent changes to the Trusts (Jersey) Law 1984:

Would the Minister inform Members whether residency-based exclusions recognised by recent changes made to the Trust (Jersey) Law enable tax avoidance or evasion to take place by Jersey residents and non-Jersey residents alike, and if so, how?

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

I have re-read the whole of the Trusts (Amendment No. 4) (Jersey) Law that the States passed earlier this year and I can find no reference to residency-based exclusions. I, therefore, emailed the Deputy to seek clarification. He pointed me to the email referred to in a recent *Observer* article of which, unlike most States' Members, he seems to have a copy. The relevant part of that email referred to Article 9(a) of the recently passed Law. It might have better if the Deputy, in the first instance, had addressed his question informally either to me or, better still, the Comptroller of Income Tax, since the Deputy seems to have misunderstood the point of Article 9(a). The changes agreed in paragraph 9(a) of that Law enable the settler of a Jersey Trust, whether resident in Jersey or elsewhere, to have the power to give certain directions to the trustees of that Trust without

thereby making the Trust invalid. However, I fail to see what the Deputy is getting at. Jersey residents and Jersey non-residents have always had the power to create Trusts and to reserve certain powers of the settlor. They simply have to use a Trust, created under a Cayman law or BVI (British Virgin Islands) law or New Zealand law, or the law of any other jurisdiction with such facilities. All that the new Law has changed is that they can now set up such a Trust in Jersey as well.

2.6.1 Deputy G.P. Southern:

I was taking my time thinking as to where exactly I wanted to go with the particular answer that I have received. The thrust of the question is that under 'Zero/10', in response to a question asked by the Comptroller of Income Tax where he says: "If the settlor has a new power to instruct trustees", is it not possible for a Jersey resident to settle assets and property such as a Jersey Trust in property in such a Jersey Trust, then appoint, say, Guernsey resident trustees, thereby achieving a no tax situation in both jurisdictions? After several years he, the settlor, becomes a non-resident in Jersey and then instructs the Guernsey trustees as to his wishes. He gets the assets and income diverted for his own use. The question was: "Under that situation is that possible?" The answer was: "If 'Zero/10' is implemented with look through provisions, I would expect many wealthy people who might own a private Jersey investment company to simply move the assets to a company in another jurisdiction, place the shares in a company Trust and let the assets roll-up tax free."

The Bailiff:

Deputy, I did not interrupt you, but I will not allow another question of that length. Standing Orders require supplementary questions to be concise, please. Minister?

Senator T.A. Le Sueur:

The purpose of the email correspondence to which the Deputy refers was to seek to what extent the anti-avoidance powers need strengthening in the light of current practice and in the light of the move to 'Zero/10'. It is clear that this is an issue, and it is merely a matter of how serious an issue it is. Given that the arrangements that the Deputy speaks about were already available previously, Sir, I do not see that the passing of a new Trust Law has exacerbated that to any extent whatsoever.

2.6.2 Deputy G.P. Southern:

In a further passage in the email the advisor says: "If the discretion of the trustee is fetted, i.e. powers are reserved for the settlor, there is a risk that the Trust could subsequently be attacked as a sham. For an international client these are reasons not to use a Jersey Trust." Does he agree that that risk has been made possible by the changes to the Trust Law?

Senator T.A. Le Sueur:

Risks are there in various forms the whole time, Sir, and this Trust Law simply clarifies the position for the purposes of legal certainty. It does increase a possible risk. That is why I have asked the Comptroller to make sure that that risk is quantified and, if needs be, appropriate action taken to deal with it.

2.6.3 Deputy G.P. Southern:

If I may, Sir, the Minister has referred to the size of this potential problem. Does the Minister accept that this arrangement would affect all S.P.V.s (special purpose vehicle) in the Island and would be directly affecting the E.U. (European Union) Savings Tax Directive and endangers those 2 particular methods of tax collection?

Senator T.A. Le Sueur:

That is a question, Sir, on which I am not competent to give an answer at this stage. I think if the Deputy cares to either write to me or pose a further question, I would take advice on that. The short answer is I do not think so but I would like to get my facts straight.

2.7 Deputy J.A. Martin of the Deputy Chief Minister regarding whether any of increased 700 locally qualified people in employment in the private sector in December 2005 represented new jobs:

During question time on 12th September 2006 the Chief Minister stated that figures produced by the Statistics Unit showed that there had been an increase of 700 locally qualified people in employment in the private sector in December 2005 compared to 2004. Would the Chief Minister's Deputy advise Members whether the data he referred to includes details of how many, if any, of these represent new jobs? Thank you, Sir.

Senator T.A. Le Sueur (Deputy Chief Minister):

The short answer is no. The overall increase in locally qualified people in work published by the Statistics Unit is made up of different components and represents the net change of vacancies being filled, existing companies expanding and taking on more staff and new businesses setting-up. While the actual number of new jobs is very hard to measure - and thus I cannot provide a figure - a key point is that 700 more locally qualified people were in work in December 2005 than a year earlier. Clearly some of these will be in new jobs but by no means all of them. The other key point to mention is, in the same period, the number of non-qualified people in employment fell by 60.

2.7.1 Deputy J.A. Martin:

I am very disappointed with the Minister's answer because he says it is business expanding and new jobs and I had to direct this question, Sir, to the Chief Minister because the new Immigration Department is under them. But surely, through the regulation - there are undertakings with a bit of "ooh, ah" also working in this office - they should know how many more licences were produced and how many jobs were taken up. I need an answer because if it is 700 we are already 200, Sir, over the intended growth under the new immigration policy and this is not good enough. Thank you, Sir.

Senator T.A. Le Sueur:

I think the Deputy is in danger of using statistics for figures for which they were not intended to be used. The figures that she refers to - and the report she refers to - deals with a number of people in employment. If the Deputy wants to have details of the number of licences granted under the Regulation of Undertakings Law then I should direct her to a different report that has been issued for that purpose, Sir, which is under the direction of the Population Office and the Economic Development Minister. But the important thing is that this report deals with people in employment; not job creation.

2.7.2 Deputy G.P. Southern:

Is the Deputy Chief Minister aware that the R.U. (Regulation of Undertakings) figures are merely requests for locally qualified and non-locally qualified positions but are not automatically filled and, therefore, are relatively meaningless as a snapshot of what the economy is doing?

Senator T.A. Le Sueur:

Yes, I am pleased that the Regulation Undertakings office grants licences which do not necessarily result in jobs being filled. I think it is by Members using a combination of the number of licences granted and the number of people in employment that they can get a general picture of the employment trends and the populations within the Island. It is not an exact science and one cannot try to use these figures to try to make them exact.

2.7.3 Deputy P.V.F. Le Claire:

Sir, which leads to my supplementary, Sir. Does not the Deputy Chief Minister not think - together with me who thinks - that it is absurd we have all of these statistics and measurements and

departments collating figures with actual numbers being generated and reports being circulated into the media, et cetera, giving rough ... I beg your pardon, Sir. You asked me to be precise and I will try to shorten my question. Is it not time that we had a better understanding of how many people in this Island are in work? Real individuals. A better understanding of jobs that have been created - real jobs - those that are being occupied; and a better understanding of those that are unemployed? Is it not time that this Council of Ministers gets together a system that is easily and recognisably workable and understandable?

Senator T.A. Le Sueur:

I can certainly share with the Deputy the need to have good statistical information available on which to make informed decisions, and I believe that we have good statistical information in respect of the number of people in employment, and that is the report which the Deputy referred to in his initial question which showed a further 700 people in employment. What is not appropriate though is to try to use that information and try to extrapolate it to the number of jobs being created. Statistics are very good, Sir, if they are not misused. The more statistics we have, the less likelihood there is of them used for the wrong purposes. So, I would certainly endorse further statistics being available, Sir, and perhaps less misinformation as a result.

The Bailiff:

Final supplementary, Deputy.

2.7.4 Deputy J.A. Martin:

Given that this time last year we never had 700, or nowhere near 700 people unemployed, does this Minister know where these 700 people have come from then in the new jobs? Thank you. Or not new jobs. Thank you, Sir.

Senator T.A. Le Sueur:

I think we have heard in answer to a previous question that the number of people registered as looking for work does not necessarily reflect the total number of people unemployed. But also I think there may be some people who are doing more than one job, Sir. I think it is dangerous to read into statistics more than they say and I would caution any Member against doing such a thing.

2.8 Deputy R.G. Le Hérissier of the Minister for Transport and Technical Services regarding the removal of the Airport Express Service from the bus winter schedule:

Would the Minister explain why, despite strong assertions from himself that the service is a success, the Airport Express Service has been removed from the winter schedule?

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

The Airport Express was, as originally publicised, an experiment. The intention was to provide a more direct link to and from the airport and St. Helier for both residents and visitors. It successfully increased capacity on the Island's western services which are very stretched at commuter times and I consider that a new service which carried an average of 700 passengers a week to be a success. It also gave passengers more choice and flexibility with their travel arrangements in the west of the Island. The Airport Express Service will now be evaluated over the next few months to analyse its efficiency and effectiveness with a view to considering whether the same or a different form of the service should be reintroduced next year.

2.8.1 Deputy R.G. Le Hérissier:

Would the Minister identify when he says: "700 carried", 700 on how many seats available? Thank you, Sir.

Deputy G.W.J. de Faye:

On average, each service carried 13 passengers on buses with a capacity of 37; however I think the important feature to realise with this new service is not the capacity in its experimental phase but to understand the rate of the increase in take-up of passengers using that service. What was remarkable about the Airport Express from the experts who understand how bus routes operate was the rate of take-up by passengers. So, although we are not looking at buses filled to capacity, that was the clear direction in which the capacity was moving.

2.8.2 Deputy R.G. Le Hérisier:

Does this not look rather odd? If this gradual increase was taking place and all the indications were, as the Minister told us in July, that it would carry on and on, does it not look rather odd that it should now be withdrawn?

Deputy G.W.J. de Faye:

It may look rather odd to the good Deputy, Sir, but I remind the House this was an experiment and not a permanent addition. Permanent additions to the route structure require quite a comprehensive public consultation process. Experiments do not. It may indeed look odd to the casual observer, but it is important to realise that experiments of this nature need to be fully understood. For example, some of the capacity on the bus routings as scheduled meant that passengers were moving from routes 12 and 15. It is important that we understand what those movements signify in terms of passenger demand. Those are the sort of elements that we will be considering over the winter.

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

I was going to ask, and I am now asking, what is going to happen to these passengers while this service is being re-evaluated. The other 2 routes have been mentioned and the other 2 bus numbers. I will ask the Minister if there is enough capacity to ensure that there will not be people waiting around for ages for buses. If there is enough capacity, why was this service introduced in the first place?

Deputy G.W.J. de Faye:

I can, I believe, assure the Deputy that it is extremely unlikely that, due to the withdrawal of the Airport Express, any passengers are likely to be left standing or waiting or left behind on the airport and its associated routes. Route 15, the most popular and profitable and successful route on the Island, will still ply its trade as it has done on a regular basis, as will route 12. I expect no serious disruptions in the west of the Island at all. One of the advantages however, it has to be said, during its introduction over the summer period when there is a higher demand, was that the Airport Express did relieve the services I have indicated. That meant that for people who live between the west of the Island and St. Helier in areas such as First Tower, who do suffer from time to time from buses being full when they arrive at those spots, found that there was increased capacity for them. But that is another problem that we will be addressing and we need to see, importantly, how the Airport Express did affect that.

2.8.4 Deputy G.P. Southern:

The Minister appears to be saying the operation was a total success but the patient died. Does he agree?

Deputy G.W.J. de Faye:

No, I do not, Sir. The Deputy is talking rubbish, not unusually.

2.8.5 Deputy of St. Martin:

Given that winter ended last March and we have now had 6 months since, can the Minister advise Members why the service re-evaluation was not carried out in the last 6 months so we are ready for this winter?

Deputy G.W.J. de Faye:

Sir, firstly I think that all questions on when winter begins and ends should be referred to Senator Shenton, who is an expert on that particular subject. Secondly, I just simply point out to the Deputy of St. Martin that it is very difficult to evaluate the Airport Express Service before we have put it into service. Now we have had a good run at it, I believe we have an opportunity to analyse how successful it indeed was.

2.8.6 Deputy R.G. Le Hérisier:

Sir, does the Minister not think it is an absolutely ridiculous situation, which may well affect his clubbing and pubbing bus, where a service is started; it is a success and the service is then terminated while people go away for a long re-evaluation?

Deputy G.W.J. de Faye:

I think if the Deputy paid perhaps closer attention to the overall annual statistics of how our bus service operates he would know there is a very substantial difference between how the summer service operates and how the winter schedule operates. I think it would be potentially damaging to continue the Airport Express Service through the winter, where there is a clear lower usage particularly in respect of its relationship to the airport and the visitor season, and it would be folly to not carry out an experiment and then stop it and evaluate it to see, quite frankly, whether we can improve on it. I am confident that there will be no serious damage caused to the citizens by the withdrawal of the service and I am equally confident that in our discussions with Connex - the operator - that we will probably come forward with a better and more enhanced service for the next summer schedule.

2.9 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the production of an analysis of tax revenue arising from the 'Zero/10' proposals:

Why has there been a delay in the Minister bringing forward figures giving a detailed analysis by sector of the amount of tax revenue lost as a result of the Zero/Ten proposals and the volume of tax revenues that will be recouped from alternative tax raising methods proposed in the fiscal strategy, and when will this Assembly receive them?

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

These figures are still being worked on and until I have concluded my preferred approach to the 'Zero/10' legislative solutions, they cannot at present be finalised. However, I hope to conclude the assessment of those provisions within the next 2 weeks and at that time they will be shared with the relevant Scrutiny Panel and with States' Members generally. In response to the second part of that question, I can remind Members that the alternative tax raising methods proposed in the fiscal strategy, which are already in the public domain, were for a Goods and Services Tax to bring in about £45 million; an ITIS system to bring in about £5 million and £10 million to come from the "20% Means 20%" proposals for taxing those with higher incomes. These will come in on a phased basis this year and over the next 4 to 5 years.

2.9.1 Deputy G.P. Southern:

Can the Minister assure the House that it will receive detailed figures in plenty of time to consider them, in the round, in the context of the schedule that he has in mind?

Senator T.A. Le Sueur:

Yes, Sir. Both the Scrutiny Panel and the House will be able to have the information the Deputy seeks.

The Bailiff:

That concludes the first period of question time. We now come to questions to Ministers without notice and the first question period is of the Minister for Planning and the Environment.

3. Questions without Notice – The Minister for Planning and Environment

3.1 Deputy J.B. Fox:

I will just ask the Minister if he could just reaffirm what his policy is in relation to the heights of buildings. In the last list of planning applications published there are 2 buildings, one on the Waterfront and one on the Island site, that are 8 and 7-storey applicants respectively. I just want to know what his ...

The Bailiff:

I do not think you can ask a question about specific applications.

Deputy J.B. Fox:

What I am asking is the general policy, yes. Thank you, Sir.

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

Sir, the supplementary planning guidance prepared by Chris Shepley and implemented earlier this year makes it very clear that the overall recommended average height should be 6 storeys. Any building over 6 storeys will have to be of exceptional architectural quality to even be considered. That does not mean buildings of 6 storeys or below do not have to be of good standard, but a significantly higher standard will be required of taller buildings and this is all, of course, under the assessment of Sir Michael Hopkins and his team's architectural supremos.

3.2 Deputy R.G. Le Hérissier:

Could the Minister explain whether he has been able to examine the figures supplied by the Minister for Housing for sheltered housing and, as a result, is he now ready to go forward with a search for new sites?

Senator F.E. Cohen:

It is not up to me to analyse the figures prepared by the Housing Minister. I am absolutely sure that the Housing Minister is doing everything he possibly can to assure the whole of the House of the accuracy of his initial assessments. I regard the Planning Department as the delivery arm of all forms of housing and clearly, if the Housing Minister has identified a specific number of houses, particularly for the retired population at a social level, it is incumbent upon me, as Minister, to do everything I possibly can to adequately deliver such housing.

3.3 Deputy R.G. Le Hérissier:

Could the Minister tell the House what the actual options are he is considering, assuming the reliability of the figures?

Senator F.E. Cohen:

The first option is - and I think Members already know this - that I have been to see the Connétables with the Housing Minister and we have asked the Connétables to do their very best to identify sites within their Parish that they can purchase at an affordable rate and thus have a better chance of providing affordable housing. That clearly will only provide some of the required houses,

assuming the figure of 400 is the correct figure. We then have to look at things like disused glasshouses and only as a very, very last resort would we even consider the concept of green field sites.

3.4 Deputy S. Power of St. Brelade:

The Minister and his department recently appointed a new Chief Executive to the Planning Department. Is the Minister in a position to confirm that the new Chief Executive has by now taken full control of the department to his satisfaction and that the Chief Executive and his family are happily domiciled in Jersey?

Senator F.E. Cohen:

I can confirm that the Chief Officer, in accordance with standard practice, is on a 6-month probationary assessment. I would, with great respect, suggest that such a detailed question would be best put to the Chief Executive of the States, who is responsible for Civil Service appointments. I feel it would be inappropriate - but again with great respect to the Deputy - for me to go any further in public.

3.5 Connétable D.J. Murphy of Grouville:

Can the Minister inform me, following my questions and also meetings with his department, what progress has been made on the investigation and implementation of a policy with regard to tidal energy?

Senator F.E. Cohen:

Investigations into tidal energy and recommendations and public information will be rolled-up into the programme that I have recently announced that has been labelled "Eco Active". It will deal with a whole range of solutions, both at micro level and at larger level, and tidal energy will be one of the key components of such a programme.

3.6 Senator J.L. Perchard:

The Minister for Housing claims that there is an urgent requirement for an additional 400 new sheltered residences to be built. He, in answering questions this morning, seems to be confused between sheltered residences and retirement homes. Will the Minister for Planning please confirm exactly what is required in the way of additional building in the countryside?

Senator F.E. Cohen:

I am addressing the issue of social retirement housing. That is the provision of homes for elderly people in the Island who cannot afford to purchase their own homes. There is no specific requirement presently for building in any particular area in the countryside. As I have made clear repeatedly, our first port of call is to look at areas that presently have some form of development on them.

3.7 Deputy G.P. Southern:

Is the Minister satisfied with the coverage he has achieved for his "Eco Active drive project? It is described in the paper as the biggest project yet. But will he admit that, in fact, it is merely a website designed to encourage people to save energy? Will he come to the House with figures before and after his drive to show the drive to save energy has been successful? And will he finally further admit to the ownership of the bicycle he is pictured with and described as an "eco warrior" on the front of the paper?

Senator F.E. Cohen:

I will answer the bicycle question first. I hope that the Bailiff will allow me a few extra seconds to cover this. The bicycle belonged to none other than Deputy Le Hérissier. The reason that I was

pictured with his bicycle rather than my own was that I own an electric bicycle and it was raining. My electric bicycle regrettably tends to short out in the rain and therefore I was caught at the photographic session with no bicycle. Deputy Le Hérissier appeared and came to the rescue and very generously allowed me to use his bicycle in the photograph, for which I thank him. In relation to 'Eco Active', 'Eco Active' is an all-encompassing project that is designed largely to encourage people like me who do not come from an environmental background to accept the obligations upon all of us to do little things to improve the environment which we leave for the next generation. It will be driven through a website. I am not expecting we will test it statistically. I am sure that each and every person who participates will be able to assess their own achievements in relation to the objectives set out on the website.

3.8 Senator J.L. Perchard:

Would the Minister be able to advise the Assembly as to the yield of homes required - retirement homes - for people who are unable to afford to buy their own: I think that is the definition we could go with? What would the yield of homes per vergée be and how many vergée will be required to build 400 homes in the countryside?

Senator F.E. Cohen:

At the moment we are not proposing to build 400 homes in the countryside. With respect to the Senator - and I do understand he has this idea from the media, despite my attempts to clarify the position very carefully - the position is that presently the Housing Minister has come up with a figure of 400 homes. Those figures are presently being assessed by the Housing Minister. They can be delivered through a combination of brown field sites; perhaps redundant greenhouses, perhaps urban sites that are part of the regeneration programme. There is a whole range of possibilities before we start looking at green field sites and presently I have no idea what area of land, 'brown or green', will be taken up until we know exactly how many homes we need to provide.

3.9 Deputy S. Power:

The Minister was good enough to answer a question of mine 2 weeks ago relating to illegal low spring tide fishing for ormers on the Ecréhous and some questions relating to the rested "Norman Le Brocq". Could I ask the Minister if he would be good enough to ask his department to circulate to States' Members the statistics on the usage of the "Norman Le Brocq", as he orally replied 2 weeks ago?

Senator F.E. Cohen:

If I gave a commitment to circulate figures, I would apologise to each Member of the House if those figures have not been circulated. I was under the impression ... in fact, I saw an email that responded to every question I had been asked where I was unable to give a full answer or where supplementary information was required. From the nods of other Members, it would appear other Members have received that. Clearly something must have gone wrong with the communication to Deputy Power and I will send a copy to him today.

3.10 Deputy S.C. Ferguson:

I understand the Minister will be bringing a proposition giving exemptions to small items in planning applications. When is this going to be available and will it include small movable items such as enclosed chicken runs, pig arcs and calf arcs used by farmers?

Senator F.E. Cohen:

I am presently working on the list of exemptions. The construction of the list of exemptions is quite tricky because this exercise was carried out in 2002 and I am trying to extend on the existing list. I am proposing to concentrate on ensuring that environmentally friendly or environmentally conscious decision-making is encouraged in construction and in home ownership. Much of the

exemptions will be centred on things like solar power panels and wind generating systems with all sorts of provisions to protect neighbours. I have no specific provisions at the moment about pig arks, but I do have specific provisions about garden structures where people should be allowed to have larger structures in their garden without consent.

3.11 Deputy C.F. Labey of Grouville:

Could the Minister confirm if the same amount of rigour goes into the approval of glasshouses and polytunnels and if there is an obligation, once they have served their purpose, to bring them down again, in which case his answer to the sheltered housing seems to be a bit of anomaly in that respect.

Senator F.E. Cohen:

Considerable rigour does go into such applications, although as far as I am aware there are not any current applications that fall into that bracket. I am aware of certain advice that was given informally in relation to the ability of the Planning Department to require the removal of disused glasshouses and polytunnels and it is an area I am intending to clarify with the Law Officers Department shortly to confirm whether the information I received informally many years ago is accurate.

3.12 Deputy S.C. Ferguson:

To go back to the small movable items for farmers, if they have to make an application to the Planning Department it can get very expensive, particularly for small farmers. Will the Minister give us the assurance he will look at this?

Senator F.E. Cohen:

Yes, I can. I can also add ... perhaps I should apologise. I perhaps did not answer the Deputy's question properly. We are looking - and it is not confirmed yet because we need to further analyse the list - at allowing farmers to put up one building to house particular types or classes of animals. Most certainly I will look at this very carefully.

The Bailiff:

We come to the second question period for the Minister for Social Security. I invite questions to the Minister.

4. Questions Without Notice – The Minister for Social Security:

4.1 Deputy R.G. Le Hérissier:

Given the Minister is experiencing some lack of clarity with respect to employment figures - that would be the polite way of phrasing it - could he inform the House how he staffs this particular section of his department and what measurements are applied to the workings of that particular department, the department that manages the search for work?

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

The Work Zone team has the obligation to assist people who come into the department. Firstly, they have a detailed interview with anybody who comes into register to look for work. There is a small team of 5 who do help people and that is directly in the Work Zone. Then there is another team that are the job coaches, who work with Workwise, which also helps people who need additional support. We recognise that helping people back into work is a major issue for us and we do our very best to achieve that.

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

Can the Minister confirm that adults with learning difficulties living and being supported in the community who are not able to access paid employment for whatever reason will not be penalised financially under the new income support system?

Senator P.F. Routier:

Yes. Certainly it would be our intention to support adults. I should declare an interest, obviously, as President of Mencap and Chairman of Les Amis, who supports people with learning disabilities. The services my department supply to people with learning disabilities need to be at a level which is appropriate for their needs and the income support system will support them the best we can.

The Bailiff:

Surely Members are not going to let the Minister escape so lightly?

4.3 Deputy J.B. Fox:

Carrying on from that subject, the concern about employment at this time ... obviously people with special needs have obviously special circumstances for the nature of their employment. Can the Minister advise whether it is more difficult at this particular time to find what I call "proper employment" as opposed to sheltered employment, and if so, what steps his department is taking to alleviate some of those difficulties that are experienced, if any?

Senator P.F. Routier:

It is extremely difficult to help people with disabilities to get into employment but it is not impossible. My department through the Job Coach support scheme does, as I said earlier, help people on a one-to-one basis and also the Jersey Employment Trust has as its function to give additional training. But to get to the end product of finding work in the workplace, unfortunately with the job market changing at the present time opportunities are few and far between. But we do work ... in fact I was at a meeting last week with the Jersey Employers Network on Disability. The membership of that organisation was very keen to support people and to accept people into their workforce. It is a major issue and I know the Chief Minister has instructed his Assistant Minister, Deputy Gorst, to take a lead on this on the Chief Minister's behalf. I have met with Deputy Gorst a couple of weeks ago to outline all the areas that are of concern to people with disabilities in getting into work. I know that there is a wish from the Chief Minister and from Deputy Gorst and myself to try and improve things dramatically for people with disabilities. We will have to find out what resources are required for that to happen and we will do our utmost to ensure we are able to provide that.

