

# STATES OF JERSEY

## OFFICIAL REPORT

**WEDNESDAY, 18th APRIL 2007**

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

**PUBLIC BUSINESS (...resumed)**

**1. Draft Goods and Services Tax (Jersey) Law 200- (P.37/2007)**

**The Bailiff:**

Now the debate resumes upon the Draft Goods and Services Tax (Jersey) Law. The debate in Second Reading has reached Article 90.

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

I can propose Articles 90 and 91: 90 dealing with obstruction and 91 dealing with dealing in goods. The penalty for obstruction is relatively lower and that for dealing in goods just has an offence of a fine. I propose Articles 90 and 91.

**The Bailiff:**

They are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on either of Articles 90 or 91? I put those Articles. Those Members in favour of adopting them, kindly show? Those against? They are adopted. We move Article 92.

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

Article 92 deals with companies, directors and partners of businesses and those who aid and abet and, again, indicates the penalty for those who take part in such activities. There is an amendment to Article 92 but I propose Article 92 as it stands.

**The Bailiff:**

They are proposed. Are they seconded? **[Seconded]** There is, as the Minister has said, an amendment in the name of the Corporate Services Scrutiny Panel. I ask the Greffier to read the amendment.

**The Deputy Greffier of the States:**

Article 92; in paragraph 1, for the word “neglect” substitute the words “gross negligence”.

**1.2.1 Deputy P.J.D. Ryan of St. Helier:**

The previous 2 amendments and this one all fall into the category very definitely of the scrutiny of legislation in its minutiae. If Members would care to turn to page 33 of our review, and particularly paragraphs 154 and 155 at the bottom, Members will see the references to this particular amendment to do with the treatment of directors in a limited company or managers or other officers. It is to do with personal liability. Before I go much further talking about this, I would like to just - if you do not mind, Sir - remind Members of what happened yesterday evening. It was 5.00 p.m. Members were tired; so was I. After all, I had been up and down on my feet making speeches yesterday. One of those speeches was particularly stressful and was absolutely devoid of any kind of pleasurable experience. However, Senator Norman was absolutely right because he pointed out that my performance in delivering those amendments to the House was jaded. It was. I was tired. Now I would ask Members to look at the detail of this amendment with one eye and listen to what I am saying with their ears. Maybe I was a little bit negligent. I leave Members to decide for themselves as to whether they feel we were a little bit negligent, maybe, because those amendments that we proposed last night were fully researched. We took legal advice from the Attorney General. We took legal advice from our technical adviser who has a degree in law. He is not a practising lawyer, I was wrong there, but he has a degree in law and he is a fully qualified accountant and he is a senior lecturer in tax law at a well-respected university in the United Kingdom. We looked at that information. We looked at the detail. We also consulted with the

Offices of the Treasury over those 2 amendments, and we noted that the Treasury, initially, had lower prison sentences than the Attorney General had superimposed. We listened to the arguments of the Attorney General with great respect but we were still not convinced. That is why we brought those 2 amendments to the House for your review. Were we a little bit blasé? Were we a little bit negligent in dismissing them so quickly? I leave Members to decide. Now let us come to this amendment. It is over the choice of words. Again, we took all of the advice. We spoke to the right people. We have spoken to the right people. It has been explained to us that there is a particular meaning of the word “negligent” in law. Oh, fine, but is that particular meaning of the word “negligent” in law right? If the precedent has been set in the past of the use of the word “negligent” in company law, were we a little bit negligent if we let it go through? Because, quite honestly, most people’s common understanding as lay people of the law is that negligent is one thing but gross negligence, which is what we are attempting to amend to, means to most people something else entirely. What we are saying is that the Law does not do what it says on the tin. Our view is that that is wrong, that a law should mean to common people one thing by their understanding of English, whereas it means something entirely different to lawyers. That is the essence of what we are talking about here. I hope I have explained myself as carefully and as eloquently as possible on what has led us to bring this amendment to the States, because we want the States to give a view as to whether they believe law should do what it says on the tin to ordinary people or whether it is right that lawyers should take a slightly different view to what words mean, other than what is common English. To us, negligent is not sufficient to warrant personal liability under the normal shroud of the corporate veil. We can all be negligent. We can be tired. We can lose control for a short while of someone that reports to us who is likely to be doing the G.S.T. (Goods and Services Tax) returns. That is not excusable, but does it warrant personal liability which could amount to a very large amount of money? Or is it better to raise the bar a little under these circumstances and go for gross negligence, because that is what it means to most of us? Let us give a director or a senior officer of a company the opportunity to make one mistake, maybe, and be negligent, but gross negligence is where, in my view, the personal liability should start coming into it. Just on a final note, I said it yesterday and I will say it again: of course businesses are obliged to follow the law and collect taxes free of charge for us. They would be the first to say: “Of course we will do that.” But I said it before and I say it again, we do need the co-operation of the business community. What is right in our society, what is the right attitude to have for a law like this in our society, we need the co-operation of the business community. What kind of message does this send out unless we have a proper and correct raising of the bar for personal liability? That is our view. It was properly researched. I hope Senator Norman will not accuse me of being jaded or not being robust enough in my promotion of this amendment. I leave it to Members and will listen carefully to your comments. Thank you.

#### **The Bailiff:**

Is the amendment seconded? **[Seconded]** The amendment is open for debate. Senator Syvret?

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

I will not be supporting this amendment because it seems to me there are a number of problems with it. First of all, if you substitute the word “neglect” to replace the words “gross negligence” you reduce the seriousness, scope and scale of the offence. Thus, I think you lose a significant deterrent effect that the Law would have. I would also have imagined - and I am open to correction from the Attorney General - that gross negligence, that actual phrase “gross negligence”, is probably very difficult to prove. It would have to be very clear-cut in order to make such a charge stick, I would have thought, in a court of law, whereas simple neglect might be easier to persuade the court to convict on. In any event, it seems to me that there are a number of hurdles that have to be crossed before a prosecution succeeds. First of all, the police or the inspectorate or whoever is looking into it have to merit the matter of sufficient concern to investigate it and compile a report on it. They then have to submit it to the Law Officers’ Department, the A.G. (Attorney General) or

S.G. (Solicitor General). They will have to inspect it to decide whether it is an offence that merits a prosecution. They will then have to take it to the court and persuade the court that an offence has been committed and then have to persuade the court that the offence is of sufficient gravity to merit any serious punishment. It does seem to me that there are an awful lot of hurdles and safeguards there that would, I think, in reality - in the real world - protect people from unreasonable or excessive investigations and prosecutions because of the word “neglect”. So, Sir, I will not be supporting this amendment.

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

I can sympathise with Deputy Ryan in making sure that we understand what this Law is supposed to mean. I am not a lawyer either, so I will bow to legal advice as to how law is interpreted. I will simply point out, as proposer of this Law, that Article 92 in this Law reflects the situation in the other laws of this Island. Were we to accept the amendment, this Law would then be out of step with all those laws. It may be that we are all out of step except Deputy Ryan, but I tend to believe that this Law is consistent with other laws on the Island and also appropriate to this Law. On that basis, subject to any other interpretations which wiser legal minds may be able to give, I could not accept the amendment.

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

Could I ask through the Attorney General whether, if you take the proposal by the Corporate Services Scrutiny Panel, that if the States made that decision, is it a charge that can be reduced at a court hearing similar to that of assault and grievous bodily harm, *et cetera*? Or is it one that stands on its own and if you are unable to prove that one, then that is it, you cannot reduce it?

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

No, Sir, you will not be able to reduce it. The way the offence works is that first of all you need to prove that the company or the partnership has committed the offence and that that offence, therefore, has the state of mind and the other provisions which are in the relevant company offences. Having proved that, you then have to prove that the company’s offence was committed either with the consent or connivance or attributable to any neglect on the part of the partner or the director. It is not something that can be reduced. It is either neglect or, if the amendment were to be accepted, gross negligence. That is the answer to the Deputy’s question.

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

Then I would not be able to support this amendment. The main reason is, as I also said yesterday, that laws are there also to provide prevention. Although they do have the purpose of detection, the primary role in all law is to try and prevent a crime being committed. If you have something that is weak in the first place, there will be people that will not treat the rules and the laws of society seriously and say: “Well, it does not matter.” Obviously society or the law makers do not believe it is because otherwise they would not have had such a low margin offence. They would have put it at a far higher degree. In prevention terms, if you get an organisation, company or whoever it is, when they are training their personnel they will be doing it in such a way to emphasise the importance of accuracy, the importance of why the law was brought in and the reasons behind it. Therefore, I cannot support this amendment. Thank you, Sir.

### **1.2.5 Deputy R.G. Le Hérisier of St. Saviour:**

I have some sympathy for Deputy Ryan. I must congratulate the Panel on teasing out these issues. I think they have done an excellent job. This is, quite frankly, a very turgid debate and it does provide a slight degree of interest, so to that extent I must congratulate them. I am worried, Sir. I notice the Attorney General skated over the issue of “attributable”. If there is a case of an employee who is a rogue employee, you could well argue that is because your structures, your procedures and so forth are not strong enough and, therefore, you must ultimately accept the blame



for that, but I would like to direct to him the question: what does “attributable” mean and does it cover instances like a rogue employee who, despite the best intentions of the management, is manipulating the system and perpetrating a fraud? Secondly, could he give us his definition of the difference between negligence and gross negligence?

**The Bailiff:**

I think the Attorney General was answering a question from Deputy Fox before, but perhaps we should invite the A.G. to address the matter substantively.

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

I will try and take up the questions which Deputy Le Hérisier has asked as well, but starting with the Minister’s comments, the language in Article 92 is standard language which appears in many other laws which have been adopted by the States. Indeed, the Criminal Offences (Jersey) Law, which was adopted by the Assembly on 27th February 2007, uses this language and carries it forward for all new offences, whether the offence is committed by a company or a partnership, whether the language appears in future statutes or not. So the States Assembly has already agreed that this principle ought to apply to all criminal offences which are committed by companies or partnerships. It is going to be an oddity if there is a different test in this legislation than a general framework law which the States has passed only 6 weeks ago or so and is awaiting Royal Assent. As I said earlier, the corporation must have committed the offence before the directors are personally liable. As to the question of gross negligence and/or neglect, gross negligence is a phrase that does appear in some statutes which deal with civil liability, particularly things like trustee liability under the Trust Law, and there have been cases on that. I have no doubt that the court will do the best it can. Gross negligence is the test in criminal proceedings, but it is not the usual test that is applied. There is the offence of manslaughter by gross negligence, so there are cases where you can advance this test and they do exist. The right way of looking at it is that it is a higher standard of neglect, if I can put it that way, before the criminal liability exists. If the misconduct of the company is attributable to the neglect, that is not the same thing as being attributable to the gross negligence of a director because the director would have had to have acted considerably worse than just neglect. I would say that the Scrutiny Panel have, if I may say so, gone wrong by talking about infringing the principle of limited liability. That really is a civil law principle and I do not for my part see this as being relevant to the criminal law whatsoever. I think the report of the Scrutiny Panel in that respect is not correct. The question of “attributable to the neglect”, which is the second thing that Deputy Le Hérisier asked me, is going to be a question of fact for the court of trial. The court will receive the evidence of the offence which has been committed and, if the director or the partner is indicted as well, will have to decide whether his conduct or something that he has done or not done is so bad that he ought to be fixed with the criminal liability, but that is going to be a question of fact for the trial court. In this case it will mean that the 2 Jurats who are sitting on the trial will have to decide whether they think on the facts which are produced the director has acted in such a way that he or she ought to be fixed with that criminal liability. So it would be a question of fact in each case. If I may say so, I would like to encourage Scrutiny Panels very much to continue an active review of the detail of legislation. I personally think that is a very important thing for Scrutiny Panels to do. But on this occasion, I respectfully say to the Chairman that the Panel has got it wrong.

**1.2.7 Deputy S.C. Ferguson of St. Brelade:**

Just really as a matter of clarification, in his comments the Minister said he is prepared to accept the views of the Corporate Services Scrutiny Panel and he has just stood up and said he is going to oppose it.

**The Bailiff:**

Do you wish to respond to that, Minister?

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

I am happy to admit, Sir, that I made a mistake.

**The Bailiff:**

But not a grossly negligent mistake. **[Laughter]** Constable of St. Ouen?

**1.2.8 Connétable K.P. Vibert of St. Ouen:**

I cannot support this amendment because it seems to me that the 2 previous amendments brought by the Panel and this amendment are totally inconsistent. It appears to me as a layman that the 2 previous amendments were aimed at lessening the offence by reducing the penalty, whereas this amendment appears to me to be attempting to make it a more serious offence. To me that is a totally inconsistent approach.

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

Very quickly, as a Member of the Panel I got totally confused halfway through as well, but thank goodness we had the benefit of really good legal advice and terrific advice from our adviser. I think at the end of the day any simple person would say that what we were trying to do here is to obviate the chance of a slip of the pen being construed as negligent. We were trying to say that mistakes can be made; they are not necessarily negligent. We thought the words “gross negligence” would, in fact, tie down the offence to an actual offence rather than a mistake.

**The Bailiff:**

I call upon the Chairman to reply.

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

I am going to just take up a little time of the Assembly because I think the principle of scrutinising legislation is an important one and we should, therefore, give it the respect and the detail and the time that it deserves. So I am going to take up the time of the Assembly just a little bit. First of all, I would like to address a couple of remarks towards Senator Syvret. I think we all know that intellectually Senator Syvret has certain views, and they are certainly highly respected by me in many places, many ways, but I think that he has a range of views that in some cases could be described as on the left and in some cases quite a long way to the right of the political spectrum. When it comes to company law and when it comes to the question of disciplining those very bad people that run companies for a profit and when it comes to punishing them for their misdemeanours, I believe that Senator Syvret’s views fall rather to the right sometimes, if he does not mind me saying so. **[Interruption]** I would ask Members to bear that in mind when they view what Senator Syvret had to say. Deputy Fox, of course there is prevention in the Law. Of course. Of course, we could maximise the prevention in any law by making it a capital offence. I am only saying that in order to illustrate the point, and the point is that of course there is prevention but it is a question of balance. Our view was that the balance was a little bit wrong here. That is what we are saying. We are not for a minute suggesting that there should not be prevention in the Law. I would like to thank Deputy Le Hérissier for his kind words, generally speaking. Thank you. To Mr. Attorney General, how much scrutiny was there of the Criminal Offences Law? How much did we scrutinise the use of the language in the Criminal Offences Law? Perhaps it was my job to do it. Maybe I was a little bit negligent. **[Laughter]** A law should do what it says on the tin. This is the point: if we need to change other laws, then that is what we need to consider doing. I leave it there, Sir, and ask for the Appel.

**The Bailiff:**

The vote is for or against the amendment of the Corporate Services Scrutiny Panel, and I ask the Greffier to open the voting.

<b>POUR: 10</b>	<b>CONTRE: 34</b>	<b>ABSTAIN: 0</b>
Senator B.E. Shenton	Senator S. Syvret	
Connétable of Trinity	Senator L. Norman	
Connétable of Grouville	Senator W. Kinnard	
Connétable of St. Brelade	Senator T.A. Le Sueur	
Deputy R.C. Duhamel (S)	Senator P.F. Routier	
Deputy P.N. Troy (B)	Senator T.J. Le Main	
Deputy R.G. Le Hérissier (S)	Senator F.E. Cohen	
Deputy S.C. Ferguson (B)	Connétable of St. Ouen	
Deputy P.J.D. Ryan (H)	Connétable of St. Mary	
Deputy of St. John	Connétable of St. Peter	
	Connétable of St. Clement	
	Connétable of St. Lawrence	
	Connétable of St. Martin	
	Connétable of St. John	
	Deputy A. Breckon (S)	
	Deputy J.J. Huet (H)	
	Deputy of St. Martin	
	Deputy C.J. Scott Warren (S)	
	Deputy J.B. Fox (H)	
	Deputy G.P. Southern (H)	
	Deputy of St. Ouen	
	Deputy of Grouville	
	Deputy of St. Peter	
	Deputy J.A. Hilton (H)	
	Deputy G.W.J. de Faye (H)	
	Deputy P.V.F. Le Claire (H)	

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

**The Bailiff:**

Now we return to the debate on Article 92. Does any other Member wish to speak on the Article unamended? I call upon the Minister to reply.

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

I thank the Attorney General for clarifying this Article and, in fact, the whole of Part 17. I am sure the House shall be grateful for that advice. I propose Article 92.

**The Bailiff:**

I put Article 92. Those Members in favour of adopting it kindly show? Those against? The Article is adopted. We come now to Part 18, Article 93.

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

The last part of the Law - the miscellaneous part - is normally a straightforward collection of odds and ends. I suspect in this particular Law Part 18 may take a little bit longer. First of all, in Article 93 we have a fairly standard schedule to give powers of entry and search of premises and persons by authorised people for authorised purposes. There is an amendment to Article 93 but I propose Article 93 in its present form and would not accept an amendment from the Scrutiny Panel.

**The Bailiff:**

Article 93 is proposed and seconded? **[Seconded]** There is an amendment to Schedule 8, I think, in the name of the Corporate Services Scrutiny Panel. I ask the Greffier to read that amendment.

**The Deputy Greffier of the States:**

Page 110, Schedule 8, paragraph 7: renumber the existing text in paragraph 7 as sub-paragraph (1) and add the following sub-paragraph: “(2) The right of entry conferred by sub-paragraph (1) may only be exercised where the authorised officer has reasonable grounds (a) for suspecting that an offence under this Law or the Regulations has been, is being or is about to be committed on the premises; and (b) for believing that there is evidence of such an offence on the premises that would be removed or destroyed before a warrant may be obtained under paragraph 8.”

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

The first thing I am going to say to the Assembly and to you, Sir, is that we are going to seek leave from the Assembly to withdraw this amendment. I do not want to waste the Assembly’s time in

any way, but I think, therefore, I owe an explanation to the Assembly. First of all, let me say that we did run out of time a little bit in this review.

**The Bailiff:**

Mr. Chairman, can I just say you are perfectly entitled to withdraw the amendment if you have not stood to propose it. You are just giving an explanation for...

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

May I give an explanation? I am giving an explanation for our wish to withdraw it, the seeking leave to withdraw it, Sir. We ran out of time a little bit. I will certainly not admit to being negligent now that the last amendment was lost, but because of the choice of words, we were seduced into thinking that this was the place where we would get a situation where the G.S.T. Treasury staff or G.S.T. enforcement staff would be banging down doors in the middle of the night, *et cetera*. It brought connotations of that kind of circumstances. We carried out further research after the report came out and after the amendment went in, which culminated last Monday in me having a meeting with the G.S.T. Director where it was explained to me that the normal powers that a G.S.T. inspector would need to be in place in order to go and carry out a normal routine G.S.T. inspection on a business premises was contained in this particular Article in the Law. We had assumed that those standard powers to go and make G.S.T. inspections were either in another part of the Law or would come in Regulations and that during the Regulations we would see that particular power. So we made a mistake but we were seduced into making that mistake by the choice of words in the power to enter. It gives that kind of connotation. I think I would ask the Minister to perhaps make a commitment to look again at the wording of that because it does send out the wrong kinds of messages. If it meant that we made the mistake, I am sure that others would make the same mistake. Perhaps if the Minister would be prepared to look at the actual wording of the title, then I am sure that it would be helpful. I seek leave of the Assembly to withdraw the amendment.

**The Bailiff:**

You do not need leave if you have not moved it, Chairman, so that amendment is withdrawn and the debate continues upon Article 93 in Schedule 8. Does any Member wish to speak on that Article or that Schedule? Deputy Mezbourian?

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

I just seek clarification in section 11 where it refers to an authorised person executing a warrant who may be accompanied by a police officer during the execution of the warrant. I would like to know whether that applies to a States' Police officer and/or to an Honorary Police officer?

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

It applies to both.

**The Bailiff:**

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

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

I am grateful to Deputy Ryan for withdrawing this amendment and explaining why. I do concede that the heading of section 7 of Schedule 8, Power to Enter, could be misinterpreted. I do not draft the headings to the Laws but I take the point, very much so. It is really power to inspect records which is perhaps more relevant, but power to enter is, I think, equally an appropriate phrase if it is understood. With that, Sir, and I think having had Deputy Mezbourian's question answered by the Attorney General, I propose Article 93.

**The Bailiff:**

I put Article 93 in Schedule 8. Those Members in favour of adopting them, kindly show? Those against? They are adopted. We come now to Article 94.

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

Article 94 deals with display of retail prices and, again, is the subject of an amendment which may provoke some discussion. I have to say that there are clearly 2 schools of thought in this area as to whether goods displayed on the shelves should indicate what a customer is going to have to pay when they buy the goods or whether there should be a notice at the till saying that when you buy these goods you will be charged an additional 3 per cent. That is an issue on which different Members may well have different views, and I would simply point out that the situation throughout the U.K., Western Europe, most of the Antipodes, in fact everywhere apart from the U.S.A. and Canada, has gone for an inclusive pricing regime. Again, it may be that everyone is out of step except us, but I tend to believe that it would be unusual, to say the least, for Jersey to adopt a regime or an arrangement different from the rest of Europe and most of the rest of the world. I accept that Canada has different arrangements, as has the U.S.A., but I think their taxes are a bit peculiar in that they are not standard G.S.T. My opinion is that, in fact, probably public opinion will ultimately decide that we would like to be consistent with the rest of Europe. I was, in fact, quite heartened by the comments of this Scrutiny Panel in their report which indicated that probably sooner or later that would happen. What Article 94 does is really leave the door open. It is a permissive Law which allows us to make provision for prices in different ways. I will speak about the amendment when it is being proposed, but I think the amendment ties us more clearly into one particular regime. That may be a good thing to give certainty. I would counter that in a situation where there are clearly uncertain views, it is better not to put that into primary legislation but to leave it in Regulations. Therefore, I believe that the present Article in its present form is more appropriate and I propose Article 94.

#### **The Bailiff:**

Article 94 is proposed and seconded? [**Seconded**] As the Minister has said, there is an amendment in the name of Deputy Breckon. I ask the Greffier to read that amendment.

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

Article 94; at paragraph 2 substitute the following paragraph: “(2) Those Regulations may (a) require that advertisements, labels, receipts or other things that are or include expressions or indications of retail prices for goods or services supplied shall make separate mention of and prominently display the amount of the price that consists of G.S.T.; and (b) specify the circumstances in which advertisements, labels, receipts or other things that are or include expressions or indications of retail prices for goods or services supplied shall specify the amount of the price that consists of G.S.T. (i) on each item; or (ii) on the cumulative value of all the goods or services supplied at the same time to a person.”