4.4 Deputy J.B. Fox:

Can I just ask a quick supplementary? Does the Minister have a timescale that he could indicate to the House?

Senator P.F. Routier:

Certainly the timescale I would want would not be quick enough. There is some work to be done, which I believe ... I am trying to recall the discussion I had with Deputy Gorst. But I think we set ourselves a timescale for the end of this year to have a report to go to the Chief Minister to bring forward the issues to him.

4.5 Deputy J.A. Martin:

I would like to ask the Minister about the further consultation on the income support proposals. At the back there are 10 questions. Would the Minister not agree that basically all 10 questions are a department issue, down to ... I will just quote one question, Sir: "special payments for furniture"? We are asking the public and politicians whether they should be second-hand or new in all or some

circumstances. Surely, Sir, this is just a sham of consultation and there is not one sensible question in this document for further consultation. These decisions have been made and this is just going out to the public with a rubber stamp on it and they know the answers they are going to get back.

Senator P.F. Routier:

I could not disagree with the Deputy more. These questions are really very, very important. I am delighted that she has highlighted the consultation process that is happening because I want to encourage as many people as possible to take part in that consultation. What it is going to do is it is going to help us form the Regulations and the rates which will be coming back to this House in February of next year. At the next sitting we are going to be debating the overarching law which sets the basic principles of all these components and all the rest of it. With the tremendous amount of consultation we have already done, originally last year this takes it a stage further to get down to the very detailed issues which need to be asked. The reason we are asking some of those questions - the one that was highlighted by the Deputy about whether it should be second-hand or new or whatever - these are the sorts of issues which are currently happening within the Parish welfare system. We want to know whether it is appropriate to carry on with that or whether we move to something a little bit different. We want to have the public's views. Of course, all of these questions, if you think about them, have a knock-on effect to the amount of money that can be distributed to the claimants. Every one of them has a knock-on financial effect. If someone responds in a more generous way to one question it will mean there will be less money available for people in another area. If someone was to go through and answer those questions and give the most generous answers all the way through we would have to make cutbacks in other areas because we have only one amount of money to play with. I am sorry that was not brief, Sir, but I had to say all that. I would encourage people to respond to the consultation document.

4.6 Deputy J.A. Martin:

Sorry, Sir. Is the Minister really suggesting then ... and I will just quote this. On question 2: "What sanction should be applied to someone who fails, without good reason, to take part in job seeking activities? None, small loss of benefit, compulsory training or complete loss of income support." Is the Minister suggesting, if everyone comes back and says: "Complete loss of income support", he is not going to pay income support to single parents, old age pensioners and people in need? This is a sham, Sir, and I absolutely do not agree with the Minister on this consultation process.

Senator P.F. Routier:

Again, I cannot disagree with the Deputy more than I possibly could. These questions are really valid questions for the community to think about. They really are. I am not going to make a comment about them now because I have a view but I would not want to influence the consultation process. I want the public to think about those questions and to give us their views and their understanding of the issues. It will help us to form our Regulations for the income support system.

4.7 Deputy G.P. Southern:

May I congratulate the Minister on his ability to keep a straight face, but can he turn now to questions 9 and 10 on his survey? Since the aim of the income support scheme was to replace welfare with a more efficient scheme, how can he justify question 9 which says: "How important should the role of the Parishes be in the administration of the new income support scheme", and question 10: "If you needed income support in the future, where would you most like to go to, the local Parish hall?" Is he suggesting that again, if 90 per cent of the respondents come back and say: "Very important" to question 9 and: "Local Parish hall" for question 10, he is going to replace the welfare system with a system that is in all 12 Parish halls, or is that already ruled out?

Senator P.F. Routier:

The Deputy is very aware I attended upon the Income Support Scrutiny Panel hearing to discuss this particular issue. The theory we were working to is the income support system is one system. It will be administered by the Social Security Department. The reason we are asking those particular questions is because we want to know from the community, if someone is living in an outlying Parish, whether it would be easier for them to go to their Parish hall to receive a benefit rather than coming into town. If people are on low incomes getting into town is an additional expense. So we just want to have an indication from the community, not to have made up our minds about the particular issue which ... I think the Deputy has already made his mind up that he does not want the parishes to have any involvement at all. But that is not the feeling I have had from the consultation processes I have been through in the Parishes during the last year. There are some people who do value popping into their Parish hall to get information and, if need be, they might be able to get a cash payment from the Parish. But it will all be administered by the social security system. The days of non-communication between the Parishes and the States have gone. We have electronic communication systems which the Parishes are already plugged into. They just go into our social security system and find out the details, if they want to do that. It is down to each Parish to make a decision about what involvement they want to have. The Parish of St. Helier has already made the decision they are not going to be involved because it is sensible that there is just one place in town. The other Parishes are responding to us with regard to how much involvement they want to have in delivery.

4.8 Deputy D.W. Mezbourian:

What liaison, if any, is there between officers from the Minister's department and annual school leavers to explain to them such things as the system of social security contributions, which will apply to those who are fortunate enough to find work; and to those who have no work, how to register as unemployed?

Senator P.F. Routier:

There is an information passing process which the Careers Service and the schools do provide to people who are leaving school. Our officers do occasionally go into schools to give talks on social security matters and we hope that process is sufficient. But certainly if it needs to be beefed-up, we would certainly be prepared to do that. I am aware that the Education Minister is looking at a document with regard to awareness of local political issues and the areas of provision around the Island, which is going to be rolled out within the schools in the near future, so I am looking forward to that being rolled-out to the schools to get that information out to students.

4.9 Deputy J.J. Huet:

As the Minister is aware, I am involved with the St. Helier community centre and it does worry me greatly that we have a lot of what I call young people between 16 and 26 who have never had employment. I would like to be reassured that in some way they will be able to build something into this to take care of these youngsters because it is getting to the point that these youngsters do not get out of bed in the morning because they are not used to going to work. They desperately need to be found work. We have to find something and I would like to know that you will take this on board because we try and encourage them to come into our department on a regular basis to get them used to being around looking for jobs. It is very disheartening when all of them cannot get work all the time.

Senator P.F. Routier:

Yes, we do recognise that there are some young people who do need motivation in trying to help themselves. The process that income support will require is for them to attend the department and the job advisors on a regular basis to ensure that they are attempting to help themselves.

4.10 Deputy C.J. Scott Warren:

Is the Minister happy with the situation regarding post-death residential charges being put on a person's property, rather than a possible social insurance scheme throughout a person's adult life?

Senator P.F. Routier:

That is a particularly hot issue for not only us but also in the U.K. The current system, which the Parishes administer, does allow for people to have charges put on their properties. Obviously the new income support system is having to reflect that current situation. The law which we will be debating next sitting does have that provision in to be able to do that, but I think at a later stage, with the development of decisions which are made by the Health Committee with regard to long-term care and how that is going to be funded, that will have a reflection on how people are supported in the future. Obviously, with the income support system we have, people will be able to claim income support if they are living in their own house and it will not affect the title of their home because we recognise that some people are asset rich but cash poor. We believe that the income support system should support them.

PUBLIC BUSINESS

5. Fur Products: Petition (P.72/2006)

The Bailiff:

That concludes the second question period to Ministers. There are no personal statements of which I have notice, nor statements on a matter of official responsibility. We come, accordingly, to public business. The first item is P.72/2006, the fur products petition in the name of Senator Syvret and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to agree that a total ban on the importation of fur and fur-trimmed products into Jersey and on the sale on the Island of such products should be implemented, and to request the Ministers for Economic Development and Home Affairs, in consultation with other Ministers as appropriate, to bring forward for approval the necessary legislation to give effect to the ban.

Senator P.F.C. Ozouf:

Prior to the commencement of the debate, Sir, I am named in this matter and prior to going on holiday I declared an interest and asked my sister Minister to sign-off a report on this matter. I am one of those Members - I am sure there are others - in this Assembly that has inherited fur coats of a variety from grandparents and parents. I understand that these coats are in fact pretty worthless, such is the market for fur these days. I have sought advice from you, Sir, that I should declare an interest. I am not specifically going to be taking part in the debate but, because it is such a small value, I do not see any reason for me to withdraw from the debate. I would appreciate your confirmation of that because I doubt I am the only Member in this situation.

The Bailiff:

Thank you, Senator. It does not seem to me the ownership of one or more fur coats by itself disqualifies a Member from participating in the debate and voting, as long as the Member does not have a direct financial interest. It does not seem to me that that involves a direct financial interest. So the Greffier will note the declaration by Senator Ozouf, but he need not withdraw.

5.1 Senator S. Syvret:

It may help the Assembly to know in advance I intend to accept the amendment of Senator Shenton. This will hopefully significantly reduce the time of this debate, given that we do have a

number of other important items on the agenda today, Sir. Just to refresh Members' memories, the amendment of Senator Shenton seeks to insert some wording and slightly alter the intention of the proposition, which of course is based upon the petition which was raised. Perhaps I should just say a few words about the genesis of the petition. I was not involved in the drawing-up of the petition or gathering the signatures on it and I was not aware of its existence until the people who gathered the petition approached me and asked me if I would consider taking it to the States on their behalf. I said, yes, I was happy to do so. It was not a subject I knew a great deal about but, in preparation for this report and proposition and this debate, I did some reading and some research on the subject. The more I read about it, the more convinced I was that we had to do something in this field. Senator Shenton's amendment alters the proposition, so: "The Assembly requests the Council of Ministers to investigate the feasibility of introducing", et cetera, and: "to request the Council to report to the States Assembly within 6 months on the consequences of any total or partial ban", et cetera. It seems to me, Sir, that that is a very reasonable and fair way forward, especially, Sir, in the light of a letter I received from the Attorney General, where he does raise some concerns about the possibilities and the implications of implementing the ban as described in the petition. It may help the Assembly if I just quote a few of his words. He says: "I would like to emphasise the advice contained in this letter represents my best assessment of what the position would be in the ECJ (European Court of Justice) if legislation of this nature were introduced and were challenged. There is no case which is directly in point and on which one could rely. The opinion expressed is just that - an opinion. I am bound to say however that, for my part, I would be surprised if we were able to uphold a blanket ban in the way the proposition envisages." He said elsewhere in the letter: "As a matter of law, I would be reasonably confident about the introduction of controls equivalent to regulation EEC 3254/91" and so on: "which concerned the banning of the import of leg-trapped animals and welfare of farmed animals, plus the cost measures equivalent to the 2000 Act to which I have referred. In addition, there are the existing C.I.T.E.S. (Convention on International Trade in Endangered Species) controls over trade in endangered species." So basically, the A.G. (Attorney General) advises that, as worded, the implementation of the particular provisions in the petition might prove rather difficult to do. But he does nevertheless hold out the possibility of a more refined and targeted set of Regulations working. I believe that that is something that is achieved by Senator Shenton's amendment. I think it is worth reflecting just briefly on a few of the reasons why we should be concerning ourselves with this issue. If I may, Sir, I would just like to quote a few passages from the 2 appendices I put to the report and proposition. First of all, from the C.A.F.T. (Coalition to Abolish the Fur Trade) fact sheet on trapping. This is in respect of trapping injuries and I quote: "There have been plenty of studies into the effect of leg-hold traps, and all reveal the cruelty inherent in this device. The 2 metal jaws of the trap slam shut on the animal's paw when they stand on it. Although the initial impact of the trap causes injury, it is the attempts to escape the trap that cause major damage. The trapped animal, in desperate attempts to escape, will rip her flesh, break bones, sever muscles and tendons, knock out teeth as she bites the trap, even chew off the trapped limb. The gnawing off of a limb is so common that it has been given the term 'wringing-off' by trappers. It is estimated that up to one in every 4 trapped animals escapes by chewing off her own foot." The report goes on: "A study in Wheeler National Wildlife Refuge over a 4-year period found that 27.6 per cent of mink, 24 per cent of raccoon and 26 per cent of trapped fox would bite off their limbs in hopes of surviving. Most probably died of blood loss, infection and inability to hunt with an amputated leg. A 1980 study found that 37 per cent of raccoons mutilated themselves when caught in a leg-hold trap. A Swedish trapping campaign, conducted shortly before leg-hold traps were banned, found that of 645 trapped foxes 514 were seriously injured. Over 200 of the foxes had knocked out teeth as they bit the trap. Some of the foxes had knocked out 18 teeth. Consider how desperate they must have been to escape that trap." We, in Jersey, of course, are concerned with wildlife preservation and it is worth also therefore reflecting on the number of what are termed "off-target" species that are captured by animal trapping. I quote further from the C.A.F.T. paper: "The cruelty to trapped animals is bad enough, but the traps also kill animals that are not required by the trapper. These so-called 'trash' include wildlife and pets

unfortunate enough to stumble across these horrific devices. Trapping is too indiscriminate to assure a legal furbearer will be the catch on the following morning. Whatever animal is attracted to the bait first, or whichever species walks down the trail first, will be the one that gets caught first. A former government-employed trapper, Dick Randall, told the 1976 Congressional Hearings: ‘Even though I was an experienced, professional trapper, my trap victims included non-target species such as bald eagles and golden eagles, a variety of hawks and other birds, rabbits, sage grouse, pet dogs, deer, antelope, porcupines, sheep and calves. The leg-hold trap is inherently non-selective. It is probably the most cruel device ever invented by man. My trapping records show that for each target animal I trapped, about 2 unwanted individuals were caught. Because of trap injuries, these non-target species had to be destroyed.’” That, Sir, is a brief reflection on the facts pertaining to trapping fur from animals in the wild. It should be borne in mind of course that although I quoted some information there from the United States of America, most countries in the world where trapping is carried out do not have even these standards of regulation and animal welfare. Consequently, the barbarism and savagery with which animals are treated will be even worse in most jurisdictions around the world. Moving on, Sir, to the case of fur farming; some people suggest that fur farming is acceptable whereas trapping - for the reasons I have just explained - is not acceptable. I would like to just quote a few of the points in the paper by the Reverend Professor Andrew Lindsey, who is a theologian and a specialist on animal welfare. This is a brief summary of his paper: “The Ethical Case Against Fur Farming”. To quote just some of the passages: “Concern for the right treatment of animals has a long legislative history. Society has a clear stake in safeguarding animals from acts of cruelty. Human beings benefit from living in a society where cruelty is actively discouraged. The evidence shows that it is unreasonable, even perfidious, to suppose that fur farming does not impose suffering on what are essentially wild animals kept in barren environments in which their behavioural needs are frustrated.” He goes on: “There is a strong rational case for animal protection. Animals make a special moral claim upon us because, inter alia, they are morally innocent, unable to give or withhold their consent or vocalise their needs, and because they are wholly vulnerable to human exploitation. These considerations make the infliction of suffering upon them not easier but harder to justify. There is increasing evidence of a link between the abuse of animals and other forms of violence, notably against women and children. It is an increasingly viable assumption that a world in which abuse to animals goes unchecked is bound to be a less morally safe world for human beings. Fur farming is, however, also unacceptable to those who hold that the infliction of suffering can sometimes be justified. Fur farming fails a basic test of moral necessity. It is wholly unjustifiable to subject animals to prolonged suffering for trivial ends, such as fur coats or fashion accessories. Fur is a non-essential luxury item. It is sometimes argued that fur farming is justifiable because it is consistent with religious notions that animals can be used for human benefit. But Judaism, Christianity and Islam have never held that our use of animals should be illimitable or without moral constraint.” Those, Sir, are just some of the arguments - the intellectual, moral and ethical arguments - against the use of animals for fur. As I have suggested to the Assembly, I am happy to accept the amendment proposed by Senator Shenton. We will then be able to take a detailed, considered examination of the possibilities that are open to us in addressing what I consider - and I think the petitioners consider - to be our moral and ethical responsibility. There can be no doubt that the animals that this petition is aimed at are treated with unremitting savagery. Members would be horrified if they saw photographs or film footage of the way either trapped animals or farmed fur are treated and disposed of by human beings; frequently, in fact, being skinned alive. It is a barbaric and inhuman practice and we should at least investigate the possibilities of what we may do to try and limit it. Sir, I propose the proposition.

The Bailiff:

Is the proposition of Senator Syvret seconded? **[Seconded]** There is an amendment, as the Senator has stated, in the name of Senator Shenton. I ask the Greffier to read the amendment.

The Greffier of the States:

For the words “to agree that” substitute the words “to request the Council of Ministers to investigate the feasibility of introducing”, and for the words “should be implemented and to request the Ministers for Economic Development and Home Affairs, in consultation with other Ministers as appropriate, to bring forward for approval the necessary legislation to give effect to the ban” substitute the words “and to request the Council to report to the States Assembly within 6 months on the consequences of any total or partial ban on the importation and sale of such products, having regard in particular to the cost implications and to compliance with Jersey’s international and European Union obligations.”

5.2 Senator B.E. Shenton:

I brought this amendment because, like the 2,505 signatories to the petition, I feel strongly society should do all it can to minimise the needless suffering of animals. In many cases, the fur trade is nothing more than barbaric. I will not go into great detail because I think Senator Syvret has already given a very good account of what goes on. When I was looking for a solution, what happened was I read the petition and I felt that this could not go through for the simple reasons as set out by the comments of the Home Affairs Committee. I was looking for a solution that perhaps could be achieved through limiting the restriction to the importation of fur products. Unfortunately there were outstanding matters and Senator Syvret referred to the Attorney General’s comment on this. Sir, looking for a solution, I thought it best to refer it to the Council of Ministers. This is an area where the Council of Ministers should be able to work quite well. Obviously Senator Syvret has an interest, as does Economic Development, as the banning of all fur products would obviously have economic consequences; the Chief Minister’s Office, looking at international regulation; Environment, we have already had the comments in front of us from the Environment Department; and of course Home Affairs, who no doubt will criticise some of my comments. But obviously, at the end of the day, it is up to Home Affairs to police whatever legislation comes in. I think it is up to government to offer solutions and not barriers and I would prefer it when departments or Ministers do comment on propositions that rather than concentrate on the negatives of the original proposition. They point out: “You could do this or you could do that.” I know it is quite a radical approach, but I think it would succeed in better government. Sir, I put the amendment and I hope that Members will support this.

The Bailiff:

Is the amendment seconded? **[Seconded]** Does any the Member wish to speak or may I put the matter to the vote?

5.3 Senator W. Kinnard:

I would just like to say a few words, if I may, mainly because I would like to draw attention to some of the comments that were made in the report accompanying the amendment of Senator Shenton. I want to really point out to Members that I do not accept that the Home Affairs comment is in fact negative. It should be read as neutral. My personal views, for what they are worth as a vegetarian for the last 23 years, are one thing and very much go to the moral and ethical issues. But - correctly, I feel - the Home Affairs comment is neutral on the moral issue and gives merely the practical consequences for my department if the proposition had been adopted as originally envisaged. Indeed, I was asked to comment on that proposition proposed by Senator Syvret and at that time I did not realise that I was expected also to go on to do the work, of the proposer of the proposition and come up with an alternative proposal. I think it is usual for the proposer of a particular proposition, on receiving comments which might highlight some deficiencies in the proposal, to amend that proposition accordingly. But having just made those few comments, Sir, I have absolutely no difficulty with supporting the amended proposition as is now before us and indeed will support it.

5.4 Deputy G.W.J. de Faye:

Some 8 years ago, I was fortunate enough to take a holiday in a fascinating part of the world, Beijing in China. However, I had poorly researched Beijing and had not realised that I would be thrusting myself into temperatures of minus 5 degrees. Consequently, it may not surprise Members to know that I took advantage of some of the retail items that were on offer in Chinese local markets. I still have a souvenir of that experience. It is a Russian-style Cossack fur hat made of rabbit fur, which I used on the occasion to keep myself warm in freezing conditions and I feel that I have done nothing wrong by bringing it back to keep as a souvenir of my holiday. It appears though that there is a potential for me, should I repeat this behaviour in the future, to find myself effectively potentially breaking the law and certainly looking as though I would have that type of souvenir confiscated. I think that is probably a step too far. But clearly, under the Projets we have now before us, that would be a matter for a number of Ministers to look into to determine feasibility. Or would it? The proposition, as I read it, also says that legislation should be brought forward to implement a ban, which is why I think we should devote our minds a little to what is being proposed. I ask Members to recall; not so long ago this House took a decision to try and restrict the amount of legislation that we were generating. Legislation, whatever form it takes - be it complex or even small adjustments to Regulations - costs money to deliver, costs officer time to consider, costs Parliamentary time to deal with and then, generally, costs administratively to administer. Legislation costs time and money. I am a little concerned that what I see is an interesting double act between 2 Senators to effectively slide a fur trade ban cleverly under the wire. Is it really appropriate for effectively one or 2 individual Members to come up with interestingly researched reports on a particular issue they feel strongly about and then slip the matter over to the Council of Ministers to sort out? If the Council of Ministers is devoting its time to this particular piece of legislation it means that attention is drawn away from other aspects of legislation that I would imagine that other Members in the House might feel is perhaps worthy of more consideration and has a higher priority than a worry about fur. Let me make it quite clear. I am not standing here to defend the barbaric habits of certain fur trappers, as we have heard outlined. I am not here necessarily to defend the fur trade. But I am here to defend libertarian values. That is why I think we have to draw certain lines in the sand. We have done. It must be fairly clear to Members who have read the background to this issue that, for example, under the C.I.T.E.S. convention, we either have or are in the process of ensuring that the pelts and furs of endangered species will be dealt with in an appropriate manner in order to discourage that aspect of the international fur trade. But there must surely be a difference when we come to fur farming. Fur farming is an altogether different area of the fur trade to trapping animals in the wild. Then, of course, there is the key issue of in fact how the particular creatures in question are dispatched. Maybe we should be looking at the question of asking the law to consider whether animals - creatures in general, were humanely dispatched or not. I believe that is a significant difference. I am disappointed that these aspects have not been thoroughly fleshed-out in the reports that we have before us. I have to say that I do not think it is acceptable to show colour photographs of bunny rabbits in order to generate an emotive response without going, into a certain level of more detail about what the realities of the international fur trade are. Similarly, I say to Members I question, particularly, if this is going to become a trend: the ability of individual Members to come up with likely researched propositions and then simply hand the matter over to the Council of Ministers to sort out. I do not think that is an acceptable approach. On those grounds, and those grounds in particular, I would urge Members to reject this proposition, no matter how endearing or cuddly it appears.

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

I find myself in almost total agreement with Deputy de Faye, Sir. Obviously this is a very emotional subject, but unfortunately I do find both the proposition and the amendment higher on emotion and lower on complete research than I would have liked. There are a number of issues - and I will be as brief as I can - that really have not been fully explored. What is fur? Does it include

wool and hair? The suit I am wearing was imported and is made of wool. Presumably that will be banned. I understand fully, Sir, the sentiment behind what Senator Syvret was trying to achieve and what I believe the amendment by Senator Shenton is similarly trying to achieve. But I am concerned that what is being suggested is, in fact, unworkable and will not achieve anything whatsoever towards less cruelty to animals. Sir, as a matter of interest, I presume those who abhor the wearing of fur are not all vegetarians, so I find it somewhat inequitable that it is quite alright to kill an animal for its flesh but not for its fur. I really find difficulty with that. We can eat rabbit, Sir, but we will not, presumably, in future be allowed to have a rabbit's foot on our key ring. Senator Syvret did tell us when he was speaking, Sir, that: "Fur is an unnecessary luxury item" - I think I quote him correctly - which of course is nonsense. For millennia it has been the standard clothing of man. It is only in recent times that we have seen the arrival of man-made alternatives, most of which are not as effective by any means. I do not believe, Sir, that a ban on importation will save one animal from the sort of unnecessary and unacceptable suffering that Senator Syvret has outlined. Indeed, it is my view ... and this is where I look forward to the research that hopefully will come from the amendment. But there is a possibility in my mind that by driving the issue underground it may achieve just the opposite. It may encourage the sort of trapping that offends and have, obviously, no effect on farming. As Deputy de Faye has said, our interests should be whether the animals are despatched in a humane manner. Also, I believe, Sir, there is a possibility of a further inequity: that, while not being able to import fur, we could in fact farm fur within the Island as indeed we used to. It does seem to me that the proposition will achieve nothing except increased bureaucracy, and at perhaps some substantial cost. So, in that case, Sir, I welcome the amendment and I look forward to the report and feasibility study called for by that amendment. I trust, Sir, it will address some of the issues I have raised and a great number more that I have not.

5.6 Deputy C.J. Scott Warren:

The large number of people - over 2,500 - who asked Senator Syvret to present this petition obviously felt very strongly about the serious issue of animal cruelty and the fur trade. We should all be concerned about this cruelty, and hopefully most of us are. However, we do have to ensure a workable law. For that reason I will be wholeheartedly supporting Senator Shenton's amendment. Thank you, Sir.