#### **1.4.1 Deputy A. Breckon of St. Saviour:**

I would like to begin by looking at the timing of this. Members will be aware that it was lodged on 6th March 2007 and here we are some 6 weeks later having this debate. I understand the Law has been delayed in other places, but the question I would ask is, is this a major policy development? I would suggest it does and it drills a long way down and I think there should have been some consultation along the way. I was reminded of this with a report that was before the Council of Ministers on 25th January about public consultation. I would like to quote a couple of extracts from that because I think it is important. It says in this document: “The States accepts that it must keep the public much better informed of its activities to improve mutual understanding and increase confidence and pride in what we do. To add to this, the new system of government will provide greater openness and accountability assisted by the scrutiny process, which will help to engage the community with the work of government. These improved processes are designed to reconnect the

public with its government and establish a stronger sense of citizenship and community so that Jersey becomes a place of confidence in which important issues are honestly presented, widely debated and clearly understood. To do this, the States has agreed (1) to develop a mechanism for effective public participation [and that is contained in the Strategic Plan at bullet point 5.1.2]; and (2) to introduce a framework of formal consultation for all major policy developments” [and that is at bullet point 5.1.3]. I would say that this is a major policy development and I would question where the consultation is. I mentioned yesterday about the road show, but I would say that when this document emerged many organisations and individuals have been ill-prepared to respond to it in a constructive manner - especially, I would suggest, about how Goods and Services Tax is levied at the sharp end. I think the consultation has been none or little and that, I think, may have led to a public disconnect. This report also mentions at page 5 about good consultation and guiding principles. Again, it mentions: “Consultations in Jersey should be based on the principles which underpin States communications, which are; openness not secrecy; direct communication with the public; genuine engagement with the public as part of policy formation and delivery; positive presentation of government policies and achievements; use of all relevant channels of communication; co-ordinated communication of issues that cut across departments; reinforcement of public services’ political impartiality. The purpose of consultation is to make the involvement of the public in decision-making effective, opening it up to as wide a range of people and organisations as possible. Effective public consultation will (a) improve decision-making, ensuring that decisions are soundly based on evidence having taken account of the views and experience of those affected by the choices; (b) ensure everyone with an interest in a decision has the opportunity to express their view and know their interests have been taken into account; give good feedback to the public on the reasons why decisions have been taken, why choices have been made and why other options have been rejected; provide good basic standards so that the public develops confidence in the process. To do this, standards must be accepted and used by both Executive and non-Executive areas of government.” The conclusion is that that will create a stronger sense of citizenship. I would suggest, Sir, that this particular piece of legislation has failed miserably on most of those counts. In amending Article 94, Sir, I am seeking not to have an inclusion but an exclusion. The Economic Development Minister, who unfortunately is not here, made reference in the States on 13th March 2007... and he later supplied a background paper and made a statement. In that statement, he made reference to, subject to States approval, the introduction of Goods and Services Tax. The language he used in there was: “The Minister for Treasury and Resources and I have carefully considered the question of how G.S.T. should be charged by traders on the goods they sell to consumers.” He went on to say: “We are particularly keen to ensure...”, we being the 2 Ministers, and he also said: “The Minister for Treasury and Resources and I are concerned that ...” and he concluded by saying: “It is equally important to ensure that traders and consumers have certainty on the issue ahead of the implementation of Goods and Services Tax.” That, Sir, is clear to me who is making the decision. We did hear Members say yesterday, of course, this is not the place to debate this; we have already decided. My fear is that this would then become: “We have already agreed this.” When the Regulations come, the principle has been agreed, I am sorry but it is too late. I have known that happen many, many times before. That was a real concern that I had. What my alternative seeks to do is, in the first part, it says: “Require that advertisements, labels, receipts and other things that include expressions or indications of retail prices for goods and services supplied shall make separate mention of and prominently display the amount of the price that consists of G.S.T.” An example of that would be that a shop or supplier could say prominently that all prices on these premises are not inclusive of G.S.T. and the present rate is X per cent, because it will change. So this is not a one-off exercise; it is a cost that will have to be borne in the future by people out there at the sharp end that somebody, I would suggest, is going to have to pay for. It is important, I think, and I stress at this point that G.S.T. will change in the future. Other Members mentioned yesterday that there could be variations on different rates so, therefore, I believe we must make it as simple as possible. I believe what I am proposing will do that. It is a simple method of dealing with it, not just initially but also in the future. The second part of my

amendment, (2)(b), is to: "Specify the circumstances in which advertisements, labels, receipts and other things that include expressions or indications of retail prices for goods and services supplied shall specify the amount of the price that consists of G.S.T. (i) on each item; and (ii) on the cumulative value of all the goods and services supplied at the same time to a person." I think that is important because it does give an either/or clause. If a car, for example, costs £10,000, the price could say it was inclusive or it could say it was not. Therefore, it would be on each item. However, when you drill down to a range of items, then it becomes an absolute nightmare for the traders to do that, especially things that are not easily transferable with a sum of 3 per cent. I believe this would have a particular consequence which would be against consumer interests in supermarkets and small shops. I would like to give an example of how I believe that would drill down. Take a small shop scenario, and you have a small boy in there with his grandfather and he is looking at the sweets. We have all seen them; Deputy Le Hérissier got has a drawer full, we know that. **[Laughter]** Penny Arrow bars, Fruit Salads, Blackjacks, Flying Saucers, that sort of thing, and the little boy is having a look. The sweets are set at a level where the eyes and the hands of the little boy can see. I want Members to imagine that all these sweets are price inclusive. The little boy says to his granddad: "What is G.S.T., Granddad?" "Oh, G.S.T. is very important" says the granddad. "Is G.S.T. a good thing on my sweets, Granddad? Do I get more sweets with G.S.T.?" "No, son, you get less and they cost you more." "That is not fair, Granddad" says the little boy. "That is Ministers for you, son." **[Laughter]** "What is a Minister, Granddad?" "Do not ask, son, do not ask." "Do Ministers eat sweets, Granddad?" "I do not know, son. I think they get free cake and biscuits." "Can I be a Minister, Granddad?" "One day, son, one day." "What is an E.C. (European Commission) Directive, Granddad? Is it good for sweets?" "Good question, son." "Where does an E.C. Directive come from, Granddad?" "Good question, son." "Do we need an E.C. Directive on sweets, Granddad?" "I do not know, son." "What is a price marking Order, Granddad? Is that good for sweets? Can I lick it? Is it edible?" "Good question, son." "Do we need a price marking Order, Granddad?" "I do not know, son. Another good question." "Who does all these things, Granddad?" "Good question, son." "Why are they so interested in my sweets, Granddad?" "They are not, son, it is your money." "For my sweets, Granddad? That is not fair. What do Ministers do, Granddad?" "They charge you more for your sweets, son." "Do I get income support on my sweets, Granddad?" "That is a very good question, son." So this conversation could go on and you can see it is an educational thing because the kid knows now about G.S.T. and he has asked lots and lots of questions. How do you manage that in a small shop? It becomes a nightmare, an absolute nightmare, as indeed does rounding prices. If you look at something that costs 50 pence and you put 3 per cent on it, it does not work unless we reintroduce the half penny. When it is rounded it becomes 52 pence, which is not 3 per cent, it is 4 per cent. What happens if we change it in the future? Do retailers go back to base and say it was 50 pence, we did that then, or do they work from where they are now? If you look at 10 items - I have used an example in there - instead of being £5.15 they become £5.20. Now, it is 5 pence but we have talked about low income and perhaps that is the area where there should not be hidden prices, there should be transparency, I would suggest. There is also the logistics of re-pricing. Many things come in with prices already on them. If this has to flow through, then it is a continuous process. It is not a one-off; it goes on for a long, long time. In fact, it goes on for ever. Just to give you some idea, the larger Jersey supermarkets would stock something like 14,000 items. In general terms they would receive about 70,000 visits a week. That is not 70,000 people; some people go more than once and some people will just nip in and get a paper and a packet of fags; other people will get a trolley load of shopping. So that is generally what we are talking about. There are some big numbers there and there would be some considerable input and there would be some serious rounding there. It is going to be a daily or weekly task to do that, and there is a cost for that and somebody would have to pay for that. That is why my amendment seeks to do that at the end of the process rather than as it goes through the system. The other thing is if the rate does change in future, I believe what I am suggesting is a simplified method to do that. I think the consequences of accepting what is in the original legislation, Sir, will be severe and will be felt for a long, long time.



The individual pricing I think is a no-no because of many examples. I could have quoted lists of stuff but I do not believe it is relevant. Members can make their own mind up about that. The Treasury Minister and also the Economic Development Minister have said: "Agree it now and then we will look at the Regulations" but I have a fear about discussing or debating it later. We heard yesterday many times: "We have already done this so do not bring this up again. This is not the debate now. We have already agreed the principle" when some of us, in fact, had not. So that is why this amendment is before the House today. I think the statement of the Economic Development Minister demonstrates that. I think it is important that we agree the principle now, which is a pricing which allows either/or. It is common sense. I think it will limit the inflationary effect and it is a sensible yardstick. It is a method that we can rely on and we can use in the future. In the main report itself, just to give a flavour, I think, of that, there are various comments to the various parts and articles. At page 10 under the description of "Part 18 Miscellaneous" what it says there is: "The States may make Regulations under Article 94 about the display and other disclosure of prices and G.S.T. including requiring G.S.T. not to be separately disclosed." That to me is not discretionary; it is there. I believe if we agree as proposed by the Minister then our hands will be tied with the Regulations. I believe it will come back and what will be said is: "We have already agreed this. The consultation period is over." I think it is common sense. It allows that flexibility for the House to accept my amendment. I think in general terms quite a number of people have contacted me by phone, by email, in the street or whatever. There has been general support and I would thank all those people for that. I think those are the people that count and with this it is a case of damage limitation. I hope Members will support the amendment and I so propose. Thank you, Sir.

**The Bailiff:**

Is the amendment seconded? [**Seconded**] Senator Le Sueur?

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

First of all, I think I have to take issue with Deputy Breckon when he says that there has been a lack of consultation on this Law. In fact, the whole principles of the Law were set out 12 months ago for consultation and it has been widely discussed. I think the price marking issue is one of those that was really put to one side and left for another day by many consultees as one of those things which is 6 of one and half a dozen of the other, maybe. Certainly it is not, I think, any fault of the consultation process that the views of the public are divided. I think what is fair, and I think Deputy Breckon would agree with this, is that what we have to have - what consumers have to have - is certainty. We do not want some shops displaying goods with G.S.T. inclusive prices and other shops doing it a different way. We have to come down one way or the other. We were presented with an entertaining story of the boy in the sweet shop and what his views of G.S.T. might end up as. I put it to Members that that boy in the sweet shop with his whatever it would be - it used to be a penny but now it is probably a 50 pence piece - will buy his sweets and go to the checkout and present his 50 pence piece and then be told by the shopkeeper: "52 pence, please." The boy will say: "Oh, I have only got 50 pence." "Well, you will have to put something back." I think it is misleading to think that the boy will be any happier doing it that way and finding that what he sees he can buy for 50 pence is what he gets for his 50 pence. The Deputy mentioned only briefly the E.C. (European Commission) directive. I am not doing this to comply with E.C. Directives. I am proposing this in order to achieve some sort of commonsense approach similar to the rest of the world. But what really surprises me is that Deputy Breckon raises the question: "Do we need a price marking Order or price marking Regulations?" I would have thought that somebody who was so passionate about consumer protection and consumer needs, price marking legislation ought to be a fundamental part of consumer protection, and that the price marking Regulations, the Price Marking Law, is really in effect the key to this whole discussion. It is not so much a question of whether the G.S.T. Law should dictate one way or another; the G.S.T. Law should be permissive, and Article 94 was intended to be permissive. I think if we want discussion

and consultation on this specific item, that discussion and consultation should take place in the context of a Price Marking Law which the Economic Development Minister promises we will have before the summer; promises before the Regulations have even been made. If we can have that discussion then, then I believe today is not the time to make an amendment to Article 94. Price Marking Law and that consultation will give us perhaps the guidance which Deputy Breckon feels is lacking. At the present time, and given that despite what he says, it will be up to this House to approve or reject Regulations which I bring, it will also be up to this House to approve or reject proposals which the Economic Development Minister brings under the Price Marking Law. I believe that is the time for us to come to that conclusion, and at the present time this amendment should be rejected.

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

Just to really echo some of the words that the Treasury Minister said a moment ago, Sir. Our Panel on this occasion is very much supportive of the Treasury position, although not necessarily the position of the Economic Development Department. This is probably a debate, as the Minister says, that we should not be having now, because the exact way in which prices are shown, added-on to till receipts at the end of a shopping run, included in the point of sale, *et cetera*, all of the powers required to enable the States to prescribe by Regulations in whichever way the States chooses are already present in the Law, as already drafted. Whether or not we have a separate Price Marking Law, which has only come in very recently, there is therefore the potential to have this same debate all over again in the autumn when the Regulations come before the States. But if we are though to have that debate now, then I must simply say that I find the position of the Chamber of Commerce to be a little difficult to reconcile. The main driver after all for not having inclusive shelf edge pricing, at least for the Consumer Council, and Deputy Breckon, lies in the fear that prices will be rounded-up for low value items, adding unnecessarily to price inflation. This, of course, assumes that the level of competition among retailers will support that type of profit margin increase across the board without some of the retailers breaking ranks and rounding-down at least some items to get a price advantage over their competitors. At the same time the Chamber says the level of competition among retailers is such that the notion popularly held by the Consumer Council and others is wrong. So much so that they feel able to challenge the Consumer Council's supported, and the Economic Development Department and the Minister for Economic Development's position, on the retail strategy of encouraging and trying to attract more competition specifically in food retailing, the main area where the Consumer Council perceived there not to be enough competition, and the highest risk of price rounding-up. So, which is it? Too much competition already, so no more food retailers required; or not enough competition and a high risk of price rounding-up? These 2 esteemed bodies seem to make odd bedfellows. We do, however, appreciate that both sides of this debate have good points. Our position is slightly different to the Treasury Minister in that we think our position essentially is that it could be all things to all men in the very short term, but only in the very short term. We are saying let the market decide initially with no prescription in Regulations, and we would suggest very strongly that the Economic Development Department, the Consumer Council, and the Economic Services Scrutiny Panel should in one to 2 years after the start of G.S.T. review the situation when we believe consumers will have either gravitated to other retailers or forced their favoured retailer towards their preference for operating the tax. All parties will then be able to properly judge the issue at that point. But I must say our belief is that consumers will wish to see prices displayed inclusive of G.S.T. after the initial novelty has worn off, so in that respect we do support the Treasury and the Economic Development position - very soon, a reasonable period of time after the start. That is our position. Thank you, Sir.

#### **1.4.4 Senator L. Norman:**

When Deputy Breckon, the consumer's champion, and the Chamber of Commerce are in unison, in agreement and at one, then alarm bells start ringing very, very loudly in my mind. I thought about

this issue and the comments that the Deputy has made, and I am absolutely convinced it would be in the best interests of the consumer for the G.S.T. to be included in the shelf price and not simply added secretly afterwards at the till. Now, Deputy Breckon is probably too young to remember a thing called Resale Price Maintenance, which meant that the price of a product was fixed by the manufacturer or agent. This meant in the main that the price for every product was virtually the same whichever shop or establishment it was purchased from. Now, if that Retail Price Maintenance still applied today it would not matter too much which way the tax was charged, if it was shown on the shelf price or on the till roll, as the price would be the same more or less wherever you bought it. But the reality is that this Resale Price Maintenance was abolished decades ago. The result was price competition, and the consumer became king by being granted the option to buy on the criteria that the consumer wanted, be that on price, on service, on convenience, or whatever. It also heralded a new age of retail psychology and science. A very simple and well-recognised example of this is the 99 pence price ticket, which we see everywhere in almost every retail establishment. Now, why does this happen? It is because the consumer or the retailer believes that the consumer may well be prepared to buy a certain product at say, £4.99, but might resist if that product was priced at say, £5.15. There is a big psychological difference. Now, if G.S.T. is added at the till, the price on the shelf will still be the same. It will still be £4.99. If the consumer is tempted to buy it at £4.99, which the retailer hopes, the price will still be £5.15; that is what he will end up paying. I do not think that is fair. What will happen is that every product in every shop will be priced exactly as they are today but the consumer will pay the full 3 per cent more. On the other hand, if the tax inclusive price has to be on the shelf or the product that will give the retailer a choice, perhaps almost a dilemma, but he will have a real choice to make. He will have the choice of trying to recover all of the tax from the consumer by increasing all of his prices by 3 per cent, taking the risk that the consumers will resist his higher price and do more shopping around. On the other hand, he might continue to keep his original prices, effectively absorbing the G.S.T., in an attempt to increase his sales over his competitors and cover his additional costs through additional sales in that way. He will have to decide is £4.99 more attractive to my customers than £5.15? That will be his choice. I think we need to change our mindset a little and perhaps see G.S.T. more of a tax on the retailer than on the consumer. If we think in those terms then there is no case for adding the tax simply at the till any more than there is for adding rent, rate costs, wage costs. There is no reason why those things should be shown separately than G.S.T. In simple terms, adding the tax at the till will ensure that everything goes up by 3 per cent. No wonder the Chamber of Commerce want this. It makes life easier for them, and indeed more profitable. Inclusive prices on the shelf will make sure that much of the G.S.T. will be absorbed by the retailers and they will pay for this by improved marketing and sales techniques. Now, I do accept that some concern has been raised about the possibility of prices being rounded-up if shelf pricing is the chosen option. Now, I have to say that anyone with a basic knowledge of retailing should know that this will not happen. It cannot happen. The retail price of any item is fixed by one factor only, and that is what the retailer expects to be able to sell that particular product for. No matter how much it has cost him; no matter what taxes are on it; no matter what his overheads are. His decision on what price he can obtain for a particular product in turn is determined by only one thing; that is what the consumer is prepared to pay. That is true for a packet of sweets, a packet of cigarettes, a packet of fish fingers, or a motor car. The price is fixed by what the consumer is prepared to pay. If consumers are prepared to pay £4.99 for a product and no more, they will only pay that, irrespective of what the retailer asks and what his overheads and what his costs are. If the retailer tries to charge more, he simply will not sell the product. I am absolutely convinced it is in the interests of the consumer, it is in the interests of keeping down inflation, that we should reject this amendment this morning. Thank you, Sir.

#### **1.4.5 Connétable G.W. Fisher of St. Lawrence:**

Before I speak I would like to ask the Attorney General for some clarification. It seems to me that - and this is not just my reading, but also a legal eye apparently has cast its eye over this and is a bit

confused - it says in the original draft Law: "Those Regulations may require." It then in the amendment says: "Those Regulations may require." Therefore, it seems to me that both of these Articles, whether the original or amended are permissive, but are they restrictive? That I am not clear. I am not clear whether if we adopt this amendment or we do not, whether in fact we are dictating exactly what the Regulations will say. My reading is that we will not be, so I do not really see, if I am right, that the amendment would in fact make a lot of difference. Perhaps the Attorney General would like to comment on that point, whether in fact these Articles or the amendment are permissive rather than restrictive?

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

Can I have a moment on that, please?

**The Bailiff:**

Yes.

**The Connétable of St. Lawrence:**

I would like to speak again afterwards, Sir, thank you.

**The Bailiff:**

Well, we will interrupt your speech, but for the moment, yes. Does any other Member wish to speak?

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

I would firstly ask whether the Minister or the proposer of the amendment could clarify whether there is a separate marking for G.S.T. on items in U.K. supermarkets. Sir, there is a U.K. store in Jersey; where for years a percentage was added at the till for food items. I have on occasions seen people refuse to pay this extra amount. I do share Deputy Breckon's concern about the marking-up of prices when the process of G.S.T. is added. However, I believe that customers do want to know the actual price of goods when they select them. I am also unclear whether the amendment makes any difference, Sir, so I will leave it there. Thank you.

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

I want to make a couple of short comments based on some of the comments that have been made earlier, and regarding what I would term misleading comments regarding price competition. It is very clear that this will exist well after the introduction of G.S.T. whatever method of pricing is selected as this is the nature of any business and competition within the Island. It is perhaps clear to me as a layman that the administration for the businesses would be cheaper and easier if the deduction was made at the till, rather than adding it on to each individual item, and surely that is one of the issues that will drive-up prices. In other words, if administration is increased and businesses are faced with more costs then they will be looking and seeking to pass that cost on to the consumer. This is the other issue; why are suggestions being made that prices will be absorbed? What has history shown us in the past? I believe history has shown us that in fact all prices for the most part are simply passed on to the consumer, be it in petrol, food, or any other item for that matter. Wages go up, rental costs go up, and the consumer has had to face the cost. I do believe that with G.S.T. we will see individuals seeking keener prices because we are basically going to be taking money out of their pocket. That is the point that we need to be aware of. That is the issue. That will not be changed, in all fairness, whether retail pricing is inclusive or exclusive. Thank you.

**1.4.8 Senator P.F. Routier:**

Members no doubt are aware that I have been in the retail business for a long time - it is just 40 years - I do not believe that it is a direct interest in this particular debate, but I hope my comments from the retail experience might be of use to Members. I am pretty sure what consumers are going

to want to really be interested in is the money that is going to come out of their pockets; out of their wallets, put on to their credit cards. So, what they are going to want to know is the whole price that they are going to be paying; not just the amount of G.S.T. which is being applied to their purchase. So that the total price, the inclusive price, will be the amount of money they will have to pay. So, that is what they really need to know; what is going out of their pockets. What consumers will be keeping an eye on before they make a purchase is how much the goods are worth. They will want to ensure that they are getting value for money. I would respectfully point out that the 3 per cent G.S.T. is perhaps the bit that does not need to be focused on. It is the 97 per cent which people are going to be paying. Now, that is the big part of the bill, is it not - the 97 per cent - and we are just focusing on this tiny amount. You have to remember that the 97 per cent is made up of the cost of the goods, the profit that the retailer feels that he is able to charge. So, what the customer wants to know is what their 100 per cent amount of money going out of their pockets is going to be, what they are going to be spending. While I think about this whole topic, it is interesting - I think Senator Norman picked up on it - the Chamber of Commerce's approach to this at the present time. They are complaining currently that we are not controlling our spending. It is interesting that the representative of the Jersey Dairy has been looking for support for milk deliveries in a bill for the States to continue spending money. I am not quite sure how that stacks up. It was just an aside really about when I thought of what the Chamber of Commerce were saying on matters, so it really does not stack up. The Deputy of St. Ouen talked about additional administration costs. There are going to be no additional administration costs. When an item comes into a retail outlet a price has got to be put on it, so there is no additional cost at any stage. They have just got to set a price for the item, so there are absolutely no additional costs in putting it on the shelf or on the item itself. The 3 per cent, which as I say is a small percentage of the whole price in comparison to the costs; we have got the wholesale price and the profit margin, as I mentioned. Of course, it is common knowledge that retailers buy goods at a price and then they decide what price to offer the goods at. I deliberately say "offer" because it is just an offer to people to buy the goods. It does not constitute a sale when you see something advertised. So, retailers decide on an offer price in many different ways. For instance, taking an item that a retailer knows will sell well at £9.99; it may have a cost price which varies quite considerably, but the retailer knows that £9.99 is a good price to sell something at. If we are to go along the lines of having the G.S.T. put on at the till, the retailer would still advertise that £9.99 price but then at the till it would become £10.30. A retailer by choice would not put a price of £10.30, because he knows that is breaking the price point which he knows it is a good price to sell at. So, I am sure Members are aware of how important price points are to all levels of trade, whether it is £9.99, £2.99, 99 pence, or £1,000, or, you know, £9,999. I mean, there are all those price points which are vital to encourage people to buy. These are not going to move at the introduction of G.S.T. They are still going to be there. It may amuse people when I have spoken about it before, but there is an art to setting a price. It is something which does take a bit of knowledge about what the market will stand, what the customers are prepared to pay for an item, and that will not move when G.S.T. comes into place. Retailers will still retain that ability, even when it does happen, because it is competition which is the most important thing in all this. Customers will still have to decide whether they are getting good value for money. A retailer is going to put it at the most attractive price to sell it at. For years we have heard of the dissatisfaction, and even yesterday we heard some of it, from Members complaining about the National Multiple Retailers who continue to charge V.A.T. prices. We are told by them that it is too difficult to reduce the price from 17.5 per cent to reflect the V.A.T. in the effective price which they have been charging. I would suggest that if this amendment is successful we would be playing right into their hands. Playing right into their hands, because they will continue to charge the U.K. equivalent price, and then at the till put 3 per cent on. That is what would happen. On the other hand if we reject this amendment and insist on inclusive prices on the shelves the National Multiples who continue to charge the price are unlikely to change their pricing. They are just going to keep charging the U.K. equivalent price. I mentioned the Chamber of Commerce earlier are supporting this amendment and I have to ask the question why? It is just because they

can relax, continue to charge their current prices, and then slap another 3 per cent on top. So, if retailers have to advertise and price goods at an inclusive price, they will have to consider offering goods at a price that they know is likely to sell the goods. That is what they have got to continue to do. That is what they would be expected to do. So, I offer my observations because I genuinely believe that consumers - and that is the buying public - would be better served by having inclusive prices. I know that retailers will price at price points they know that they will be able to sell their goods. Adding G.S.T. at the till will without doubt cost people more money, and especially at the National Multiples who continue to charge U.K. equivalent prices. They claim it is too difficult to change their prices, to reduce their prices by 17.5 per cent, so for 3 per cent, they are not going to bother to change their prices again. They are just going to put it on at the till on top of the already U.K. price. So, inclusive prices on the shelf and the items will be clear and easy to understand for the consumer. G.S.T. put on at the till will cause uncertainty and also increase prices. I urge Members to reject the amendment.