5.7 Senator S. Syvret:

I respond to the speeches made by Deputy de Faye and Deputy Baudains. Deputy de Faye spoke of the fur hat he purchased and Deputy Baudains went on to similar territory, suggesting that man-made alternatives to fur were not sufficient and not adequate. I am afraid that is simply wrong. I can tell both of the Deputies that, as a mountaineer and an owner of mountaineering equipment and clothing, I can assure you that you do not see people mountaineer in fur coats. The modern man-made equivalents are vastly superior for reasons of wearability, breath-ability, layering and a whole host of reasons. Deputy de Faye suggested this was legislative red tape and that it might be asking the C.O.M. (Council of Ministers) too much to undertake this work. Well, I do not accept either of those arguments. We have heard from the Minister who will be most involved in looking into this issue, Senator Kinnard, that she is absolutely perfectly happy to accept the amendment of Senator Shenton. Indeed, as far as I am aware, most of the other Ministers too would not have any difficulty with the Senator Shenton amendment. The proposition - as amended by Senator Shenton - would simply seek to ask that we investigate the feasibility, and that is all that it would do. Were there to be any suggestion for legislation that flowed from that investigation of the feasibility, that would of course have to come back to this Assembly for approval. So, the assertion of Deputy de Faye - that this is a way of getting Regulations past the Assembly in some kind of sly way - is obviously wholly incorrect. Deputy de Faye also spoke of the need to uphold libertarian values. Well, of course, he is welcome to his philosophical view but in many, many respects civilised societies do not allow a completely libertarian approach to how people live their lives. It is, for example, illegal to use certain drugs. It is illegal to engage in a lot of cruel sports, and has been for a very long time

in most cases. It is illegal to engage in such activities as bear baiting, badger baiting, dog fighting and a whole range of other barbaric treatments of animals. But if you took the libertarian approach you might argue that, well, people should just have a right to do as they please. It is not an argument I buy and it is not an argument reflected in the rules, laws and civilised standards of civilised societies. Likewise, our Regulations do not allow cruelty to farmed animals, they have to be treated with certain standards of care and consideration. Again, that too is absolutely a correct and justifiable piece of legislation. I am afraid Deputy Baudains - while I think he is going to accept the amendment and vote for it - basically said this was kind of unnecessary and bureaucratic and would not achieve anything. But that is not a view I can agree with. I think if the amendment succeeds and we adopt the proposition we will be investigating the feasibility of introducing legislation in this field. That, for reasons I have already spoken about, is a necessary and desirable thing. The fact is in many jurisdictions animals - whether they be trapped in the wild or farmed - are treated with absolute barbarism and inhumanity. I do not believe that any civilised person with any rigorous moral compass could possibly support or condone such activity. So, Sir, I urge Members to support the amendment of Senator Shenton.

5.8 Deputy of St. Martin:

Those Members who have been in the House a little while, may well remember that I too brought a petition to the House - very much like Senator Syvret - and that was on drains. I think most people within the House supported the principle. However, like this particular petition it was not worded in such a way that Members could support it. Really, had I had the benefit of someone like Senator Shenton to bring forward something like this no doubt we may well have achieved, really, what I think we are all intending to achieve. My petition got voted out when the majority of the Members of the House supported it but could not support how it was worded. That is why I think we have got to compliment Senator Shenton on what he has brought forward this morning. I hope that Members will not spend too much time having to deliberate on something, which I think is so obvious. I would ask that we really go ahead and have a sum up and move on as quickly as possible. Thank you.

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

I will be brief, Sir, thank you. I just wanted to comment and to thank the Senator for his absolutely correct outline of the moral issues in the great religious traditions of the world, and simply to say that the responsibility of man for the whole creation - including the animal creation - is absolute. That does not mean that we do not live in the real world and it does not mean that there is an absolute prohibition on animal products. Clearly, most of us will eat meat and most of us are wearing leather shoes. It does mean that there is an absolute responsibility against cruelty. I want to thank him, therefore, for accepting the amendment, which allows the properly complex investigation of not only the practicalities but also some of the moral issues involved. Members will remember the issue of hand-sewn footballs for international tournaments and when that was being done by child labour in the Indian subcontinent. When some of that was stopped through western shaming in the press, it was in fact those in that subcontinent who said: "We are very pleased that you have now got your morality sorted out but, please, what do we do with our children now? Are we now going to put them into the sex trade because they can no longer sew footballs?" That does not mean I would want us - urge us - to do nothing. Rather, it may mean that in our new approach to joined up thinking, if we are going to say we would like to cease importing something or other and that has an economic detrimental effect on people in other parts of the world. I would hope that our morality will also say: "That may mean we want to increase our aid budget." Because there is a trade-off here: if we want our consciences to be salved, it cannot simply be at the expense of the economy of small families and self-supporting farmers in the Third World, but I would urge you to vote for the proposition as amended.

5.10 Deputy P.V.F. Le Claire:

Equally as brief, Sir, to support the amendment: I think it is quite rightly - as Senator Syvret has pointed out - just requesting the Council to report back to the Assembly within a certain amount of time with the problems that they can find. I did speak to my wife briefly about the fur and, what the Russian experience was in relation to garments with fur because obviously it is quite a large percentage of their clothing in that country. She gave me the impression that fur clothing in that country, where it is needed, has not got a replacement in terms of something that will keep you warm. In particular, in those areas where sub-zero temperatures are an every day occurrence, perhaps in those jurisdictions these issues would not be forbearing. But we do not experience sub-zero temperatures in Jersey and we do not have the necessity to clothe ourselves in those kinds of garments, albeit on very rare occasions. So, I am happy to support the amendment. I would suggest, though, that perhaps the Council of Ministers, and other Ministers' assistants, would take on board the words of the Minister for Transport and Technical Services, Deputy de Faye, when he speaks of drawing a line in the sand with unnecessary legislation because it does have a financial cost to the Assembly. Perhaps they could have a quick look at the Road Digging-Up Regulations (Jersey) 200- and see whether or not the lines in the road there cannot be drawn, and ask whether or not we cannot co-ordinate the Road Digging-Up Regulations and remove them - as they do in Guernsey with consultation - thereby eliminating unnecessary legislation. Perhaps all areas of legislation that Ministers bring should have amendments of this kind, thereby giving the Council the ability to scrutinise each Minister's portfolio. Because I understand, at the moment, the Council only meets to discuss the issues that the Ministers are bringing and does not have an overbearing influence upon that Minister, other than advisory.

5.11 Deputy J.J. Huet:

I am obviously in full support of Senator Syvret, but it was the Dean speaking that made me think, and it brought it home to me. I would just like to say a few words on this: I went to Bangladesh. When I was in Bangladesh, we had a lot of ladies there in the garment trade and because of the western world insisting that these ladies ... where they worked was not hygienic and it was not suitable and it was over-crowded, not air-conditioned and so forth: they had made the Bangladesh Government feel extremely guilty. So, the Bangladesh Government was closing them down, and guess what was happening to them? They were trotting across the border into China where there was no control, whatsoever. So, it is very true, as the Dean says, if we do one thing we must look as well to see - to support - what we are taking away. Because those ladies were only going to have one profession to go back to and I do not think that we would like to think that that could be by us doing something like this. So, though we support we have to be careful how we support it and what we give in exchange for it. Thank you very much, Sir.

The Bailiff:

I call on Senator Shenton to reply.

5.12 Senator B.E. Shenton:

I will be brief in my summing up. Deputy de Faye spoke and I realise that doing what the public want is quite a foreign concept to him. He mentioned about the pretty pictures: I got the idea from a transport strategy document that I was reading. The petitioners have no intention of restricting Deputy de Faye from wearing his fur hat, or anyone else from wearing their coats. The idea is to cut down on the fur trade and for Jersey to lead in some respects and not just follow. I thank Deputy Scott Warren and the Dean, Deputy Le Claire and Deputy Huet for their support. I thank Deputy Baudains for his support, albeit qualified. I get the impression sometimes from Deputy Baudains that you have been in the Chamber too long and that you are becoming a little bit cynical in your old age. **[Laughter]** I brought this amendment - and it was a rushed amendment because it was an amendment to a petition. I only had a few days to speak to Customs and get the amendment in because I did not want the matter to drop. You know, people have been out there signing the

petition; people feel very strongly about this - I feel very strongly about this - and this seemed to be, the best solution. I did not word it in the way that I worded it, in as much as going again, the Council of Ministers to score political points, or anything like that. It was simply to get the job done. I welcome the Minister for Home Affairs; the fact that she has agreed to take on board this task and I would like to put the amendment to the vote. Thank you.

Senator S. Syvret:

Could we have the Appel?

The Bailiff:

Appel. I ask any Member who is in the precinct who wishes to vote to return to his seat. I ask the Greffier to open the voting, which is for or against the amendment of Senator Shenton.

POUR: 46

Senator S. Syvret
Senator L. Norman
Senator W. Kinnard
Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Senator T.J. Le Main
Senator B.E. Shenton
Senator F.E. Cohen
Senator J.L. Perchard
Connétable of St. Saviour
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of Trinity
Connétable of St. Lawrence
Connétable of Grouville
Connétable of St. John
Connétable of St. Brelade
Connétable of St. Martin
Deputy R.C. Duhamel (S)
Deputy A. Breckon (S)
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy C.J. Scott Warren (S)
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy S.C. Ferguson (B)
Deputy of St. Ouen
Deputy P.J.D. Ryan (H)
Deputy of Grouville
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy J.A.N. Le Fondre (L)

CONTRE: 1

Deputy G.W.J. de Faye (H)

ABSTAIN: 0

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

The Bailiff:

The debate now returns to the proposition of Senator Syvret as amended. Does any Member wish to speak on that?

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

I wish to address this point from the Economic Development Department's point of view, Sir. I think we must be realistic that although the trade in fur - that has been very well outlined by Senator Syvret this morning - is reprehensible, the reality is that we will have no effect on it whatsoever if we decide to go ahead with legislation. Because this little island, of 85,000 people, is not going to make any real difference to the trade in the world at large. While it is extremely important for Jersey to play its part in any international programme for the protection of animal welfare, the proposition inevitably has implications from an economic perspective. Jersey already adopts the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which allows the Island to closely monitor and control the movement of restricted goods through a licensing system. However, a move from the current situation to a total ban on importing all fur products has the potential for significant economic impact. It is questionable whether such a proposition would achieve its target of further protecting global animal welfare, while any impact on Jersey's economy will indeed be felt locally. If the aim of introducing such legislation is an opportunity for this Assembly to demonstrate a broader commitment to animal welfare, there may be other potentially more effective ways to achieve this without the introduction of legislation. Economic development issues: first of all, business and leisure visitors to Jersey currently travel freely between Europe, the U.K. and the Island. Ease of access is a significant factor in the promotion of Jersey as a tourist destination. Visitors who may be carrying fur items - which may be antique and not recently purchased - will have these items confiscated on entry and may be liable for prosecution, which would lead to a very negative experience of the Jersey holiday product. In the longer term, this issue will have a very negative impact on a market Jersey has worked extremely hard to attract and significant practical implications for Customs and Excise to police such a situation. I believe Home Affairs reported that the cost of policing in this way would be something like £170,000. That is just the tip of the iceberg. The success within the scenario, in terms of protecting international animal welfare in this situation, is questionable. Jersey residents, potentially high value 1(1)(k) residents may be moving to and from the Island with goods that have been in their family possession for many years. Economic Development is responsible for facilitating this activity. The practicalities of policing trailers or luggage containing personal items, which may or may not contain fur, and ban such personal items on entry - e.g. fur coats which have often been inherited many years previously - are indeed an issue. From an economic perspective, such residents are likely to be fully aware of current animal welfare issues, but have not chosen or recently purchased these items but may possess them as family heirlooms. Such a measure would create a very negative image of the Island and be counterproductive to the very image of a caring society that the legislation is seeking to promote. In the longer term, it could also damage our reputation for welcoming 1(1)(k) residents and facilitating their move and investment into our Island. Following the points discussed above, an exception for personal items could be considered. However, the retail sector is also impacted by the proposed legislation. U.K. retailers operating in the Island may or may not be selling products containing small amounts of animal fur. A total ban

on importation into Jersey would mean that the Jersey retailer, or franchisee, will be unable to sell stock that is still readily available elsewhere - that is in the U.K. - thus penalising the local retailer without in any way solving the core problem. The exact nature and quantity of fur and fur-trimmed goods currently trading in Jersey at the current time is unknown. Research would need to be undertaken to ascertain the extent of such items in the local retail marketplace. Indeed, the complexity of identifying real and fake fur in the current marketplace would add to the complexity of such an exercise. There would also be an impact for the logistics companies. Prior to the introduction of such legislation, a publicity information provision programme would have to be undertaken with the retail industry. It could be suggested that a re-education publicity programme - without the accompanying legislation - is potentially likely to have a higher impact than the introduction of further legislation, at a time when the States of Jersey has committed to reduce red tape for traders. A promotional campaign, undertaken in partnership with retailers, to encourage and incentivise good practice, may be more effective than the legislative approach. An equivalent example of how this approach can work successfully is the promotion of fair trade produce in the convenient sector. Travel to Jersey from the U.K. is currently perceived as easy and within the national borders, which is an important factor in promoting Jersey as a place to do business, visit and even live. The attractiveness and competitive advantage of ease of access for business, to leisure visits, should not be underestimated. The proposition to introduce importation legislation that is not currently in place in the United Kingdom - or indeed in France - not only raises practical issues with regard to policing, enforcement and control but raises the issue of how Jersey will be perceived in the future as a place to visit or work. The introduction of legislation in Jersey, without the supporting introduction elsewhere in the U.K. or Europe, has the potential to be detrimental to the Island's international image of a destination with which it is easy to do business. It may also be a contributory factor in customers selecting competing destinations in which to trade, to live or to visit and potentially discourage the very investment we are working to attract. While the Department for Economic Development fully supports and endorses an education public awareness programme regarding the use of animal fur and products, the introduction of legislation is a severe measure, the impact of which would require deeper investigation and which may have a negative impact on the Island's economic activities, while not solving the very issue it seeks to address. The Department for Economic Development consulted on this projet with the Jersey Chamber of Commerce, whose response was, and I quote: "While the issue of a ban on the importation of fur into Jersey would appear to be more a moral issue than an economic one, we would ask the States to consider a full assessment of this proposal, as there may be a number of difficulties within the detail which have not yet been considered. The Chamber is not aware of the current volume of goods imported into the Island which contain fur, and we would recommend some research were conducted to understand the market better. We would also question how such a ban could be effectively policed. With many fake fur products on the market, it is not clear how these could be easily differentiated from the real thing by those responsible for upholding the ban. The definition of what constitutes a fur product may also prove complex. Surely it is best to leave it to the customer to decide, rather than introduce more legislation." We also carried out some initial legal research, which indicates that a blanket ban on sales and imports, as proposed, is unlikely to be compatible with Jersey's E.U. obligations and, if so, would be open for challenge. I think we should bear these points in mind in considering how we vote on this amended projet. Thank you.

5.14 Deputy G.C.L. Baudains:

I just wonder if the Senator, in his summing-up, could give us an indication if he has any idea of the number of products that might be captured by the proposition that he has brought forward because it applies to not only fur but to fur-trimmed products. It does seem to me, Sir, as the previous speaker has said, these could be numerous; there could be items with just a small amount of fur on them. While, as I have said previously, most people I think are totally opposed to the appalling treatment that some animals suffer - being captured for their fur - I wonder if the Senator, while he is summing-up, could also address the issue of animals who are slaughtered primarily for their

flesh; what he thinks about the possibility that their skin would then become unusable but instead of using a product which is already there, one then proceeds to pollute rivers by creating man-made materials to replace them.

5.15 Deputy of St. John:

I would just like to highlight some of the issues regarding importation and the implications it may have on some of our existing resources. A total ban on the importation of fur would not possibly only include clothing but maybe also footwear, children's toys, soft furnishings, upholstery, as well as a number of various other items. The proposition also includes prohibition of the re-importation of fur items legally owned and exported by local residents. If I could just highlight a couple of scenarios, Sir: a visitor arriving with clothing that is trimmed or made of fur; a visiting dignitary arrives in the Islands with a high value fur coat; a local resident returns from the U.K. with a fur coat that has been owned for many years and is of sentimental value. I could go on. Any of the aforementioned would give rise to the following resource implications: for example, additional resources will have to be deployed to detect illegal importations, with seizure of goods; items imported contrary to prohibitions and restrictions can be seized as liable to forfeiture. Seizing extremely high value items can be problematic, and raises issues of secure storage and the cost of such. Moving on, case investigation: additional resources will have to be deployed to investigate illegal importations. It should be noted that, whenever possible, Jersey Customs applies a policy of clearly publicising restrictions that exist upon importations into the Island. Given that this proposed ban would be unique to Jersey, considerable resources would have to be expended in publicising the nature of the ban at all ports and airports that serve the Island. Moreover, an educational plan, aimed at developing awareness of the import ban, would need to be rolled-out throughout clothing retailers, furnishing stores, toyshops, in order to help make the ban effective. The Jersey Customs and Immigration Service commits resources on an intelligence and analysed risk basis in order to maximise effectiveness. Current priorities include the protection of the revenue and the protection of our borders against the importation of controlled drugs and illegal immigrants. Sir, my concern is that an additional burden, such as this, may compromise the effectiveness of those current border controls. With Customs' current priorities, it is estimated that even an attempt to effectively police such prohibition on the importation of fur would require one extra Customs officer, per shift, on duty at the airport, harbour and Post Office. This equates to a total of an extra 3 staff and could incur a cost of £170,000 a year. Thank you, Sir.

5.16 Deputy C.J. Scott Warren:

Well, I, Sir, will be supporting this amended proposition. We are trying to enhance our international personality. We may well be small, as the Connétable of St. Lawrence states, but we are, I believe, a significant island. Particularly, we in Jersey are known for our protection of endangered species. I agree with the speech made by the Dean, that we also need to address any wider implications if we do in any way along the line adopt these measures. But I have no hesitation at all, and I urge Members to support this amended proposition. Thank you, Sir.

5.17 Deputy P.V.F. Le Claire:

I support the proposition and the amendment to the proposition, and understand that the Ministers will probably have a difficult job in analysing the situation to bring it back before the States Assembly. I was not going to speak on this main part of the proposition but the comments of the Assistant Minister for Home Affairs have made me ask a question that perhaps could be put by the petition representative, Senator Syvret, to his colleagues when they sit down to discuss what they are going to bring back to the States. What they bring back to the States will have to be something that we can wholeheartedly support; that will be effective. Therefore, a determination as to how we police that will have to be given, whether that be by some sort of protocol or some sort of legislation. But this is the question: it does raise the issue that when departments make the comments - as has just been made by the Assistant Minister - that this will require more manpower,

in particular, one extra Customs Officer at the airport and harbour per shift, it begs the question what will that extra Customs Officer be doing? Will that extra Customs Officer be the fur patrol Customs Officer, or will that end up being just another Immigration Officer conducting immigration duties? Because it is a facile argument to suggest that an issue can be tackled by adding an additional person when it is a whole new item. I just do not see how one additional officer will tackle this issue. It will have to be a whole ethos change within the department, and we are not obviously going to go out there and start employing specialist immigration fur control officers. It just seems a ludicrous suggestion that one extra officer will be required. So, I hope that the Senator will take it up with his colleagues to ascertain exactly how they intend to police anything that is brought forward, so that when it comes back to the Assembly we are not left with these facile arguments.

5.18 Senator F.E. Cohen:

The imperative should be the need to protect animals from suffering in the future. It seems to me that it is pointless to address the suffering of animals in the past, and thus we should certainly not seek to in any way ban fur products that are presently on the Island. It is also important to realise that C.I.T.E.S. is not useful in all cases, as it is designed primarily to protect the movement of endangered species. For example, it does not include the movement of mink. We need to protect suffering in the future. We should, therefore, implement a system where we require commercial importers to provide certification, at their own expense, that the animals from which a product is made were humanely killed, and I think we should bear in mind, at all times, the very important points raised by the Dean this morning.

5.19 Senator W. Kinnard:

Just very quickly: as much as I appreciate the speeches of the last 3 or 4 individuals, I would say to Members that, in many ways, they are quite unnecessary because the comments that were made really applied to the proposition, as un-amended, as an amended proposition and all those issues will be taken into account by the Council of Ministers. So, I suggest we just get on and vote. Thank you, Sir.

5.20 Senator T.A. Le Sueur:

I do not detract from the value of the amended proposition, but I do suggest to Members that they take heed of the comments - made by several speakers today - of just how much work the Council of Ministers will have to do over the next 6 months in order to produce this report. There are a variety of matters to be considered. To suggest that there will be no manpower implications, or no resource implications, is somewhat naïve. We are committed to save, as part of the fiscal strategy, £20 million a year by doing things more efficiently and by making better use of our resources. It may be that sometimes we have to forego that in the interests of improved morality, improved ways of doing things, and our responsibilities, both locally and nationally. But let no Member be under any illusion that we can deliver those very necessary services - those moral imperatives - without resources. It does come with a price tag, both now and ongoing. To suggest that there are officers, or Members, sitting around with nothing to do, waiting to produce this report, is naïve. It will require additional resources in some way or other.

5.21 Deputy J.B. Fox:

It bothers me that we are creating this work; that looks as though we are trying to solve the world's ails and we are not going to be able to achieve this, realistically. When I hear about officers being employed at harbours and airport, we had exactly the same arguments when it came to smoking, and enforcement, and drinking and all sorts of other things. The reality is; it is commonsense. Yes, we do want to achieve a better world than we are living in now and I have just recently come back from the Parliamentary Commonwealth Conference, where there are a lot of things that an awful lot of people are striving to do. That is a role that we have to improve, not only for the human being,

and for the animals, et cetera, but we also have to do things within international agreements and sometimes promote international agreements, European agreements, et cetera. So, let us not start looking at ourselves in isolation, let us look at ourselves, as part of a big family of the world and we want to improve on it and this is an important part of it. But, on the other hand, things that have happened in the past cannot be undone and we have to live in a real world as well. Is it realistic, is it cost effective, is it commensurate to the risk, et cetera? There are all sorts of buzzwords that can be used. I think that any Assembly, such as ours; yes, it must move forward but let us move forward realistically and constructively in order to achieve the end. Let us not go into the realms of fantasy and bureaucracy because it will not get achieved and it will not do us or anybody else any good. Thank you, Sir.

5.22 Deputy G.P. Southern:

May I call on Members to exercise a bit of restraint? We appear to be discussing the substantive issue of whether we can do anything about anything when, in fact, the amended proposal is to request the Council of Ministers to investigate the feasibility of introducing. Let us not have a debate on the feasibility of introducing. Let us just get on with it.

5.23 Senator M.E. Vibert:

I would just like to echo something the Minister for the Treasury said, and it is all very well saying: "Let us just get on with it". The Council of Ministers, like every other department, has to prioritise and if the States give it this work to do, and it will be work in the next 6 months, something else will have to slip. I think Members should bear that in mind. I think that the sentiment is good. We need to be careful that we do not keep loading things on for departments to do when they have got other priorities. I think that if this is taken on, we should not devote enormous resources and officer time for it. I think there is a lot of commonsense that can be taken on board here. A total ban is nonsense. It is far too bureaucratic and expensive. We could look on a ban, in the form that Senator Cohen was referring to, where commercial importers would have to show where the product had come from and how it had been done. But do not just, Members please, think that the easy way out all the time is just to load the thing on the Council of Ministers to do because that will mean other things that you, States' Members, Sir, wish to have done, will not be able to have the priority they otherwise would have.

5.24 Deputy G.W.J. de Faye:

I may have been the lone vote last time and may well be the lone vote this time, but I am going to stand up and put in a word for libertarian values. Because I might be on my own at the moment, but I think there are an increasing number of people on this Island who are getting jolly fed-up with the nanny state approach that is being increasingly displayed by this Chamber. When I first arrived in the House I was told that I could not have kava kava anymore. Now, my smoking is being interfered with; I am being told what I can and cannot wear. One wonders where all this is going to stop. Yes, of course, it should be commonsense and it probably is. So, why do we keep interfering with the use of legislation when the reality in the society around us is that cultural values are changing - perhaps not as fast as everybody would like - but they are changing. I buy my fair-trade coffee and I jolly well will wear my fur hat if it is cold in the winter, and why should I not? If I want to sell it to someone, is there really a problem with that? It will not bring the rabbit back to life. We need to get a grip. I am disappointed that there seems to be a trend among my colleagues in this House, Sir, that they belong to some sort of factory; a vast legislative sausage machine [Laughter] whose performance is determined by the output of paperwork. The public are getting jolly fed-up with that approach because it costs them - the taxpayers - an awful lot of money, which could be better spent on other things. So here we are faced with a sudden new priority, to be dealt within 6 months. Let me assure Members who do not have immediate experience of running a department, these types of demand are very incursive on to what your officers and the people who work in your administration are trying to do. We have already subjected them to enormous amounts

of pressure in order to squeeze as much as we can, in terms of efficiencies, out of the system. But, oh no, let us face facts; over 2,000 signatures on a petition: “Oh, there are some jolly safe votes there if I vote in favour of this one.” Let us look at our consciences. My conscience is clear. I will be stuffed by all 2,000 of those voters **[Laughter]** but the rest of the House can sit back feeling very smug with themselves. This is not the point of the exercise. We are all here to act in the best public interest by prioritising what are the important things to spend taxpayers’ money on, via government, via legislation. I have to say that I am consistently disappointed by our extraordinary ability to suddenly veer from the important issues and dive into the minutiae. Realistically, let us face facts. I am very grateful to the Connétable of St. Lawrence who I thought made an extremely detailed exposition of the potential situation before us. What exactly is the fur problem in Jersey? Does it really warrant an extra officer - or more than that - at the airport checking everybody through Customs: “Any fur to declare, sir, or madam?” Is the problem really this grave and do we have such an inflated view of our importance when we are, in reality, a tiny little lump of granite just off the edge of a large continent in the English Channel, that we think that we are going to divert the world issues because we have made this important stand? No. We need to face up to the facts and the reality that presents itself to us. We need to be responsible. We need to make sure we are getting our priorities right. Frankly, in my opinion, dumping this on the Council of Ministers - when there is an awful lot of work on the agenda already - is getting our priorities wrong and we should not support this proposition, although we should understand the sentiments behind it. We should be aware of the potential of harm and cruelty to animals and we should - in our own private lives, possibly, where we feel seriously - lead by example. But I say to Members, this is something for the culture in our society to change, not something that should be imposed and enforced by legislation.