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

I sometimes wonder at the naivety of some Members, and certainly members of the public when it comes to retail pricing. Senator Routier has clarified how retail prices are decided upon. The cost of goods is an element; business overheads, wages, rent, and so on. Market positioning and consumer demand obviously dictate the price, and horror of horrors, a profit element. The risk of getting it wrong is an expense for the retailer because they simply will not sell the product, and this affects their profitability. Our scenario over here is somewhat different to those of U.K. countries in that our rate is proposed to be much lower. We are at 3 per cent. They are in 15 and 20 per cent, and so on. It is a completely different situation. As a consequence I feel that we are better leaving our market forces to decide how the prices are displayed. The general public will vote with their feet in the time honoured fashion. They will not go to establishments where they are being overcharged. It will find its own level. I would suggest that it is incumbent on retailers to package it in such a way that pricing is palatable to the consumer, and that Deputy Breckon's example of a small boy being short at the till when buying his Humbugs is in fact humbug. I would support the Treasury Minister in his open approach to this matter. Thank you, Sir.

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

I am sorry to have taken such time just on reviewing this, but I think it is first of all quite a difficult point of construction, and also one that I am anxious I am clear in my advice about to the Assembly. What I would like to do is start with what Article 94 says at the moment. 94(1) in the Draft Law says: "The States may by Regulations make provision for or with respect to the display, disclosure, or other publication, otherwise than on G.S.T. invoices, or G.S.T. chargeable on the supply of goods, or services, or importation of goods." So, that is a permissive power which enables the States to make Regulations for the disclosure, or the display of what the G.S.T. is. There is then a second paragraph in the Draft Law which goes in a different direction: "Those Regulations may require that in these advertisements, labels, or receipts, the retail price be expressed or indicated as a global price that includes G.S.T. without separate mention of G.S.T." So, in other words the permissive power which is conferred by Article 94(1) is that the States may make Regulations which allow for the disclosure of G.S.T., the G.S.T. chargeable, and then (2) derogates from that by saying: "Well, despite that, these Regulations can say that you include a global price instead." Now, the effect of Deputy Breckon's amendment leaves paragraph (1) as it stands. So, the States has got the power to make Regulations to require the G.S.T. to be published, or the G.S.T. which is chargeable to be published. But the second part seems to say in one sense the same thing. The Regulations may require that the advertisements, labels, receipts, and other things, make separate mention and prominently display the amount of the price that consists of G.S.T. But, of course, 94(1) already allows for that. So, 94(2)(a) of Deputy Breckon's amendment does not really add to 94(1). It is already there. 94(2)(b) of Deputy Breckon's amendment allows for the States in these same Regulations to make provisions for specifying how G.S.T. is to be

calculated on each item, or on a cumulative value of all the goods supplied. Well, I must admit I am finding that quite difficult to understand, because we are not here talking about an invoice at the till; that is a different sort of invoice. That is the receipt that the supplier has to give to the recipient, which is referred to earlier in the Law in Article 42, which describes what a G.S.T. invoice is. We have got to remember that Article 94 is not dealing with G.S.T. invoices. So, it is not dealing with the receipt which is given to the recipient. It is dealing with the promotional material, the advertisements, and the price on the goods. I must admit I am at the moment struggling a little bit with how Regulations could set out as to a price on the goods what the price would be if there were lots of goods being supplied at the same time, because on the face of it you do not know how many goods are being supplied when you put the price on the goods. So, I have to say that I am struggling a little bit with the permissive power in Regulation 2(b). So, the question the Constable of St. Lawrence asked me was whether or not the Regulations are permissive or restrictive. Well, the use of the word “may” is usually permissive. With 94(1) the answer is, yes, the States may by Regulations decide that the amount of G.S.T. on all promotional material must be shown. If Deputy Breckon’s amendment is adopted I think it may be impossible for the States to make Regulations which require the G.S.T. not to be shown, but to be included in the global price. So, although the language is “may” the fact is that there is no enabling power which enables the States to make the Regulations which 94(2) currently allows the States to make. I hope that is clear.

**1.4.10 Deputy A. Breckon:**

I wonder if I may ask the Attorney General for some clarification there. My amendment at (b) at (i) says: “On each item” and that is in reference to the transparency of the G.S.T. charge.

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

Yes, but it is an alternative. (b) says: “On each item or on the cumulative value of all the goods.” But the point that is to be made there is that if it is a question of making Regulations which show the G.S.T. on each item, then that is already permitted under Article 94(1). What one loses with the amendment is the ability to make Regulations which require the global price, without separate mention of G.S.T., to be shown. That is the difference. Under the amended Article the States I think would probably not have power to make Regulations which require a global price to be disclosed that includes G.S.T. without separate mention of the G.S.T. Under the Law as proposed by the Minister the States do have power to make those Regulations. So, in answer to the Connétable, the amendment is more restrictive than the existing Law.

**1.4.11 Senator F.H. Walker:**

May I just ask for further clarification on that point just so everyone is absolutely clear? If I understand the Attorney General correctly, if the amendment was adopted then any change that the States may wish to make in the future to the way G.S.T. is included or excluded would require then a come-back and a change to an amendment to primary Law? Is that in effect what the Attorney General is saying?

**H.M. Attorney General:**

It would require a change to the primary Law if the intention is to require a global price that includes G.S.T. without separate mention of G.S.T. to be shown, yes.

**Deputy A. Breckon:**

Can I just say again for clarification (b) says: “That indications of retail prices for goods and services supplied shall specify the amount of price that consists of G.S.T. on each item, or collectively.” So, with respect, Sir, I cannot fully accept the view of the Attorney.

**1.4.12 The Connétable of St. Lawrence:**

Yes, Sir, I think in view of the fact of the uncertainty and even the Attorney General says he is somewhat uncertain, and the fact that...

**H.M. Attorney General:**

I am sorry, Sir, if I said I was not uncertain; I am not at all uncertain.

**The Connétable of St. Lawrence:**

Oh, you are not uncertain. I am sorry, Sir. [Laughter] Right, well, I probably am still uncertain. But I think in order that we do not go forward with this difficulty in the Law, I must support the Minister for Economic Development in his proposal. If you turn to his comments in the conclusion he recognises that Members wish for a debate on the important issue of inclusive versus exclusive pricing, and I think we are all agreed on that and we have started that debate this morning. Although I suspect that when the Regulations - if they come forward at all - are to be debated, we will go through it all again. Obviously, if the Minister for Economic Development brings forward the Price Marking (Jersey) Law, which he has promised, we will debate it again then. Well, we are good at debating 3 times, so that is I am sure going to be the case. But he goes on to say anyway in his conclusion: "In addition, there is legitimate concern about the issue of rounding." We have heard various arguments about that this morning: "Irrespective of the final outcome of the inclusive versus exclusive debate, I am clear that the most effective way to deal with this issue is to bring forward a standalone Price Marking (Jersey) Law. This will enable the States to make the appropriate Regulations which will be clearly identified as consumer protection measures, rather than attached to the G.S.T. Law. I can advise Members that advice has been received and that drafting could be undertaken immediately." I can personally confirm that. "I would propose to lodge a standalone Law which would permit the States to debate the issue as a standalone proposition and consider amendments Members may wish to lodge and debate. I would undertake to lodge the draft Law before the summer break. On this basis", says the Minister, "I would urge Deputy Breckon to withdraw his amendments or failing that for Members to reject the amendment in their entirety." I personally agree with the Minister in his first statement: "I would urge Deputy Breckon to withdraw his amendments." Thank you, Sir.

**1.4.13 Deputy G.W.J. de Faye of St. Helier:**

I think it has been an interesting debate and there have been a number of contributions on retail theory, some by Members who appear to have a very clear grasp of it, and some by others who seem to have based their facts on what might be best described as speculative assertion. But I have to say that I think to a very large extent a lot of the more detailed speeches have to some extent or another rather muddled or clouded the waters. I think this is in fact a very simple issue based on one thing and one thing only, and that is risk assessment. It is fairly obvious that the concern of most Members is what is going to be the impact on prices with regard to the consumer. In essence there are 2 choices before us. It seems to me that if we go down the route of putting the pricing of G.S.T. on the till, that will be levied at 3 per cent; the current rate. It will be levied at every till across the board of the whole retail spectrum. Thus, we can be guaranteed 100 per cent certain in terms of risk assessment that the impact on consumers will be 3 per cent, because every till will have a little gadget that will stick 3 per cent on every bill. The other option... the risk assessment is unclear. But the one thing you can say about it is that it is not necessarily going to break down at 100 per cent dead certain 3 per cent. The other option leaves the door open for retailers and whosoever to absorb the cost of G.S.T. into their profit margins, into their already charged U.K. levels, into whatever they want to describe it as, costs of transport, and so on. In other words, it leaves the door open for rounding-up, rounding-down, or absorbing. Therefore, it is clear to me in terms of risk assessment that there is only one route open to us which leaves the possibility of the effective costs of G.S.T. coming out at less than 3 per cent. On that basis, the straightforward risk assessment basis, which I think is a simple one for Members to understand, I really do not see how we can - if we are taking ourselves seriously about worrying about the effect on the consumer -



support the 3 per cent at the till, because if we do it is a guaranteed certainty that there will be no absorbing of the costs of G.S.T. whatsoever by the retailer. In fact, quite the reverse. It opens the door for all retailers - so it is hardly surprising why the Chamber of Commerce is backing this approach - to simply point the finger and go: "Not us. That is the government's tax." We cannot possibly go down that route and I urge the House to support the Treasury Minister.

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

May I ask a procedural question of the Chair? I am concerned that I am personally confused as to whether this amendment is going to be effective from following the Attorney General's words and that E.D. are about to bring a Retail Price Marking Law to the States in short order. Will this proposition before us now be referred to Economic Affairs Scrutiny Panel as a matter of course? Because it seems to me that there is a danger if we proceed with this debate that Deputy Breckon will lose the principle and not be able to do anything later when we have discussed the issue of this, and between the A.G., and the Economic Development, and Deputy Breckon I am concerned that we should, if we can, get a way forward on this to discuss and clarify the principle on how effectively we can bring this issue to the House. So, I am asking whether before we sign this off today, whatever happens, whether it will be referred to Economic Affairs Scrutiny Panel for scrutiny.

**The Bailiff:**

Well, we have passed the stage at which the Law would be referred to scrutiny by the Scrutiny Panel because the Chairman of the Scrutiny Panel has indicated that he did not want to scrutinise the Law. The Regulations clearly will be open to scrutiny at a stage when they are under construction, or indeed, after the debate on the principle. The results of the debate on Deputy Breckon's amendment will be, on the advice of the Attorney General, if the Assembly adopts the amendment, to close a door to the Minister in terms of what the Minister can do. That is the issue for the Assembly on the present debate on the amendment.

**H.M. Attorney General:**

May I just clarify that, Sir. If the draft Article remains as proposed by the Minister, it is open to the States to adopt Regulations which it seems to me achieve what Deputy Breckon wants to be achieved.

**The Bailiff:**

Right. As I understood your advice, Attorney, if the States adopt the amendment of Deputy Breckon the States will not be able to require in Regulations that a global price be put on the articles; is that right?

**H.M. Attorney General:**

Yes.

**Deputy A.J.H. Maclean of St. Helier:**

Can I just clarify something, please, or ask you to clarify something? If the amendment is withdrawn or rejected by the Assembly today, the Economic Development Minister has stated that he will bring a Price Marking Law to the House before the summer. In which case, if that was debated, presumably the Economic Scrutiny could review it.

**The Bailiff:**

Well, indeed. If Deputy Breckon wished to keep his powder dry until that debate, then it is open to him to withdraw his amendment. If he wishes to test the feeling of the Assembly at this stage, then of course he is perfectly entitled to press the amendment today.

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

I mean for clarity if it is lost or withdrawn, then that Law will be brought to the House.

**The Bailiff:**

Also the Assembly will have expressed its view, yes.

**1.4.15 Deputy S.C. Ferguson:**

Yes, it seems to me that the main concern among the public has been in the area of food and supermarkets. B.B.C. Radio Jersey has been doing some sterling work on this; I have not checked their calculations though. It was a particular local supermarket that was concerned about the administrative work that would be involved. I think it is possible that Senator Shenton may wish to comment on this. However, as far as my correspondents go, I would say that it is probably 50/50, those that want it at the till; those who would rather have it on the shelves. In view of the Attorney General's comments I would prefer to keep an open approach at this stage and would prefer to go with the Treasury Minister's comments, unless of course Deputy Breckon is prepared at this point in time to withdraw the amendment with a view to Scrutiny examining this when the Regulations come into view.

**1.4.16 Senator F.H. Walker:**

I can only conclude that means that Deputy Southern wants to speak after me. But that may or may not be right. Sir, I do agree with Deputy Breckon that this is an important debate, and I do agree that there have been and are strong arguments on both sides. I also agree with him that consultation on matters such as this is important. But I think that argument more than a bit rebounds on him, because the Treasury and Resources Minister and his team have indeed done a great deal of consultation on this. To the best of my knowledge Deputy Breckon in bringing forth his amendment has done none, or certainly very little, and I do not think the 2 stack up together. Sir, quite a lot has been made of the administrative burden that inclusive pricing would entail. But let us not forget that inclusive pricing is adopted as the Economic Development Minister has made clear in his comments just about everywhere else, and just about everywhere else includes a whole range of small shops. We should not think that because the U.K. is big, or France is big, or whatever, that they do not include small shops. Well, of course, they do. As, incidentally, does the Isle of Man, and I have personal experience in a past life of being involved in a chain of small retail shops in the Isle of Man where the handling of V.A.T. became second nature. Now, it is true that there are exclusions in the Isle of Man which would not apply under G.S.T. in Jersey, but it became second nature. Is it an administrative burden? Yes. Is it easily assimilated into the normal administration of a small shop? Equally, yes. So, we should not get carried away with the argument that there is going to be a massive and unsupportable administrative burden on small shopkeepers if we introduce inclusive pricing. It is just not borne out by the evidence. Of course, if we do not shop in Jersey, where do we all shop? As consumers, where do we shop? Well, principally, the U.K., France, or wherever. We have become totally accustomed to have to pay the price as shown on the tag. It is just what we have become accustomed to. I believe that consumers in Jersey will benefit from and will come to expect the same clarity in G.S.T. Sir, we heard I think an excellent speech from Senator Routier, supported by the Constable of St. Brelade, and they are talking from real knowledge. A number of Members of this House have no direct experience of retailing whatsoever. Here we have 2 retailers telling us what the reality of the marketplace is and I think we should listen to them very carefully. It is, of course, all down to what respective shops can sell for. In some respects perversely the introduction of G.S.T. creates an opportunity for more competitive pricing; shopkeepers will decide not to pass it on, so gaining a competitive edge against those who will. We have heard - and I think it is absolutely right - what the multiples will do if we do not have inclusive pricing. If we want to ensure that the consumers of Jersey pay more for their food in the supermarkets, and other items in the supermarkets, then we price it at the till. We include it at the till. We do not include it in the price on the shelf. That has got to be against the best interests of the consumers of Jersey. I cannot imagine that the large multiples in Jersey

would for one minute think that they can get away with displaying a price item which is more than they previously displayed and knowing that in many cases it includes V.A.T. I cannot believe for one minute, if it had to be included in the price, that they would think they could get away with it. They will not get away with it. If they can add it at the till it is a different story altogether. They probably could and would get away with it. But as I said this creates an opportunity to the consumers in some respects, and it does. What we have got to do is encourage consumers to shop around more. In fact we have seen more of that in the last year or so in Jersey, the Deputy of St. Ouen referred to petrol. Well, we have seen competitive pricing in petrol recently which we never saw before. Consumers have voted with their feet. I know one small garage whose turnover is currently 40 per cent up on where it was before because he has engaged in some seriously competitive pricing. I have no doubt that retailers will engage in similar opportunities, competitive pricing, when G.S.T. is introduced, providing that we go ahead and include it in the stated price. So, Sir, I think Deputy Breckon's arguments not only fail, I think they work against what he is trying to achieve. I think very clearly those of the Treasury Resources Minister are very much more in favour of the consumer than those of Deputy Breckon. But, Sir, the biggest problem, as we have heard during the debate of Deputy Breckon's proposition, is that it ties our hands. If we accept his amendment, and we feel, or the Island feels, or it becomes clear that we need to make a change in the way in which we show the price, include or exclude the price in future, we will have to come back for an amendment to the primary Law. Now, we all know how long amendments to primary Law take with Privy Council approval and so on. We are removing this House's flexibility and that cannot be a good thing. So, Sir, I hope Deputy Breckon will, in the face of overwhelming evidence, withdraw his proposition. But if he does not, I would urge the House to reject it strongly and then let us come back to the whole principle, as other speakers have said, in the Price Marking Law debate, which we can have within a very few months. That surely is the right way to proceed. The last thing we need to do is completely tie our hands to a well-meaning, but ill-conceived amendment that is not working in the best interests of the consumer.

**1.4.17 Deputy J.J. Huet of St. Helier:**

Were you aware - I was not until a little while ago - that you could buy now on-line washing machines and fridges, and so forth, from the U.K., and they would deliver them less the V.A.T. and you did not have to pay for the carriage. I was quite impressed. But that is irrespective. As a shopper over here, like most women I would say, I know that at the moment when I go shopping and buy my goods, I am paying 17.5 per cent U.K. V.A.T. tax on it. It annoys me greatly. Sometimes you can walk with your feet, but you cannot always. As the Senator says: "You have to buy." Why are we doing this? Because it is too difficult, too difficult, for the retailers to take the 17.5 per cent off. Now, Sir, I would say: "Would I be fool enough to go for another 3 per cent at the till because all I am doing to myself then is making that V.A.T. 20.5 per cent?" Now, I do not want you to answer this question, Sir, but I was going to say: "Do I look stupid enough to do that?" [Laughter] Thank you very much, Sir.

**1.4.18 Deputy G.P. Southern:**

Senator Walker described the amendment before us today as well-meaning but misguided and one that ties our hands. I do not believe that is the case. I believe this is well-meaning, and an accurate and good proposition. It is the right thing to do. Yes, it does give this House a steer, but we do that time and time again. We take decisions in principle and then get on with making the Regulations, or making whatever we need to enact that principle, and that is what today does. It says: "Do not go that way; go this way." This is the steer. So, we can take this decision today and be comfortable with it if we so decide. It is not dangerous. We can say we accept the steer and when we come back with retail price marking Regulations we will be mindful of that steer and we will draft those Regulations to fit the steer we give today. So, it is perfectly possible to vote for this amendment. Now, it is a very interesting always - and entertaining in fact - to hear Senator Norman take a position and then devise an argument which he thinks justifies his position. It was a

wonderful statement he made earlier to say if one considers this tax as a tax on the retailer and not on the consumer, then we can see it in a completely different light. Yes, we can. We can construct an argument that says: "We could not possibly go down and accept this amendment because it is a tax on the retailer." Specious nonsense; it is not a tax on the retailer. It is a tax on the consumer, and that is the way we must view this particular tax and Senator Norman's justification which went all around the House and was very entertaining but it was completely irrelevant, especially his illusion to retail price maintenance from years back which has got absolutely nothing to do with the argument except that it allowed him to bring in the word "competition". That was a word used by Deputy Ryan now discussing the competitive nature of much of the retail trade that goes on in Jersey. We agreed yesterday that the only place where G.S.T. will not be passed on is where we are verging on market failure; where we have got over-competition, too many people scrabbling around for a bit of the market, and people desperate to bring their prices down to try and get some of the market. Now, I think we agreed yesterday that the only place where this is happening to any extent whatsoever is in landscape gardening **[Laughter]** where it is extremely difficult to make a profit apparently. I ask Members to consider the rest of Jersey's economy and consider whether people are scrabbling around for a tiny bit of the market with too much competition and dragging their prices ever downward. Is that your picture of Jersey's economy? I believe not. I believe not. Now, Deputy Ryan suggested that we should for the moment let the market decide what they want to do and come back to it in 2 years' time - he was giving me some more work in 2 years' time - and see where we are. No, we must and we can take a steer today on this issue. Senator Walker quite rightly praised Senator Routier for bringing his expertise to the argument as a retailer. I too want to concentrate on what the key elements of what Senator Routier said and he used the word "pricing"; what a retailer will price to "what the market will stand." So in examining the market today, what the market will stand, what does that mean? Are we an extremely wealthy Island with plenty of money circulating with an economy that is growing? I believe we are. So what will the market stand? The market, I believe, will stand almost any profit margin. So the idea that this current market will for some reason decide not to pass on an additional charge of 3 per cent and take a cut in its profits as a consequence is, I believe, founded on wish fulfilment. We were given assurances yesterday that Senator Walker knew that in some areas this tax would not be passed on. We have yet to see the evidence. I believe it is just pie in the sky. Let us examine the realities of what goes on. This is a tax on turnover. If your small retailer - say a clothes shop - has a turnover of say £1 million **[Laughter]** on which you want to make a profit at the end of all your expenses of, let us say, 10 per cent, £100,000, are you going to take 3 per cent of your 10 per cent and not pass it on? No, you are not. No businessman in his right mind is going to do that. Of course you will pass on this additional expense just the way you cover your rent and all the other expenses that you are paying for before you draw-out what you intend to make from the business. No one is going to be quietly passing on this 3 per cent out of their margins. It will not happen. Let us not confuse the issue of V.A.T. and these rogue traders - these U.K. multis - who are charging V.A.T. and laughing all the way to the bank. That is a separate issue. Yes, that is wrong because as I was discussing with Senator Le Sueur yesterday, if you want to address that issue then address it. Perhaps this price marking, as we were promised yesterday, will address that. If you want to do something about that, do something about it. Do not confuse it with this G.S.T. argument which will apply to everybody. Address V.A.T. by all means, but do not run it all together with G.S.T. It will be V.A.T. and G.S.T. Let us sort it out; sort out the V.A.T. issue separately. That brings us down to the basics. In Jersey retailers will price the market. It is a wealthy market albeit there is a wide gap between those who are wealthy and those who are poor. This G.S.T. will affect all of those sectors. It will affect those who are poor in particular because they cannot afford it particularly. The central issue comes down to the issue that Deputy Breckon has described: do we want to enable ourselves to hide this particular tax and pretend it is not there? I do not believe we do. I think if we are going to charge this consumer tax then we should hold our hands up and have it clearly indicated at the till that this 3 per cent is being paid. Unless we do that at the till, round-ups will occur. Every decimal point. Remember the maths lesson where if it was .5 or over you rounded it up? It will be

point one and over will be rounded-up. Retailers will round-up time and time again and this 3 per cent will become 5 per cent or whatever, or more. That will happen. This amendment today gives us a mechanism to prevent that rounding up which history tells us - look at the history of V.A.T. and its introduction and growth over the years - rounding-up has always occurred. Look at the history of decimalisation; rounding-up occurred *en masse*. It will occur. This amendment gives a mechanism to ensure that rounding-up does not occur and, mark my words, the 3 per cent despite the reassurances of Senator Walker will be passed on in the vast majority of cases because the economics of the market say that it must be.