5.25 Deputy J.J. Huet:

It is going to be very short. But I have to say that I know that Home Affairs said it is going to cost £175,000 to employ 3 people. But I would have to say I would prefer my money to be spent on £175,000 than I would be on, say, a gold tick that we are supposed to be having. Now, I call that much better value for money; to have the officers than this emblem that is going to cost us a small fortune. Which do you, Sir, ... no, I should not ask that. **[Laughter]** I was going to say, which do you think is the better value? Sorry, Sir. Thank you, Sir.

The Bailiff:

I call upon Senator Syvret to reply.

5.26 Senator S. Syvret:

I confess we have made rather heavier weather of that than I thought we were going to, upon the adoption of the amendment. I will try and deal with a few of the questions and points raised by Members. Deputy Baudains said: “Where would we stand with food animals?” Well, I think with food animals we have a different set of circumstances. There are legal standards of welfare and care that pertain to farmed animals. It could be said that people need to eat, so there is a need that goes some way to justifying that activity, whereas there is not a need for people to wear fur in this day and age. He also asked about the quantity of furs. I do not know, I confess. I do not know how many furs were imported into Jersey. I expect the number is low these days. Deputy Le Claire suggested that introducing legislation in this area might require more resources. I confess I was struck by how this is rather a new concern from him. **[Laughter]** I confess such considerations never appear to have deflected him before, for issues such as work permits and other kinds of legislative measures that he suggested.

Deputy P.V.F. Le Claire:

On a point of order, Sir.

Senator S. Syvret:

I am not giving way, Sir.

The Bailiff:

The Senator is not giving way, Deputy. You must respect the Rules of Standing Orders.

Senator S. Syvret:

I think that the point is well made. I think it is rich for people to use that argument when it suits them, but completely cast it aside and forget it when they have a particular measure they wish to have brought forward. Senator Le Sueur, and others, suggested that this might be a lot of work for the Council of Ministers. Well, again, I make the point that the Minister of Home Affairs is enthusiastically supporting the amended proposition. So, I do not really think there is a big issue there over resources. Senator Vibert said we should not load work on to the Council of Ministers. Well, I am sorry but I fundamentally disagree with that. This Assembly is supreme. The Council of Ministers is a creature of this Assembly and if it is the will of this Assembly to ask the Council of Ministers to do something, the Council of Ministers shall do it. That is how it should be. Deputy de Faye again spoke about defending the values of libertarianism. He does not appear to attach a great deal of importance to the fact that over 2,500 people signed this petition. I do think that, at the very least, the Assembly should adopt the amended proposition on that basis because, I repeat: all that the amended proposition does is ask the Council of Ministers to examine the feasibility of producing some form of legislation in this area. I think it would be rather an unfortunate day for this Assembly if we were not prepared to even ask the Council of Ministers to consider a petition that has been put forward by over 2,500 members of the public. Moving on, Sir, to the speeches of Connétable Fisher, the Connétable of St. Lawrence, and the Deputy of St. John. I think I would say to, perhaps, the more recently elected Members of the Assembly that those 2 speeches were very good examples of the perils of coming to the Assembly with a prepared written speech on a topic and being determined to make it, come what may, regardless of changing events and circumstances. Because both of those speeches address the original proposition as un-amended and did not really address the amended proposition, which is what we are debating now. The Connétable of St. Lawrence spoke about 1(1)(k)s, and so on. Well, I think the fact that we are accepting the amended proposition means that all such considerations would be looked at and considered carefully. So, I do not think that there is a problem there. But, in any event, if it were the will of this Island's Government and its community to have certain ethical standards in one area, or another, then really why should that not prevail? We would not after all welcome 1(1)(k)s who had made their fortunes by arms running or drug dealing. So, I do think the ethical concerns of this community must have a bearing on these issues. Finally, Sir, the speeches by the Dean and Deputy Huet, both touched upon sweatshop labour in the developing world and how we had to be careful that measures we did not take in western countries - which were well intentioned - should not make those poorer communities suffer. That, of course, Sir, is a principle I agree with. But the fact is, in a globalised world we do, I think, have both the right and the expectation that ethical moral standards - standards of, for example, labour welfare, education, child protection - should be encouraged and pushed for development throughout the world. Just because one country might reluctantly be forced to adopt these measures - as, for example, is the case of child labour or sweatshop labour producing sports goods - those countries were forced to change their ways because of consumer concern; consumer boycotts of companies like Nike and other sports companies. I do not think that it is an ethically justifiable argument to say that simply because that country will implement proper labour protection - and they might therefore move to China - that, therefore, is a reason not to do it. We have to drive up standards throughout the world. I think all advanced countries are going to be seeking to do that more and more on the globalised planet that we are in now. After all, if that is not the case and employers, factories, governments - whoever it may be - are able to absolutely exploit and treat appallingly labour in their countries, then we are, indeed, on a race to the bottom, in terms of civilised standards of treating labour and employees is concerned. Indeed, western countries,

where we have better standards, would simply never be able to compete. So, it is entirely legitimate that we seek to drive-out better standards in other countries, although of course we have to have regard - as was rightly suggested - for the protection of people and to make sure that they have the opportunity to develop their economies. I think I have covered all the points, Sir. I am grateful to Senator Shenton for bringing the amendment. It makes the proposition, I think, much more workable, more effective. We are going to ask the Council of Ministers to investigate the feasibility and I think it is something that we rightly should do for all of the ethical reasons that have been spoken about in the debate already. It is absolutely clear that we do have an ethical and moral obligation to the world's animals. I am grateful to the Dean for confirming that view, Sir. I maintain the proposition and ask for the Appel.

Deputy P.V.F. Le Claire:

May I make a clarification on a point of order, Sir, because either the Senator did not understand, or hear me, when I made my speech – it is entirely possible - I certainly hope so, Sir. For clarification purposes the reasons why I mentioned the Assistant Minister for Home Affairs calling for an extra person at the airport being a facile argument was that the resources currently administering the Island's Immigration and Customs laws are sufficient and, therefore, in supporting his amended proposition, I asked him to query that opposition. I did not make an opposition myself. I do hope the Senator realises that while his animosity towards me might be understandable, it is not always acceptable.

Senator W. Kinnard:

Sorry, can I just say I think it is incumbent on me to say I am surprised that the last speaker seems to know so much more about whether or not the resources are adequate in our department, Sir. To my knowledge ...

The Bailiff:

Minister, I think this has gone on far enough. These points of clarification are turning into speeches. Now, we have a vote on the proposition of Senator Syvret. I ask the Greffier to open the voting and any Member in the precinct who wishes to vote to return to his or her seat.

POUR: 38

Senator S. Syvret
Senator L. Norman
Senator W. Kinnard
Senator T.A. Le Sueur
Senator T.J. Le Main
Senator B.E. Shenton
Senator F.E. Cohen
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of Trinity
Connétable of Grouville
Connétable of St. John
Connétable of St. Martin
Deputy R.C. Duhamel (S)
Deputy A. Breckon (S)
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy C.J. Scott Warren (S)

CONTRE: 8

Senator P.F. Routier
Senator M.E. Vibert
Connétable of St. Saviour
Connétable of St. Lawrence
Connétable of St. Brelade
Deputy S.C. Ferguson (B)
Deputy G.W.J. de Faye (H)
Deputy of St. John

ABSTAIN: 0

Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy of St. Ouen
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 A.J.H. Maclean (H)
Deputy K.C. Lewis (S)
Deputy I.J. Gorst (C)
Deputy of St. Mary

6. Draft Road Traffic (Amendment No. 4) (Jersey) Law 200- (P.88/2006)

The Bailiff:

We come next to Projet 88, the Draft Road Traffic (Amendment No. 4) (Jersey) Law 200- and I ask the Greffier to read the long title.

The Greffier of the States:

The Draft Road Traffic (Amendment No. 4) (Jersey) Law 200-, a law to amend further the Road Traffic (Jersey) Law 1956 the States, subject to the sanction of Her Most Excellent Majesty and Council, have adopted the following law.

6.1 Deputy G.W.J. de Faye:

I certainly hope I will garner a few more votes on this particular proposition, which I should point out to the House is in fact a piece of housekeeping. I hope it will encourage Members to know that Ministerial Government is working, does pay attention to backbenchers and, when they are successful in their propositions, gets on and puts them into force of law. Members will recall that in January this House approved a proposition from the Deputy of St. Martin, amended by the Comité des Connétable - so I am counting on at least 14 votes in favour of this - that fines gathered from speeding offences detected by the honorary police of a Parish, and dealt with at a Parish hall, should be for the benefit of the Parish. I will remind Members of the detail of the Deputy of St. Martin's proposition. It came in 2 sections, A and B: one to agree that a fine for driving at excess speed which was levied by the honorary police in the Parish where the offence was committed, the fine should be for the benefit of that Parish and, again, at the time charged to the Minister for Home Affairs, after consultation with the Crown and other appropriate authorities, to bring forward approval for the necessary amendments to the Road Traffic (Jersey) Law 1956 to give effect to that proposal. Members have obviously now realised that that responsibility has fallen on myself, as Minister for Transport and Technical Services, due to changes in administration. I will not take up the time of the Assembly, Sir, and I put forward the proposition.

The Bailiff:

The principles have been proposed. Are they seconded? [**Seconded**] Does any Member wish to speak on the principles of the draft?

6.2 Deputy of St. Martin:

Can I thank the Minister for bringing this forward; I just make a comment about the speed. It may well be just a pun, but when one looks at the speed in which this is coming forward, I did lodge this July last year to approve January this year, it has now been drafted end of September. It is going to take several months before it goes to the Privy Council, then it has got to go to the Registrar of the Royal Court. So, we are still some distance away but, hopefully, we will get there in the end. Thank you, Sir.

6.3 Senator P.F. Routier:

Very briefly, Sir. It has been rumoured that the Connétables will be using this mechanism for enhancing their budgets within their Parishes. I just wondered if there has been any communication with the Minister with regard to how the Connétables will be using this ability to raise additional funds for the Parish? Will they be just using it in an appropriate manner or going beyond that?

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

I will be supporting this proposition, Sir. In answer to the Minister, I would like to say that we will be using, perhaps, the added income to cover the honorary police costs. We run an exclusive budget in St. Martin for the maintenance of the honorary police, which is running at £35,000. The parishioners are appalled at how much it costs and I have studied this budget and there is very, very little fat on the budget: we cannot manage without a part-time police secretary; we cannot manage without official police training; we cannot manage without protective clothing; administrative costs, a dedicated police office with exclusive photocopier and computer costs; we cannot manage without a vehicle, the associated maintenance costs; the operational equipment; traffic cones; road signs. We have a membership level in the honorary police of approximately 22 to 23 officers. Now, this works out that our unit cost, per officer, is something like £1,500. It is, in fact, very good value for money. I would like to support the proposition because I know that when the honorary police of St. Martin come to the Rates Assembly, in July, they do have a pretty difficult task to justify the £35,000 budget and I would think, possibly, with £2,000 to £3,000 coming in from other sources they would have an easier task. Thank you, Sir.

The Bailiff:

May I draw Members' attention to the fact that it is now 12.45 p.m. Do Members wish to continue? Does any other Member wish to speak on the principles of the draft? I call upon the Minister to reply.

6.5 Deputy G.W.J. de Faye:

I am very grateful to the Connétable of St. Martin for sharing the operational details of his Parish with us. I can also assure Senator Routier that I have every confidence in the discretion of all our Parish Connétables to operate this Law in an effective and totally justified manner. I simply remind, not only Members but anyone listening, if they have concerns about the Connétables possibly abusing this new source of revenue, do not break the speed limit. **[Laughter]** I put the proposition.

The Bailiff:

Well, I put the principles of the draft. Those Members in favour of adopting them, kindly show. Those against? The principles are adopted. Now, may I ask the chairman of the relevant Scrutiny Panel, Deputy Duhamel, whether he wishes to scrutinise this piece of legislation?

Deputy R.C. Duhamel of St. Saviour:

I do not think so, Sir. **[Laughter]**

The Bailiff:

Very well. Minister will you propose Articles 1 and 2? They are proposed and seconded? **[Seconded]** Does any Member wish to speak on the Articles of the Bill? I put the Articles, those Members in favour of adopting them kindly show. Those against? The Articles are adopted and do you move the Bill in Third Reading, Minister? **[Seconded]** Does any Member wish to speak on the Bill in Third Reading? I put the Bill in third reading, those Members in favour of adopting it kindly show. Those against. The Bill is adopted in Third Reading.

LUNCHEON ADJOURNMENT

Senator M.E. Vibert:

Can I propose the adjournment, Sir?

The Bailiff:

Yes, the adjournment is proposed. If Members agree we adjourn until 2.15 p.m.

PERSONAL STATEMENT

7. Tribute to Mr. Leonard Picot

The Bailiff:

As I indicated before the adjournment, I want to pay tribute to the memory of a former Member of this Assembly, Leonard Picot - or Len Picot as he was known - who died recently. Len Picot was elected as Connétable of Trinity and sworn into office on 24th April 1987. He was a member of the Harbours and Airport and Occupation and Liberation Committees and, on his re-election to office in 1990, a member of the Agriculture and Fisheries Committee as well. Len Picot followed the traditional route through to the office of Connétable by serving in the Honorary Police in his Parish, first as a Constables Officer and later as a Centenier. By the time he retired as Connétable in 1993 he had given 33 years of honorary service to his Parish. He was also a country man through and through having worked on the family farm since leaving Victoria College. He joined and played a part in the activities of many agricultural societies and associations including the Jersey Farmers Union, the Royal Jersey Agricultural and Horticultural Society and numerous others. Having lived through the German occupation, Len Picot was keen that people should not forget either the hardships that were endured or the lessons to be learned from that experience. As Connétable he was responsible for the establishment of the Captain Ayton Memorial near Egypt to commemorate the ill-fated commando raid in 1943. As a member of the Occupation and Liberation Committee, he played an important part in the arrangements which led to the erection of the lighthouse memorial on the New North Quay recording the names of those victims of Nazi oppression who were deported from Jersey and who did not return. He was a man of modest and unassuming character who never sought recognition or public acclaim for the things which he achieved in the interests of his Parish and his Island. He did not speak often in the Assembly, but when he did his contributions were succinct and heartfelt and Members listened with respect. He had a quiet and enduring Christian faith. I never heard him speak ill of another. His last years were, sadly, blighted by illness but he never lost his dry sense of humour. He is survived by his wife, Ruth, of 53 years and his 2 sons, to all of whom I express the sympathy of the Assembly. I ask Members to rise for a few moments' silence. **[Period of Silence Observed]** May he rest in peace.

PUBLIC BUSINESS (continued ...)

8. Draft Legal Deposit (Jersey) Law 200- (P.90/2006)

The Bailiff:

Now, the Assembly comes next to the Draft Legal Deposit (Jersey) Law 200- in the name of the Minister for Education, Sport and Culture. I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Legal Deposit (Jersey) Law 200-, a law to require the deposit in the Jersey Library of copies of works that are published in Jersey; to provide for their preservation as part of the cultural heritage of Jersey and for related matters. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

The Bailiff:

I invite the Minister to propose the principles of the draft.

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

May I request that my Assistant Minister with responsibility for culture, the Deputy of Grouville, present the law.

8.1 Deputy C.F. Labey of Grouville (Assistant Minister – rapporteur):

I present to this Assembly the Draft Legal Deposit Law which is an enabling law that was recommended in the Cultural Strategy approved by the Assembly last October. It is designed to ensure that copies of works that are published in Jersey are not lost as may have been in the past, but are preserved and become part of Jersey's cultural heritage for the benefit of present and future generations. The definition "legal deposit" is a government provision that entitles designated libraries to receive a free copy of every work published within its jurisdiction, thus ensuring that copies of all material published over here are deposited at the Jersey Library. As well as preserving our cultural heritage, the advantages are that a legal deposit collection is developed for long-term preservation and permanent retention. It also means that publications are made available for users and that publishers and authors will know that a copy of their work is preserved and secure. Publishers would carry the cost of depositing one copy of each publication. This will be made available in the reference library and the library will continue to purchase copies within the normal library stock policy for the general lending library. There are no immediate financial implications envisaged in bringing this Law forward as many local publications are presently deposited voluntarily anyway. It is obviously impossible to predict the volume of future local publishing, but at current rates it is thought that the workload, equipment and storage associated with the deposit of hard copy materials will be managed within the existing library allocation and provision has already been made for the future shelving of local collections. Legal deposit is the only means of guaranteeing a comprehensive collection. Although Jersey Library and the Société Jersiaise have collected Jersey material for many years, there has never been complete coverage and, without legal responsibility to deposit publications, it is difficult for librarians to assess what material is missed. This Law should be welcomed and not feared as it means the Island's published heritage will be secure. It will also raise the standing of our library. Sir, I move the preamble.

The Bailiff:

The principles of the Bill are proposed. Are they seconded? [**Seconded**] Does any Member wish to speak on the principles?

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

I would just like to raise a number of questions. It seems as though the definition of printed material is quite large and can encompass almost everything that we see and receive through the post almost daily. If that is the case, then I am rather sceptical about the cost implications to the States and other official bodies. I am well aware that with hard copy material storage requirements and archive areas need to be provided. I am also rather surprised that we do not speak about electronic copy rather than just allow it to be an alternative if selected by the Chief Librarian. Obviously with an electronic copy it does allow for far more efficient storage of material. I would ask, maybe in the summing-up, whether the Assistant Minister might cover those sort of areas and also elaborate on what she believes future cost implications might bring?

8.3 Deputy C.J. Scott Warren:

I support this law, which raises the profile - that is, the importance - of Jersey's literature and also of Jersey's cultural heritage. I would like to ask whether previously published works either within the space of recent years or further back will be encouraged to be given to the library if they have not already got copies.

8.4 Deputy G.C.L. Baudains:

I share some of the Deputy of St. Ouen's concerns. However, I do not agree necessarily with the idea that electronic copies may be the way forward. That does seem seductive, but of course if you have a copy which has been lying in the repository for some time you may then find that the means you have of reading the current technology does not apply to the previous technology and you cannot access it. For that reason, I would prefer it to be in hard copy but I do share his concerns and I would like to be persuaded by the proposal that, in fact, we are not going to be building-up basically tonnes and tonnes of material that is mostly of little value. I wonder if we will be building new storage facilities for this on an annual basis.

8.5 Deputy J. Gallichan of St. Mary:

I wonder if I could ask the proposer, please, for some clarification as to exactly what is meant by "published" just for my own benefit. There are various definitions available; for example, to announce formally, to print for public knowledge, or simply to put into print. My question is specifically relating to works which might be produced and put into print, for example by clubs or societies, which relate only to their own internal workings and would normally be available only to their own members. Would they, for example, be expected to produce copies for public availability in the library?

8.6 Senator M.E. Vibert:

I am sure my Assistant Minister will cover everything, but I thought it might be useful at this stage, before maybe the trend of these concerns are outlined, to refer Members to page 8 of the proposition, and that is the provisions. Because what we have here is an enabling Law and under that enabling Law the States, by Regulations, may cover a lot of the practices and particularly (b) in Part 4: "Declaring a duty to deposit a copy of a work shall not apply to particular categories of work." We do not wish this Law to be onerous; we wish to secure the cultural heritage of the Island and published works. We did look - and I did look because I do not like unnecessary legislation - if it was possible to achieve this in some other way, but I was persuaded, as most countries have this Law, as most public libraries are beneficiaries of this, that this was the best way to ensure we maintain our cultural heritage. But there is no intention of storing and keeping copies of work that is of no general public interest. It is to secure our culture for the future. We need the Law and we will not be introducing Regulations in a way that will make it very difficult and onerous on people for no good reason. Also, we want to ensure that it is manageable, and the librarian informs us at the moment that, with the current level of publishing of local interest, it can be managed within existing resources.

Deputy D.W. Mezbourian:

I wonder if the Assistant Minister would be able to give some clarification, Sir, in Article 14. The expression “reasonable opportunity” is used.

The Bailiff:

Deputy, may I suggest that you raise that point when we come to Article 14? We are just talking about the principles at the moment. Does any other Member wish to speak on the principles of the Bill?

8.7 Deputy S.C. Ferguson:

I would just like the Assistant Minister to clarify, for instance, the status of novels written by Channel Island authors and so on. Will these also be included?

The Bailiff:

I call upon the Rapporteur to reply.

8.8 The Deputy of Grouville:

I feel a lot of the concerns of Members will be addressed in the Articles themselves, but briefly: Deputy of St. Ouen - this particular Law deals with the printed medium at the moment. I hear what he says about the electronic side. Yes, that will come and there is provision in Article 3.2 of the Law. The provision is made but the detail will be in the Regulations. That is something that we are looking at the U.K. law because he might appreciate this is something that is developing now and it is a vast and complicated area. The cost implications to the States will only be in the form of storage. We are assured, as Senator Vibert said, that the Jersey Library can adequately accommodate the Jersey publications at the moment and has room for more. But the cost implications of depositing a Jersey published book - remember we are just talking about books published in Jersey - are borne by the publisher. For instance, I deposit voluntarily the Grouville Gazette in the library, so I feel that it is a good thing for future generations, for our culture, to look back on in future generations, and it certainly does not inconvenience us in any way, shape or form. Deputy Scott Warren asked about past copies. No, this Law will be relevant from the time it comes in - from the Appointed Day Act - although obviously the library has been collecting copies of whatever it can, whatever has been deposited voluntarily thus far. Deputy Baudains, yes, this Law is just dealing with the printed medium for the time being but, as I said, there is provision in it for electronic published materials. The Deputy of St. Mary asked for the definition of “published”. Anything published in Jersey means available to the public. It does not mean internal documents, codes of practice to firms in the finance industry and that sort of thing. It is anything available to the public. Deputy Ferguson asked about Channel Islands authors or Jersey authors. If the book has been published elsewhere, I am sure the library has got a copy of it, but there is obviously no legal requirement for a deposit to be made free of charge by somebody who has published it in the U.K., for instance. But the Jersey Library would probably acquire it if it is of use and of interest to its readers. I move the preamble, Sir.

The Bailiff:

Standing vote, rapporteur?

Deputy of Grouville:

Yes.

The Bailiff:

Those Members in favour of adopting the principles of the draft kindly show? Those against? The principles are adopted. The Deputy of St. Martin, Chairman of the Social Affairs Scrutiny Panel, do you wish to scrutinise? Very well. Do you wish to move on to the Articles of the Bill?

The Deputy of Grouville:

Yes, please, Sir. I will initially take Articles 1 to 3. Is that the best way?

The Bailiff:

Yes, take it by part, I would think.

8.9 The Deputy of Grouville:

Articles 1 to 3 deal with the interpretations and objects of the law which I think I broadly covered in the preamble. Article 3 is the application of the Law that applies to a work that is published in the printed medium. To give you an idea of what will be in the Regulations, this includes: books; States and parish and other official publications; publications of other important Jersey organisations, which may include accounts and Assembly papers of the States' Laws, Regulations and official reports of all kinds; magazines, journals and ongoing publications, the aim being to collect all serials published in Jersey; maps and charts; newspapers of all titles published in Jersey; sheet music of all those published on the Island; pamphlets and brochures of a substantial kind - this is where the Regulations will have far more detail than as is written in the Law - that contain a significant amount of factual and descriptive information that is not readily available elsewhere. Article 3.2 is where the Law allows for a deposit of materials in any other medium if or when so required by the States' Regulations. The Regulations are being drafted now but it might be worth just touching on the non-printed publications, which will include offline and online material. Following observations from the developing law in the U.K., proposals will be brought to allow the deposit library to harvest websites selectively. This is, as I alluded to before, a vast, complicated and rapidly changing area. The provision is, therefore, made in this Law at the present time and details will be worked upon in the Regulations. But for now we are dealing with printed publications only. I move Articles 1 to 3.

The Bailiff:

Articles 1 to 3 are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on any of these Articles? I put those Articles. Those Members in favour of adopting them kindly show? Those against? The Articles are adopted. Do you move Articles 4 to 10?

8.10 The Deputy of Grouville:

Articles 4 and 5 give all publishers a statutory duty to deposit free of charge one copy of each item published in Jersey. They have to be deposited at the Jersey Library. The exclusions will be defined and explained in the Regulations. Some examples of the exceptions proposed are commercial printing such as flyers, catalogues and trade advertisements; internal documents such as staff handbooks, newsletters, client briefings, as these are not regarded as published - in other words not made available to the public; greeting cards and postcards; and, in the future, computer games - as it is felt that all these have limited information value. Article 9 confirms that the Jersey Library will have a duty to retain, conserve and make available for reference all deposited publications. Legal deposit will not apply to work published before the commencement of the Act. Sir, I move Articles 4 to 10.

The Bailiff:

Articles 4 to 10 are proposed. Are they seconded, Minister? **[Seconded]** Does any Member wish to speak on any of those Articles? I put the Articles. Those Members in favour of adopting them kindly show? Those against? The Articles are adopted. Do you move Articles 11 to 14?

Deputy of Grouville:

Yes, although maybe I could take 11 to 17?

The Bailiff:

11 to 17, yes.

8.11 The Deputy of Grouville:

These deal with the exemptions from liability and other provisions, so if a person fails to comply with the Law the Attorney General may apply to the Royal Court for an injunction to enforce compliance. It is not, however, a criminal offence and we do not envisage any draconian measures. The British Library has a huge degree of success of collecting material without resorting to any legal processes beyond official warning letters. We believe and hope publishers will recognise the value to them of this system and we have been encouraged by some of the responses received in the consultation process. Where there may be a problem of cost or availability, such as special or limited editions, these may be subject to negotiated purchase. Article 16 indicates that the States may make Regulations for a range of matters for the purpose of the Law. If approved, the Regulations will be subject to further consultation and will provide more detailed guidance for publishers. The Regulations will indicate that ongoing technical developments in publishing will mean that legal deposit will need to be developed to include works irrespective of format, which deals with the electronic form of publishing. Information and guidance will be made available on the Library website and, if in doubt, publishers are more than welcome to contact the library who will be more than happy to work with publishers or anyone who is unsure about what to deposit and what not to. Sir, I move Articles 11 to 17.

The Bailiff:

Articles 11 to 17 are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on any of those Articles?

8.11.1 Deputy D.W. Mezbourian:

I refer to Article 14(2). After paragraph (b) we have the term “reasonable opportunity” referred to, and under item (4) in reference to the Minister we also see the term “reasonable opportunity” noted. I note that there is no provision in the Regulations for a time limit to be placed for compliance under those sections and I wonder whether consideration will be given to that.

The Bailiff:

You mean there is no time limit in Article 16 of the Bill, is that right? Sorry, I did not understand the question, Deputy, but perhaps the Assistant Minister does, in which case it does not matter.

8.11.2 The Deputy of Grouville:

I think I do. I think Deputy Mezbourian is referring to the Law, not the Regulations. This is the enabling Law. All the details will be in the Regulations and the reasonable opportunity that we have set down in the draft Regulations that will be consulted upon is one month.

The Bailiff:

I put Articles 11 to 17. Those Members in favour of adopting them kindly show? Those against? The Articles are adopted. Do you move the Bill in Third Reading, rapporteur?

Deputy of Grouville:

Yes, Sir.

The Bailiff:

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

9. Employee Protection: Legislation (P.95/2006)

The Bailiff:

We come now to Employee Protection: Legislation in the name of Senator Shenton. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion (a) to request that the Minister for Social Security bring forward as soon as resources allow draft legislation, the purpose of which is to protect the continuity of employment and terms and conditions of employees who are in the employ of an undertaking that is to be transferred; (b) to defer the sale of all public utilities until the above employee protection is in place.

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

May I declare 2 interests before we start? Firstly, I hold a small amount of shares in one of the companies who may bid for Jersey Telecom in the event of any sale. Secondly, my old firm - for whom I continue to work on an occasional basis - audit the local accounts of another of the companies who may bid for Jersey Telecom in the event of any sale. I have discussed this matter with the Greffier and the Minister and we have concluded that while these do amount to an indirect interest in the sale of Jersey Telecom, they are not strictly relevant to this debate as we are discussing employee protection in a wider sense, although there is obviously a relevance to Telecom. I would like to stress I do not consider either of these interests to be material or having any influence over how I vote or how we deal with Telecom. My sole interest is to ensure that return to the States of Jersey is assured while ensuring that the interests of the employees are served and protected in the most appropriate manner. Accordingly, I will be speaking and I will be voting during this debate.

The Bailiff:

Thank you, Deputy. The declaration will be noted.

Senator L. Norman:

I wonder if I could seek your guidance, Sir. Perhaps I should have spoken to you before the debate. I am a director of Jersey Water, a public utility that could be affected by this. Could I then declare an interest on the floor, Sir?

The Bailiff:

Not as a director, Senator. I do not think that is a direct financial interest.

The Deputy of St. Ouen:

I would just like to declare an interest; not a direct interest also but equally my daughter and 2 of my extended family do work in a utility company. I would just like that on record.

The Bailiff:

Alright, thank you. Senator Shenton.

9.1 Senator B.E. Shenton:

I bring this proposition as a Member who agrees with the privatisation process, but I also bring this proposition as a Member who believes in doing things the right way. I am delighted that in his comments the Minister for Treasury and Resources recognises the importance of Part (a) and the importance of having the relevant employment legislation in place. When you go down the privatisation route, there are 2 things that must be in place: first, you need a reliable and trusted regulator, and I think the jury are still out on this one because there are a few reservations here; secondly, you need the necessary employment legislation. Now, I had a look through the T.U.P.E. (Transfer of Undertakings (Protection of Employment)) Regulations and I am not a big fan of employment legislation. It seems to me that in all the cases you read in the paper the employee wins, which is not very good for me, the employer. But T.U.P.E. is not onerous; it is just commonsense. It just gives a bit of certainty in a time of change when people are concerned about their pensions and about their terms and conditions in their contracts. So, let us look back at T.U.P.E. Who introduced T.U.P.E. to the U.K.? Which tree-hugging, union-loving leftie brought in this legislation? Harold Wilson? Jim Callaghan? Tony Blair? Was it sponsored by Michael Foot or Tony Benn? No. It was brought in by Margaret Thatcher in her first term of office before she went down the privatisation road. Because she realised that you cannot go down that road unless the right sort of legislation is in place. In turn, she was slightly under pressure because they were enacted by the Thatcher Government after the European Commission threatened legal action over the failure to implement the Acquired Rights Directive of 1977. This required the automatic transfer of contracts of employment, collective agreements and union recognition in the event of the sale or transfer of an undertaking, business or parts of a business. So, in 1981 Margaret Thatcher was under pressure from the European Commission for legislation that should have come in, in 1977. So where does that leave dear old Jersey in 2006? No doubt we are still in breach of the European directive because we have not brought the necessary legislation into place. The Minister for Treasury and Resources says he fully supports Part (a) of the proposition and a lot of work has already been done by the Minister for Social Security. In fact, during the Business Plan debate he intimated that the work may be ready for completion by the end of the year. He does, however, object to Part (b) which is looking for protection, in effect, for the Jersey Telecom employees. In his defence he says that he will put this legislation in any terms of sale. In fact, he goes further than that. He says, in fact, he will put legislation even better in the terms of sale. Now, if you are negotiating a sale and you want special conditions, you end up getting a lower price, so by saying he is going to go one step further he is lowering the price of the sale. Point (2) says that the time to discuss this is when the sale is discussed of Jersey Telecom, but he supports Part (a) of the proposition. So why treat the workers of Jersey Telecom any differently to the rest of the workers at the utilities? I do not know if they have upset him in some way. Thirdly, he writes in his comments: "Jobs at risk in the quite likely event that the company will suffer in the face of new competition." Well, this is a resounding vote of confidence in the board and management, is it not? They will quite likely suffer in the event of competition, even though they have a very strong foothold on the Island, great customer loyalty and ownership of the infrastructure. He reminds me in part of Frazer from Dad's Army: "We are all doomed." It is a strange comment to make when you are selling an asset: "Look, I am trying to sell this asset but it is doomed for failure. How much will you give me for it?" He should be building-up the company, not writing it off and writing-off the management. The privatisation programme has been ongoing for a number of years. The Chairman of Jersey Telecom mentioned at a public Scrutiny meeting yesterday that it was mentioned during his interview in 2002. The incorporation - 1st January 2003 - pointed to it. When I asked him if he had any preference as to whom the company gets sold to, he said: "Definitely not the highest bidder. It would have to be the right company." He did not want to see Jersey Telecom sold to an over-centralised global player. The Minister for Treasury and Resources says that he will write into the sale contract the terms and conditions that the buyer must adhere to, but what happens if that buyer is in turn taken over by an over-centralised global player? That clause in the contract becomes almost worthless. What if the

buyer decides after 6 months to sell Jersey Telecom on to someone else? What happens to the workers then? The buyer of the company will not have to abide by any employment directives because they are not in place. It will not be in the sale agreement. They will be absolutely worthless. What about if they decide to dispose of parts of the business? Where does that leave the workers in those parts of the business that are sold off? These are all questions that need to be answered. We do seem to be rushing into this whole process. It should be remembered that in Deutsche Telecom the government have kept a majority stake; France Telecom, the government have kept a majority stake; Swiss Telecom, Swiss lawmakers in June voted down a government plan to sell its controlling stake because they were concerned that the former phone monopoly might be bought by a foreign investor. It is all right selling the company off to someone else and they can sell it on, and if they have negotiated the price down because of the T.U.P.E. clauses that the Minister has put in the contract, they can probably make a quick profit out of it as well. As I said before, the T.U.P.E. agreements are not onerous and they are commonsense. I believe the Council of Ministers can push through the employment legislation much quicker than they say they can. A lot of the work has already been done. The delay - if there is a delay - is the fault of those Ministers who have failed to put the legislation in place in time. It is totally unfair on the employees of Jersey Telecom to not protect them at this time. I put forward my proposition.

The Bailiff:

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

9.2 Senator P.F. Routier:

This proposition asks Members to approve the implementation of relevant employee protection in business transfers as soon as resources allow. Senator Shenton has laid blame on myself, I suppose, and other Council Members for not bringing forward T.U.P.E. legislation in a timely manner. Well, I can assure Members, as I am sure many of you are aware, that the T.U.P.E. legislation is on the way and it is being prepared right now. As Senator Shenton recognises in his report, the employment forum has recently consulted on the development of legislation relating to T.U.P.E. and also redundancy. The forum's consultation builds on the first Fair Play in the Workplace consultation that was carried out a few years ago. The priority given by the public into what order things should be carried out was put to the States in 2000 when we debated the employment legislation proposition - P.99. That was debated by the States and approved. That proposition committed us to a second phase of employment legislation to follow the Employment Law and the Employment Relations Law, which included legislation for T.U.P.E. and also redundancy. The forum's consultation, as I say, has just finished and the forum members are currently in the process of considering the very detailed responses that they have received from a wide range of respondents. I expect to receive the forum's report before the end of this year. I will then consider the recommendations and present a proposition to the States outlining the principles to be adopted. This will include details such as what employment terms and conditions should be protected on transfer and also the consultation requirements of employers prior to the transfer. Law drafting time has been proposed for 2007 in the Business Plan and I hope to present a draft Law to the States during 2008. When we think about the possible date for the implementation of the Law itself, or when it will become enacted, we have to obviously allow time for Scrutiny and Privy Council approval. The intention of the Law is that it will be tailored to the local situation. Senator Shenton has attached the U.K. legislation to his proposition and I think - as has been well evidenced - the U.K. legislation is not an easy piece of legislation to work with because it is renowned for having many, many legal actions and cases that go forward because it is a very difficult piece of legislation. We aim to avoid those issues by having a Law which is suitable for Jersey and that draws upon other jurisdictions to ensure that we have a simple Law that is suitable for us. Our intention, as with all our employment legislation, is to set out minimum standards, but it does not stop any employer coming to an agreement with the workforce to have different, even greater, protection than T.U.P.E. legislation would have. There is no need for any employer to feel

hidebound by the minimum standards which T.U.P.E. would bring forward. So while the legislation is currently being developed, there is, as I say, nothing to stop the States requiring the Treasury Minister to confirm in any contract that he may bring forward that the existing J.T. (Jersey Telecom) employees will be protected in the same way as they are now while they are working for a States' company. I would like to make it quite clear that I would not support the sale of J.T. unless the existing employees' terms and conditions, along with their pension rights, are secured. So, with regard to this proposition, paragraph (a) is a given and I expect Members will join me in supporting it because it is already happening. Although it makes me wonder whether there is any need for that paragraph at all because the work is happening so there is no need for the States to instruct me to get on with that. I would suggest to Members that there is really no need for any great debate about whether there is a need for T.U.P.E. legislation because, as I say, it is on the way. It has been suggested to me that perhaps separating out the T.U.P.E. legislation from redundancy might speed up T.U.P.E. Firstly, because they are interlinked and T.U.P.E. is more complicated than redundancy, the process would not be any quicker. T.U.P.E. does have its particular intricacies which will require a great amount of detailed work to ensure we have a piece of legislation which is suitable for Jersey. We have to ensure that obviously, secondly and importantly, it is something that the whole population can get behind. If I was to be asked what the consultation process has identified as a more important piece of legislation, I would say redundancy is far above more important to the general population, as opposed to T.U.P.E. With regard to paragraph (b), Members may recall that I was the last President of the Jersey Telecommunications Board before it was incorporated. I have to say with a great sense of pride that together with the previous States' Boards we can justifiably claim we have built up a tremendous, profitable company. Therefore, I do not want to see Jersey Telecom and its staff adversely affected; that is the last thing I want. Of course, when the demand from the Island community appeared on the horizon it was certainly difficult to argue against that. The business community and the private customers were not satisfied that there was a monopoly provider and the Economic Development Committee responded by enabling competition to be introduced by incorporating J.T. and establishing the regulator. From the day that J.T. was in the competitive world, they have had to react, and they now have to react, and they will continue to have to react because as we have seen on King Street/Queen Street, there is competition out there. Whether they are owned by the States or owned by anyone else, there will be continuing pressures on them and we have to ensure that the staff are looked after and we can achieve that. As I have already said, I will not support the sale of J.T. unless there is sufficient protection for the employees. I do not think it is right to hold back on an investigation into the possible sale. I think it should be done sooner rather than later. So I will not be supporting paragraph (b) because I know that if any sale is to happen it would only be possible with the full support of a States' debate and that debate will have to have the protection of the existing staff clearly stated. As I say, I will vote against paragraph (b) in the knowledge that no sale can happen without the full terms coming to the States for a full debate. Not only that, the Treasury and Resources Minister's comments are very clear that protection will be given. I quote from the comments which are attached to the proposition: "Employee protection rights will be included to a level at least as high or preferably higher than anything which would be provided under U.K. T.U.P.E. legislation." Even Senator Shenton is not against the sale of JT. He just wants to ensure the protection of the employees and this is what I am convinced we all want. I urge Members to vote against paragraph (b) in the knowledge that existing employees will have their terms and conditions, including their pensions, protected.

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

I support Senator Shenton's proposition. The employees of Jersey Telecom are very worried and they have every right to be. They know what has happened to British Telecom and they know what happened to Guernsey Telecom. Who knows what may happen in the future? Sales, mergers, acquisitions; the employees of Jersey Telecom have given years of loyal service. That loyalty should be returned by supporting Parts (a) and (b) of this proposition.

9.4 Deputy C.J. Scott Warren:

Similar to the last Member who has spoken, I have been contacted by a number of people who are very - I should say extremely - concerned about their continued employment and pensions if Jersey Telecom is sold off. I have replied that I totally understand these fears and I will bear them in mind. I am doing that now, Sir, today. The Minister says that he: "aims to avoid those issues" in the U.K. law and he wants to: "have a simple Law." He has confirmed that paragraph (a) is a given but, as has been said by Senator Shenton, what about the situation if there is a further sell-on if and when Jersey Telecom has been first sold? We have not had an answer to this yet and as things stand at the moment I am certainly going to support both parts of this proposition.

9.5 Senator T.A. Le Sueur:

It may have occurred to Members that Senator Shenton and I have much in common. We both have connections with the financial services industry, we both share a common faith, and we both suffer a shortage of hair to a greater or lesser extent. **[Laughter]** But, more seriously in the context of this debate, I think it is fair to say that we both have a desire - in fact, I think everyone in this House has a desire - to support all those in employment and particularly those whom the States either directly or indirectly employ. Indeed, Members who have been in this House for a while may recall that it was an Employment and Social Security Committee under my presidency some years ago which began the whole current reforms of employment legislation with the publication of our consultation document *Fair Play in the Workforce*. I hope, therefore, that Members will appreciate that Senator Shenton and I both approach the possible sale of a States-owned utility company with many similar objectives. Included among those objectives is a desire to see the employees of Jersey Telecom protected in their terms and conditions of employment. However, as a result of my involvement in the earlier phases of that employment consultation process, I am perhaps more aware than he is of the time it takes between the first consultation stage and the final agreement of the Law. I fully endorse the approach taken by the Minister for Social Security and I am equally sure that his timescale is realistic. Any Members who believe that this could be delivered in 6 months' time or even 12 months' time is deluding themselves. They are not living in the real world. It can be done and it will be done and it will be done properly, but even at the best, most optimistic timescale, we are still talking about 2008 before that Law comes in. I hope it is clear, if it was not clear enough in my comments, that I fully support Part (a) of this proposition. However, Part (b) is a different matter. I hope that by now all Members would have had a chance to read the consultation document which we have issued in respect of the proposed sale of Jersey Telecom. I do not want to rehearse the arguments for or against the sale of Jersey Telecom today. The opportunity for that debate will come when and if I bring a proposition in due course. Can I remind Members that one of the points I have made both in that document and in talking to the employees of Jersey Telecom is that the marketplace is changing and, indeed, is changing quite rapidly. We are just seeing now the introduction of one aggressive competitor into the marketplace and very shortly we will be seeing a second. Jersey Telecom is a business; a business which I remind Members until very recently had 100 per cent of the market. Without doubt, competition will mean that their share of the market will decrease. It cannot be more than 100 per cent; it is inevitably going to be less than 100 per cent. How much less I do not know. Contrary to what Senator Shenton says, I have a very high regard for the board, the management and the workforce of Jersey Telecom. I have seen their business plan for the next 5 years and I know that they are facing-up to that competition. I also have my eyes open and I see where the competition is coming from. The reality is that this is a tough, aggressive and highly financed marketplace in which other players have got much more financial muscle than has Jersey Telecom. Jersey Telecom will continue to compete, but I am in no doubt - and nor is the board - that that competition is coming under severe pressure from the opposition. I am not writing off Jersey Telecom; I am simply facing the reality of the situation. That is that the right time to sell is now or even last year rather than in 2 years' time. The debate today is not, in fact, about whether or not we should sell Jersey Telecom, although both Senator Shenton and I believe that that is the

right thing to do. The reasons why is that there is no strategic reason why the States should continue to hold it; there are good investment reasons why the States should no longer want to hold it; and I think there are also good employment reasons for the workers at Jersey Telecom why we might not want to continue to hold it, because I think their jobs - as I mentioned in my comments - could be even more at risk if we retain the present ownership than if they come under the umbrella of a much larger operator able to have that clout which can maintain a better share of the market. Sir, I am conscious that I am in danger of straying away from the purpose and the point of today's debate and I will try to come back to it. The choice facing Members in respect of Part (b) is, in my view, quite clear. I will refer Members who are in any doubt of that to the comments that I give to this report and the comments made by the Council of Ministers. Like other Members, I am aware and I appreciate the concerns of the Jersey Telecom workforce. That is why, if Members are prepared to accept my undertaking and that of the Council of Ministers, that the proposition for any sale of Jersey Telecom, which I aim to bring to the States for debate, will contain terms at least as good as would be within T.U.P.E., if that is the case then I suggest that Members wait until they see that proposition before they say no. Now, I acknowledge it is going to be quite a difficult process because I am well aware that while the immediate sale may not cause any difficulties, the ongoing situation is more problematic. I have to make sure that that ongoing situation can be addressed and will be addressed. Unless I can be sure that we are addressing it properly, then I will not be able to bring that proposition to the States. There is at the present time a Scrutiny Panel looking at how this might or might not come into effect, and I shall be interested and guided by the comments that they may make in the next few weeks about that process. That will influence the extent to which I may or may not be able to bring this proposition. I certainly hope I can do because I believe that we can bring into that contract sufficient safeguards at a sufficient level equally as good as would be under T.U.P.E. If I cannot do that, I shall not bring the proposition. If I believe I can do that and Members disagree with the proposition, then they can vote against it. All I ask today is that we do it the right way, as Senator Shenton says; we do it by waiting until Members have a chance to see what those proposals are and then to say yes or no. To vote no today, to reject the whole thing today before they have seen what might happen, is, in my view, irrational and illogical. If we accept Part (b) today then Members will be denied their right to see those proposals. I suggest, therefore, Sir, that Members have nothing to gain but everything to lose if they support Part (b) of the proposition and I urge them not to do so, but to reject it.

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

Delay should not be considered as an option and Part (b) clearly delays the whole process. Any commercial entity which would want to purchase Jersey Telecom would want to acquire Jersey Telecom speedily and it would want to perhaps expand its services, expand its network, review the whole business so that it can compete in the marketplace against other operators. There really is no benefit in delaying the whole process. Of course, we all do recognise the importance of the staff and we have received an assurance from the Treasury Minister that they will be protected. So, in my opinion, this proposition should not be supported. We have received guarantees that staff will be protected and if anything is going to occur it will need to occur speedily for any business wishing to acquire Jersey Telecom.

9.7 Deputy G.P. Southern:

It is difficult to know where to start. The Minister for Treasury and Resources has just labelled any vote for this proposition in its entirety as irrational and illogical. As far as I can see, it would be irrational and illogical not to support this motion and to wait until the appropriate time, as he puts it. I wish to examine for a moment why I feel that. Both the Minister for Employment and Social Security and the Minister for Treasury and Resources have emphasised how strongly we need some protection for employees along T.U.P.E. lines, and for redundancy to the extent the Treasury Minister has committed himself to writing this into the contract and the Social Security Minister has said: "We are already working on it. We do consider this important." But it seems to me the

logic of what they are suggesting - that we do not vote for both (a) and (b) of this proposition - is that T.U.P.E. and protection for employment in transfers is vitally important. "We are working on it now and I am committed to it," says the Treasury Minister: "but not in this case. In the case of the first privatisation that we are going through in the case of telecoms workers we do not have to bother." It puts me in mind - and Members will remember this - of the introduction of the Competition Law designed to combat mergers and monopolies developing. Lo and behold the day before the appointed day for when Competition Law came into place what happened? One of our major supermarket chains was bought by one of its competitors. It seems to me a similar process is taking place here: "Yes, we have got this in line. Yes, it is important, this protection is important. And believe you me the employees at Telecom are very worried about the future, but we do not want to have it in place before we act on this particular case." What sort of interest is that? Is that the interest of the loyal employees of Jersey Telecom? I would argue it is not. Some Members here will not be aware of the history of the development of employment protection on the Island, but just to remind them why this is so critical and why we are where we are, I remind you of the phrase: "Oh, how the sins of the fathers are visited upon their sons." I can remember back - and many Members in this room, the Minister of Treasury and Resources and the Minister of Social Security and I notice the Home Affairs Minister nodding, she remembers well - to how T.U.P.E. and redundancy was given a high priority way back in 1998 in terms of the development of legislation. Minimum wage, T.U.P.E. and redundancy, anti-discrimination and regulation of unions and representative bodies. At that time it was minimum wage and T.U.P.E. and redundancy and then regulation of unions. The Industries Committee of the time - I will not name them, they know who they were - insisted that this T.U.P.E. and regulation was taken out of that order; not the high priority, but popped to the back of the queue. Despite warnings from many in this Chamber that that was a dangerous route and these things needed dealing with that is what happened, and that was a serious error because these things did need dealing with then. Had they been dealt with then we would not be facing this debate today and the Treasury and Resources Minister and the Minister for Social Security would be sitting there comfortable as anything saying: "We have got the right protection in place, there is absolutely no doubt we can go ahead if we agree to the principle with this privatisation - for this sell-off - not a problem." That did not happen and we have got a serious problem. Perhaps our next one to look at is the effectiveness of T.U.P.E.-type regulation, and in his comments the Minister of Treasury and Resources says: "It should be emphasised at this point there is no certainty that our legislation, when it is introduced, will mirror that of U.K. T.U.P.E. regulations. Indeed, most comments to date suggest that what is needed is a legislation that is suitable to Jersey. As such, it is absolutely critical that time is taken for the proper consideration of exactly what is suitable for the Island and its employees." That is exactly what this proposition proposes. That the appropriate protection is in place. Part (b) of the proposition does not say T.U.P.E. - T.U.P.E. as in the report because of the model we might be basing it on - what it says is: "To defer the sale of all public utilities until the above employee protection - not T.U.P.E. - is in place." So this proposition suits the conditions down to the ground perfectly. The Treasury and Resources Minister goes on to say: "I have undertaken, and I reaffirm, that I will provide within any proposed contracted sale for the controlling interest of any publicly-owned utility - for example, the proposed possible sale of Jersey Telecom - that employee protection rights will be included to a level at least as high as, and preferably higher than, anything which would be provided under U.K. T.U.P.E. legislation. For the avoidance of doubt this undertaking includes the existing pension rights of past and current employees." And there he points to a particular issue where at present I do not believe he can give any guarantee whatsoever. If he is going to include pension rights in his guarantees then I think he has a long way and much work to do, and certainly I do not believe he can do that with his hand on his heart and say: "I can guarantee that I can do that", and I will show you why. He goes on a bit further and says: "If any Member has concerns about whether my aforementioned commitment can be achieved then they should debate it later" apparently. I do not doubt the commitment and I do not doubt the sincerity of that commitment at all, but whether it can be achieved is another matter. It is another matter because you may have