**1.4.19 Deputy J.B. Fox:**

It has been a very interesting debate so far and being a fully qualified retail manager of some 40 years past I do understand the subject but by all means I might not be current. **[Interruption]** However, the bit that has changed everything from all the reading matter that we have been through in the last what seems like several months, as it has been dribbling through, is that we have a retail price marking law promise from Economic Development which I find is very helpful at this moment in time. I would certainly ask the proposer of this amendment, Deputy Alan Breckon, to seriously consider and, in fact, I would encourage him to postpone his proposed amendment today as he will no doubt be asked with his Scrutiny Panel to look at the whole subject and not just the part that relates to V.A.T. There are some red herrings that have been thrown in about rouge dealers from the U.K., *et cetera*. Well, it does not matter if they are from the U.K. or here or anywhere else. If somebody, as it has already been said, can charge the same price as what is in the U.K., some people will do that and their profit margins will be larger. On the other hand, if you are in some businesses where there is always stealth of business then you will adjust your prices accordingly or you will go out of business. Then there are all the other arguments that we are getting at the moment about the size of the retail market and there is, obviously, a vested interest to maintain their share which sometimes it is at the detriment of the consumer, or you improve the share to the consumer but you have restricted practices in various other forms. So it is a huge subject. It is not a simple one. The argument for that, if you put it on at the till nobody is going to put on any other rounding-ups or service charges or anything else, we can see that that does not work. When we look at impôt duties that have been put on for alcohol or cigarettes or whatever often extra duties are put on or extra budgets are included to cover pay rises, additional transport costs, but it also is sometimes put on as an added bonus. If we put it all on together we can blame the government which is what happens. I think we need to concentrate on the issues in hand at the moment. The principle is that none of us like V.A.T. but there is, unfortunately, no other way of spreading the pain as painful as it is, less than what it is, and at the moment we have decided on 3 per cent guaranteed for 3 years and if that goes on to the end-till machinery it does not sound too much and it is something that the public, the consumer, could probably work out. But if we think that if this is an easy way to earn £45 million by every 3 per cent increase and the demands by the public on all the additional services that they would like as well, if it ever got to the stage of say the U.K. price or the Isle of Man at 17.5 per cent then could you imagine having a 17.5 per cent tax being put on every till receipt but not on every item? The public just would not have a clue on how much they are paying for a product unless they are a mathematician or had a calculator to work it out, or they would probably have the same as what we do when we go to Europe or America or whatever, some rough guide as to what extra we will have to pay because of the difference in an exchange that we understand. Therefore, Sir, I will not be voting for this amendment on this occasion. I look forward to the Retail Price Marking Law being brought to this House and, hopefully, we can make a long-term sensible decision that will have had all the facts considered, all the transparent open discussions brought forward, and then we will be able to make a proper decision. Therefore, I ask if Deputy Breckon would seriously consider withdrawing this amendment at this moment in time.

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

I hate to drag the debate on but I was so overcome with nostalgia during Deputy Breckon's introduction that I was reminded of my own halcyon days which seem only a few short years ago when I was the boy he was describing in the sweet shop after a day at school waiting to catch the bus, and trying to decide which particular brand of sweets I could buy on that particular day. It seemed to me at that point that it was all I could muster to try and divide the amount that was displayed for the 4 ounces to the 2 ounces. I think that is quite an important image for us to bear in mind because the public do want to know and want to be able to know the cost of the item that we are buying and that is going to be brought. I think it is quite interesting that Corporate Services in their review feel genuinely that whatever we decide, be that today or be that when a Price Marking Law is debated, in the course of only a few short years there will be such popular demand that it will move to a price on the edge of shelf. I think that is quite important for us to remember. I have a few brief comments to make about various other points which have been made today. If we start with public opinion, Deputy Breckon during his introduction said that he had been contacted by a large number of members of the public and we well know his contact with the Chamber of Commerce. I think it is probably fair to say also that a number of other Members have been contacted by members of the public putting forward exactly the opposite view. I certainly have been contacted by Jersey Hospitality Association and they are absolutely adamant that it must be price inclusive and not added at the till for various reasons not least of which is the upheaval that it would cause them when they are using U.K. suppliers, be that for booking airlines or car hire, or all sorts of various odd items, which are going to make their life extremely difficult if it has to be put on the till and then re-allocated. One of the other arguments that Deputy Breckon employed in his introduction was he felt that over time G.S.T. would be rising and that we might have various rates and therefore adding G.S.T. at the till would make it much simpler because it would enable retailers to use different rates at different points. I become extremely, extremely concerned by this and I really want to thank, again, the Corporate Services Scrutiny Panel yesterday for ensuring that a great number of Members stood up and said they were absolutely committed to cost control, controlling government expenditure and even looking for efficiencies to ensure that G.S.T. does not need to rise and does not need to become extremely complicated. Therefore, I do not feel that that really is a relevant argument in saying that G.S.T. should be added at the till, because I join with other Members and draw a marker in the sand and say I too am absolutely committed to controlling public expenditure. If we do all stand together and do that then there should be no need in the medium term to see any rise whatsoever to G.S.T. If we then go on to the rounding issue - and Deputy Southern has recently just touched upon these rounding issues - and here I do understand Members' concerns and members of the public's concerns about roundings. However, I think as Deputy Fox said some moments ago, you do not stop having rounding issues just because you are putting G.S.T. on at the till. You still have rounding issues purely because of the smallest unit of legal tender and its relationship with small ticket items. There is always going to be a point something even when you are rounding at the till. Is it going to be less onerous for people administratively wise and branding wise if G.S.T. is put on at the till? Well, for some it might be but imagine poor old Pound World. Are they going to have to re-brand and become Pound World and 3 pence? I mean it is very difficult to say, but at the same time I think that is probably one rational retailer that would not be passing on that G.S.T. increase to the purchaser. I think another point worth making here is this castigation of all retailers and businesses that they are there to squeeze the absolute last piece of profit out of the market and that they will always, but always and absolutely always, pass on an increase in rent and rates and taxation. I do not believe that that is the case. The family businesses that I am involved with, you take a pragmatic view about what the market is going to be able to stand. In some cases, we have reduced our prices over the last 5 years purely because we have recognised that it is more important in this case to have the unit occupied than it is to have 6 or 7 units empty, but the other units we have charged an extra £10 a week or something like that. The reality is that people look at what the market can stand and they price to that market and I totally reiterate what Senator Routier said with his experience of the retail market. Deputy Breckon also said that he was concerned about disclosure and that the G.S.T. is not just

hidden in the prices. Well, it is not again beyond the wit of man and we see some supermarkets in the U.K. already doing that. Although the prices are included at the edge of shelf, they add a little bit at the bottom of the till because do not forget often the till is software driven and you can download pieces of information on to the receipt that you are giving the purchaser, and they quite clearly show the amount of tax which has been charged on that transaction so that people can make informed choices. It is not added; it is included in the price but there is a little memo calculation included underneath the price that you are paying which outlines the amount of tax that you have paid on that transaction. Finally, I come to the point of consultation. Deputy Breckon said that he felt there had not been consultation on this particular issue and I tend to agree with the Treasury Minister here that this piece of fiscal strategy has been consulted on and consulted on and consulted on. Perhaps this one amendment has not been, but if we accept this amendment today what we will be doing is closing the window to further consultation because if we refuse or reject this amendment we will then be allowing the Economic Development Minister to bring forward his Price Marking Law. We will then be allowing the Treasury Department to look at both options and bring forward their Regulations which again can be consulted on and can be looked at by the Economic Affairs Scrutiny Panel. So, we will be cutting-off further consultation, I believe, by accepting this amendment today. Deputy Southern, rather disingenuously in my opinion, said that all we will be doing by accepting this amendment is giving both the Treasury Minister and the Economic Development Minister a steer. Well, I have to say that is certainly not my interpretation of what the Attorney General was saying to us some short moments ago. So, I would say please reject this amendment and allow all the options to be considered. If you want to allow it to go to Scrutiny you will be doing that by rejecting this amendment and allowing the Price Marking Law to be brought forward.

#### **1.4.21 Senator W. Kinnard:**

Just briefly. I have stood to speak because normally I am quite in keeping with the views of the likes of Deputy Southern and Deputy Breckon when it comes to the protection of those in our community less well-off, but I am really quite surprised at the amendment that has been brought forward by Deputy Breckon because I do not believe that it is going to do the job that he seeks it to do. I have heard today about models of the market, retailers and consumers; also about anti-tax, anti-government views and how the tax must be clearly demonstrated to the public all based on, I suppose, some dislike of indirect taxation which, indeed, I share with those Members. But I do believe that adding the G.S.T. at the till is a misguided way of dealing with the matter. The reason I say this is I tried to bring it now down to the individual level as a consumer that has not always been quite as well-off as I am today. It has been said to me that adding G.S.T. at the till is not a problem. After all it happens in Marks and Spencer and people have got used to that. However, I would say to you that now I am able to shop in Marks and Spencer, but that was not always the case, and I would say to Members, Sir, that at Marks and Spencer perhaps those shopping there have a greater elasticity in terms of their income levels than those who might have to shop in other places. I do not know whether other Members have had the embarrassment of having got to the till in the supermarket and not had quite enough money because one has been on a fixed budget with only a certain amount of money in one's purse, and getting to the till and it all being rung-up and then finding that you are short; the embarrassment of having then to return items in front of everybody with a huge queue forming behind you with staff tutting because it is causing them problems and the all the rest of it. It is an extremely, awkward, embarrassing situation for the individual concerned. My concern, Sir, is that if we do not have an inclusive price on the shelves but we just merely add it to the bill at the end, that there will be more occasions when those who were on low incomes, fixed incomes, will be put in this embarrassing position more often than I believe should be at all necessary. So, therefore, I do not accept the steer that Deputy Southern has tried to give us today. I believe there is more work to be done in terms of consulting consumers, particularly those on low incomes, because those are the ones that are going to be proportionately more greatly affected by the introduction of G.S.T. We have heard, of course, from the Chamber of

Commerce. We have heard from retailers and so on, but really have we made sufficient effort to listen to the views of pensioners, to lone parents and others that might be on either fixed or low incomes? I do not really think we have and I think that this is somewhere where Scrutiny could add value. I would say, Sir, whatever Members' particular views there is a lot more work to be done in this area, particularly with those groups I have just mentioned. I think until that work is done, we must not tie-up our hands by voting for this amendment. I, therefore, will not be voting for it. I will be rejecting it, because what we have in the draft Law before us today keeps our options open. So I would say to Members forget the models, think about the individual and the real life situations that they will find themselves having to deal with at the till in the supermarket.

**1.4.22 Deputy F.J. Hill of St. Martin:**

I do not want to speak for very long either, but I was one of those Members who came here with a quite open mind, although possibly more of a leaning towards what Deputy Breckon was thinking rather than anything else. I think what we have got to do is thank Deputy Breckon for bringing the amendment to the House because really it has concentrated the mind; it has told us there is another option. I think what we had today is an opportunity to discuss the pros and cons for it. In many ways, I am much wiser for the debate and I think what we have also done is concentrate the mind of the Treasury and the Minister for Economic Development as well through Senator Ozouf, because we have been told now that we are coming back to the House and there are other options are open and in actual fact probably this debate today is a debate too soon rather than a debate for another day. Really on balance having possibly come into the House leaning towards Deputy Breckon's amendment, I feel I cannot support it and possibly one way out rather than voting against it if Deputy Breckon might want to withdraw it and we will have this debate another day but certainly I will not be supporting it.

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

I am going to be very brief; just a couple of remarks. I think it is important to remember that price marking legislation is purely a consumer protection measure and nothing to do with the type of tax charged by government whether it be G.S.T., V.A.T. or R.S.T. (Retail Sales Tax). It is designed to ensure clarity, accuracy, honesty and certainty in all pricing aspects. It is a contractual dealing arrangement between traders and consumers. In that light, I would be very interested to hear Deputy Breckon's views on whether the Consumer Council for which he has political responsibility is fully supportive of this amendment or not. It does strike me as somewhat curious that the Consumer Council, which I have to say does a fine job in protecting consumer interests, would support an amendment that clearly would not provide consumers with the best possible protection. This is an amendment which, in my opinion, is confusing to say the least and, indeed, is more restrictive than Article 94. What I would also like to add finally is if this Assembly is minded to reject the amendment, which I strongly urge it to do, I can confirm the Economic Development Minister will be bringing a new Price Marking Law to the House before the summer break and I feel that this is clearly the most appropriate time to have a full and detailed debate.

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

I came to the Assembly in quite an open state of mind as to how I was going to approach this and, as Deputy Hill said, leaning perhaps towards Deputy Breckon, but having listened to Members' contributions today I am also of the opinion that quite clearly there is another opportunity and perhaps this is not the right time. However, I only rise to speak in relation to what Senator Kinnard said, Sir. A little embarrassing perhaps but I was living in Canada, Sir, when the G.S.T. was imposed on the people for fiscal reasons in Ontario and that came along. In Ontario, they have a Provincial Sales Tax and they have a Goods and Sales Tax which was imposed across the country. That did have the effect that was described by Senator Kinnard on myself and our family on a number of occasions where we went to a shop and we purchased several items, or we would put them in our basket, and got to the till and quite embarrassingly found we had purchased more than



we could afford to pay and then had to struggle through the things that were in our basket that we had to put back. It was extremely embarrassing to say the least and it was very, very confusing because how do you, on your feet, calculate those things if you have got a mixed bag of goods. In some areas they have included facilities on the shopping carts so that you can factor in the tax as you go but I think Jersey is still in its infancy in relation to these ideas and, as has been suggested, congratulations to Deputy Breckon. I think there is an air of doubt. I was a little bit surprised to hear the Hospitality Association is not supportive of his moves but I think that quite rightly there is another opportunity. Given my experience from a personal perspective, having listened to Senator Kinnard, I think I am not going to be able to support this today because I can see those occasions being repeated in Jersey and it is very embarrassing.

**The Bailiff:**

I call upon Deputy Breckon to reply.

**1.4.25 Deputy A. Breckon:**

Can I thank all Members for their contribution good, bad or indifferent. I would like to run through with some brevity, Sir, Members' contributions and then sum-up at the end of that. I am amazed at the depth of knowledge of some Members' retail experience shall I call it, or the therapy that they have had in that particular area. It is amazing and it is something I will perhaps call on in the future. I am pleased to see the emergence of the Price Marking Law and I say that with a degree of some cynicism because I have here a cutting from the *Evening Post* of Thursday 28th August 1975 when it was said that the Trade Descriptions Act was being prepared and the article said: "The first draft of a possible Trade Descriptions Act for Jersey is to be considered early next month by the Public Works Committee. The Greffier has already drawn-up the first draft of a possible law which is what Public Works will be considering." That is over 30 years ago and it never happened. There are other examples where the States passed a Fair Trading Law in principle about 14 years ago in this House and it never happened. So seeing is believing. When it emerges I will be indeed pleased for that because it is a step forward. Why are we doing things piecemeal like that? I do not know. It seems to be that it is the flavour of the month. If we do this, then it pacifies the other things. Senator Norman seemed to suggest that this was going to be a tax on retailers which would be interesting, because I thought it was a tax on consumption, goods and services; on what people used rather than what retailers may interpret it to be. Deputy Ryan suggests that with the rounding of the low value perhaps there would be some conflict there. Well, I do not think there will be any conflict. I know exactly what will happen because if we look at what happens with the impôts, which I think somebody else mentioned, when we do that on fuel it goes straight through; when we do it on beer, spirits and cigarettes it gets added to and I think Members are being pretty naïve if they think that the 3 per cent is going to be cushioned somewhere on somebody's balance sheet. I do not think that will happen. Competition is another thing that has been mentioned but competition can happen with or without G.S.T. If we look at various things where competition and prices have been reduced, it is well known now on things like electrical items, music centres, and computers and things like that prices are coming down and what you get for your money is going up, but nothing to do with G.S.T. It has got to do with technology, market forces and other issues that are not really related to this, so I think there has been some red herrings in one or 2 shopping baskets there. Other people have mentioned what happens in the U.K. but, of course, they have an inclusive and exclusive policy there. In supermarkets many items attract Value Added Tax, but many items do not and we have chosen a different option and it is not a tax on retailers, it is a tax on what people buy and we must be aware of that. Senator Routier gave us the benefit of his retail experience and he mentioned the 97 per cent and the 3 per cent but, again, if we look at market forces and choices which other Members mentioned as well, some people can go to France or they can go to the U.K. and they can bring things back, many others cannot. Some people are not in a competitive market; they are in a sometimes fairly restricted market and they do not have access to the internet. They are not buying things globally and we must be aware of that. Senator Kinnard

has mentioned quite rightly how it will affect those people and that work has not really been done. The Constable of St. Brelade mentioned retail pricing and, again, U.K. and Jersey price differences and he also mentioned market forces. The Constable of St. Lawrence gave an assurance that the drafting was going on as we speak, or just about, which is comforting. Again, Deputy de Faye had some interesting retail, not therapy but theory and he suggested that if this 3 per cent was at the till then it would just be a click of the button and retailers would say: "Well, it is not us; it is a government tax" but is that not exactly what it is? It is a tax via the government on the people on various goods and services. It is not a tax on retailers. I thank Deputy Southern for his contribution and Deputy MacLean sought some clarification on a number of points following that. Senator Walker suggested the price at the till will mean we will pay more. Well, I would suggest whichever way it happens we will pay more. The other thing I would suggest is if it is hidden we will not know how much more. If it is in an inclusive price then there will not be the transparency. If the 3 per cent is at the till then everything will stay the same and it will be one transaction, but there is the option to do other things and I do not believe that what I am proposing ties any hands. Deputy Huet mentioned the possibility of buying things from outside the Island and, again, there are possibilities there, but then you must remember that if there is an impôt up to £100 then this washing machine you are going to buy will now attract Jersey G.S.T. which is not there at the moment. So it is a price plus but that will be transparent and that is partly what I am talking about. I had visions of Deputy Gorst in his short trousers looking at the black bullets and the aniseed balls and seeing what he was going to have for his 2 ounces for a thruppence I suppose. I do not know how far he would go with that; that is 3d not 3p. He also said he had been contacted by a number of people and he made a number of interesting points and, I should say, made a sterling defence of the retailers. Again, I think we could be in a blame culture here if we say that if there is the transparency then the retailers can just have an inclusive price so it is the States, it is the government, and that does concern me, Sir. Part of the reason for bringing the amendments and maintaining it is the language that is contained in the statements of both the Economic Development Minister and the comments attached to that. We are told this will come around another day. As I said earlier when I proposed this amendment, we said yesterday we have had the G.S.T. debate; let us not bother with that. It really concerns me that if this House does not approve this amendment it is really too late because you have given an indication. What the Economic Development Minister said in his statement on 13th March is: "The Minister for Treasury and Resources and I have carefully considered the question of how G.S.T. should be charged by traders on the goods they sell to consumers." So what does that suggest? "The Minister for Treasury and Resources and I are concerned that if legislation requiring price displays to include the 3 per cent G.S.T. is not enacted it could confuse consumers where some traders display inclusive and some do not and could even lead to potential abuse." He concludes by saying: "It is equally important to ensure that traders and consumers have certainty on this issue ahead of the implementation of the proposed Goods and Services Tax." I would suggest by those statements, Sir, and that contained in the report that said: "The States may make Regulations under Article 94 about the display and other disclosures of prices and G.S.T. including requiring G.S.T. not to be separately disclosed", where is the leeway on that? I think perhaps it is gone and that is why I propose the amendments and that is why I wanted them today to give notice rather than wait for the Regulations because I know what would happen, Sir. It would be a case of you never said anything at the time. Again, what I have said in my amendment and I believe it is an either/or: "Specify the circumstances in which advertisements, labels, receipts or other things that are or include expressions or indications of retail prices for goods and services supplied, shall specify the amount of the price that consists of G.S.T. on each item or on the accumulative value of all the goods and services supplied at the same time." Now, to me, Sir, that is not closing any doors. What it is doing is it is giving options and that is the reason I have done it and I should say, Sir, that I did take advice. I had a number of consultations with the Law Draftsman because without that it is a question of what you want to do or what I wanted to do and whether you achieve that in the wording and the phraseology that we have used. That is why the amendments are such and I believe it is done in such a way that it does

give the option and I think that option would be included in any Price Marking Law which is not specifically related to this but, of course, it would give it some sway I believe. I would just conclude by saying that I do believe that if Members vote for the amendment they are not excluding themselves by closing or narrowing the effects of a Price Marking Law. I think what Members would be doing is they would be giving a clear signal that they want some transparency in Goods and Services Tax. I believe it is wrong as suggested in the original amendment that it should be absorbed. I can well understand the price being the price. I can well understand that and I know what Deputy Maclean said. There is certainly some conflicting issues but again, Sir, we live in a society where some restaurants charge 10 per cent and others do not. We have lived with that for years and I personally have complained about that because I think the price should be the price. I have done the same about somebody in the high street who has a price plus. But it is transparent; it is transparent. I had this - it is not in existence anymore - Restaurateurs Association and they said this covers this, this is for this, this is for this, this is for this, and lots of restaurants still do it and lots of us, I should add, still pay it. Lots of people queue up in the high street and pay a price plus of 5 per cent and the retailer have said: "This is because we have a freight cost of a chill under 8°C. We have wastage, we have shipping problems on occasions." That is the cost of bringing a lot of food items in. People have accepted that and some people are still angry about it but we are in that market, Sir, where to charge a price plus at the till or for a service would not be unknown in Jersey. The reason, as I outlined before, is I believe it does give that transparency. It gives retailers an option. They need not charge 3 per cent; they do not have to, but I believe it is a pragmatic solution that could be changed in the future but by flagging it now, Sir, I believe it gives the House the option of indicating that so that when price marking is done it is fully taken into account. I maintain the amendment, Sir, and I ask for the Appel.

**The Bailiff:**

I ask any Member in the precinct who wishes to vote to return to his or her seat and I ask the Greffier to open the voting which is for or against the amendment.

<b>POUR: 8</b>	<b>CONTRE: 37</b>	<b>ABSTAIN: 1</b>
Connétable of St. Mary	Senator L. Norman	Senator B.E. Shenton
Deputy R.C. Duhamel (S)	Senator F.H. Walker	
Deputy A. Breckon (S)	Senator W. Kinnard	
Deputy G.P. Southern (H)	Senator T.A. Le Sueur	
Deputy of St. Ouen	Senator P.F. Routier	
Deputy D.W. Mezbourian (L)	Senator T.J. Le Main	
Deputy S. Pitman (H)	Senator F.E. Cohen	
Deputy K.C. Lewis (S)	Senator J.L. Perchard	
	Connétable of St. Ouen	
	Connétable of St. Peter	
	Connétable of St. Clement	

	Connétable of St. Helier		
	Connétable of Trinity		
	Connétable of Grouville		
	Connétable of St. Brelade		
	Connétable of St. Martin		
	Connétable of St. John		
	Deputy J.J. Huet (H)		
	Deputy of St. Martin		
	Deputy P.N. Troy (B)		
	Deputy C.J. Scott Warren (S)		
	Deputy R.G. Le Hérisier (S)		
	Deputy J.B. Fox (H)		
	Deputy S.C. Ferguson (B)		
	Deputy P.J.D. Ryan (H)		
	Deputy of Grouville		
	Deputy of St. Peter		
	Deputy J.A. Hilton (H)		
	Deputy G.W.J. de Faye (H)		
	Deputy P.V.F. Le Claire (H)		
	Deputy J.A.N. Le Fondré (L)		
	Deputy of Trinity		
	Deputy S.S.P.A. Power (B)		
	Deputy A.J.D. Maclean (H)		
	Deputy of St. John		
	Deputy I.J. Gorst (C)		
	Deputy of St. Mary		

**The Bailiff:**

The debate now returns to Article 94 unamended. Does any other Member wish to speak on Article 94? I call upon the Minister to reply.