noticed, in terms of pensions, I was asking today in written questions what consideration has the Minister given to the introduction of a pensions law and pensions regulator in Jersey using the principles of the U.K. Pensions Act 1997 and 2004, and if not, the reasons why. The fact is we do not have a pensions regulator. We do not have a clear pensions law along the lines of the U.K. Law 1997 and 2004. It is a very difficult thing to enforce and I believe, in the absence of such Law, such Regulations, such regulator, we can do very little to guarantee those rights; specifically in terms of Jersey Telecom's terms and conditions, and in particular their pension rights. The submission from Amicus - and I will just briefly read it to you - says the following: "Amicus members of Jersey Telecom have been moved from being States' employee members of P.E.C.R.S. (Public Employees Contributory Retirement Scheme) to what now appears to be a less favourable position of being members of an appointed body of P.E.C.R.S. The discussion paper revealed by the Treasury and Resources Minister proposes 2 possible scenarios, both of which suggest that Jersey Telecom employees might have to leave P.E.C.R.S. This is a long way from the reassurances previously given and would personally disadvantage Jersey Telecom employees." One possible scenario - it contains a suggestion - listen to this carefully please: "In order to avoid jeopardising the favourable tax position enjoyed by P.E.C.R.S. as a result of there being no private company participating in the scheme, the Committee of Management may be obliged to require the new company to exit the scheme." Alternatively, the other scenario says: "Any new company may choose to give notice that despite closing the availability of the scheme to new employees - perfectly possible - and establishing a manner of staying within the scheme it may wish to give notice to leave P.E.C.R.S. in its entirety." In order to address these issues they point out that General Regulation 9 has to be addressed and amended. They go on to say: "It would appear that the Attorney General has raised certain *vires* concerns over the proposed amendment to General Regulation 9. The suggestion is that there will have to be a modification of the 1967 enabling law. Past experience has shown that such law drafting is not fast. So there is a serious problem about, particularly, securing pension rights for current and past employees that has not been addressed and may well be being worked on but it is not clear, at this stage, that they have been clarified. Certainly, no assurance can be forthcoming from the Minister to that effect. Now he says: "Well, if I cannot clear this up I may not come back with a motion to privatise" or: "You may question me when I do come with my motion to privatise in January, or whatever, and that will be one of the issues." He says: "Then is the time to oppose a sale or then is the time to debate this issue." What absolute nonsense. When we come to debate in January we will have the principle, the money made out of it, which type of company, which type of sale, and we might have protection for the employees. It will be one issue and a whole list of others - I know because I am conducting the review to it. The appropriate time to debate this and vote of it is today; absolutely clear. Single issue, do we need employment protection in place? I believe the answer is yes and possibly the majority of this room would agree with that. Do we need it in place before we proceed with the privatisation of Jersey Telecom? I think the answer to that one is also yes. It must be yes. The logic of the situation dictates it. Now today we have heard; unless we go ahead at this stage then we are putting jobs at risk. That is the thrust of what was suggested by the Treasury Minister, and since he raised it I will address it. The reality is that whether privatised, whether taken over and sold, or maintained in public ownership there is no doubt that Jersey Telecom will, in 5 years time, be a slimmed down organisation to one measure or another. That was made clear by Jersey Telecom's management board when we spoke to them yesterday. In privatisations the trend is inevitable, almost, that workers do get laid off. Deutsche Telecom reduced its workforce by 60,000. B.T. (British Telecom) reduced staff numbers from 127,000 to 91,000. This happens when telecoms companies are privatised. Interestingly, despite assurances that there were to be no downsizing in Guernsey, our nearest neighbours, there was a reduction in the workforce. So what price guarantees is the other question I put in there? What price in a contract? They can be got round. So job cuts, I believe, are inevitable whether public or in private ownership. The difference is that Jersey Telecom enjoys a good relationship with the current management. It is an excellent workforce and relationships between management and employees are excellent. I will just quote from the comment from Amicus: "Jersey Telecom

currently enjoys good relations with staff and their union, Amicus. This positive relationship has contributed to the success of the company.” The Managing Director’s review in 2005 states: “We take great pride in the skills, ability and positive attitude of our employees. They consistently deliver very high standards of customer service that we now strive to achieve.” Excellent working relationships and the relationship of trust. Now if we are going to go into a slimming-down process, and it is inevitable, the employees are saying: “We trust our current management and we are happy to do that and we expect to be treated well and we think we will be. In the event that we are sold off to a large global operator we are left in doubt on that” and that security is something that we can help to deliver today to those employees. The Treasury Minister - and I liked his phrase - talked about there is no doubt there is a tough, aggressive, highly financed marketplace out there in telecoms. Tough, aggressive, highly financed. When we are talking about highly financed, one of the pieces of evidence we got yesterday - they were talking about a particular company - 10 per cent had just been sold off for £800 million. One of these companies that might be buying little old Jersey Telecom, it is worth £8 billion. Can you imagine? We get them to sign a contract saying these terms and conditions will be guaranteed or will be respected over, how long? What sort of period, in this takeover, in order that you should buy it? And push comes to shove and they come back to us. Even without a sale - and we have no control - they come back to us in 12 months’ time and say: “Oh, the economic situation is worse than we anticipated. We cannot meet these conditions any longer, and the question is; what are you going to do about it?” It might be that we have the moral high ground, and we say: “Right, we will take you to court. We are going to take your company - £8 billion worth - to court in order to enforce this condition in the contract.” And they will go there and argue economic technical reasons have changed and they no longer maintain it, and we will throw our money at our lawyers and they will throw their money at their lawyers, and for them it will be loose change. But it will not be for us. Remember what happened over Les Pas, and that is not £8 billion worth of resource thrown at something but a few hundred million. So while I do not doubt in the slightest bit the commitment or the sincerity of the commitment to write into the contract the right terms and conditions; can we deliver it, can we guarantee that will take place and will be secure for these employees? I do not believe it for one minute. Any number of get-outs could be used in this tough, aggressive and highly financed marketplace. The other thing that I wish to address, and it applies both to pensions conditions and to T.U.P.E. in general, is in the event where we do not have a law about T.U.P.E. and redundancies and we do not have in place a decent pensions law regulator, how on earth could we have expected to enforce this contract in the first place, and perhaps it is a matter for the Solicitor General. In the absence of a Law, and Regulations in place to protect these things, is it possible that any terms we write into a contract can be defended in the Royal Court, or does that weaken our case automatically? Through the chair I wish to address that particular question to the Solicitor General, if I may?

9.8 Miss. S.C. Nicolle QC., HM Solicitor General:

No, if there is a contract with a legally binding provision in it that will be enforceable in the courts and it does not need supporting legislation.

Deputy G.P. Southern:

That is very clear. Wonderfully straight answer: I love those. So it will be straight back to our lawyers versus their lawyers if push comes to shove. **[Laughter]** Not a problem. Finally, Deputy Troy used the expression: “delay must not be considered as an option” and how right he is. What have we got before us? Why, we have not got delay as the option. Nobody is saying just hold on there, just delay it for no reason whatsoever. What we have got is protection. Employee protection is an option. It is an option we must consider today and I would urge Members to vote not just for the first part of this proposition, which as the Minister of Social Security says, is almost redundant anyway because we are getting on with it. The vital bit is the second part, (b). This must go through today to send a message out to all those employees; protection of your terms and conditions is safe

in our hands. You do not have to worry any longer, we will deal with it, and we are dealing with it. That is the message this House must give out today.

Deputy G.W.J. de Faye:

I wonder if can crave Senator Vibert's indulgence just for a moment because I would like to put something to the Solicitor General as a point of clarification, which the Solicitor General may want to consider perhaps while Senator Vibert is making his speech. We are talking at some length about what is called T.U.P.E., the Transfer of Undertakings (Protection of Employment) Regulations 2006, which is a piece of United Kingdom legislation which, itself, derives from a number of European Community directives that are numbered and listed in the appendix to the projet. Below that there is a reference that says basically, among other things: "The Regulations now ensure that the territorial application of Protection of Employment Regulations is extended so that overseas employees may also be caught by the transfer." My question to the Solicitor General, who has interestingly already told us that a simple contractual provision would be sufficient within Jersey, is that is it in fact the case that virtually any company wishing to buy Jersey Telecom will already be bound by Transfer of Undertakings (Protection of Employment) Regulations because it almost will inevitably be a U.K. or European-based company? If that is the case would she then indicate what is the likelihood or what are the circumstances of a company that would wish to purchase Jersey Telecom that would not be already pre-bound by the T.U.P.E. Regulations?

H.M. Solicitor General:

That is not a question that I can answer this afternoon because I would need to have the text of the United Kingdom legislation in front of me. I am, of course, happy to have a look at it and to supply the advice in due course. But it is simply not advice that I can give now because I have not got the U.K. Act.

Senator B.E. Shenton:

If I could just clarify; the employees would still be working for a Jersey company.

9.9 Senator M.E. Vibert:

Very interested to hear Deputy Southern's speech; a speech against the sale of Jersey Telecom - I am sorry he is leaving the Chamber, he does not want to enjoy hearing my speech. A speech against the sale of Jersey Telecom, not a speech about what we are debating today. I think we can encapsulate the nub of what we are debating today very simply, and it is T.U.P.E. or not T.U.P.E., that is the question. It is really whether Members believe and accept whether J.T.'s employees' rights can be protected in any other way or if T.U.P.E. is essential to that protection. I do not think any of us have got any difference of opinion that the employees' rights must be totally protected. Now Deputy Southern wants to get his retaliation in first, and others, and say he does not believe; and he made it quite clear not for one minute, he said, does he believe that the Treasury Minister can come up with a contract that will protect J.T. employees' rights as good as, if not better, than T.U.P.E. He has not seen what the Treasury Minister has come up with. He has no idea what will be in the contract, but he knows - he is convinced - that it cannot be done. He is not even prepared to look at it. Well, I hope other Members have got more open minds than that and that they will be prepared to look and see what would be in the contract. The whole decision will still be in the hands of Members. If Part (b) of the proposition is supported today all it means is that Members will have taken that ability away from themselves to consider whether a contract could provide as good as or if not better protection than T.U.P.E. When the Treasury Minister - if he does - comes forward with such a contract and proposed sale that will be the time to make that decision. Because if we do not allow that to happen, we will not see it, and we could be doing a grave disservice to Jersey Telecom's employees. We will not be protecting them, we will be harming them because we may - and though some who have already made up their minds are not even prepared to consider the proposition - it may be that a contract could come up where it gave better protection. But if

States' Members approve Part (b) they will not be given that option. It is not an option to push through T.U.P.E. legislation quickly. Consultation has been going on. At Scrutiny they want to look at it, we should not rush legislation. We should allow the Treasury Minister an opportunity to present his proposals, if he decides to, and then we can decide whether the rights are protected or not. Briefly, Sir, Deputy Southern mentioned the question about pension rights: and Members will have had placed on their desk today P.118, draft Public Employees' (Retirement) (Amendment No. 6) (Jersey) Law 200- which deals with this very issue that Deputy Southern was raising. If and when the States approve this - which as I am sure they will do because it has been brought to our attention that we need to make sure of our position - this will protect and ensure that employees can remain in P.E.C.R.S. because it enables the States to make Regulations empowering the Chief Minister, on the application of an employer who satisfies the Chief Minister that it is appropriate to do so, to admit the staff of the employer to participation in the pension scheme established under the principal Law. It empowers the Chief Minister to do so on terms and conditions and not ones that are specified in the current Regulations. So we are aware of the need to have a look at that part of the pensions law, and that has been done. One area I am concerned about is that a continued employment of employees at J.T. if J.T. is not sold-off. It is in a competitive world and, in the Treasury Minister's comments, we have got to bear these possibilities in mind. And at the very end of the comments, and trying to express it in a good way, on page 3 of the comments of the Treasury Minister it does say there are dangers and it warns Members that Members should note that a long-term delay to the proposed sale - which would be the inevitable consequence of agreeing Part (b) - could, quite contrary to Senator Shenton's intention, put Jersey Telecom Group Limited employees' jobs at risk in the event that the company were to suffer in the face of new competition. We may, by seeking to stop the sale and delay the potential sale, not be helping employees: we might be harming them. States' Members will have the opportunity to have their say on whether Jersey Telecom should be sold off and whether there is enough protection for employees of Jersey Telecom in the sale; when and if a proposal for that sale is brought to the States. Agreeing Part (b) puts that possibility off and puts at risk the employment of employees in Jersey Telecom. I urge Members to allow the Treasury Minister - having heard his assurances - to come forward at a later date and the whole decision will still be completely in the hands of Members to decide whether the protection afforded to employees is good enough. The Treasury Minister says he will not bring it forward unless it is good enough or whether at that stage States' Members decide that we need to wait for the full T.U.P.E. legislation to come in. There is nothing to be lost by allowing that to happen and there is potentially a lot to be gained.

9.10 Senator P.F.C. Ozouf:

Today the Economic Development Minister has joint responsibility with the J.C.R.A. (Jersey Competition Regulatory Authority) to secure the short and long term interests of telecommunication users, that is what the obligations under the 2002 telecoms set out; the responsibilities, the primary duty, to secure efficient and effective telecommunications are held both jointly by the J.C.R.A. and the Economic Development Minister. I can tell Members that I am taking a very close interest in the proposal, a slightly different position to the Treasury Minister; not difference of opinion but a different perspective on the issue of the proposed sale of Telecom. I believe that this review which he has carried out is absolutely correct and it is an opportunity to get the structure of the Jersey telecoms market right. This may or may not lead to a conclusion by him of a sale of J.T. or part of J.T. This is the work that needs to be carried out. Senator Shenton is asking the Assembly to effectively defer this work. He is effectively asking us to defer this work until, because we have heard from the Social Security Minister that T.U.P.E. legislation will not be in force until 2008. I think, Sir, and I would submit to the Assembly, that the structure - the importance of telecoms to the economy - is too late to wait until 2008. I have been involved in the progress of the move of Telecom from a States department into the incorporation of it from almost the first day that I was involved in the Assembly. I brought the J.C.R.A. law to the States, I did the Telecoms Law, I have been responsible for all of the P.E.C.R.S. arrangements in relation to the

matters that Deputy Southern brings forward jointly and also together with Senator Le Sueur, and I know all these things in quite intimate detail. I need to tell Members that the telecoms industry is absolutely vital to the future economic interests of Jersey. In fact, it is probably going to be even more important in years to come than it is today. Fast, effective, reliable, dependable, data access for our financial services sector. Fast internet access in our homes. The concept of telemedicine where physicians at the end of a computer will be diagnosing patients' blood samples or their heart rate, or whatever. The importance of telemedicine is something that we have not even begun to explore. All of these issues are vital - and I am not sure if Deputy Ferguson is agreeing with me or not - but the structure and effective structure of the market is absolutely vital. We have a problem with digital television. We have a situation whereby we cannot have, at the same time, analogue and digital T.V. in this Island. We are going to have to make a decision to either switch off the analogue system and bring in digital straightaway, because effectively our proximity to the French coast and the military airbases that exist in Normandy, et cetera, causes a particular problem. In central Paris television is delivered through the copper wire. In Korea you have 8 gigabytes of speed into your home delivering all sorts of services. There is a great deal of work that needs to be done in relation to the future structure of the telecoms market, and we have an opportunity now in the next few months to get it right. The sale or proposed sale of Jersey Telecom is somehow described by some ... and I understand that Senator Shenton was fairly condemning in his remarks about Jersey Telecom. I think Jersey Telecom has a fantastic future. The incumbent operator is always going to be the incumbent dominant provider in terms of fixed line access. Anybody that thinks the arrival of new competition in terms of the 2 new mobile operators which are doing some retail aspects of the fixed line ... the big game in town is going to remain Jersey Telecom in terms of its network and its structure. I do not subscribe to the view that we have left it too late. But the market is changing very quickly and what I can tell Members is that I will be working jointly with the J.C.R.A. and the Treasury Minister in order to ensure that we get the structure of the market correct for the next - effectively right the way through - the period 2030 to 2040. That is the kind of timeline that we are looking at. This Assembly should be proud of its record in decision-making in terms of telecoms. We have appropriately balanced the interests of consumers, the interests of the economy, the interests of the States, and, of course, the interests of the staff. The stronger Jersey Telecom is - in whichever ownership, in whichever structure - the better it is for the staff. The longer that we leave a completely independent telecoms company I think the worse it is for the staff because I think there are some structural issues that need to be dealt with and they should not be simply put on the shelf until 2008. I reiterate my absolute view that the future for Jersey Telecom in part States' ownership or in non-States' ownership or in full States' ownership is fantastic because Telecom has a fantastic future. I am not at all of the opinion of Deputy Southern that somehow he compares Jersey Telecom with the colossus of Deutsche Telecom and France Telecom. These are completely different markets. They are completely different dynamics. They also are companies, I would respectfully submit to him - and he is doing the Scrutiny review but he seems to have already come to the conclusion of his Scrutiny review before he has done it - that is completely different. Telecom is in - comparable to these other companies - extremely good shape. But it must keep up there with the competition. It must keep up there with effectiveness and efficiency of perhaps linking in with the global operator for international calling rates and data transfer and cables to France and cables to the U.K., and all the rest of it. That is why there is some urgency in getting the right structure of the market done and it simply cannot wait until 2008. I have offered - and I am pleased to see Deputy Southern back in the Assembly - his Scrutiny Panel the opportunity of giving - and it is not often Ministers do this - but I have offered to give evidence to him about my own views about telecoms of the future, about the telecommunication structure of the future. I am very happy to do so because I hope that what I will say to them may be of some assistance, and indeed some comfort to them; particularly of comfort to the strength of J.T., and the strength of J.T. means good conditions and excellent employment opportunities - dare I say it - exciting opportunities for their staff. The world of telecommunications has a great future in Jersey. We have not even begun to exploit it but we have got to continue the reform programme. What I simply do

not understand is why Senator Shenton is pushing ahead with Part (b) of the proposition. I agree absolutely with Part (a); T.U.P.E. Regulations - it is on the way, it is going to happen, it has got to happen and it must happen. But Senator Shenton has been given a gold plated undertaking by the Treasury Minister that he will, in the consideration of any prospective sale, come forward with equivalent conditions for T.U.P.E. Now I just simply do not understand what he is wanting here. He is being given the equivalent. He is being given the equivalent of T.U.P.E. earlier than the legislative requirement that will be imposed on anybody transferring an undertaking, and I would ask him to consider whether or not he would not be willing to withdraw Part (b) on the basis of the guarantee - the undertaking - that the Treasury Minister has given, because I would have thought - because of the undertaking that is being given - that is exactly what he wants. He wants there to be equivalent T.U.P.E. legislation for the sale of Jersey Telecom. That is the only one we are talking about. We are not talking about privatising or making any other changes, and he has been given the guarantee and yet he is pressing ahead with the debate. Well, he will have to explain to me, and he will have to give me some pretty persuasive arguments if I am to change my position because I believe that this Assembly has been given the absolute cast-iron guarantee that he will come forward with an equivalent T.U.P.E. requirement, which I am sure will be quite legally enforceable and I do not think it is up to Members to start speculating and arguing with the Solicitor General about whether or not it is enforceable because a condition is a condition and it must be enforceable. Effectively, Senator Shenton has had what he wants. I will conclude by saying; the structure of the telecoms market has to be addressed. There are important economic issues which we must address in order to keep Jersey Telecom up there with the best, which we have achieved so far. We need to get on with that work immediately. That is what the J.C.R.A. is doing and that is what we will be doing together with the Treasury Minister over the forthcoming months. The guarantee for T.U.P.E. is there. Members can vote in favour of Part (a), but a support of Part (b) is effectively a vote in favour of not allowing Jersey Telecom to move forward with the competitive changes - the structural changes that it needs - and that is bad for staff, bad for consumers and bad for the economy.

9.11 Deputy J.A. Martin:

I will not be long; I am just standing up as Vice-Chairman of the Scrutiny Panel and, in hindsight, as we have the expert on telecoms maybe we should not have started with the Managing Director and the Chairman of the Board who we interviewed yesterday, because their view of the global market of telecoms was completely different that we have heard, Sir, from the Minister for E.D.D. (Economic Development Department). It also does not warm me with much hope when he says he is keeping a close eye on Jersey Telecom with the J.C.R.A. when the Managing Director or the Chairman of the Board yesterday described the treatment of the J.C.R.A. to them as bonkers because they compare ... and the Senator tells us that line rentals have played a dominant part - and I really do not want to get out of my depth, Sir, on the technicalities - but I think the Senator is well out of his depth because he does not understand that that market has already moved on with V.O.I.P. (voice-over internet protocol), which is voiceovers, and many, many other things, Sir, which I will not go into. I want to come back to this proposition; but just through the chair, I am glad that the Senator was the one who introduced the J.C.R.A. Law was the one who brought the Jersey Telecoms Law, and was the one who introduced the new J.C.R.A. because when, and if, that all goes wrong, as he did it all on his own, Sir, he will be the only one that we can blame. Thank you, Sir. Coming back to Part (b); now we have all heard about this, please let us bring the terms and conditions for the ongoing sale. Now, I am very sorry, for any ongoing sale - or who we are selling to - the terms and conditions will be highly confidential. Also, is there anybody in this House who is equipped - legally - and again we might unless we cannot ... and we already know from some sides of the House we may not be able to get the advice that the Minister is getting. We are just going to be told: "Trust us." I cannot do that, Sir. I think we need this protection in. Why are we being told we are even going to give these workers greater protection than under T.U.P.E.? Why are we desperate to sell, under any conditions and Regulations it would seem to me? And it is

the workers that will suffer. I trust the commitment of the Minister of Treasury but I am not sure that the rest of the House - as of the day that the J.C.R.A. allowed other licences into the market, that the rest of the States' Members, and even Telecom their self - have been informed of the likelihood that this competition will have on the existing Jersey Telecom. I really think that we should support Senator Shenton because, as I say, we are always told: "Trust us, we will sort this." Then we are told: "It is sensitive and we cannot find out what the information or the conditions are." I do not think it will be debated, and if it is debated it will be in-camera, which is not always suitable for the rest of the public out there. So it is a shame, and I think now that with hindsight Ministers or people who did not support the introduction of T.U.P.E. along with the other employment legislation are probably kicking themselves - sorry, through you, Sir, he is probably kicking himself - and this is where we are. I am for one - I am sorry - but I cannot be assured by the Ministers that the conditions for the workers will be as good as T.U.P.E., even will be upheld; and, again, I think it comes down to what Deputy Southern was saying ... We are up against some serious money in the market and if they want to disregard ... it was put to us yesterday but it is an agreement with the Jersey Government and it would be a very foolish company who would renege on that. It would be a very, very - not foolish company - but a ruthless, business, multi-million pound company that will not give a damn that they had Regulations or terms and conditions with the Jersey Government. And I am sorry to have to say that, Sir, but that is the harsh reality of the business world that we are dealing in and we are putting our workers out to the sharks.

Deputy C.J. Scott Warren:

I am sorry, Sir, would it be possible to ask a question of the Solicitor General which I think is quite relevant to this debate? It is not another speech, it is just that we have been told that we cannot have the full employee protection legislation in until about 2008 and I just wonder whether there is any possibility of a very quick, in the interim, Regulation on an existing Employment Law that could therefore cover what we cannot do until 2008?

H.M. Solicitor General:

I certainly cannot think that ... there are a number of employment laws and they do contain visions for making Regulations, but they are all provisions for making Regulations for the purposes of those Laws. Now it would need a comprehensive scrutiny of those laws to say whether there was any regulation-making power which would enable the States to make Regulations to meet the present provisions. But I have to say, I think it is unlikely. I cannot give a categorical answer but I think it is unlikely.

9.12 Deputy S.C. Ferguson:

Senator Vibert seemed to think that Projet 118 would solve a number of the problems that had been raised this afternoon, however as I whizzed through it on a cursory reading it appears that it requires the employer to apply to remain in P.E.C.R.S., so I question the claims. Now as people who know me know, I rarely agree with Deputy Southern - we are usually at opposite ends of the political spectrum - however I do agree with him this afternoon, particularly on the importance of the pension implications. One of the immediate areas where economies are looked for in a takeover is always the pension scheme, and I do know this because I have been in companies which have been taken over under hostile takeover bids. In fact, I have been working in organisations where there was considerable pressure applied to the staff to change to the new cheap scheme. Fortunately none of the schemes I was in was subjected to a Maxwell-type raid but these are still possible. Senator Ozouf talked about the importance to Jersey of telecoms. I agree wholeheartedly, but do we really want a situation - I am sorry, slightly off the point, Sir, but slightly relevant too - do we really want a situation like Thames Water, a company owned by foreign shareholders, or our own Jersey Gas, a minuscule part of an Australian company? There is a case, however, for a small, nimble company to have links with larger companies as can be seen by a lot of the companies in the internet and computer industries. It is not quite the matter under discussion but we are talking about

a situation where there is little protection for employees in takeovers in Jersey, not just Telecom, any other company. I would point out to Members the ominous comment in the Treasury Minister's comments and discussion on the ownership of utilities in the plural. I have already rehearsed the arguments, partially, this afternoon and I will continue to oppose these, and I will therefore support paragraph (b) as I think it makes more sense to have our ducks in a row before we start shooting at them.