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

I have got little to add except I think we have had a constructive morning and the chance to give a bit of thought to this matter in a different context of price marking. I, therefore, move Article 94.

**The Bailiff:**

I put Article 94. Those Members in favour of adopting it, kindly show? Those against? The article is adopted. We now return to Articles 31 and 32 and I invite the Minister to move those articles.

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

Articles 31 and 32 deal with the definition of value. There is also a Schedule 4 relating to those 2 articles in Part 9, Sir, and I move Schedule 4 in addition. Given the debate we have just had, Sir, I would hope, although there are 2 amendments in the name of Deputy Breckon, he might be prepared to withdraw those.

**1.5.1 Deputy A. Breckon:**

They were consequential upon Article 94 so, yes, it is withdrawn.

**The Bailiff:**

The Minister has proposed Articles 31 and 32 and Schedule 4. Are they seconded? **[Seconded]** Does any Member wish to speak on any of those Articles or schedule? Well, I put those Articles and schedule. Those Members in favour of adopting them, kindly show. Those against? They are adopted.

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

I have the rest of Part 18, Articles 95 to 102 and Schedule 9 as well. I think the best thing, with Members' tolerance, is that I propose Article 95 to 102 *en bloc*. They are really the tail-end, a collection of various of the odds and ends and I would be happy to take any questions that there may be on any of the items. In particular it may be worthwhile noting that Article 100 gives the power for the House to make Regulations in a variety of cases. So, although the Law may be nearing its end, Sir, the Regulations will only just be beginning. I propose Articles 95 to 102.

**The Bailiff:**

Those articles are proposed and seconded **[Seconded]**. Does any Member wish to speak?

**1.6.1 Deputy G.P. Southern:**

It is so long ago I cannot remember what my question was, but I refer to Article 102 which clarifies the question I was asking about goods or services exported or remaining on the Island. If the Treasury Minister can recall my question, maybe he would like to answer it? **[Laughter]**

**The Connétable of St. Ouen:**

Might I suggest that maybe if the Treasury Minister gives an answer, the Deputy might work out a question?

**The Bailiff:**

Does any other Member wish to speak? Well, I recall upon the Minister to reply.

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

I wish I could help Deputy Southern [**Laughter**] but in this case I fear my memory is not what it was. So being unable to help him, Sir, I will just have to make do and propose the articles and Schedule 9.

**Deputy G.P. Southern:**

I take it on trust that Article 102 deals with my query, thank you.

**The Bailiff:**

I put Articles 95 to 102. Those Members in favour of adopting them, kindly show? Those against? They are adopted. Do you wish to move the Bill in Third Reading or do you wish to deal with that at a later stage?

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

I just wonder if there are any impediments to me moving it to Third Reading, Sir. If there are no impediments I think we ought to get on with that and the sooner it is dealt with and goes to the powers that be the...

**The Bailiff:**

I just wonder if the Greffier can help me. I am just wondering if some of your amendments were proposed in the requisite time.

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

That is what I was wondering. I will seek your guidance on that one, Sir.

**The Bailiff:**

The Greffier tells me that there might have been a possibility of some minor changes in the amendments of the Corporate Services Panel, but I think that most of those amendments were, in fact, either lost or withdrawn. The only amendment which was adopted was that to Articles 41(1) and 41(2). So I think it is open to the Minister to move the Bill in Third Reading if you so wish.

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

In that case I do so wish and I have pleasure of proposing the Bill in Third Reading.

**The Bailiff:**

Is it seconded? [**Seconded**] Does any Member wish to speak on the Bill in Third Reading?

**1.7.1 Deputy R.G. Le Hérisier:**

Just a quick point, Sir, and I did have quite an extensive exchange with the Minister on this. There are still some quite strong urban myths around among the public as to this Bill and the Minister was able to, for example, put my mind at rest about this whole issue of at what point in the V.A.T. process is the 3 per cent added, and to what is the 3 per cent added. There is a belief that the 3 per cent is added at various stages and it is added to the large price as opposed to the value-added price. I think issues like that have to be put in fairly clear and understood terms to the public because there are a lot of myths running around about this Bill. There is a lot of fear about it as is obviously evident from this morning. Can he give us an assurance, Sir, that there will be an even more handier layman's or simple person's guide to the whole thing because people are running away with some quite strong views as to what is going to happen and in a way it is that kind of fear that underlay a good part of the last debate.

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

I wanted to question the Minister regarding a report that was in the *Jersey Evening Post* 2 nights ago where people from his department were interviewed and it was stated that in implementing this Law, businesses would have to make monthly returns and perhaps monthly payments and certainly in some jurisdictions this sort of thing is done on a quarterly basis. I do feel that there are many businesses at the moment that are already having to comply with I.T.I.S. (Income Tax Instalment Scheme) returns on a monthly basis and to add this burden for G.S.T. to be reported on a monthly basis is an administrative burden and I would ask him to seriously consider making this quarterly returns rather than monthly returns for the business community. Can he comment on the accuracy of the *Jersey Evening Post* report?

**The Bailiff:**

I call upon the Minister to reply.

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

Taking the last question first I cannot recall the article that Deputy Troy mentions so I cannot comment on its accuracy. Certainly as far as returns are concerned, it would be a matter of procedure whether those are done on a monthly or quarterly basis. I think rather as we see with certain tax returns, or I think social security payments, for large businesses a monthly return may be appropriate; for small businesses a quarterly return may be more appropriate. Given the fact that G.S.T. returns will only have to be made by large businesses, that is to say those with a turnover of in excess of £300,000, then it may well be that monthly returns will be more beneficial. I think when any business is retaining tax on behalf of the government for any length of time, the danger of that business going bankrupt in the meantime and retaining funds held effectively for a third party increases, and as a matter of good government the more often that money is collected the safer the revenue is. However, we have to balance that against the administrative burden of a monthly return and I appreciate that there is a tension there. As far as Deputy Le Hérisier's comments about the need to communicate this tax to the public; yes, I accept that that is part of the process which is why I want another 12 months before this tax is introduced in order that we can have that advisory and education process both for consumers and for businesses who will be affected by this tax. With many things like this the theoretical description or theoretical explanation is not always easy to grasp and it may well be it is only when the customer comes to pay G.S.T. once the Law is in place and the tax is introduced, that understanding will finally sink home. In the meantime, I can confirm to him and to others that the myth of there being a tax on a tax on a tax and cascading is no more than a myth. Before I conclude, Sir, I think it would be remiss of me if I did not express my thanks, and I am sure the thanks of all the Members of this House, to the Attorney General for his clear and detailed advice on some of the intricate parts of this Law. I think that has enabled us to have a clearer insight into what is inevitably, at times, quite a tricky legislation. So I would like to thank him for that. I would also like to thank the Law Draftsman who has gone through various iterations of this Law and has had to have a fair degree of patience in order to cope with the various changes and requirements which I and my officers have had. I believe the Law Department as a whole needs to be thanked for this and equally I suppose Members themselves need to be thanked for their patience over a day and a half in dealing with this nonetheless vitally important Law which I am pleased to now conclude in Third Reading, Sir, and I put it to the vote and I think in view of the nature of this Law I will ask for the Appel.

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

Just a small point of information regarding the *Evening Post* article that Deputy Troy referred to. It is, of course, advantageous of certain particularly smaller businesses to return on a monthly return if they, in fact, are paying out more input G.S.T. than they would be collecting in output G.S.T. and that will happen, particularly for certain companies in the finance sector and also those that are exporting. So, those companies would want to return monthly, from a cash flow perspective, rather than quarterly.

**The Bailiff:**

I ask Members who wish to vote by Appel to return to their seats and I ask the Greffier to open the voting, which is for or against the Bill in Third Reading.

<b>POUR: 36</b>	<b>CONTRE: 10</b>	<b>ABSTAIN: 0</b>
Senator F.H. Walker	Senator L. Norman	
Senator W. Kinnard	Senator B.E. Shenton	
Senator T.A. Le Sueur	Connétable of St. Helier	
Senator P.F. Routier	Deputy R.C. Duhamel (S)	
Senator T.J. Le Main (H)	Deputy A. Breckon (S)	
Senator F.E. Cohen	Deputy G.P. Southern (H)	
Senator J.L. Perchard	Deputy J.A. Hilton (H)	
Connétable of Ouen	Deputy P.V.F. Le Claire (H)	
Connétable of St. Mary	Deputy S.S.P.A. Power (B)	
Connétable of St. Peter	Deputy S. Pitman (H)	
Connétable of St. Clement		
Connétable of Trinity		
Connétable of Grouville		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. John		
Deputy J.J. Huet (H)		
Deputy of St. Martin		
Deputy P.N. Troy (B)		
Deputy C.J. Scott Warren (S)		
Deputy R.G. Le Hérissier (S)		
Deputy J.B. Fox (H)		
Deputy S.C. Ferguson (B)		
Deputy of St. Ouen		



Deputy P.J.D. Ryan (H)			
Deputy of Grouville			
Deputy of St. Peter			
Deputy G.W.J. de Faye (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy A.J.D. Maclean (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

## NOTIFICATION OF LODGED PROPOSITIONS

### 2. The Bailiff:

Very well. Before we proceed to the next item, may I inform Members that the Student Loans for Higher Education Guarantees - Projet 52 - has been lodged by the Minister for Treasury and Resources? I understand that copies have been circulated to Members and we return to the list on the Order Paper.

## PUBLIC BUSINESS (...continued)

### 3. Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment No. 3) (Jersey) Regulations 200- (P.15/2007)

#### The Bailiff:

The next item is the Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment No.3) (Jersey) Regulations in the name of the Minister for Economic Development. I ask the Greffier to read the principles of the draft.

#### The Deputy Greffier of the States:

P.15/2007: Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment No.3) (Jersey) Regulations. The States, in pursuance of Articles 12, 13, 26 and 29 of the Sea Fisheries (Jersey) Law 1994, have made the following Regulations.

#### 3.1 Deputy A.J.H. Maclean (Assistant Minister for Economic Development):

Members will appreciate that the Minister would normally deal with fishy matters at Economic Development; I will happily take this. Any British fishing boat fishing in Jersey territorial waters is

required to have a fishing licence issued by the Fisheries Section in Jersey. The licence has attached to it various conditions under which fishing may take place and these conditions are used to manage the fishery; for example, quotas and other conservation measures. These conditions change from time to time, sometimes at fairly short notice, i.e. when the quota of a particular species needs to be changed. For this reason the main Regulation requires the licence-holder to provide an address for service to which all additions or alterations in the licence may be sent. The current Regulation requires that the address for service is in Jersey. From our talks with Guernsey on access it became apparent that having such an address for service in Jersey is quite difficult for Guernsey-registered boats to manage. Therefore, it has been agreed that Guernsey and U.K. holders of Jersey fishing licences may have an address for service in the jurisdiction in which the vessel is registered and this amendment changes the main licensing Regulation to allow for that. So, in essence, the amendment is minor. It will not affect Jersey fishermen at all and helps Guernsey fishermen with the administration of holding a Jersey licence. It could be viewed as another small step to bring about a reasonable fishing agreement between the Bailiwicks. Thank you, Sir.

**The Bailiff:**

The principles are proposed; are they seconded. **[Seconded]** Does any Member wish to speak on the principles of the Regulations? I put the principles. Those Members in favour of adopting them kindly show. Those against? They are adopted. Deputy Southern, do you wish to scrutinise these Regulations?

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

I think I will decline, Sir.

**The Bailiff:**

Very well. Assistant Minister, do you wish to move the Regulations *en bloc*, Regulations 1 and 2?

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

Yes, Sir. Thank you.

**The Bailiff:**

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

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

Yes, Sir.

**The Bailiff:**

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

**4. Draft Règlements (200-) sur le tarif des honoraires des Jurés-Justiciers, (P.21/2007)**

**The Bailiff:**

We now come to P.21/2007: Draft Réglements (200-) sur le tarif des honoraires des Jurés-Justiciers and I will ask the Deputy Greffier to read the principles of the draft.

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

Draft Réglements (200-) sur le tarif des honoraires des Jurés-Justiciers: Les États, en vertu de l'Article 7 de la Loi (1938) sur les honoraires des Jurés-Justiciers, ont adopté les Règlements suivants.

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

May I ask that my Assistant, Deputy Gorst of St. Clement act as rapporteur?

#### **4.1 The Deputy of St. Clement (Assistant Minister, Chief Minister's Department):**

I propose this amendment to the 1938 Law regarding fees payable to Jurats. These amendments, if approved, will increase the level of the honorarium that is provided to Jurats. Article 1 of the 1938 Law provides that an honorarium or fee is payable in relation to certain work undertaken by Jurats in civil cases before the Royal Court. Members will see from Schedule 1 that there are 14 different categories of work undertaken by a Jurat for which a fee is payable. Of these 14, 2 were last increased in 1980, 9 were last increased in 1989 and 3 were last increased in 1996, the most recent increase having taken place over 10 years ago. In revising the tariffs the opportunity has been taken to express the fees in units of £5. Members may have noted from the accompanying report that some of the increases represent an increase of 150 per cent, however I should like to put Members' minds at rest and confirm that that in most cases the rise is from £2 to £5. The proceeds from stamps are pooled and then divided equally between each Jurat twice a year, as at 30th June and 31st December. This income is of course liable to tax. As well as this stamp income, Jurats are entitled to an expense allowance of £1,000 per annum. It is worth noting, however, that Jurats do not receive any monies for sitting in criminal cases. I hope that Members will agree that all this, including the small increases, represents exceptional value for money to the people of Jersey. **[Applause]** In fact, Sir, I ask you, along with other Members, to join me in thanking the Jurats for all their hard work and the time they spend in honorary service on behalf of the Island. **[Applause]** I maintain the proposition.

### **The Bailiff:**

Thank you, Assistant Minister. The principles of the Regulations are proposed and seconded. **[Seconded]** Does any Member wish to speak on the principles? I put the principles. Those Members in favour of adopting them kindly show. Those against? They are adopted and you move Regulations 1 and 2 and the Schedule?

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

Yes, Sir.

### **The Bailiff:**

**[Seconded]** Does any Member wish to speak on either of the Regulations or Schedule? I put the Regulations and Schedule. Those Members in favour of adopting them kindly show. Those against? They are adopted and you move the Regulations in Third Reading?

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

Yes, Sir. Thank you.

### **The Bailiff:**

**[Seconded]** Does any Member wish to speak? I put the Regulations. Those Members in favour of adopting them kindly show. Those against? The Regulations are adopted in Third Reading? I beg your pardon, Deputy Ryan, I have neglected - with a gross negligence - **[Laughter]** to ask you whether your Scrutiny Panel wish to scrutinise these Regulations?

### **Deputy P.J.D. Ryan (Chairman of the Economic Services Scrutiny Panel):**

Thank you, Sir, and your apology is accepted. May I just say: “No” and that we are very happy.

**The Bailiff:**

I think you should rise to address the Assembly.

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

Sorry, I beg your pardon. **[Laughter]** More gross negligence, I am afraid. Yes, just to say, Sir, that in heartily approving **[Laughter]** no, is the answer and...

**The Bailiff:**

I think “no” is probably good enough. Thank you very much.

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

And to wish its passage through the Privy Council with the greatest possible speed. Thank you, Sir.

**ADJOURNMENT PROPOSED**

**The Bailiff:**

It is proposed that the States adjourn. Members agree? We adjourn until 2.15 p.m.

**LUNCHEON ADJOURNMENT**

**PUBLIC BUSINESS (...continued)**

**5. Draft Employment (Amendment No. 3) (Jersey) Law 200- (P.24/2007)**

**The Deputy Bailiff:**

We come next to the Draft Employment (Amendment No.3) (Jersey) Law 200- - Projet 24 - in the name of the Minister for Social Security and I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Employment (Amendment No.3) (Jersey) Law 200-: a Law to amend further the employment (Jersey) Law 2003. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

I recognise we have a great deal on the agenda today, so I will be as brief as I possibly can. Members may recall that it has always been the intention of my department and the Committee previously - and as a Minister - that the employer should not be able to refuse an employee’s reasonable request to be accompanied in a disciplinary or grievance hearing. I was previously of the view that the existing Code of Practice, which already deals with disciplinary and grievance hearings should be amended and developed to secure an employee’s rights to representation but of course during our previous debate on this matter the need for a firmer line was recognised, placing the right to representation in the Law as well as in the Code would give the employees a standalone right to representation with an associated award for a breach of that right. In that debate the Transport and General Workers Union views were championed by Deputy Southern - I am sorry, he is not here - and the Deputy went on to lodge his proposition - P.128. However, it was my view that the proposal was not well developed enough and more detailed provisions would be necessary to make the legislation workable. In particular, I recognise that as well as providing employees with the right to representation, it was also essential to protect the representatives themselves from dismissal or detrimental treatment by their employer. Sir, today I am satisfied that the proposed amendments we have before us today would give employees an appropriate right to representation

in disciplinary and grievance hearings and that in common with other jurisdictions the right is limited to defined categories of hearing and representatives and also that the representatives are appropriately protected. There is also one further small amendment, which we have included within this, and this is to part 5 of the Employment Law, which already makes provisions regarding the giving of payslips. The Employment Forum recommended that I take this opportunity to clarify that it is obligatory for employers to give employees payslips rather than the current wording which gives the right only to the employee to request payslips. Sir, I propose the amendments.

**The Deputy Bailiff:**

Is the principle of the Law seconded? **[Seconded]** Does any Member wish to speak on the principles of the Law? Very well, all those in favour of adopting the principles kindly show. Those against? The principles are adopted. Now, Deputy Breckon, as Chairman of the relevant Scrutiny Panel, do you wish to have the matter referred to you?

**Deputy A. Breckon (Chairman of the Health, Social Security and Housing Scrutiny Panel):**

No, Sir. It appears to the Panel to bring common sense into legislation. Thank you, Sir.

**The Deputy Bailiff:**

Thank you very much. Minister, do you propose the articles *en bloc*?

**Senator P.F. Routier:**

If the House is satisfied, I am prepared to propose them *en bloc*.

**The Deputy Bailiff:**

**[Seconded]** Does any Member wish to speak on any of the Articles? All those in favour of adopting Articles 1 to 3 kindly show. Those against? The Articles are adopted. Do you propose the bill in Third Reading?

**Senator P.F. Routier:**

Yes, Sir. In doing so, I would have been happier that Deputy Southern was here to have been able to give his congratulations to us to have come to an agreement **[Laughter]** but in his absence I maintain the proposition, Sir.

**The Deputy Bailiff:**

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

**6. Draft Housing (General Provisions) (Amendment No. 25) (Jersey) Regulations 200-, (P.31/2007)**

**The Deputy Bailiff:**

We come next to the Draft Housing (General Provisions) (Amendment No. 25) (Jersey) Regulations 200- - Projet 31 - lodged by the Minister for Housing and I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Housing (General Provision) (Amendment No. 25) (Jersey) Regulations 200-. The States, in pursuance of Articles 14 and 21 of the Housing (Jersey) Law 1949, have made the following Regulations.

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

Members will know it is just over 12 months since this House virtually unanimously gave its support to reduce the qualifying period from 14 down to 13 years. To some of you it may seem strange, Sir, to be back here today asking your support for another reduction from the 13 down to 12 years, especially at a time when house prices have risen and the demand for the purchase of property appears to be increasing. Sir, I and my officers, together with the members of the Migration Advisory Group and including the Council of Ministers are convinced - given the background set in the report accompanying this proposition - that it is the right step to take. The figures and projected impact provided are all based on previous experience, backed up by actual activity in the marketplace following previous reductions. Sir, we are convinced that the resultant impact on the housing stock will remain minimal. That is what all the evidence indicates. To halt or to postpone the process already firmly backed by the States to continue to erode the 2-tier system and bring more equity into our society is, I believe, just not an option. **[Interruption]** Sorry. Planning for Homes 2006 published as recently as December 2006, a joint document produced by the Planning and Housing Departments, it identifies that windfall Category B sites. Any new development such as on the Waterfront and town regeneration will be sufficient to take into account the potential reduction in the qualifying period to 10 years by 2009. Obviously I will, with the Migration Advisory Group, continue to monitor the situation very closely before proposing any further reductions. My continued push for new sheltered housing developments, which is receiving more and more support from the Connétables, will provide better use of existing accommodation and create more opportunities for downsizing. I have regular meetings with the Planning Minister where we discuss the current and future housing market. Senator Cohen and his Assistant Minister, Deputy Pryke, and my Assistant Minister are committed to continue to pursue policies that keep on-track the identifying need for sufficient residential units to meet future demand. The Assembly in approving the Strategic Plan have instructed the Housing Minister to reduce housing qualifications down to 10 years as soon as practically possible. I am concerned that if we do not continue the regular reductions, as proposed in the agreed migration policy, there is a real risk that the aim of achieving the more sociable, equitable 10 years for residential qualifications will not be achieved. Please remember we are talking about residents; all in work, all committed to the Island and many with Jersey-born children who, through their parents not having residential qualifications, suffer hardship and continue to do so. All of you - including myself - who have raised our children or are doing so, will have your children far more advantaged in all ways than these Jersey-born children living with their unqualified parents, who often live in highly expensive and unsuitable accommodation. It must be remembered that this decision does not affect the number of people resident in the Island. All we are doing is bringing forward one year the date for qualifying for people already resident in the Island. These people anyway will qualify in one year's time. If you like me meet many of these good people, all working, paying their taxes, you will know in your hearts that it has to be right and proper to give people their rights *et cetera* of a decent home. I will or do not support just allowing anyone to just arrive and get housing rights. There has to be a commitment to this Island and I believe, Sir, and the Strategic Plan and Members agree that 10 years is an agreed target. It appears the time is right now, with all the evidence before us, including the evidence of the previous several years from 20 years down to 13, that the impact will be minimal. Therefore, Sir, I am not going to take up the time of the Assembly too much. I please urge you to support this moral and sociable, equitable proposition.

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

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

#### **6.2 Deputy A. Breckon:**

I would just like to congratulate the Housing Minister. I think it is a move in the right direction and I say that and he will have a recall of some of the hardship cases over the years. I think every States Member should have served a year or 2 on a Housing Committee when this was on the go. It

was heart-rending some of the cases and the Minister will remember they were refused, so gladly we have moved away from that because the Regs. have been discriminatory and, as the Minister mentioned, it is against people who are paying income tax and social security and have young children and it has obviously had some effect on them. I think this is a move in the right direction, especially for families. Having said that, the housing market has changed. There is perhaps more non-qualified accommodation now than there has been in the past, but having said that it does come at a cost and I think if we are going to having people living and working among us as part of the community and treat them as a whole part of the community and not as a part that is discriminated against and I do support the move, Sir, to 10 years as well.

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

I support the move as well. I would like to ask though, in supporting the move - and we do not have much time for long-winded debates today so I will cut to the chase - have any studies been done or are being done in relation to the impact of the reduction in the number of years on the people who rent accommodation in the qualified section? Are we able to identify whether or not the impact upon the people that are renting is having any effect? Because it is all very well to see who has purchased and who has applied for housing with the Housing Department but are we keeping an eye on the ever-increasing cost of renting property in this Island when you cannot afford to buy or when you do not want to buy what you can afford and when you chose to rent and in some cases - in many circumstances - you find yourself renting in conditions that are not fantastic but yet better than some of the people that we have excluded from our Regulations. So, are there ongoing studies in relation to this and are those available through the Housing Minister to the Scrutiny Department so that Members can analyse whether or not these year-on-year reductions are maintaining the high levels of rental that people are finding in the Island?