9.13 Deputy G.W. J. de Faye:

There are 2 clear issues before the House and I think it is important to examine them both with some level of logic. The first is, of course, relating to the protection of employees, and that is something that States' Members must take seriously. It is incumbent upon the States really as a government body to be seen as a model employer. We make the Rules, Laws, employment Regulations and the States should certainly be seen to be upholding those employment Regulations. Now I have asked the question that regretfully the Solicitor General was not in a position to answer, so I do not know for sure whether companies that may be bidding for Jersey Telecom are prior bound - morally or legally - by E.C. (European Community) directives or U.K. legislation, but for the sake of argument let us assume that they are not and we have not, as yet, put in the relevant employment legislation within our own Island. Nevertheless, it seems to me perfectly clear from the response that the Solicitor General gave to another question, that it is very feasible and certainly would be upheld in our own Royal Court if appropriate conditions were put into any contract of sale to protect any element of workers' rights, employment rights, pensions, and so on, as was seen fit. I am sure that the Treasury Minister is looking at that in some detail and that type of condition is likely to be a feature of the contract. As we have heard, that is enforceable as part of any sale contract should a sale go ahead. Now, what does this mean? This means that we do not really need to wait for the T.U.P.E. legislation to come through. We can enforce appropriate and relevant terms and conditions of a sale prior to the legislation being brought into force. But what it does mean is it becomes a price of the contract because you are imposing an extra condition on a sales deal, and that will inevitably have an effect on anyone - any player - in the negotiations, who might wish to bid for Jersey Telecom should it be put up for sale. This is where I think States' Members need to find the balance, and it is a difficult balance to find, between acting in the public interest and acting in the interests of the employees of Jersey Telecom. I would simply posit 2 scenarios; and this really relates to, I believe, how we should approach Part (b) of this proposition. I do not believe that there are really any Members in the House who have difficulty with Part (a). Of course this type of legislation should be introduced in due course but, as I have alluded to, it would not necessarily be a requirement that would affect this particular sale. But in respect of Part (b), let us just cast our minds back to the end of the last millennium; those last couple of years before we hit the year 2000. There was an internet boom, and telecommunications companies were having an absolute field day. British Telecom had been privatised and its share values were storming upwards in the share markets. In fact, British Telecom at the end of the last century was extending its brief from the United Kingdom and looking to become potentially an enormous worldwide player, as were many other international telecom companies. And at that point, just prior to the inevitable bursting of the bubble and the famous dotcom collapse that came so many months later, that would have been an excellent time to sell Jersey Telecom - if we were looking for a top price. I have no doubt that we would have secured an enormously beneficial deal in the best interests of the public of this Island, and probably, at the time, in the best interests of the employees as well. But we all know the history; everything went wrong with the dotcom collapse. So the prices have changed, the market is more competitive and here is still Jersey Telecom now very, very small, playing against enormous players in the telecoms field. I understand the worries of Jersey Telecom's employees and some have been in touch with me. What has puzzled me though is how none of them appear to have seen what is coming, coming; because any limited knowledge of what is going on in the international telecoms market would indicate quite clearly that it is a highly competitive and predatory market where the little minnows are gobbled up at a rate of knots. So we really should have anticipated a

potential for the sale of Jersey Telecom, and that is why we are currently – sensibly - considering it. But let us make no mistake about where we are going. Where we are going is from a position where perhaps 8 years ago we would have acquired an enormous value from the sale of that particular company at the height of the internet boom, to a situation where an increasingly competitive market, increasing pressures on line rental prices and on the cost of mobile phone texting and so forth, the threat of voice-over internet protocol undermining enormous sections of the existing telephonia business; will inevitably wear-down the value of the company. Bit by bit, day by day; it has to be an inevitability that in the face of stiff competition the value of Jersey Telecom is going to decrease. So at what point do we decide in the best interests of the Island that we should sell? All the indications are that we should probably think about selling earlier rather than later. How does this relate to protecting the employees’ interests because it seems that clearly before us is an opportunity to guarantee those existing terms and conditions; and do not forget you are guaranteeing the Chief Executive’s salary as well as the lowliest person in the least paid job. So that is guaranteeing the position and you can do that - realising that it is going to be part of the negotiating deal and it is going to be part of the price within that contract - you do that at an early juncture when you might get a higher price for Jersey Telecom balanced against the existing cost of preserving those terms and conditions. Or do we wait and possibly watch the price and value of Jersey Telecom fall and still have that contract to weigh as a value against a diminished value of the company? Now that is going to be a difficult judgment call which is why I think it is vitally important that we leave as much flexibility as possible in how this is approached by the House. Because it will be States’ Members who will take the final decision, but I believe Members must leave themselves with as much flexibility as possible in this situation, which is why I urge Members to accept Part (a) but to reject Part (b), which is effectively tying one of our hands behind our back before we have even started. And it will be a difficult call for Members to make but we must maintain all the options available to ensure that we can get on the one hand the best value for that company should we consider selling, in the interests of the public of the Island; and also, at the same time, get the best protection for the employees who work for that company. I suggest that can only be done within the greatest flexibility available to this House, and that means rejecting Part (b).

9.14 Deputy J.B. Fox:

This is a strange situation that we find ourselves in. The Economic Affairs Minister quotes of everything he has done and then he talks about a joint working as an E.D. Minister with J.C.R.A. When it came to the sea routes we could not have any joints, it is the J.C.R.A. not the Minister. So we have moved on, which I am pleased to hear in that circumstance, and at this time all of my investments usually err on the safe side because the world markets have been all over the place and I want my pension and my savings to go further to my old age. Jersey, traditionally, has worked that route. It, generally speaking, has erred on the side of caution but I see the new world emerging where we buy and sell things like commodities and we are talking about our utilities, which we have seen go through in the United Kingdom and Europe, and usually what happens is that the end-user pays more. But the services are often improved by things that government should have done but did not do, and so there is that side of the coin as well. The bit that does concern me though is that if you are planning to sell a monopoly which you have taken out of the mainstream ownership of politicians and replace it with another monopoly that you do not know who could own it later on, then that does worry me, because you hear about the hostile takeovers and things like that. So that, to me, is a negative and it is something that concerns me immensely. We are quite right; we are just looking at (a) and it is not a problem; (b) is something that the Treasury Minister has given assurances on. That in itself I do not have a problem about because I believe that the Treasury Minister is honourable. The bit that I also like about it is the fact that of any proposed proposition for the sale of telecoms or any other utilities has got to come through this House which is also a positive and a safeguard. The bit that concerns me is the rest of why we cannot have this extra safeguard because of the timing that the Solicitor General has indicated that there is not some other

mechanism that we can use - and although she cannot be certain of it without doing some more research - I feel that wishful thinking comes in here and I would have liked the Solicitor General to have more time to be able to see whether there is not a way of being able to provide that extra safeguard without having to wait until 2008. I think to conclude, that I am tempted to say that we do not probably need Part (b) for the safeguard of the staff but I just, I suppose, wish that we could have that extra safeguard - not only for these particular staff but for the people of Jersey. We want to send out a positive message to the future and if we are going down the road of looking at selling off our government assets in one form or another for a lump sum, et cetera, I think that I would prefer to have that additional safeguard inbuilt. And I will be honest with you, it is something I shall listen to in the summing-up before I finally make up my mind, but I am erring on the side of caution.

9.15 Senator L. Norman:

Until about an hour or hour and a half ago I was certainly intending to support Part (b) of Senator Shenton's proposition. He wants Telecom's employees - and, let us be honest, today we are talking almost exclusively about Telecom's employees - to have the protection of T.U.P.E.-type legislation. And our legislation - T.U.P.E.-type legislation - in 2008 may or may not reflect the U.K. Regulations. But to want that sort of protection it is right, it is good, and it is proper. But on the other hand, Senator Le Sueur says in his comments that: "Employee protection rights will be included to a level at least as high as and preferably higher than anything which would be provided under U.K.-type T.U.P.E. legislation." Now that is good, that is proper, that is right. But it is even better - it is even better than what has been offered in Senator Shenton's proposition. In other words, the deal that the employees will get if Telecom is sold - if we, as an Assembly, agree that Jersey Telecom should be sold - is better under what Senator Le Sueur has told us than under Senator Shenton's proposition. Therefore I have now got no doubt, no hesitation, that it is right and proper to vote against Part (b) of Senator Shenton's proposition.

9.16 Deputy of St. Martin:

I feel like a bit of a piggy in the middle here, I am sure there are a number of Members here this afternoon who have come with quite an open mind and it may surprise a number of people to think that as a member of Scrutiny I have an open mind, but I do. In fact, it is quite interesting also to see that we have 2 Senators who are quite sincere in their beliefs. I think they both believe they are right. The interesting thing is they are both poles apart and the problem we have - for those of us in the middle - is to know who to support. One quite rightly says: "Let us have the legislation in place before we start." I am a subscriber to that as well. And the other one says: "Trust me, folks, because I can guarantee that there will be workers protection." But we all know that whenever sales do come about, generally there are redundancies so, again I do not know if anyone can ever give that guarantee. However, for me to be convinced either way I think it will be open to Senator Shenton to convince me, to tell me why he thinks it would be in the best interests of Telecom - if indeed there is a need to sell before 2008 - that the protection or the rights or the whatever of the workers will be protected in such a way to make me want to vote with him. Unless I can be convinced I am quite likely to go for Part (b), but again it will be down to Senator Shenton to tell me why he thinks it would be in the best interest - or will it be in the best interest - for this legislation to be in place first. Indeed it may well be in the best interests of a company, and indeed the workers, to sell before this legislation comes into place. What will happen?

9.17 Deputy A. Breckon of St. Saviour:

I will be brief. I just would like to remind Members of a situation that happened a few years ago and it was in reference to a security contract at the airport; and a similar situation arose and there was concern about the employees transferring from one undertaking to another. What happened was the incoming contractor gave an assurance that existing employees would be treated in such and such a way and they would be protected. The day after they took over they changed the terms

and conditions for new employees from the next day and then exerted a considerable amount of pressure on the existing employees and some of them packed it in. That is the reality of what you have got. Some companies are expert at doing this and of course we do not have a system that provides comprehensive protection to employees. We are getting there but when we look at this, some of this stuff is third world. It is third world employment legislation. It is a failing of this House - this Assembly, this system - that has not got there yet, and that is a real fear that I have. Deputy Southern mentioned something about Amicus and the pension protection. I find it rather strange that today P.118 has landed on our desk. This has emerged and it shows possible problems, and it highlights possibly non-States' employees being members of the scheme. The question is - that I am asking myself and nobody has answered - why has it come today and why is it a provision that somebody has thought of that it would be good to have because it gives somebody protection? But it looks like it is pre-empting this debate, I would suggest, and it does, Sir, sow some doubts for me as to why it is there. Others have mentioned it is up to the Chief Minister, it is up to the employer; but of course a new employer could say: "Well, I do not want my employees to be a member of that" and that is the employer's discretion not the employees. So I would like - the Treasury Minister is not here, the Chief Minister is not here - if somebody could explain that to me, I do not want to pre-empt any debate on that, Sir, but it is strange that it is there today. I do not think there is anything wrong in sending out the signal that we are now getting up to speed with that. I have heard the story before: "Wait, this is coming. Trust us, it will happen." But I think we must give comfort to those people who are directly involved, and I have some considerable fears. I have seen some of these things happen here and elsewhere, and it is a concern to people who are caught - as it were - in the crossfire. This is not of their making. It is changes in circumstances. I know what Senator Norman has said but it really concerns me that an efficient company can sign a deal and they will be able to walk away from it. Legally they will be able to wriggle out of it by a sale; it is given by one undertaking and then somebody else takes up that and they do not have to honour that. That situation, I believe, could change very quickly within 12 months. I think there is general consensus, Sir, that Part (a) is acceptable but I can also support part (b) because I think it is belt and braces. If it means that people do move things on quicker then I think that is a good thing and it also looks at the interests we have in other areas; water and electricity, for example, which are strategic assets and we should not be in any rush to dispose of the family silver, Sir, without protection for the interests of the community and also for those people who work in those areas.

9.18 Deputy J.A.N. Le Fondré:

Members will probably be delighted to know that I only wish to state a few brief points as it is starting to get on in the day. I would direct Members to page 7 of the report prepared by Senator Shenton, particularly to matters to which T.U.P.E. does not apply. I quote the first bullet point under this section which says that T.U.P.E. does not apply to transfers by share takeover. Sir, Jersey Telecom is already a company. It is just that the shares are owned by us, the States of Jersey, rather than any other investor. Any sale of Jersey Telecom will almost certainly be a sale of shares, hence even if we approve part (b) and seek T.U.P.E.-like legislation to be introduced before any sale then you will not achieve any additional safeguards, as T.U.P.E. specifically does not apply to this type of situation, according to the proposition. Hence, the union argument the conditions built into the contract of sale part (b) are enforced are erroneous, as was confirmed this afternoon. T.U.P.E. is not the panacea that everyone is making it out to be and it certainly will not last for ever, as certain Members would have us believe. More of that later. Let us talk about one of my favourite subjects which is money. If we ignore everything else and just look at the value, let us think about what we are trying to do by delaying any sale which is the impact of approving part (b). Bear in mind we have not decided the nature of any disposal, if it happens, or indeed the structure of the company being sold. For the sake of argument just assume a straightforward sale and let us consider the value of what we are selling. Jersey Telecom, up until very recently, were the monopoly operator in the Jersey market and paid something like £8.5 million per year to the States. If we do nothing - and bear in mind that competition has already started - do Members realistically imagine that those

profits will remain as they are? Cable and Wireless are here. Bharti Global are going to start at some point and they are coming to the party. We have here 2 of the biggest players in the world intent on taking each other on in a very small market. Do Members realistically believe that Jersey Telecom can survive all of that on its own? It is no good saying you do not want competition. It is here and we cannot predict the impact, except to say that it would be stupid to assume that Jersey Telecom can carry on in exactly the same way as before. Do not assume that I am doing J.T. down. They have known this was coming. They have been getting ready for it. They welcome the competition and they will give the best possible service - hopefully better than their competitors - in a way that only a local company can do but it is a minnow in a very large ocean and the predators are gathering. If one just treats Jersey Telecom as an investment then I agree with the view that the value of that investment to us is likely to fall and that any delay will just cost us money to little other benefit. That is the money side. Let us talk about the most important aspect of all of this - the employees. The true assets, for want of a better phrase, of the company. As much as I referred to money in my last point the employees are the most important aspect of this whole debate. If we accept the argument I have just made about the profits of Jersey Telecom falling due to the competition that is happening here and now, it does not take a great leap of logic to recognise that as Jersey Telecom's market share is eroded by competition that profits will fall. How far do they have to go before redundancies take place? That is my dilemma. If we delay and we prevaricate - I agree with the fears already expressed - this is even more likely to undermine the job security of the employees than protect them. Let us talk about the Minister. Do we trust him? He and I do not always agree on everything, as I am sure he will confirm, however we are agreed on this: the employees of Jersey Telecom deserve protection in the event that the States, in a later debate, decide to sell Telecom. He has given a public assurance, which he has repeated today, that the rights of employees will be protected by T.U.P.E.-like conditions, or better than such conditions, and that these will be incorporated into any contract of sale. Funnily enough the union do not believe him. I can tell the House today, the calibre of the various potential advisers being considered in respect of any sale are top-notch. They are being interviewed today. If those appointed, with their wealth of experience, cannot come up with a way of locking-in the appropriate terms and conditions then nobody can. The Minister has given his word on this and I trust him. Now is not the time to tie his hands. If the proposals are not acceptable then the time to deal with that is during any debate on the disposal. It is not before we have even begun that process and I would add that just because the future owner of our company may - in some hypothetical scenario - change it, it does not mean that any earlier contract or agreement suddenly falls away. It is still legally enforceable. I would note that Deputy Southern stated it was irrational and illogical not to delay. I rather feel that Deputy Southern has not quite understood the position of the Minister for Treasury and Resources. On Treasury we all accept that T.U.P.E. is important but we also accept that we cannot wait for the whole period of time necessary to implement T.U.P.E. because it would likely have an inordinate impact on any sale of Jersey Telecom. That is why the Minister has given the undertaking that he has done which is to include T.U.P.E.-like conditions in any contract of sale, and I repeat the point that we have been told on a number of occasions that this is legally enforceable. He has also said that if Members do not like any proposals eventually drawn up then do not vote for them at that time. Sir, I do support part (a) of this proposition and I believe from what we have heard today that most of the House will do so. I do not support part (b) and strongly urge Members to reject that part of the proposition. We cannot afford to wait another year before this matter gets resolved. Competition has started in the Jersey Telecom market. We need to know what we are going to do with Jersey Telecom as soon as possible. It is in our interests as mere investors; it is in our interests as the States of Jersey; and it is in the interests of the employees of Jersey Telecom who will want certainty. Let us get this matter resolved. The correct point to consider this is when a debate on telecoms comes to this House some time early next year. I will be voting for part (a). I will not be supporting part (b) and I would ask the rest of the House to do the same. Thank you, Sir.

9.19 Connétable G.W. Fisher:

I will not keep the House very long. I would like to endorse 100 per cent what the previous speaker said. I would reiterate the fact that the Minister of Treasury and Resources has given his word to this House but we do not have to rely on his word because the debate will take place on the sale of the company - if it takes place in due course - and at that time all the conditions will be debated as well and therefore we can make sure that sufficient conditions are included in the contract at the time. I think it would be wrong to tie our own hands at this stage, which means we become totally inflexible; and if the moment is right and the opportunity is there we will not be able to take it. It is possible that nothing will happen in the next 2 years and the new legislation under (a) will be in place anyway, but I think it would be wrong for us to tie our own hands right now. Thank you, Sir.

The Bailiff:

I call upon Senator Shenton to reply.

9.20 Senator B.E. Shenton:

Senator Routier started the debate. He pointed out that T.U.P.E. is on the way and he also said that he would not support the sale of J.T. at this time, bearing in mind that the relevant legislation is not in place. Deputy Lewis supported the amendment (b), and I thank him for the support. Deputy Scott Warren raised the pension issue and I understand that the law change will be required to allow J.T. employees to stay in the J.C.R.A. if there is a subsequent sale. It seems to me that they can pass some laws quicker than others. Senator Le Sueur spoke and said that the real debate would be when he brings a proposition for sale. He did point out that jobs could be at risk and that the terms may not be enforceable; the terms that he writes into their contract. Should we, as a House, gamble with people's jobs? That is the question. And would he have offered to write T.U.P.E. into the terms of the sale if this proposition had not been brought? Is it not just a knee-jerk reaction for the failings to get everything in place before we move down the privatisation route? He made no mention of what would happen in any subsequent takeover. He could agree terms with the party that he is selling Jersey Telecom to but he has no control on any subsequent sale or divestment. I believe that is important because what he is offering does not offer the workers of Jersey Telecom any surety. Deputy Troy spoke, and I should perhaps remind him that when he is in the Chamber he is a politician representing the people and not just a businessman. As a politician you have to have a care for the community in which you live and you cannot look at things purely on a financial basis. Deputy Southern spoke and I had not previously realised that Deputy Southern was such a big fan of Margaret Thatcher's policies because it should be remembered that this is one of Margaret Thatcher's policies because she realised, before she went on her privatisation spree - as someone used the phrase - that you have to get all your ducks in a row before you start shooting them. Maybe this House is more right wing than Margaret Thatcher. Deputy Southern also gave us a reminder of how employee protection has developed in Jersey, albeit how slowly it has developed, and he reiterated that the ability to write pension rights into the terms of sale cannot be guaranteed. The transfer of pension rights is a major concern of the employees of Jersey Telecom, and so it should be. To give them a weak promise that writing it into the contract of sale may work is a gamble I am not willing to take. Senator Vibert disagrees with me for a change. He would prefer Members to be railroaded into agreeing the sale as soon as a price has been agreed so the Council of Ministers can put the pound sign in front of our eyes and we can forget about the employees and take the money. As it stands Jersey Telecom employees know where they stand with regard to redundancy packages. They are not stupid. They know the company will have to slim down but at least they have some satisfaction in knowing that they will be looked after. If we sell the company on, we cannot guarantee that. In fact if it is decided to sell the company on completely we do not even know who is going to own it in the future. Senator Ozouf spoke. Sometimes I find he resembles the living antithesis of King Midas. He outlined how strategically important the telecom infrastructure is. He then went on to talk about Korean television and he lost me at that point, I must admit. But he also admitted that the regulator still needed to be sorted out. Certainly this is the

message that we are getting from Jersey Telecom. Remember the 2 key things to privatisation is the regulator and employee protection. We talk about having all our ducks in a row; we do not even have any ducks on the table at the moment. Again, putting the T.U.P.E. conditions, and I should stop using this word T.U.P.E. because they are not T.U.P.E. conditions. I use T.U.P.E. as an example. The employment legislation has to be tailored to the Jersey marketplace and we are not even sure whether these employment conditions will be enforceable if the business is sold on, or they divest their mobile side or floats off other parts of the business. Deputy Martin pointed out in Scrutiny what the Jersey Telecom Board think of the J.C.R.A. and asked at Treasury if anyone has experience in these matters. Well, they do not but I have been in the investment business for 28 years and I know what people in my industry will do to the startled little innocents that work in the Treasury Department. They will absolutely eat them alive which is why we need the legislation in place. Deputy Ferguson agreed with Deputy Southern, as usual, about the importance of pension implications. Deputy de Faye was very interesting because he does not seem to realise that Jersey Telecom is a Jersey company. If it is taken over they are taking over a Jersey company. It does not matter who the acquirer is, it is a Jersey company. Again, terms in the contract of sale are not transferable in respect of a subsequent sale or divestment of a subsidiary. He also confirmed that putting the T.U.P.E. conditions in a sale contract will reduce the price and he does not believe that Jersey Telecom can see off the competition. Deputy Fox - it is a strange situation - that is all I ascertained from his speech. He is not here, is he? **[Laughter]** Senator Norman said that proposition (b) is right but again I would question enforceability on a subsequent sale. However, also he says that what they agree in the contract will be better than the employment protection legislation that we are going to be putting in place. Given that we do not know what the employment protection legislation we are going to put in place is, how is he going to know that it is better? Deputy Hill said: "Let us do it right" and we should do it right. If we do put it in a sale contract and the deal goes through and then subsequently we find that they are breaching the employment Regulations, who in this Chamber is going to have the political will to enforce that contract? We will have sold the asset. It will be no one's responsibility. Who will pay for the legal battle? Also, I do not believe that this Chamber's record of standing-up in large legal cases is particularly good. There is a programme on the B.B.C. about a large supermarket chain in the U.K. that basically build whatever they want and say to the planning authorities: "Okay, you take me to court." Will we really stand up to a big telecoms operator? Deputy Breckon, thankfully, brought us back to the real world where big companies do renege on contracts and took us away from the innocent little world occupied by Senator Le Sueur and Senator Norman. Make no mistake, anyone that acquires Jersey Telecom will want their pound of flesh and one of the quickest ways of getting it is to cut your overheads, cut your staff and - I have no doubt with our current migration policy - bring in cheap labour. Deputy Le Fondré argued whether T.U.P.E. would apply. I am not advocating T.U.P.E. and under the Jersey legislation that will come in, it will apply. Also, we did take legal advice that it would apply to this case under T.U.P.E. anyway, unless of course we sold the whole of the Government. The proposition is to bring in the right legislation for Jersey. Deputy Le Fondre had a very simplistic view of the investment markets and put money before employees. Let us plan it out because there is a bit of competition. Never mind that we own the dominant player. Never mind that we own the infrastructure. Someone has obviously come along and whispered in their ear some price and they are all excited. Proposition (b) does not stop the investigation of a possible sale. The investigation process can carry on as before and certainly Scrutiny will carry on scrutinising this process. What it does say is: "Get it right." Margaret Thatcher knew you had to have employment legislation in place. We should do the same. If you are going down the privatisation road you have to make sure the necessary employment legislation is in place. If you are going down the privatisation road you have to make sure that you have a tried and trusted regulator in place. If you are going down the privatisation road you do not shout from the rooftops how your asset will be worth substantially less in a few years time. I believe that J.T. has a great future. I believe that it has the ability to fend off the competition. I believe that strategic alliance with T-Mobile, Vodafone or Orange may be the way forward. May I just say that if

Members vote against this proposition - and if you believe in a God - that you go to church on Sunday and pray for forgiveness because you will be letting down the people of Jersey. You will be letting down the employees of Jersey Telecom, the wives and the husbands of the Jersey Telecom employees and the children of Jersey Telecom employees. This is the right way to do things. Let us get it right for a change. I put my proposition.

Senator P.F.C. Ozouf:

Are you going to be taking in parts, Sir?

The Bailiff:

Yes. May I ask any Member in the precinct who wishes to vote to return to the Chamber and the first vote will be on part (a) of Senator Shenton's proposition and I ask the Greffier to open the voting.

POUR: 47

CONTRE: 0

ABSTAIN: 0

Senator S. Syvret
Senator L. Norman
Senator W. Kinnard
Senator T.A. Le Sueur
Senator P.F. Routier
Senator M.E. Vibert
Senator P.F.C. Ozouf
Senator T.J. Le Main
Senator B.E. Shenton
Senator F.E. Cohen
Senator J.L. Perchard
Connétable of St. Saviour
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of St. Lawrence
Connétable of Grouville
Connétable of St. John
Connétable of St. Brelade
Connétable of St. Martin
Deputy R.C. Duhamel (S)
Deputy A. Breckon (S)
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy G.C.L. Baudains (C)
Deputy P.N. Troy (B)
Deputy C.J. Scott Warren (S)
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy S.C. Ferguson (B)
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 P.V.F. Le Claire (H)
Deputy J.A.N. Le Fondre (L)
Deputy D.W. Mezbourian (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy A.J.H. Maclean (H)
Deputy K.C. Lewis (S)
Deputy of St. John
Deputy I.J. Gorst (C)
Deputy of St. Mary

The Bailiff:

I now invite the Greffier to open the voting for paragraph (B) of the proposition.