### **6.4 Deputy R.G. Le Hérisier:**

I wonder, Sir, the Minister - and I do congratulate him on this initiative - kept speaking about evidence but could he tell us what his evidence is? Secondly, Sir - perhaps it is another one of these urban myths in which I specialise - there is this view, well, this assertion, this proposal that when low income support comes in, people who have 5 years residence on the Island will be in a position, because of the 5-year rule, to claim rental subsidy and if that is the case surely that is going to distort the housing market and partly undermine this move. Could he, Sir, clarify whether indeed this is going to happen? Thank you, Sir.

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

I totally support this proposition and I look forward to further reductions in future years. Thank you, Sir.

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

I again support the proposition and the one thing I would ask, the Minister was talking about the hardship. I think a lot of hardship is caused by the lack of security of tenure and I know it has been round about 10 years now waiting for this piece of legislation. Is the Minister in a position to tell us which year it is going to be coming forward; possibly which month rather than which year?

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

While obviously welcoming this move in principle - who could be against a principle of greater equity in our housing market and greater fairness - I have to turn to pages 10 and 11 of the document before us today and look at the inevitable rising numbers. As we bring the years required to qualify down, we are seeing more and more of the particular cohort to whom it applies, applying for leases, either housing rental in States' rental, applying for and achieving consents, so a doubling over the period from 64 to 136 of those applying for and achieving housing consents. In particular, despite the Minister saying all the evidence points to this being a safe move, he did mention earlier in his speech the resurgence of house price inflation and although it may seem like small numbers it

does not take many extra additional people wishing to buy to squeeze house prices upwards. It is a matter of supply and demand and we will never meet the demand. We will never meet the demand. As we increase that demand, even by smallish numbers - and we are talking with the reduction to 13 years, a number of 47 wishing to purchase or purchasing - that again puts a little increment on house price inflation, squeezes house prices a little more each time we do that and again that has gone up over the period we have been reducing the housing qualification period, gone up by double. I wonder if we are coming to the point now where this one and the next one and the subsequent one we have to consider more carefully whether we have sufficient provision to enable this and the next steps to take place in safety. There is a danger that we will be forcing up house price inflation and along with that, rents and pricing our residents out of the housing market.

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

Picking up on the point that Deputy Le Hérissier raised about income support and what he termed as an urban myth about the possibility of qualifying for rental rebates from 5 years, the proposal for income support is that people will be able to claim income support from 5 years and part of that will be to cover the cost of rents. If there is going to be any between reducing it from 13 to 5 years, I have to say at the present time, there will be an additional cost but we do not anticipate it being a great amount of money. The reason being because the majority of those people are economically active within the community and the majority of those people will not be relying on income support. There will be a number of them which will qualify, there is no doubt about that, but the presumption we are going on at the current time is that there will be an additional cost and we are allowing for that within our budgeting process. The proposition itself does talk about the financial implications for this particular measure to be a reduction of £60,000 to £80,000 a year. In support this measure I would ask, suggest and remind the Minister for Housing that increasing the amount of money which he is putting aside for rent rebates, that my department and I will be expecting to receive the full budget which is allocated for rent rebate and rental allowances across to Social Security for the implementation of income support. I do support this recommendation.

#### **Deputy R.G. Le Hérissier:**

I wonder, Sir, if I could on a point of clarification. Could the Minister, Sir, say what number for planning purposes was assumed of people who would now, with the lowering to 5 years, claim and could he say whether these assumptions include assumptions about people, for example, giving up second jobs within a family so that they become more eligible for this support?

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

We are going to get into an income support debate here if we are not careful, Sir. Certainly there are 2 points to that. We have not got a defined number within our budget for the housing element, other than a small increase on what housing will be transferring over to us. With regard to the particular instance which the Deputy asks about people giving up second jobs, the whole emphasis for income support is that people will be required to work and if they are able to work they will be expected to work and contribute to the income of their household, which is different to what the current housing rules are. The current housing rules and the current subsidy system does not put a requirement on people to work. So, there will be a tightening-up on people's requirement to work and that will come forward with the income support proposals, which this House will have the opportunity to discuss.

#### **6.9 Connétable T.J. du Feu of St. Peter:**

While I will lend my support to this reduction in one year to take us down to 12, at this moment I do not think we should be at all complacent on it and we should clearly give the Housing Minister sound warning that while the target has been 10, not to automatically assume it will go down to 10 because we hear often the Housing Minister getting quite excitable in media reports from time to time about the need and the dire urgency to house people, be they residents born in the Island or



people that have come in and made the Island their home; it is adding additional pressures and we are getting near to the time where decisions which will not be popular but nevertheless they will have to be made for the good running and governance of the Island and indeed the whole concept and perception in which the Island is seen outside. We have got to be balanced, we have got to be reasonable in that but not to be complacent and suddenly say we could automatically do it this year, next year, the year after and so on. On the matter raised by Deputy Le Hérissier and responded to by the Minister of Social Security with regard to the income support, I cannot say that I share the view of the Minister at all because I believe there is going to be an absolute burdensome pressure upon the Island resources and it is something that is going to be a very serious threat to the Island to increase an ever-bulging payload, which is going out of the Social Security Department and we have got to be mindful of it; we have got to keep far more alert than what we have been in recent years.

**6.10 Senator F.E. Cohen:**

I wholeheartedly support this proposition. The Housing Minister and his Assistant Minister are simply doing a superb job. There are many families in this Island who will be able to achieve their dreams - whether it be through home ownership or rental - through their endeavours. As we move towards shared equity on a larger scale, subject of course to the approval of this House, this dream will be realised for even more families. The Housing Minister and his Assistant Minister will shortly deliver huge numbers of sheltered houses to provide for those in the Island who are elderly, and shared equity homes and they will change many lives for the better. I congratulate them on making a real difference to many people in the Island.

**6.11 Deputy J.B. Fox:**

Yes, I too support the reduction here and also to the considered safeguards that are in place to ensure that we have adequate replacement housing for people to move in. The bit that I think is particularly important is that we continue to reduce years at this very steady rate. Clearly, as Deputies especially - although I have got no doubt it applies to Constables and Senators equally as well - there are less and less calls being made to us from people that do not have residential qualifications who are or have been living in appalling conditions and, although a minority, there was also some very greedy landlords around that did nothing to assist. Many of these properties now are no longer rentable and are having to be modernised, replaced, rebuilt or whatever. So, that is a positive that is coming out of it and in an Island as beautiful and wealthy as this, not everybody is able to share it to the same amount. But having said that, the process that we are going through clearly is having benefits by the reduced demands that are being made on us to support them in their endeavours and more and more are now qualifying to decent accommodation, which should have been the case from day one. Thank you, Sir.

**The Deputy Bailiff:**

Does any other Member wish to speak?

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

The Housing Minister has indicated the large numbers of sheltered houses being required by an ever-ageing population. Could he indicate to Members that the passing of this Regulation will not exacerbate those numbers and make the situation much worse than it is already? Thank you, Sir.

**The Deputy Bailiff:**

Does any other Member wish to speak?

**6.13 Deputy K.C. Lewis of St. Saviour:**

I find myself agreeing to a great extent with the Constable of St. Peter on this one, that I would vote to take it down one year but one year and one year only because I have had quite a few local people contacting me who are very desperate for accommodation and the more and more people that come

on to the list the harder it will become for them. I will vote for it this time, Sir, but no more. Thank you.

**The Deputy Bailiff:**

Very well. I call upon the Minister to reply.

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

If I could just start with Deputy Southern and... **[Interruption]** no, no, this is a serious point that I want to take up where Deputy Southern was concerned about the issues about rising rentals and demand and what he did say was - which is very important - "With its increasing demand we have got to be very careful we are not pricing our residents out of the market"; his words. These people that we are asking to come from 13 years to 12 years today, they are part of our residents, they are residents of this Island and they have got virtually as much right with their Jersey-born children living in often awful, highly expensive accommodation. I would just like to put the point and I am sure it was in that way that Deputy Southern was trying to put it across. But what I am talking about is Jersey residents who have committed themselves to the Island, they are coming up now for 12 years, we need to give them an opportunity. They are working in health, they are working in education, family nursing; they are right across the board and they are all contributing to the economy of this Island. I would like to go back to Deputy Breckon and Deputy Breckon knows as well as other Members of this Assembly, and particularly Members who have served on the Housing Committee like Deputy of St. Ouen, where when we were meeting - and the Constable of St. Peter - in Housing Committee meetings, it was nothing to have a dozen or 2 hardships every time we met. Deputy Duhamel, another ex-member of the Committee, will remember. It was horrendous. We sat there in judgment of these people that had done nearly 20 years residence with Jersey-born children and we decided their fate. It was real, real hard times. At one stage I would not sit on an appeal - we had an appeal system - and when mothers came and parents came with children, the mother was crying and I ended up in tears myself, that it was pretty horrendous. Luckily times have changed, as Deputy Breckon has said, that we do not see virtually any States Members now because the need does not arise so much and I believe, Sir, that we have now got a system in place where we can and do deal with people on a basis of being fair and equitable. Deputy Le Claire wanted to know the impact on qualified accommodation, costs of rents; well, we have done all that, Deputy Le Claire. It is all in the report, Planning for Homes. We have regular meetings with Planning; social surveys and my department has a lot of information on the issue. What I have to say - and it was said a minute ago by Deputy Fox - that there is lots and lots of accommodation in the marketplace, Sir, lots of it. Much of it is absolute garbage and I have seen some of it and I am sorry to say the word "highly expensive rubbish" in streets like Winchester Street, Vauxhall Street. Top floors where the stairs are only that narrow and people are asking and expecting Jersey people, people with qualifications and even people without qualification, to be living in expensive, bad accommodation like that, much of it I think, quite honestly, should be banned. Quite honestly, it is a fire hazard and everything; and in fact I get several agents - and I get people virtually on a daily basis - asking me if they can take this accommodation out of the (a)-(h) sector because they cannot rent them. I keep telling them: "If you cannot rent them you are either charging too much rent or the place is not suitable" and I am not changing it and the Assistant Minister and I do not change for anyone; developers, agents or anything. They want to bring it up to scratch, they bring it up to scratch and they ask a reasonable rental. No point in bending to their demands and I am also getting quite a lot of people now who want to change from (a)-(h) to (j) so they can extricate more money out of the person who wants to rent. So, the evidence, Deputy Le Hérisier, is quite clear. It is in the document. My department have a huge amount of experience. In the Population Office we are working with the migration advisory body, Deputy Gorst and Senator Ozouf, and we regularly meet. We are meeting again only this week. Now the 5-year rental subsidy that is going to be paid when the migration policy is... I have to say - as much as he is a friend of mine, the Minister for Employment and Social

Security - I have some concerns about it. I really have to say, as Housing Minister, that I have some concerns that it is all very well to say that these people are in the marketplace and they are working and economically active, but I have got a worry with the people that I see through that, that I believe that that could be very highly dangerous and I am very, very worried and I am not sure if, when it comes up for the debate that I shall be supporting it. I probably will oppose it and I think my department are really concerned about it as well. Deputy Hill wanted to know about security of tenure. Well, I have given an assurance to the Chief Minister; we have had discussions. The Security of Tenure legislation will be before this Assembly this year, which will include some security of tenure and deposits for unqualified people in the legislation. So, it is nearly finished. It has been backwards and forwards, backwards and forwards between all sorts of people and it is virtually ready for coming back. So, that will be done. I give a promise to this Assembly; it will come before this Assembly in 2007, this year. Senator Routier was asking that he wants the full budget from our department to maintain perhaps the extra costs this proposal is putting to him but I would like to give a warning to Senator Routier; he has got his part to play in this as well. Currently the Housing Department have been paying out subsidies to very high earners in the private rental sector for far too long, which we have been unable to get out of. We have just been unable. This is the first opportunity that we will have to make sure that people are not receiving rental subsidies that do not deserve it and it may, in fact, have an impact on containing and reducing landlords' demands on rents. The other issue; the Constable - Tom du Feu - of St. Peter was giving me a warning. I am not sure that it is going to come down to 10 years but I have to say, Sir, that this Assembly has agreed that this 10-year target will be met by 2009. But, if I am still the Minister and by 2009 we find that the housing market can be affected and we cannot meet the objectives, then I would come back to this Assembly and explain to the Assembly and ask for their advice. I would like to thank my good friend the Minister of Planning and Environment, who, I have to say, without his dynamic input in everything **[Laughter]** and I would like to thank his assistant, I would like to thank Deputy Pryke and I would like to thank my Assistant Minister for the huge amount of work that is taking place at the moment in identifying sites that are coming forward. I would also, Sir, like to thank the Connétables for the part they are playing in meeting our objectives and for once and all batting and voting together on that. Thank goodness. **[Laughter]** I note what Connétable Jackson and Deputy Lewis have said. I do not think that we are going to exaggerate the situation at all. I think this is fair and equitable and I was, Sir, looking about reducing 6 months ago and I was told to wait for the Planning for Homes document and all the evidence came forward and it would not have been right 6 months ago but the time now is right. There are several people that have rung me in the last few days absolutely in desperate straits, who want to get out of where they are and they are relying on the goodwill of this Assembly; the social - I do not know what word I can use - but I would just urge Members to please support this is as a moral and sociable proposition. Thank you.

**The Deputy Bailiff:**

The Appel is called for in relation to the principles of the Draft Housing (General Provision) (Amendment) Regulations. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 44</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator L. Norman				
Senator F.H. Walker				
Senator W. Kinnard				
Senator T.A. Le Sueur				

Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (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 G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

**The Deputy Bailiff:**

Now, Deputy Breckon, as Chairman of the relevant Scrutiny Panel, do you wish to have the matter referred to you?

**Deputy A. Breckon (Chairman of the Health, Social Security and Housing Scrutiny Panel):**

No, Sir, but what I would like to do is just say that in future I think the Scrutiny Panel may look at this because of the consequences on the housing situation, which also has effects on population and migration. So, although I said personally I agree with the 10-year, I think it will come to Scrutiny at a future date and it would be appreciated if the Minister would note that and give early notice of when that may happen, so that it is a case of working together, Sir, and not trying to outdo anybody. So, although on this occasion the answer is “no”, Sir, that it could well be in the future.

**The Deputy Bailiff:**

Now, Minister, do you wish to propose the 2 Regulations *en bloc*? Are they seconded? **[Seconded]** Does any Member wish to speak on the Regulations? All those in favour of adopting Regulations 1 and 2 kindly show. Those against? The Regulations are adopted. Do you propose the Regulations in a Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading, kindly show. Those against? The Regulations are adopted in Third Reading.

**7. Draft Customs and Excise (Amendment No. 4) (Jersey) Law 200- (P.32/2007)**

**The Deputy Bailiff:**

We come next to the Draft Customs and Excise (Amendment No.4) (Jersey) Law 200- - P.32/2007 - lodged by the Minister for Home Affairs and I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Customs and Excise (Amendment No.4) (Jersey) Law 200-: a Law to amend further the Customs and Excise (Jersey) Law 1999. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

I wonder if it would be possible for my Assistant Minister who has responsibility for customs and immigration matters to take this matter forward? Thank you.

**The Deputy Bailiff:**

Yes, very well. Assistant Minister.

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

This amendment - the proposed amendment - would remove the need for Customs Officers to take oath in the Royal Court. It arose out of a red tape review of legislation to reduce levels of bureaucracy. The requirement to swear an oath dates back to a time when other safeguards either did not exist or were developing; for example all civil servants are bound by the Official Secrets Act. There are capability and disciplinary processes for those who under-perform or are guilty of misconduct. There are rules of conduct laid down as to how civil servants should behave. There is Data Protection Law governing the disclosure of information and the recruitment and selection processes are designed to appoint people with the appropriate personal and professional qualities for such posts, so retaining an oath on top of these safeguards is seen as red tape and unnecessary. From a purely practical point of view Immigration Officers have similar powers to Customs Officers, however since the merger of the Customs and Immigration Services the norm is for multi-functional officers to carry out both roles. Consequently, these officers could have found themselves having to swear an oath to exercise half of their powers but not the other half of their arguably greater enforcement powers. So, I therefore make the proposition.

**The Deputy Bailiff:**

Is the principle seconded? **[Seconded]** Does any Member wish to speak on the principles of the law? Deputy of St. Martin.

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

This comes within the remit of the Education and Home Affairs Scrutiny Panel and we did discuss it, as we do with all the propositions that come before us, and we did write to the Minister saying that really it would be better to give a better explanation as to why the reason for the change and we have heard something from the Assistant Minister today but just an air of caution really and just say that is this the thin end of the wedge? I think the oath of office adds something to the office that the person is fulfilling and are we going to see possibly the reduction or the lack of need for police officers to give oath, Constables, Centeniers, any members of the honorary police? I just ask, is this the thin end of the wedge and I just really again want to know, is this really necessary to remove something which really has been part and parcel of a service and is it being demeaned by the removal of that oath?

**7.3 Senator L. Norman:**

If I could echo what Deputy Hill said. It was with some sadness that I see this go in because it is removing something which is probably unique to Jersey, of which there are many things which are unique but fewer and fewer, sadly. It is part of our tradition, part of our history. It may be unnecessary, it may be red tape but I would have thought that it does give a certain occasion to the new officer. It gives a sense of occasion and sort of gives a sense of status and importance to the office and while I may not vote against it, if I vote for it, it will be with a sense of sadness, Sir.

**7.4 Deputy J.B. Fox:**

I find this quite surprising, though I have one question to ask on this because I perceive that, like in the U.K. with H.M. Customs, that this is a frontline, it is almost a Royal as opposed to a government thing and certainly with Police Forces and I think the Fire Services and the like, part of this recognition to the Royal Court was because of the Crown. Now it might not technically still be so these days and this is the question; do the Customs come under the Crown like H.M. Customs or is it just purely a States employed thing like a civil servant but not necessarily comes under the Crown unlike the Crown Officers, obviously? But I too think it is a very special thing to young officers and indeed to the Service; it is a service. Customs is not like a business. It is a service. You are there providing a service to the broadest community, i.e. the community of the Island. A service to the government in collecting the impôt duties, *et cetera* and you are the front line, you have a responsible job and I think that part of that responsibility is that you take an oath of allegiance, if you like. So, my inclination is not to vote for this but I would certainly like to have some questions answered on where the aspects are in relation to the Crown part of the employment. Thank you, Sir.

#### **7.5 Deputy P.N. Troy:**

I think that I may vote against this as well. I think the oath is probably important. The oath is not here within this report, so the words that are used are not in this report but I imagine that it might be that there is a part-confidentiality clause in there. The oath might refer to confidentiality and to servicing the Island to someone's best regards and so I would like the rapporteur to read out what the oath is, if he could. Perhaps the A.G. might have it, if not. **[Laughter]** Sorry to put everybody on the spot but I do feel that I may vote against this and I would urge other Members of the Assembly to as well, because I do believe it is an important function where you are serving the Island and the community and are effectively a barrier to drug running and so on and I think it is an important function.

#### **7.6 The Connétable of St. Peter:**

In the report we are told that the Policy and Resources Committee in 2004 initiated the review and it goes on to state that the team appointed to undertake the review for Customs and Immigration recommended the following which we are considering today. Could the Assistant Minister inform the House who made up this team that was appointed to undertake it because I rather fear there are shades of U.K. rule coming in our direction again. Quite frankly I am heartened to hear some of the comments that have been made. This is something that should be valued within the Island, certainly within this House. If we want to show that we really mean it then let us vote against this and vote against it with a very clear message that we do not want to have repeat of this time after time where there is an erosion taking place of all the systems and all the means whereby there is ancient history attached to them. Let us put our foot down on this once and for all.

#### **7.7 The Connétable of Grouville:**

Very quickly. I can see absolutely no reason whatsoever to abolish the oath. It is part of our history. It is not causing any problem to anybody whatsoever. I think we should continue with our proud history as it is.

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

I have to say the contradiction shown by a number of Members of this House in different debates constantly astonishes me. We hear all the time from Members about the need to cut out red tape and reduce expenditure. We hear that all the time. This may be a very small part of it but it is a part of a review undertaken, as the report says, by the Policy and Resources Committee to reduce the level of red tape which is what Members have said and members of the public have repeatedly said. This is one of the few aspects of the many ways we are reducing red tape which needs to come to the House. But Members really need to be consistent. There should be no fears about the allegiance of Customs Officers if they do not have to swear an oath. They will be recruited to very

high standards and will be required to meet very high standards or of course the normal question of discipline will apply. I see Deputy Ferguson shake her head. Now if the president of P.A.C. votes against this proposition and then lectures the Council of Ministers in the near future about reducing expenditure then I will be straight on my feet to say she is not being consistent in any shape or ... I give way to the Deputy of St. Mary.

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

I would just like clarification of how it is going to save money given that it clearly states in your report that there are no financial implications.

**Senator F.H. Walker:**

It is an unnecessary bureaucratic issue. There are no direct financial issues but of course it takes up people's time. That is exactly what we were told we needed to bring pressure to bear on and we needed to reduce. As I say there are many, many issues where bureaucracy and red tape is being cut back. This is one of the very few that requires coming to the States. So it may be small but there are a whole lot of other small issues which is enabling us to contribute towards the greater efficiency that Members of this House - not least members of P.A.C. - have told us we have got to produce. That is why this proposition is here but if Members reject it, it is not the end of the world. It is not the biggest proposition that has ever come before this House. It is not the biggest proposition we have had today. But I think it is important to put it into context and to say why the Home Affairs Minister has brought it forward and that she is reacting to the wishes of this House in doing so.

**Deputy J.B. Fox:**

Can I just ask a point of clarification please? Is the Chief Minister suggesting that States' Members and all the judiciary and everybody else should have their oaths reviewed for the reasons he is just saying?

**Senator F.H. Walker:**

No, Sir, I am not. As the Deputy well knows there is a very considerable difference. I do not think you could in any way equate the 2. But I am impressed that he has been able to do so. **[Laughter]**

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

I do not think it is going to cause a constitutional crisis within the European Union if we vote against this today. Interestingly it is being done on the back of us saving money and cutting red tape. It is arguably red tape. It is more historical in its context. I do not think it is even so much procedural. But the question has to be asked surely if this is an administrative cost and thereby something that is taking up time and money, how much time is it taking up and how much money is it costing? I do concur with the views that have been expressed that there is a certain issue in relation to ceremony and the pride one feels once one has sworn an oath and perhaps that day being special to those individuals and their families and an opportunity for a photo shoot, *et cetera*. I think many of the traditions and ceremonies within the Royal Court are not really appreciated enough. I think that we throw them out willy-nilly at our leisure at our peril. At our leisure at our peril because if we do not stop to think about what we are doing then we are going to throw out some of the most integral differences that keep us unique. So I think that I am probably going to say I cannot support this either. It will be very interesting to hear what Her Majesty's Attorney General tells us when he reads out the oath. **[Laughter]** It will be interesting also to focus on those aspects within the oath and why they are in the oath. We have had recently, within living memory, the removal of the requirement to swear an allegiance to the Queen when it came to uniformed officers which is in itself a move. But that was being done to enable recruitment which was passed by the Assembly. I think we also had a rationalisation of the branding of the States of



Jersey by officers within the employment of the States of Jersey that decided to re-brand their image and call themselves - much to the dismay of the Bailiff - the States. No consultation at that time had been undertaken and it diminished in many people's views the role of this Assembly and the name and the custom of this Assembly. So while it is not a great big thing I think it would send out a message that we do not want willy-nilly small changes coming back. They do not really mean that much. They erode our independence. If you want to save money look at the big ticket items, look at the big bureaucracies. Do not tell us we are not able to stand up on our feet and tell you where there are savings because that is just ridiculous.