POUR: 23

Senator S. Syvret
Senator W. Kinnard
Senator B.E. Shenton
Connétable of St. Mary
Connétable of St. Peter
Connétable of St. Clement
Connétable of Grouville
Connétable of St. John
Connétable of St. Brelade
Deputy R.C. Duhamel (S)
Deputy A. Breckon (S)
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 S.C. Ferguson (B)
Deputy P.J.D. Ryan (H)
Deputy of Grouville
Deputy P.V.F. le Claire (H)
Deputy D.W. Mezbourian (L)
Deputy S.S.P.A. Power (B)
Deputy K.C. Lewis (S)

CONTRE: 23

Senator L. Norman
Senator T.A. Le Sueur
Senator P.F. Routier
Senator M.E. Vibert
Senator P.F.C. Ozouf
Senator T.J. Le Main
Senator F.E. Cohen
Senator J.L. Perchard
Connétable of St. Saviour
Connétable of St. Lawrence
Connétable of St. Martin
Deputy J.J. Huet (H)
Deputy of St. Martin
Deputy P.N. Troy (B)
Deputy J.B. Fox (H)
Deputy J.A. Hilton (H)
Deputy G.W.J. de Faye (H)
Deputy J.A.N. Le Fondre (L)
Deputy of Trinity
Deputy A.J.H. Maclean (H)
Deputy of St. John
Deputy I.J. Gorst (C)
Deputy of St. Mary

ABSTAIN: 1

Deputy of St. Ouen

10. Draft The Law Society of Jersey (Amendment) Law 200- (P.96/2006)

The Bailiff:

We come now to Projet 96 - the Draft The Law Society of Jersey (Amendment) Law 200- in the name of the Chief Minister. I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft The Law Society of Jersey (Amendment) Law 200-, a law to amend the Law Society of Jersey Law 2005. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

10.1 Senator T.A. Le Sueur:

Hopefully this matter may be a little bit less controversial than the last one. This is a fairly simple adjustment which really deals with the anomaly of the members of the Law Society who happen to be Crown Officers or working in the Law Officers Department. The rules and regulations of members of the Law Society working in private practice are not really appropriate to those working in the Law Officers Department and this Law really puts that right by making certain conditions for those people in that category. That is the substance of the amendments and I propose the preamble.

The Bailiff:

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

10.2 Senator S. Syvret:

I have some concerns about this and unless I receive a convincing explanation I will be forced to vote against it. It seems to me to exclude Jersey Advocates simply because they happen to be Crown Officers from the disciplinary structures and processes of the Law Society is wholly undesirable, given the absence of an alternative framework. Of course it is absolutely fair enough and it makes commonsense that they should not be required to pay themselves the annual subscription fees for the Jersey Law Society, nor indeed carry that kind of private sector professional indemnity insurance that is a requirement. Amending the Law to exclude them from those requirements, or perhaps for the State in some way to pay it for them, would be entirely acceptable but I am afraid removing the Law Officers, referred to by this Law, from the disciplinary structures and the general codes and so on that are required by the Jersey Law Society I regard as wholly unacceptable. I think the argument that they are Crown appointees is, I have to say, a very old fashioned argument and not really a particularly robust or convincing argument to put forward in the 21st century. I do believe that nobody should be above the Law and we regulate the practises of Advocates in Jersey through the Jersey Law Society Law and it seems to me that all Advocates practicing in Jersey, and that includes the Crown Officers, should also be subject to the same disciplinary and professional requirements laid down by the Society. Indeed the Society is empowered to have those requirements at Law. So, Sir, unless I receive a particularly convincing explanation I am going to vote against that particular provision and I urge other Members to do the same. In the 21st century we should not be exempting Crown Officers and Advocates working in the Crown Offices Department from the disciplinary structures required by the Jersey Law Society Law.

10.3 H.M. Solicitor General:

I wonder, Sir, if I might respond to the point about the disciplinary controls of the Law Society because I understand the Senator's concern and I can understand that Members as well may be concerned and I think that they should have an explanation of our concerns. The disciplinary controls, such as they are, at the moment - which can be either a complaint to the Bâtonnier or a complaint to the Law Society - are generally a complaint by a client about the lawyer who has advised him and those are the most frequent complaints. Our clients are the States and their departments and if the States or any department are unhappy with the service given by the Attorney General, the Solicitor General, or any member of the department, the States can pursue that through the Chief Minister, through Human Resources or through whatever level is appropriate so that there is not the same need for the client to have a right of recourse to the Law Society. The second point is this; the Attorney General has a number of customary law and indeed statutory functions which increasingly include the inquiry into both locally, and assisting other jurisdictions, quite serious organised crime - frauds, drug trafficking and various other kinds of organised crime. Members will probably have seen in the paper the challenges which are frequently made by persons who are under investigation, here and in other jurisdictions, who have tried to challenge at every step the Attorney General when he has been seeking to assist in investigations into organised crime and into

fraud. I am not disclosing anything confidential; there have recently been well-publicised and long drawn-out proceedings in relation to assistance that the Attorney General has been given to the authorities in Brazil who have been inquiring into some very serious alleged corruption and fraud offences. At every stage the lawyers acting for the persons under investigation have sought to impede the assistance that has been given. It would be a God-send, and one of the easiest ways in the world to handicap the Attorney General in this kind of thing, by making spurious complaints to the Law Society. The Law Society would then call upon the Attorney General or whichever lawyer was dealing with this to give a full account of what they were doing and it really would be extremely seriously detrimental to the work of the Attorney General in assisting other jurisdictions and indeed in work in this jurisdiction in the policing of quite serious crimes.

10.4 Deputy of St. Martin:

I can well remember asking questions of how long it was going to take for us to obtain this Law Society Law coming to be and that must have been some years ago and I gather this piece of legislation has taken a number of years to come to fruition. What surprises me really is having come to being that we are now asked to delete something. Maybe we could have an explanation as to why that was not taken into consideration at the time when the Law was drafted. The second question is just as a matter of interest; how much is the subscription to be a member of the Law Society?

Deputy P.N. Troy:

I wondered if I could ask the Solicitor General another question, as to whether this initiative is similarly enforced in other jurisdictions for their legal representatives for any jurisdiction?

H.M. Solicitor General:

I am afraid I cannot assist with the arrangements in other jurisdictions. It is not that I do not wish to assist, I simply do not know.

10.5 Deputy R.G. Le Hérisier:

I did inquire of the Attorney General when this qualification came through and in part answer to the Deputy of St. Martin, Sir, apparently this was something that was overlooked. But I must admit when the Law did go through, as it went through the Legislation Committee over many, many decades, this was never an issue and this apparently did pop-up at the last minute. The only point, Sir, I would make in reference to the Solicitor General is of course if you have a particular assiduous policeman and he or she is very effective at countering crime and, talking in the nature of their work, they are the subject of an awful lot of complaints to trip them up of course. So, I do not think lawyers in that sense are very different. The other thing I would say, Sir, it is always a feature of professionals like doctors and lawyers that they seek self-regulation because they feel they are in the best position to judge the actions of their peers because of their knowledge of the field in which they work and in a way, Sir, it seems quite strange that the Solicitor General should aver that someone like Human Resources could well be put in the position of dealing with a discipline case against lawyers, whereas it strikes me they fought through the establishment of this particular disciplinary procedure. They have fought for the right to be judged by their peers, not to be judged, for example, by a Personnel Department so there seems a bit of inconsistency there.

Deputy K.C. Lewis:

Just a brief question for the Solicitor General, Sir. The Law Society of Jersey, if they were given leave to work outside of the Law Society, or not be members, if there was a genuine complaint, shall we say, to whom would they be answerable?

H.M. Solicitor General:

Does that mean a genuine complaint from a Member of the States or States Department about the service provided by the Law Officers or a complaint from a member of the public? I think the answer is probably different depending on who the complaint comes from. If there is a States entity who has a complaint about the conduct of the Law Officers - if it is a member of the department - that can be raised with the Attorney General or the Solicitor General. If it is a complaint of course about one of us then it would, I think, have to be taken up politically.

10.6 Senator W. Kinnard:

I do hesitate to rise but as one of those who trawled through this law as a previous President of Legislation I am afraid I was not present if this was discussed at the Council of Ministers. I am just a little concerned that I do not think there has been sufficient thought from 2 points; if complaints are made against the police during the conduct of a criminal case this is dealt with after the criminal case has been concluded. I do have concerns that in this day and age of transparency that I still have concerns that it is not as clear to all of us here as to whether what we are suggesting is similar or different to other jurisdictions. My understanding is that all the lawyers for instance in England and Wales are subject to the restrictions and sanctions of the Law Society. I did send a note urging that we should perhaps delay this to have more research done as to what does go on elsewhere and to consider it further and I make that request again now today. Thank you, Sir.

The Bailiff:

I do not wish to join in the debate at all but I hope that Members will appreciate that the Attorney General and the Solicitor General are Crown Officers and are accountable strictly to the Crown. They are of course accountable in a practical sense, as the Solicitor General has said, to whom they provide advice - that is to say States' Members and States' departments - but they are also accountable to the Crown. When a complaint - and I say this without fear of being controversial at all - is made against a Crown Officer, if it is made to the Lieutenant Governor, as the Queen's personal representative over here, it is investigated as appropriate to the complaint which is made. There is no question that the Attorney General and Solicitor General are unaccountable. Does any other Member wish to speak?

10.7 Deputy P.V.F. Le Claire:

I feel confident that the advice that has been given to us by the Solicitor General and also by yourself and your contribution there, Sir - although very guarded in your advice - I think is that the States can take this on board and agree with it in the knowledge that there are avenues for complaints, should we wish to make them. At the moment I am completely happy with the situation that exists between our relationships, with not only the Law Officers but also your good offices, as States' Members, who are accountable to the public, Sir. I believe quite strongly that if I have a view to take-up an issue on behalf of the public, as I do sometimes undertake to do, that I am given a fair crack of the whip in doing so and it is only my abilities or the lack of them that stop me from proceeding.

The Bailiff:

I call upon the Deputy Chief Minister to reply.

10.8 Senator T.A. Le Sueur:

I am grateful to the Solicitor General and indeed to yourself, Sir, for dealing with some of the points that have been raised during this debate probably in a better way than I could have done. In response to Senator Syvret, I simply add that nobody in the Island is above the Law. What we are dealing with here is the best way in dealing with a complaints procedure and it may well be that the situation is slightly different between that of the Crown Officers appointed by the Crown and those practising law within the Law Officers Department who indeed would be employees of the States

working under the Attorney General and Solicitor General. But to the extent, Sir, that these are employees of the States, just like any other employees of the States, complaints should be made in the proper way and in a normal complaints procedure in respect of any States' officer. As to the other comments that have been made from the Deputy of St. Martin, why was the amendment brought in so soon? I think because when one sees something is wrong one tries to put it right as soon as possible. One does not leave it in the wrong. He would like to know how much the subscription is. I am sorry, I did not come prepared with that one because I did not think the quantum of the subscription was particularly relevant to this amendment to the Law. If he is really interested I am sure we can find out for him. The question from Deputy Le Hérissier about whether self-regulation is suitable: I am not really sure what we are getting at there. In terms of complaints procedures I have said there is a formal complaints procedure in place and I will also deal with the comments of Deputy Lewis about any complaint from a member of the public. Senator Kinnard who thinks we should defer this, I think no, it is pretty straightforward. If the Senator is not happy that the Law, in its present form, is addressing the issue then the simply remedy is to vote against the principle of the Law, Sir. I maintain the principle of the law.

The Bailiff:

May I ask any Member who wishes to vote on the principles of the draft, who is in the precinct, to return to his or her seat. I ask the Greffier to open the voting.

POUR: 34

Senator T.A. Le Sueur
 Senator P.F. Routier
 Senator M.E. Vibert
 Senator P.F.C. Ozouf
 Senator T.J. Le Main
 Senator B.E. Shenton
 Senator F.E. Cohen
 Senator J.L. Perchard
 Connétable of St. Saviour
 Connétable of St. Mary
 Connétable of St. Peter
 Connétable of St. Clement
 Connétable of St. Lawrence
 Connétable of Grouville
 Connétable of St. John
 Connétable of St. Brelade
 Connétable of St. Martin
 Deputy R.C. Duhamel (S)
 Deputy A. Breckon (S)
 Deputy J.J. Huet (H)
 Deputy G.C.L. Baudains (C)
 Deputy P.N. Troy (B)
 Deputy S.C. Ferguson (B)
 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 P.V.F. Le Claire (H)
 Deputy D.W. Mezbourian (L)
 Deputy S.S.P.A. Power (B)

CONTRE: 6

Senator S. Syvret
 Senator W. Kinnard
 Deputy of St. Martin
 Deputy C.J. Scott Warren (S)
 Deputy R.G. Le Hérissier (S)
 Deputy K.C. Lewis (S)

ABSTAIN: 0

Deputy A.J.H. Maclean (H)
Deputy I.J. Gorst (C)
Deputy of St. Mary

The Bailiff:

Corporate Affairs, no scrutiny?

Deputy P.J.D. Ryan:

No, thank you, Sir.

The Bailiff:

Articles 1 and 2 are proposed. **[Seconded]** Does any Member wish to speak on either of those articles? I put the articles. Those Members in favour of adopting them kindly show. Against? The articles are adopted and in Third Reading. **[Seconded]** Does any Member wish to speak on the Bill in the Third Reading? I put the Bill. Those Members in favour of adopting it kindly show. Those against. The Bill is adopted in the Third Reading.

11. Draft Licensing (Licence Fees) (Jersey) Regulations 200- (P.99/2006)

The Bailiff:

We come to draft Licensing (Licence Fees) (Jersey) Regulations 200-, Projet 99 - and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Licensing (Licence Fees) (Jersey) Regulations 200-, the States in pursuant of Article 11 of the Licensing (Jersey) Law 1974 have made the following regulations.

11.1 Senator P.F.C. Ozouf:

Economic Development charges for licences for the range of licences in public houses, guest house hotels, restaurants, et cetera. I propose the increases to be within the fixed peg of the Treasury and Resources Minister of 2.5 per cent and I move the Regulations.

The Bailiff:

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

11.2 Deputy of St. Martin:

I brought through a number of these many years ago and one of the questions that used to be asked was why was the 6th Category fee so low. I used to defend the reason partly because it was the small corner shops that felt really the hardship on the small corner shops paying such a low figure but I maintained it was fair. However, it would be fair to say now - and probably the Minister would agree with me - there are very few small corner shops selling off-licence or very few small off-licences and will consideration be given maybe now to bring up that fee in line, possibly even with restaurants because I can think of a number of small restaurants who are having to meet ... it was going to be £423 yet we have large supermarkets selling probably hundreds of thousands of pounds worth of alcohol and yet they are going to be charged £111 fee. So, maybe consideration could be given to bring an increase in this, possibly next year.

11.3 Deputy G.C.L. Baudains:

Looking at this from the opposite angle, I notice that Treasury and Resources have suggested that the fees should again be pegged if at all possible. Would the Minister justify these increases and explain how they assist the tourism industry?

11.4 Senator P.F.C. Ozouf:

In relation to the Deputy of St. Martins' comment in relation to small off-licences, I am perfectly happy to look at that issue. I was not aware of that but I thank him for drawing that to my attention and he will be gratified to know that we are looking at a number of issues concerning licences and I am happy to draw on his experience in relation to licensing matters when we look at this over the forthcoming months. In relation to Deputy Baudains, this of course is probably a problem for Economic Development. This is not tourism. This is a hangover from the previous Tourism Committee where tourism was used as a vehicle to sort out all sorts of problems. The Battle of Flowers tourism is a culture which spans both the domestic market and indeed the tourism market. If we do not increase our fees we cannot recover the costs incurred underlying and carrying out the work that we do in this whole licensing area. I am happy to share with him, if he wishes, more detailed financial costings in relation to the operational costs of the department and to justify them. It is clear we should have increases in fees on a regular basis, keeping up with inflation rather than a jump every few years. But as I say to the Deputy of St. Martin, I will be looking at the whole issue of licensing in a more general way. This is a holding position certainly for this year. I move the proposition, Sir.

The Bailiff:

I put the principles of the Regulations. Those Members in favour of adopting them kindly show. Those against? The principles are adopted. Deputy Southern, Chairman of the Scrutiny Panel, do you wish to scrutinise these Regulations?

Deputy G.P. Southern:

I do not, Sir.

The Bailiff:

Do you wish to propose the Regulations *en bloc*?

Senator P.F.C. Ozouf:

En bloc, including the 6.

The Bailiff:

The Regulations 1, 2 and 3 are proposed. **[Seconded]** Does any Member wish to speak on any of the Regulations? I put the Regulations. Those Members in favour of adopting them kindly show. Those against? The Regulations are adopted in the Second Reading. Do you move the Regulations in the Third Reading, Minister? **[Seconded]** Does any Member wish to speak on the Regulations in Third Reading? I put the Regulations. Those Members in favour of adopting them kindly show. Those against? The Regulations are adopted in Third Reading.

12. Draft Social Security (Reciprocal Agreement with the Netherlands) (Jersey) Act 200- (P.100/2006)

The Bailiff:

Next is the Draft Social Security (Reciprocal Agreement with the Netherlands) (Jersey) Act 200- in the name of the Chief Minister and I ask the Greffier to read the long title.

The Greffier of the States:

Draft Social Security (Reciprocal Agreement with the Netherlands) (Jersey) Act 200-: "The States: "In pursuance of Article 48 of the Social Security Jersey Law 1974 and of all other powers enabling them in that behalf, have made the following Act."

Senator T.A. Le Sueur (Deputy Chief Minister):

Can I ask the Minister for Social Security to deal with this?

12.1 Senator P.F. Routier:

I am pleased to be able to present this reciprocal agreement on behalf of the Chief Minister. Of course under the new Ministerial system responsibility for international affairs rests with the Chief Minister so this is the first agreement like this to follow that path. The agreement with the Netherlands follows a standard model that has been in place for many years. Inevitably with each negotiation, amendments are made to reflect changes in domestic legislation. In this case a change in the domestic legislation in the Netherlands would have adversely affected Dutch pensioners resident in the Channel Islands and remedial action was taken in resurrecting this agreement which had been delayed for some time. Article 34 explains that the Dutch have unilaterally implemented parts of this agreement with effect from 1st January to protect Channel Islands pensioners. Other than that, Sir, this agreement reflects the standard agreement which is used for many other countries. Sir, I make the proposition.

The Bailiff:

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

12.2 Deputy P.V.F. Le Claire:

Just a general question, if I may, Sir. I noticed when I was reading it the reason for it was because it would be adversely affecting pensioners. I would like to ask a general question in as much as which other countries do we not have reciprocal agreements with that the Minister is aware of that he perhaps thinks we will be in need of developing in the future and how will that occur? Are there many? Are there just isolated incidents, or is it because this has been the result of a change of a Dutch law, thereby only affecting any E.U. member state?

The Bailiff:

I call upon the Minister to reply.

12.3 Senator P.F. Routier:

The reciprocal agreements which we have been working on for a number of years which have been of most interest to a fair number of people within Jersey is the one which relates to Ireland. I am pleased to be able to say that we have now had an indication from the authorities who negotiate these matters that the Irish reciprocal agreements should be in place within the next couple of months, so that should be coming back to us which - will be a great relief and good news to people from Ireland who live in Jersey. Of course the one which is also of great importance now is for Poland. Poland is an area which we have asked our negotiators - as these negotiations are carried through the U.K. ... Poland has been identified obviously for us as another country which we need to have a reciprocal agreement with and that currently rests with the Polish Government. We have made the approach to them and it rests with them. Unfortunately these negotiations for reciprocal agreements take many years to put into place as we have had the experience of with the one we are debating today. The Netherlands one goes back up to 20 years we have been trying to have this in place. So, because there are so many parties involved in these negotiations it does take some time to bring into place. I hope that answers the question for the Deputy and I maintain the proposition, Sir.

The Bailiff:

I put the proposition. Those Members in favour of adopting it kindly show. Those against? The proposition is adopted.

13. Statistics User Group: appointment of Chairman – (P.107/2006)

The Bailiff:

We come to the last item of public business Projet 107 - Statistics User Group: Appointment of Chairman and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act dated 17th November 1999 in which they approved the establishment of a Statistics User Group and to approve Mr. Charles Christopher Gooding Clarke as Chairman of the Statistics User Group for a period of 3 years commencing on 15th October 2006.

13.1 Senator T.A. Le Sueur:

For Members of this House to make good decisions we need good statistical information and I am pleased to say that we have a statistics department within the States which is growing in size and stature and the number of statistics we have is increasing, although still not as much as most developed countries would have. Aligned to that is the need for an independent body to review and comment on those statistics, and I am pleased that we have such a body in the Statistics User Group and I would like to pay tribute and thanks to those members of the public who are members of that group and who give freely of their time. This proposition is to replace the previous Chairman, Mr. John Boothman, who resigned last year, and I am pleased to propose the name of Mr. Charles Clarke whose C.V. (curriculum vitae) is shown in the report. It is important to have a Chairman of stature to reflect the importance of this user group. I am pleased that Mr. Clarke has been prepared to put his name forward for this post, Sir, and I have great pleasure in proposing his nomination.

The Bailiff:

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

13.2 Senator J.L. Perchard:

I would like to pay tribute to the retiring - albeit it was over a year ago - Chairman, Mr. John Boothman. I thought he was doing an excellent job. I wish his successor well and remind Members that it is an honorary position and that these people give of their time freely and they do not expect to be castigated and verbally abused by Members of this House, I do not expect.

13.3 Senator S. Syvret:

If people in the position that the former Chairman was in wish to engage in writing a *de facto* party political column in the paper each week in which they abuse Members of this Assembly, if they choose to put their head above the parapet in that way, I am afraid they must expect the consequences. The message is, if you cannot stand the heat get out of the kitchen.

The Bailiff:

I call upon the Minister to reply.

13.4 Senator T.A. Le Sueur:

I would like to end on a positive note by thanking both Mr. Boothman for his services in the past and Mr. Clarke for putting his services forward to the future. I maintain the proposition.

The Bailiff:

I put the proposition. Those Members in favour of adopting it kindly show. Those against? The proposition is adopted.

14. Ministerial Government: review of first 12 months (P.77/2006) - for later debate

The Bailiff:

I notify Members that in accordance with standing order 32, Senator Shenton has informed the Greffier that the proposition ministerial government review of the first 12 months should be listed for debate at a later date and not today. So, we come to the arrangement of public business of future meetings.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

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

I would like to propose the schedule outlined under M on the pink sheets with the exception that with the agreement with the Minister for Treasury and Resources P.65, - "Draft Howard Davis Farm (Removal of Covenant) (Jersey) Law 200- listed for 7th November is moved to 21st November and will be taken prior to Projet P.68, which is Howard Davis Farm, Trinity, parts of field 562, 827 and 828 sale of land.

The Bailiff:

Is that seconded? [**Seconded**]

Senator T.A. Le Sueur:

I have no objection to that projet being moved from 7th to 21st November. I give Members advance notice that we may well want to make a final amendment to that proposition in any event but that would give us more time to deliberate.

Senator P.F.C. Ozouf:

I would like to deal with the issue of P.113/2006 – "St. Aubin: proposed land and reclamation improvements - impact assessment". This proposition has been lodged only a few days and indeed it was some surprise that I read of the proposition, having had knowledge of the fact that there had been an inter-Ministerial meeting concerning this very issue. This issue does need a full and proper assessment by Economic Development, by the Harbour Authority and by other interested Ministerial colleagues and I would respectfully suggest to Deputy Ferguson that this matter should be deferred by at least a couple of weeks in order that this Assembly can be informed with a proper report of what was already going on, as I think she will be aware. I would propose that the matter is deferred until 7th November on the basis that 24th October looks like a pretty full agenda.

Deputy S.C. Ferguson:

This proposition was lodged before the inter-Ministerial meeting, I regret to say, however I am quite happy for it to go back to 7th November so that more work can be done.

Senator W. Kinnard:

Just moving to 21st November: P.94 – "Policing commercial and profit-making events: new 'user pays' change although that is down for that debate on 24th October, I am going through the procedures now of withdrawing that and replacing it with a new proposition so although it is on there, Sir, it will probably disappear by the time Members see the sheet again.

The Bailiff:

It need not fall off at the moment. It stays there for adjournment.

Senator T.A. Le Sueur:

May I just say in respect of a meeting in 2 weeks time, Sir, there is a proposed debate on the headland site and while I appreciate the urgency of dealing with this - and I am sure the Planning Minister will welcome this being dealt with as soon as possible - it does occur to me that in order for the Council of Ministers to give a meaningful report to this we are cutting time rather fine and I cannot guarantee to Members that we will have as full a report as they should have within this time scale. On balance, Sir, I would prefer to leave the proposition on that date with that caveat for Members.

The Bailiff:

Are Members content with those amendments and content to adopt the revised programme? Thank you. That is adopted.

ADJOURNMENT

The Bailiff:

That concludes the business before the Assembly. The meeting is accordingly closed.