**Deputy R.G. Le Hérisier:**

I wonder if the speaker could outline what he means by the "re-branding exercise". I think we are all a bit at sea there.

**The Deputy Bailiff:**

No, I do not. That is completely off the subject. **[Laughter]**

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

I would ask for clarification regarding various other people in employment in Jersey that have to swear an oath. For instance, I understand that some employees of Employment and Social Security have to swear an oath. It seems to me a bit more of an issue than just efficiency savings. We are talking about a sworn allegiance to the States of Jersey. If we are considering this maybe it should be within a wider area of the whole issue, for instance the issue I have just mentioned of Employment and Social Security Department rather than coming as a one-off on its own.

**Deputy G.P. Southern:**

The last time I heard a debate like this with the trap set and baited - apparently straightforward routine piece of material - the person who walked into the trap was me. So welcome to the club, Deputy of St. John. **[Laughter]**

**The Deputy Bailiff:**

Does any other Member wish to speak? Mr. Attorney, do you have the terms of the oath? I think somebody has asked for the terms of the oath.

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

Yes, I do. There are in fact 2 oaths. The oath of the Agent and the Deputy Agents is in these terms: "Do you swear and promise before God that you will well and faithfully discharge the duties of agent/deputy agent of the impôts in accordance of the laws relating to Customs and Excise without fear or favour and that you will not disclose any information which may come to your knowledge in the performance of those duties except insofar as the law requires or authorises you so to do." The form of oath taken by other officers is as follows: "You swear and promise before God that you will well and faithfully discharge the duties of an officer of the impôts in accordance with the laws relating to Customs and Excise without fear or favour and that you will not disclose any information which may come to your knowledge in the performance of those duties except insofar as the law requires or authorises you so to do." That is the terms of the oath, Sir. I wonder if it would be helpful if I went through some of the resource implications as they are mostly in my department and in yours which I am happy to do if the Members would like me to do.

**The Deputy Bailiff:**

No, thank you, Mr. Attorney.

**The Deputy of St. John:**

I did ask that question, Sir, how much does it cost?

**The Deputy Bailiff:**

Well, Mr. Attorney, I think you have been asked only on the interpretation.

**The Deputy of St. John:**

I would be happy for the Attorney to illustrate what his department has to do in respect of this.

**The Deputy Bailiff:**

It is your proposition, therefore, you can deal with it not the Attorney General. [Laughter]

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

The oath refers to the requirement not to disclose information. That is an oath which I think is similar to that taken by those in the Income Tax Department, Social Security and probably others. If we pass this amendment is there any obligation elsewhere in the requirements that those Customs Officers maintain that confidentiality? In other words can the objectives of the oath be achieved by any other means because if they are not being achieved by other means then certainly I too would want to oppose this particular amendment?

**The Deputy Bailiff:**

Does any other Member wish to speak?

**7.12 Deputy K.C. Lewis:**

There are some other people who have taken the oath. That is all States Members: Deputies, Constables and Senators. I believe it does add something to the role. In my opinion it is a tradition that we have to uphold. We uphold all the laws and traditions of Jersey. I think this is the thin end of the wedge if we destroy this one so I will be opposing, Sir.

**7.13 Deputy S.C. Ferguson:**

Yes, I feel I must reply to the Chief Minister's slight jibe at the Public Accounts Committee. It will not stop me continuing to lecture him on overspending. This is obviously something that presumably goes back some way in tradition. I am sorry it is not in the same format as the Centenier's oaths were. I think those were much more picturesque. I am a bit exercised about this because, yes, I do like to keep the tradition. For instance, this House would be a lot less colourful if we said: "Oh well, the cost of the Bailiff's robes are much too much. He has got to just wear a lounge suit" or something like that. Or perhaps we could pawn-off the mace for the extra money that it might get us. [Laughter] But I think when people are talking about red tape they are talking about the essentials like the Tobacco Policing Officer, the Regulation of Undertakings Law and the extra hurdles it provides for business, the proliferation of health and safety excuses for not doing this or that. I think the elements of tradition where they are not expensive. Five minutes to appear in the Royal Court and in actual fact just give your oath, I do not consider that really expensive. I feel that there are bigger areas to look at to save money. I think this is rather sort of penny-pinching. I would certainly favour retaining the tradition and I retain the right to criticise the Executive for overspending when I like. [Laughter]

**7.14 Deputy S. Power of St. Brelade:**

Very briefly, Sir. When I was first elected one of the things I said early in this Chamber is that this Chamber is under permanent siege with rules and regulations from the Department for Constitutional Affairs in London and the E.U. We have a mass of regulations, undertakings, covenants, directives and things that we have to address. Having said that I do not accept that getting rid of the oath of allegiance for Customs Officers and Agents of the Impôts is red tape. I

think it is part of the culture and the history and the heritage of this Island. While it may seem to be removing a little bit of red tape I feel that you are peeling away another - even though small and inconsequential - part of the heritage of this Island. So I think we should not be doing this. When you cross into Portsmouth or you come into Jersey you see these officers in uniform and they have an epaulet on them which says: "H.M. Officer" - Her Majesty's Officer. I think it is part and parcel of a great tradition both here in Jersey and in the U.K. I for one would certainly not want to support this.

**7.15 Senator W. Kinnard:**

I am not going to delay this any longer. I think has been absolutely a waste of States' time. But I would say that what we did at Home Affairs was respond to the red tape review which had nothing at all to do with the U.K. It had local independent reviewers upon it. In terms of red tape review of the Home Affairs area they came up with only 2 areas. One was to do with road traffic which now has gone across D.V.S. (Driver and Vehicle Standards) matters to T.T.S. (Transport and Technical Services). The only other matter was in fact this matter of the oath. So what we were doing was responding to concerns of the public which was then taken on board by Policy and Resources by putting in place an independent reviewer. We at Home Affairs have just responded to that in the way that I believe all good departments should when recommendations are made. But clearly if it is not meeting approval in the States and they are quite happy for the red tape of this sort to continue then I have to say I have no strong feelings either way and I am more than happy to withdraw it now.

**The Deputy Bailiff:**

Just to be clear, Minister, you seek leave to withdraw it?

**Senator W. Kinnard:**

Yes, I do.

**The Deputy Bailiff:**

Does the Assembly agree to it being withdrawn? Very well, thank you. The matter is withdrawn.

**8. Annual Business Plan 2007: Property Plan (P.34/2007)**

**The Bailiff:**

We come next to the Annual Business Plan 2007: Property Plan - P.34 - lodged by the Chief Minister. I will ask the Greffier to read the proposition.

**The Deputy Greffier:**

The States are asked to decide whether they are of opinion to approve the Annual Property Plan for 2007 including the schedule of properties recommended for disposal in 2007 as detailed in Appendix A.

**Senator J.L. Perchard:**

Before the Chief Minister speaks, can I raise a point of order? There was a rapporteur a moment ago who proposed - I have already put it in the dustbin, the recycling bin - P.32. I am not sure procedurally whether he has withdrawn it. Surely the rapporteur is the person who would withdraw it.

**The Deputy Bailiff:**

It is the Assistant Minister acting as rapporteur for the Minister. Thank you. [Laughter]

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

Because of my involvement in certain property developments and various things I must declare an interest on the next question.

**Deputy P.N. Troy:**

Also can I say as a builder/developer, Sir, that while I may not be interested in purchasing any properties that come on to the market, I might be interested in purchasing properties that come on to the market by the States at some point in the future so I feel that it prudent that I withdraw as well.

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

I have a thing I will speak later on but 2 of the properties the plan identified as potentially being appropriate for sale to a housing trust, to be refurbished and then let in order to meet certain requirements of Les Amis. The housing trust of which I am honorary secretary has been named as the likely trust to be involved in this arrangement. There is no pecuniary interest whatsoever and accordingly I will be speaking and I will be voting on the matter.

**Senator P.F. Routier:**

The previous speaker reminded me that there are 2 properties which Les Amis are involved with. I am the Chairman of Les Amis which is a charity which provides homes for people with learning disabilities. I declare that but there is no financial gain for myself so I will stay for the debate.

**The Deputy Bailiff:**

Thank you very much. Minister?

**Senator F.H. Walker:**

Please, he is a glutton for punishment. Could I ask the House if my Deputy Chief Minister, Senator Le Sueur, could act as rapporteur for on this proposition, please? Sir, I had known what he was going to say I would have opposed the lifting of the défaut on Senator Perchard for this debate.  
[Laughter]

**The Deputy Bailiff:**

Yes, Senator Le Sueur?

**8.1 Senator Le Sueur:**

Yes, it is perhaps appropriate that since the Treasury and Resources Department now has responsibility for property that I take an interest particularly in the Property Plan, although Members will recall that this Property Plan is an integral part of the Annual Business Plan when it first saw light of day last July when it was lodged. At that time there was an amendment from Deputy Ferguson to the effect that the Property Plan element of the Business Plan should not be debated at the time but should be referred to the Public Accounts Committee for that Committee to present a report to the States. That proposal was accepted and the report of the Public Accounts Committee is attached to this current proposition before us today. I should perhaps add that the Comptroller and Auditor General also made a separate report and that is not published in this document. It was presented last November but I think that is reflected in the subsequent views of the Public Accounts Committee. I think before we go any further I should thank the Public Accounts Committee, firstly, for the detail of their report and, secondly, for the speed in which they delivered it in accordance with the timetable they had set themselves and which I appreciate. I think the report if it could be summarised is a bit like a school report: "Okay but could do better." In other words, it is all right as far as it goes. I think it was nonetheless an indication that we were going in the right direction albeit too slowly. But I repeat that that proposition - that Property Plan - was part of the Annual Business Plan and we should not be looking at this Property Plan in isolation. I think really the Property Plan as a whole has 3 key objectives. The first one is to

understand and appreciate the magnitude of the States' property portfolio and to ensure that it is properly managed and accounted for. The second objective is to ensure that the States' property assets are used wisely and effectively. Where assets are underutilised the wisdom of keeping them rather than disposing of them needs to be questioned because there may sometimes be properties which are under-utilised but where one can justify retaining them because of likely future requirements or because the market is not right. Thirdly, to the extent that the State has properties which it does not need and to ensure then that these can be disposed of in a timely way in order to meet the financial targets of that Business Plan - and I will come back to them in a moment - and enable us to make a contribution to the expenditure which we need to spend in other areas such as the refurbishment of some of our existing assets. So those principles are set out in the proposition before us today. At this stage I wanted to highlight the last of those objectives and the one quite near to my heart, that of raising a worthwhile contribution to States' spending. I draw the Members attention to Table C at the top of page 6. That shows that over this and the next 4 years we have agreed an objective of raising a total of £15 million from the disposal of surplus properties. This might sound quite a large sum but if you set it against the property portfolio with an estimated value of something like £1.8 billion - give or take a million or so - then the problem is put into perspective. In addition and perhaps even more importantly, we have got to ensure that we make the most out of what properties we retain. Turning back to Table A on page 4, this indicates that we have a target of saving ultimately £1.5 million a year by the better use of our resources. This is £1.5 million which ideally we could save; alternatively we could put to better use. So in order to meet these objectives we needed to restructure the whole of the property functions in the States and this clearly takes time. That is why the objectives in the early years of this plan are more modest until that new structure is more firmly established. For 2007, for example, we will accept targets of £500,000 revenue efficiency savings and £700,000 from disposals; targets which I think both the Comptroller and Auditor General and the Public Accounts Committee felt were too low. I think they are probably right in that but at least if we can improve on those targets I shall be much happier than if we under-performed. But these sort of property efficiency gains do not happen by chance. We know that the total demand for office space could be delivered far more efficiently and will be, but that will take time and money to achieve. Time because some properties held are on leases; we have got to wait for those leases to expire. Money because in some cases efficiency only comes with relocation; and that will carry an initial cost with savings in subsequent years, with both savings potentially quite considerable. I think the indications are that we are very inefficient at present in our use of office accommodation. I know that there are a couple of amendments to this Property Plan. I suspect that we are in danger of spending a lot of time on those amendments and the other properties on the list for sale. While that may be inevitable I do remind Members that there is a lot more to this Property Plan than simply property sales. The other thing I would say is that while properties may be uppermost in Members' minds, approval of this plan gives the States authority to sell the properties. It does not mean that they must be sold or they will be sold immediately. As we saw with matters such as the Sunshine Hotel site, if I believe that the price is not correct - and having lost one tender, the next tender I thought was not high enough - I will not let it be for sale. Again there may be other properties which I know in some of the cases are tenancies and on a lease. I certainly do not wish to evict those tenants before their lease expires. So these proposals are permissive rather than mandatory. It simply enables me as Treasury Minister to approve a sale when the time is right and when the price is right. I am not going to get too hung up over annual targets. It may be that in one year we will raise a little bit less and in one year we will raise a little bit more. But that has to be balanced against the comments of the Public Accounts Committee that we have not set our sights as ambitiously as we should have done. There should be the opportunity I think for even greater rewards once we really get going. For this reason, Sir, I do remind Members to consider the overall context of this plan which is not simply a shopping list or a sales list but really a blueprint of the future operation of Property Holdings; a blueprint which, I repeat, is part of the integral business plan. It is odd in fact that in a few months' time we will be considering next year's business plan. We have another perhaps bite of that cherry.

We are now I think 7 or 8 months since the original business plan was debated. So we are rather late in the day in putting this to bed. It has been around now for the best part of 9 months. It has had the support of, as I say, the Comptroller and Auditor General and the Public Accounts Committee, acknowledging that the scope could have been broader. I hope that as the department develops we can set higher targets and achieve those higher targets. That process is now underway. We are shortly to advertise for a new Chief Executive for Property Holdings. In the meantime, Sir, I believe that this plan deserves the support of all Members and I propose its adoption.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Now there are 2 amendments. The first is from Deputy Breckon and I will therefore ask the Greffier to read the amendment.

**The Deputy Greffier:**

At the end of the proposition after the words “as detailed in appendix A”, insert the words “except that the Samarés school houses 1 and 2 on page 16 shall be removed from the list.”

**8.1.1 Deputy A. Breckon:**

I am delighted with what the Treasury Minister has said because it is music to my ears really because he said all the things that I was thinking when I brought this amendment. What I thought Property Holdings were doing in the Property Plan was to have some joined-up thinking, some joined-up government where instead of this silo mentality we had an across-the-board approach. What this plan says at page 16 is that there are no teachers wishing to occupy the houses. They have been, therefore, unoccupied for some time. To my thinking the joined-up government, the joined-up thinking is in that time we have probably rented half a dozen houses in the private sector for public sector employees. So what is the point of having 2 houses empty in a silo of education **[Interruption]** What I thought the Property Holdings would do is more effective use of States’ property not just selling States’ property. The Treasury Minister has said: “States’ property portfolio” and he talked about efficiency gains. Now I think an efficiency gain could apply to rent as well as having less space. “Used wisely and effectively”, he said. Again I think this fits what I am trying to do here, Sir. Keep or dispose if under-utilised. Well these properties are probably under-utilised because there are people who want to occupy them who have never been offered them. The Minister also mentioned some of the States things we are doing at the moment do not meet the objectives - the targets - of the business plan. Again I would suggest this does because it is a more effective use of an asset that we have got. If we look at some of the figures in there in R.17 we are renting an apartment for £13,500 for an employee. I have not deliberately mentioned the properties or the names because that somebody we are talking about it is their personal circumstances. We have also in another projet which is R.6 of this year we are also renting a 3-bedroom house for an employee in the public sector and we are paying £18,540. If we add this up I would respectfully suggest that we could get for these 2 houses between £15,000 and £20,000 rental income. That could be used to refurbish, to do other things. It could go back into the general pot at Property Holdings. I do not think we need to have a fire sale. It does not stop them being sold in the future as the Minister has said. It makes really good common and business sense, to me, to pay rent to ourselves in effect. We have a great deal of control over that. There are no implications because a lease will be drawn up as it is at the moment so there is nothing at all there. I think as employees in the public sector we do have a need. I have not trawled through facts and figures about how many properties we are renting because I think that is a bit of an intrusion into people’s private life so I have not gone that far. But I am sure there are many for staff across the public sector. I think as I say, Sir, it does not stop these properties being sold in the future if we need to sell them. But I would suggest at the moment, Sir, that it is taken out of here and we do not sell them and do not agree to sell them at this time. If there is a need to in the future and the

Minister could come back and say there is no need for the rental then I for one will be convinced if he can do that, but at the moment I am not and I make the amendment, Sir.

**The Deputy Bailiff:**

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

**Deputy J.A.N. Le Fondre:**

Can I just make a point of clarification, Sir, on something that Deputy Breckon said which is incorrect? If I could refer the Members of the House to the comments that were issued by the Minister, the comment relating to Deputy Breckon specifically states that the Ministerial decisions related to this report which is R.6, R.17 and R.22 do not refer to staff as none of these transactions relate to staff accommodation. In his speech Deputy Breckon did specifically refer to it being for a public employee I believe.

**8.1.2 The Connétable of Grouville:**

I would like to back Deputy Breckon in this enterprise, in this amendment. It seems to me that the quote here about: “There are no teachers wishing to occupy the houses” seems very odd. There must have been a load of people in the Health Service who wanted to occupy houses but they were not offered to them. I just do not understand what Property Services are doing. They are meant to be there to collate the information from the various departments and say: “Right, Education has got a couple of houses they are not using but ...”

**Senator F.H. Walker:**

May I correct the Constable if I understand correctly what you said? You said the properties were not offered to the Health and Social Services but they were.

**The Connétable of Grouville:**

No, I said it says here.

**Senator F.H. Walker:**

They informed us they had no need of them.

**The Connétable of Grouville:**

Right, okay, fine. They must have been somewhere else in Public Services then because the Property Services then went out and rented 2 properties quite close to me for Health so I do not quite know where the information is coming from here. But I thought the whole idea was that Property Services would collate everything and say: “Health have got 2, Education need 2” whatever. That was the whole idea of the whole Property Services Department that we would not have this waste. This appears to me that we are selling these houses off and renting houses elsewhere. It is much better to keep our own properties and not rent. We are paying out money for rental which could be absolutely wasted. It could be used for upkeep of our own properties.

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

Taking the point of Deputy Breckon and looking for a joined-up approach, I can confirm that Property Holdings do indeed have very much a joined-up approach. Although these properties were originally available for the Education Department, having been told by Education that they had no use for them we then seconded that information to all other State departments to see if any other department had a use for them. In particular, I know that Health have a number of properties which from time to time they require for particular staff. They were asked and they said, no, those particular houses were not suitable for their requirements. No other department has found those houses to be suitable for them. We have already houses available. We have a portfolio of something approaching 100 houses which are let out to various members of staff. But where we have houses which are unsuitable for any accommodation by any department and are simply going

to lie idle and empty year after year when people elsewhere in the Island are struggling for somewhere to live we are not doing ourselves a favour, but more importantly we are not doing those people looking for a house a favour. If I thought that the situation would have changed next week or next month or next year even and that there would suddenly be a demand for these properties I might have a modicum of sympathy for Deputy Breckon's amendment. But to my knowledge there has been no indication for the last 3 or 4 years and possibly longer than that of any demand in the public sector for those properties. So, yes, it is possible that we as Property Holdings could lease those properties to a private sector tenant but I suggest to Members that it is not the activity of the States to get involved in being a commercial landlord renting to the private sector. If we want to be a landlord to our employees, that is one thing; if we want to compete with the other property speculators of this world and join the accommodation agency market, that is a totally different matter. So I think we have a situation here where Property Holdings have done exactly what they are supposed to do; checked around in detail to see whether there was any demand for this property and in the absence of that decided that they should be sold. It is not as Deputy Breckon suggests a question of a fire sale. If I thought that there was no market for the sale of these properties either then clearly I would not consent to their sale. But I would be surprised, personally, in an area which has now been redeveloped very nicely for housing in that part of St. Clement, that there would be a demand in the private sector for people to buy that. On that basis I would far sooner see those properties occupied by some people who need them rather than left empty for the foreseeable future. It does not make sense for us to hold them. It does not make sense for us to be private sector landlords. We have no requirement for it ourselves and on that basis, Sir, I would certainly oppose the amendment. There were, as Deputy Le Fondré, says a couple of erroneous comments. The transactions which were referred to by Deputy Breckon were in fact, in 2 cases, properties which were owned by the Le Seilleur Fund and rented by the States to the private sector. Those require the States' consent but they are not staff accommodation for States' employees. So I think maybe inadvertently the Deputy was misleading us there but I am sure it was not intentional. But I repeat, Sir, that given the situation, given that there is no demand and given that we have trawled around all the departments, made all the relevant inquiries, I believe that there is no merit in this amendment.

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

Really I just wanted to stand to echo the comments made by the previous speaker. As everyone is aware the Housing Department is investing a lot of money into the area of Le Squez. The last thing I would like to see as the previous speaker said was to see these houses remain empty while there is very obvious a demand for these types of family homes. So on that basis I will not be supporting the amendment.

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

I would like clarification please, Sir, and especially in view of the last Member to speak as to why - obviously we all want people to be living in these houses - they cannot be transferred on to the Housing Department? Obviously there is a rule being broken, I presume, by that but I would just like an answer please, Sir.

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

I suppose I could say a few words now, Sir. The issue of the question was raised by Deputy Scott Warren, why are the Housing Department not interested in the properties? Currently, Sir, the amount of homes that have come off the 45 per cent of rezoned sites and the way we have re-juggled our business means that we have enough family homes at the present time to meet our needs for the next 4 or 5 years with what is coming off on brand new homes off the rezoned sites. We are at present not having a great difficulty filling them but it is not the waiting list that we had years ago. The biggest waiting list now of course is sheltered accommodation and accommodation for elderly. The purchase of homes has absolutely gone through the roof. We have got waiting



lists everywhere for first home buyer homes and homes under shared equity basis. So, as quite rightly said by my Assistant Minister, that means that we really have not got a need for those. We would want to see them go straight into the marketplace now for a family to occupy; much better use of the property.

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

I am a great supporter of the plan. I was quite surprised at the Minister's very passionate response there to see the plan in a detailed sense questioned. I think the issue that interests me, Sir - and Deputy Breckon has to be praised in allowing us to discuss this - and perhaps the Minister for Health or in his absence the Assistant Minister could deal with this: does the Health and Social Services Department carry a pool of houses given its staffing situation or does it just do what might be construed as the lazy thing and, just as Deputy Breckon inferred, Sir, at top rate go out into the private sector and rent houses as needs appear? Or does it try to manage a proper pool of housing given that it has in some respects a transient group of staff or a group of staff who need initially rented housing? I think the Constable of Grouville was very wise to raise this point. Why has this housing all of a sudden, having been suitable in very recent years and been relatively modern housing, become unsuitable either in terms of location or in terms of facilities? It does not seem an unpleasant form of housing. I do get the feeling, Sir, that we are perhaps taking the lazy way out. I wonder, Sir, if the Minister for Health or in his absence his Assistant could outline what their housing policy is for staff and why these particular properties were rejected by their department?

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

Does any Member wish to speak?

#### **8.1.8 The Deputy of St. Ouen:**

I will only speak briefly on this amendment because I want to address the full Property Plan when we get around to it. But I think that we have just seen a first view of the symptom of this plan: how poorly it has been prepared, the lack of evidence and the lack of ability to properly determine what is required and what is not. Furthermore, it is an indictment of the fact that Property Holdings and the States as a whole cannot manage their affairs in a commercial manner. To turn around and say that these 2 properties - because they are not required in the public sector cannot achieve decent rental values and create an income and derive an income from them, and yet they sat idle for 2 or 3 years or whatever it is - is appalling. Furthermore, I cannot understand when we have a school surrounded by houses in a limited space that one of the first properties or set of properties that we are planning to sell are 2 houses within the school area which is, as I say, limited as per the Plan here. As I say I am struggling to come to terms with the information that supports the sale apart from a short paragraph in this Plan. I do think it is appalling and I will be supporting Deputy Breckon.

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

I want to first of all assure the Minister that he has my general support for the concept that lies behind what Property Holdings are going to do. But any level of reflection by Members will quickly recall the abysmal approach that the States has towards its own properties. Therefore, while I have high expectations of what Property Holdings may be able to achieve we have to realise we are starting from very low on the ladder. One of the reasons I shall be supporting this amendment is because I think within the general report Deputy Breckon has honed in on some of the issues that still prevail and need to be sorted out, where we can still see serious lack of imagination, creativity, entrepreneurial flair. It is, as the Deputy of St. Ouen has only just pointed out, extraordinary to know that even now - and it is a shame that the Minister for Education, Sport and Culture is not here to explain and perhaps one of his Assistant Ministers may care to pick up the baton - why on earth these buildings have been allowed just to sit around doing nothing, not even being rented out on a temporary basis. It beggars belief that this sort of thing happens when

we know the desperate needs of people in the Island for basic levels of accommodation. It is quite staggering. Clearly as the demography ran through with the baby boom and we had to build the new schools and bring in the contract teachers who lived in the houses that was clearly a wise and sensible thing to do at that time. The demographics and the baby boom have moved through. We built more secondary schools and unfortunately forgot that once we educated them they went on to university. Sadly forgetting to dip into the pool to have enough money for university grants but that is a side issue, although it does underline perhaps to what extent we may be able to rely on the suggestions that these houses are not going to be required in the future because I am not that convinced. It strikes me that as we look at increasing population growth, we have our new migration policy and we want our new economic growth policy that maybe there just will be more people coming to live in the Island with families who require primary, secondary school education. So are the baby boom statistics really and truly over? Would we not all look a bunch of Charlies in 10 years time when suddenly we find that these 2 buildings that were there for contract teachers have been sold off into the private sector but now we need some new accommodation for the contract teachers that they require? I think that what this amendment flags up is that there is still a failing, that we really are at the start. As I say I support the direction we are going in but some of these issues need to be looked at I think more closely. I am concerned that the responses I am picking-up from the Minister at this stage are really very much black and white. This is no longer required, therefore, this will be sold to the private sector. We have consulted all departments. I only have a very small level of experience of working with departments but it does seem to me that that again is another classic failure of our administrative process. If you just shunt an email around and if an officer or 2 happens to pick it up on the day they will just lean around the office door or shout across the corridor: "Do we have any need for a couple of houses down at Le Squez? No." So word goes back and the Minister is provided with this information we have absolutely no need for these whatsoever. I am sorry but just sending an email round once does not in my view constitute holistic thinking and taking an overview on how property should be handled. So while I think that many of the areas within this general report quite clearly do deserve probably to be sold off to the private sector I have got some reservations about this one. I really do because of the location and what the properties were required for in the first place. I simply say why sell-off? There is this middle ground which is leasing which means if we do run into trouble in 10, 15 years time we just offer notice and we are in the clear in terms of having to be able to re-accommodate contract teachers should we ever need them. Now I do not know what the long term plan for the Education Department is in terms of this entire school let alone the 2 properties attached to it. But perhaps it might have helped if we had had that information linked in with why it is okay to sell-off because I do not think it necessarily is. So I am very sorry to appear to be going against the Ministerial party line here. It is with deep regret but I do have other things to say about certain issues of this Plan where I simply do not see the sort of joined-up thinking that I would expect to see from a property holdings outfit that I want to have confidence in.

**The Deputy Bailiff:**

Deputy Le Fondré, have you not already spoken?

**Deputy J.A.N. Le Fondré:**

No, I asked for a point of correction if you remember last time because I was clarifying what Deputy Breckon was saying. I felt he was making an error in what he was saying to the House.

**The Deputy Bailiff:**

A Member of the States may only interrupt the Member speaking in order to ask the Member to elucidate a matter. You say you were doing that?

**Deputy J.A.N. Le Fondré:**

Yes, Sir.

**The Deputy Bailiff:**

Stretching it a bit but there we are.

**8.1.10 Deputy J.A.N. Le Fondré:**

It will be short, do not worry. Sir, Deputy Breckon wishes us to remove the premises at Samarés from the list of properties listed for disposal. His argument appears to be based around the assumption that we are renting properties from the private sector at significant rentals. There are 2 points to make here. We have obviously corrected a couple of the assumptions. But one is, as we have pointed out I believe in our comments, that the examples he quotes from in his amendment mainly relate to properties forming part of the Le Seilleur Fund and for which the department is effectively acting as agent to lease them to the private sector, i.e. they are only being leased by the States as a landlord not as a tenant. I do hope we get a decent rate for them because that is what we are meant to be doing. The other example used - and it might well be the example that the Constable of Grouville was referring to as well - relates to a special needs situation which we were advised where it would be preferable, due to the circumstances involved, for the lessees not to be moved too far from an existing lease which was not to be renewed. So again that was not to a member of the public sector. I am informed that there are only 2 properties that have been leased for staff in the last 12 months; one of which was in Grouville and one in St. Ouen interestingly enough. The Deputy of St. Ouen seems to be saying that we should be becoming a private sector landlord. What the Minister was saying is that we would rather not become involved in that business. I think the point being is that really on balance the record of the States in the past on this matter has not been particular great. Now as to why the property in question at Samarés was left empty, I cannot answer precisely why. My understanding is that Education no longer had the need to provide accommodation to teachers in this way. But I can answer why it had not been rented in the last 2 years. I am sorry to say that when we visited the site some time last year on a not particularly attractive day I was rather shocked - completely shocked I would say. I think the area - not of the houses but of the setting surrounding those houses - could probably have been compared to something like riot-torn Belfast to be blunt. I do not know how many buildings in the vicinity but probably 20-odd were boarded-up, had graffiti on them and I think one may have even had a fire against it. To be honest comparisons have been made with the Bronx. I would certainly say that if you were a police officer and you were sent around there at midnight without any support I think you would know you had severely cheesed-off your boss. The point being, Sir, there is not any reflection of the fact of the state they are in. Basically they were pending the commencement of the refurbishment works that Housing had set in motion. I have not obviously been down there since but I understand that the transformation certainly from the properties that were across the road was quite spectacular. But the actual location right next door to these properties was appalling. So that was the point of why they were not rented out. They were not rentable. No one would have wanted to live in that vicinity. Sir, secondly on a further point, I am informed that the public already own 97 units of accommodation that are or could be used for rental. We presently rent 24 units from the private sector, of which approximately two-thirds are paid for either in full or in the main by the occupant. As noted in our comments we presently have 4 units in addition to those that are available to rent, one of which is a property very close to the heart of Deputy Le Hérissier who will I hope appreciate the difficulties we occasionally face in trying to rent out these units. I would add that for the Samarés units we have tried to find a use for them, not just from Education, and again we refer to our comments. We have talked to Health and everyone else. For the foreseeable future - and that is not just this year - there is no forecast demand, hence the reason to sell. I have visited them, I have seen the location and I agreed with the decision to sell them. I do not support this amendment.

**8.1.11 Deputy J.B. Fox:**

I was going to comment on this amendment but seeing as there have been questions asked in relation to Education and as my Minister has gone off sick with a bad back today and cannot get to

this House, I do not have any official briefing on the subject. I do not think he has either. So I am going from memory to try and answer some of the questions, some of which is during the period that I have been a States Member and some of which is during my specialist role as a police officer before that in the security of schools which has some history which is quite useful. The answer to Deputy Guy de Faye is that the question of the school and its immediate surrounding has got nothing to do with the 2 houses. We have just invested heavily in a brand new school at Samarés as it is now as opposed to the older States School. It has a youth centre right next door to it. We are very much committed. However, the policies have changed. From memory these 2 dwellings that were built were on the basis that at one time for security reasons we needed to have resident caretakers on premises as much as we could to provide supervision, maintenance, dissuade vandalism, antisocial behaviour *et cetera*. But, of course, in the security line which was my speciality there are lots of different options that are available nowadays, which were not available so much in those days; and the other thing was that if you had sufficient land to be able to have 2 spaces in this case it gave the opportunity of finding accommodation for teachers that were non-residents that were brought in to the Island to provide the educational services and needs that were required. Since that time we have evolved - I suppose is the word - that we do not provide housing like we used to. People coming to the Island especially now like to have a choice of what they look for. We do not provide the subsidies that used to be in the old days. Hopefully, we provide them better wages and conditions which allow them to make their choice but obviously we will assist them in every way that we can to fulfil their family requirements, not least because it is to our advantage to have these qualified people to come in and teach our children and support our community. In relation to these 2 particular houses, they have not come under Education for some considerable time but I do not know exactly when, I am afraid. This is the bit that I have not been briefed on, but as far as I am concerned they now come under Property Holdings and, therefore, are no longer part of the responsibilities of Education, Sport and Culture. I agree that the immediate area did go through a period of deterioration prior to regeneration and refurbishment but that *per se* is not necessarily the reason why they remain vacant. I think it was probably during this period of changing policies and with teachers and other essential employees having choices and with all the buildings that are going along now, both in the public sector and the private sector, the choices are much more plentiful than they might have been in the past. Agreed that the first reaction - and I speak as a States Member as opposed to an Assistant Minister - that the obvious question is if you are refurbishing, whether it is for continued social rental houses or for first time buyers, especially from ex-tenants that might have the opportunity for the first time to buy the home: why these 2 units could not be included seeing that they are alongside many other recently rezoned, refurbished housing. But clearly, the Minister for Housing and the Minister and Assistant Ministers for the Treasury and Resources have answered those questions and, therefore, I believe that it would be a great shame if we did not utilise these 2 properties in a refurbished area, but hopefully that, if the amendment does fail, these properties will go through for first time buyer use as they would be ideal for that. Thank you very much, Sir.

#### **8.1.12 Deputy J.J. Huet:**

Thank you very much, Sir. Would it not be lovely if we all had a crystal ball and we could see what was going to happen in the future? I believe these houses have not been lived in for years. They have been left to deteriorate which I find quite surprising because when I did have some apartments - and I am only talking about a year ago - I never had any trouble letting them to teachers that came over on contract, none at all. So I am really surprised that these 2 houses, which I am sure were a lot better, could never be let. I would say that somebody is slipping up here and did not make a very great effort to let them. Now, the second point I was going to come to, Sir, we have another school, Haute Vallée which is on the top of Queen's Road and we have a lot of vandalism up there. We always said when we built it at great cost that where we slipped-up was we did not put a caretaker's house there. The residents of the area have been calling for years to have a caretaker's house for that area. I believe, unless the story has changed, the reason we have not got

one now is we cannot afford to put one up there. So, cannot afford to put one up at Haute Vallée and we know it is needed; we have 2 here and we are going to sell them. Yet we are having the whole area renovated; the school is new and this is when I am saying about a crystal ball. How do we know that we could not use them for a good reason the same as Haute Vallée is yelling out for now? It does seem a trifle stupid to be selling these assets. I mean, it could have been anywhere else but they are on the school. Why are we not putting a caretaker in or is that too simple a question to ask? It just seems that somebody is not getting their act together here, Sir, and I am quite disappointed. Thank you.

**8.1.13 Senator F.H. Walker:**

Can I emphasise at the beginning that some speakers have suggested that there is no joined-up approach to property here? Well, that is exactly what we are seeking to achieve. There has been no joined-up approach to property in the States in the past. Each Committee has effectively done its own thing and goodness knows how much value to the public has been lost as a result of that and this is exactly what we are seeking to overcome now. Can I emphasise that it is a joined-up approach. It is not just a question of an email going around to various departments saying: "Do you want these buildings or not?" There has been consultation with every department of the States who have confirmed they have no use for these particular buildings. They are unsuitable for any uses that any department has been able to identify. That position has been endorsed by Jersey Property Holdings - by the Property Holdings Unit - so we are in a position where we are being told by all the professionals responsible that they have no use for this particular property. It does not mean they do not have use for other properties. Of course they do. They have no use for this particular property. Sir, some reference was made earlier by Deputy Le Hérissier I think and also the Deputy of St. Ouen to the Health portfolio. Well, I do not really know how Health have run their property portfolio in the past. What I do know is that the Health property portfolio is coming in to the central Jersey Property Holdings portfolio and, therefore, I do know that it is going to be well-managed in the future. I cannot say how it has been managed in the past. I can say it will be well-managed in the future. But Health have been properly consulted about whether or not they want these properties and they have confirmed that they do not. The Deputy of St. Ouen talked about commerciality. I could not agree with him more. But what is the point of sitting on a depreciating asset, as we have done for far too long already in the particular case of these houses and other properties, what is the value to the public and the benefit to the public of continuing to do that. The real issue here - the scandal if you like - is that we should have been doing this years ago, probably 20 or 30 years ago, not now. But now we have this opportunity to make sense of things and the alternative to selling is - because there is no demand, there is no demand from within the States - to continue to let the properties lie idle, to degenerate and watch the value to the taxpayer, to the public of this Island go down. Now, is that doing our job in the best interests of the public? No, well, of course...

**The Connétable of Grouville:**

Sorry, Sir. Can I have a point of clarification here? I think the Minister missed one of the options and that is to do them up and let them.

**Senator F.H. Walker:**

Yes, Sir, that is one of the options absolutely but surely there is a far better opportunity here. There is a twofold opportunity here: one is to let, as another speaker mentioned, a first time buyer - a local first time buyer - acquire the properties or buyers acquire the properties. Good opportunity; what we are pledged to do - increase home ownership. So here we are offering that opportunity. That is the first opportunity. The second opportunity is that we use the value created to the benefit of the public, the benefit of the taxpayer in some other way and that, of course, is one of the whole reasons of having a joined-up property portfolio.

### **The Connétable of Grouville:**

Sorry, Sir. I really am sorry to interrupt the Chief Minister again but I have to correct him that it says that they would be sold on the open market, not on the first time buyer market.

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

Well, Sir, that is a decision to be taken. It may well be sold on the open market but even if it is it creates an opportunity for Jersey people to own their own home - very much an objective of this House. But, Sir, it seems to me that some speakers believe that once we have sold these properties we have lost the value of them. Well of course, nothing could be further from the truth. What it means is that we generate value from a property which is currently degenerating for which there is no identifiable use from within the States. So we generate value from the sale and we reinvest those proceeds. The proceeds are not lost to the public, far from it. We reinvest those proceeds in the best interests of the public. We are not losing the value. We are creating better value for the public. The alternative is pure, pure waste and that is not what we are here to achieve, of course, on behalf of the people we represent. So, Sir, that is the choice: a degenerating asset, a waste of public money or the opportunity to create or offer a home to Jersey people on the one hand and to use the value generated from the sale to much greater public benefit on the other. I know which of those 2 alternatives I am very much in favour of.

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

The proposition itself is very brief. It just says that the 2 properties - Samarés school houses 1 and 2 - should be removed from the list of proposed sales in 2007. But in the short report that accompanies the proposition Deputy Breckon shows his true colours, I believe. He mentions only about 4 times that the properties should be retained for public sector employees. I want to say, Sir, I believe the States of Jersey are good employers and remunerate their employees generally in a fair and equitable manner and to suggest that some employees should be offered better than their remuneration package by being given housing as well I think is a bit of sleight of hand by the Deputy. What is his real motive, I am not sure, for wanting to retain these properties and rent them to public sector employees? I ask Members is it the role of government to house its employees? Is that what we are here to do? We are here surely to ensure that there is an environment where housing is available, where employees whether they are public or private sector can buy in, rent in and that the prices are reasonable. To favour one section of the community with housing is outrageous, albeit the proposition does not specifically say or the amendment does not specifically say to house public sector employees; the report clearly does; and it worries me that we should favour one section of our community over another. This House must be clear as to what it is here to do. It is not here to house public sector employees. It cannot be seen to be favouring one sector and I suggest to Members that we do not go on this emotional ride with the Deputy and that we be clear as to what we are trying to achieve by the sale of this type of property and the 2 at Howard Davis Farm which I notice he has not opposed. It is to add to the States' finances so that we can deliver social housing and requirements of social needs. It is prioritising where our money is best placed and it is nothing more than a seductive suggestion to retain these 2 houses, as it would be to retain the 2 at Trinity and I urge Members not to support this amendment because I think the Deputy is showing his true colours, Sir.

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

I will be brief. I would just like to say that I agree with the Deputy of St. Ouen. The Property Plan if you look at it is quite amateurish, the way it is all set out. The Public Accounts Committee have identified weaknesses in Property Holdings. They are looking for a new Chief Executive; the position has not yet been even advertised. If you look at some of the recent debacles that have gone on from that department you wonder whether we should be debating this plan at this time. I would agree with the Chief Minister that there has been no joined-up approach to property.

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

I do object to the words “debacles in the department”. I have had no evidence of that. Maybe he would like to substantiate his comments.

**Senator B.E. Shenton:**

In what way? The Sunshine Hotel or Howard Davis Farm or ...

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

No, Sir, I think that is unfair as well, what the Senator is saying. It is unfair on the staff working in the Department.

**The Deputy Bailiff:**

It is a matter for the Minister how he...

**Senator B.E. Shenton:**

In what way, Sir?

**The Deputy Bailiff:**

It is a matter for you how you put it.

**Senator B.E. Shenton:**

Okay. I cannot think of another word for debacle. **[Laughter]** I will get a thesaurus and try and find one. Moving on, the Chief Minister did say that there had been no joined-up approach to property management and property affairs and I think he was correct to pull up his Ministers over their lamentable management of assets. Too often properties get left empty and ignored and the way the States manage some of its finances is quite extraordinary. I am also quite interested in the Chief Minister’s assertion that holding on to Jersey property is a depreciating asset. I am not quite sure where he gets this from and, because the Chief Minister has left the Chamber, perhaps the Finance Minister would like to clarify that point; how holding on to Jersey property can be viewed as being a depreciating asset.

**The Deputy Bailiff:**

Well, I think Senator Le Sueur has already spoken, as has the Chief Minister. You must carry on, I am afraid, Senator.

**Senator B.E. Shenton:**

If it is a depreciating asset it is perhaps, because he went on to say before he was interrupted, that if we do not sell them they will just be left empty, which rather contradicts the whole premise of this Council of Ministers and now this new efficient lean machine that is going to squeeze every penny out of the assets. So I am not quite sure where they stand. All I would say is that the document is amateurish; there is no Chief Executive at Property Holdings at the moment and we are looking to sell these...

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

There is, Sir.

**Senator B.E. Shenton:**

All right. We are looking for a new Chief Executive for Property Holdings and I will be supporting Deputy Breckon’s proposition because it is the wrong time to sell.

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

Can I make it quite clear that the present Chief Executive is retiring, as he has always intended to do, in September and that the new appointment is to replace the retiring Chief Officer?

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

On a point of clarification, Deputy Le Hérissier asked about a health and accommodation situation which I appreciate the Chief Minister has greatly answered this question. But I would just like to say that, as Assistant Minister, I have not been made aware of current accommodation problems for healthcare workers but I am certain that the Director of Estates - because I believe it has not quite got to Property Holdings yet - would be happy - it is not going to be in time for this afternoon, I presume - to supply that information to all the States' Members. Thank you.

**8.1.16 Deputy C.F. Labey of Grouville:**

I would like to agree with Senator Perchard up to a point. I do not agree that these properties have got to be or should be retained for public sector employees. I totally agree with that. However, having gone through a very long battle in Grouville to keep land alongside Grouville School as land for possible use by the school and expansion into play areas, and I would very much like to thank the Planning Panel for sticking to their guns on this one, because it is very important that there may be time in the future where we do need the space and these 2 particular houses are almost in the middle of the school playground. To answer Deputy de Faye's question, unfortunately we do not get much notice about baby booms and Education are usually on catch-up because they get 4 and a half year's notice that there has been a baby boom before the child starts school. But there may be opportunity in the future. There may be need in the future for this school to expand or have a nursery school or whatever and I just think it would be short-sighted in the extreme to get rid of these houses at this point. However, having said that, I do not agree that they have got to be exclusively for public sector employees and in actual fact if I was a teacher the last place I would like to live is alongside my place of work.

**8.1.17 Deputy S. Power:**

Very briefly, much as the Housing Department are reviewing their portfolio of housing and other departments are looking at theirs, there will come a time in another cycle within the Island's economy where properties that we might have sold we may regret. I would pose the question to all States Members now, I do not know if the information is available before the end of this debate but, if we were to look at the cost of construction of these properties in 1990 and then look at the open market valuation of these properties in 2007, I am sure that the return that the States could achieve on this would be much, much higher than putting money in a bank at 3 to 4 per cent. So my view is that perhaps in 2 years' or 3 years' time there may be a case to use these properties and I do not understand why Property Holdings cannot develop a department to rent States' residential property.

**8.1.18 Deputy G.P. Southern:**

I would like to thank the Deputy of Grouville for giving me some clarity on what was confusing me for a while over this particular proposition. Because my confusion was that Deputy Breckon's amendment, which refers to public sector workers, has been superseded. While I tend to agree that that has been a use in the past and it was useful for these properties and others, that is about to be superseded completely by those arriving on the Island who will be licensed to live and work on the Island and the need for this sort of rental is likely to be very much diminished because we have decided that from the moment they set foot on the Island - the equivalent of (j) Cats., the licence, they will have the right to buy in their own name - which is fairly unfettered - property above £250,000 I believe, which is a lot of property. So, while the thrust of what Deputy Breckon was arguing I found difficult to agree with in the way it is phrased, nonetheless and listening to Senator Perchard and Senator Walker I found myself hearing something that sounded awfully like realisation of capital for continuing costs and that I am agin in principle. Yet it seemed to me that Senator Walker's realisation of the asset was going to go into revenue needs and that I think we



should be avoiding. It sounds awfully like selling off the silver even if it is a particularly scruffy and not spectacularly valuable piece of silver, we appear to be doing exactly that and I think that is a trend that, no matter how desperate we are to generate some revenue, at the moment we should be avoiding. So the Deputy of Grouville pointed out the principle that if we have got something which we cannot predict what we might need it for in the future but nonetheless is an asset that we might use for something productive in the future, albeit when we receive a baby boom - a baby boom generated by the incoming newly licensed workers that we are going to be employing to meet our economic growth needs and our migration policy, because they will be arriving. They are arriving now and they will continue to arrive, then it is possible that we might find a more productive use for this particular site and this particular asset and that, in fact, in principle we should be retaining that asset and we should be supporting this amendment.

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

It is very much along the same lines as Deputy Southern had to say. I think the States have a pretty poor record of buying property and as now we are selling it we seem as if we are going to have a pretty poor record of selling and disposing of our property as well. We have heard today about one of the arguments as to why the property was not wanted by schoolteachers. Well, we have heard - I think it was from Deputy Le Fondré - about the actual location of it. It was right in the middle of a pretty poor, run down area at the time, though I understand that area now has been upgraded and indeed it may well again become an asset to somebody; somebody certainly on the rental side. But I am surprised we are going to get rid of something. Are we selling an asset or are we selling a liability? I think we are selling an asset and certainly there is a waiting list for 3-bedroom houses. I am surprised to hear the Minister of Housing saying that we do not need properties for States' rental. I thought what we were looking for was for 3-bedroom States' rental houses. But anyway...

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

I did not say we did not need them. The demand is not what it was and we are raising all the time the upper financial limits to house people now, which we should not be doing.

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

That is a point of view, Sir. I will just repeat, the House has a pretty poor record of buying property, a pretty poor record of selling it and I think this again is another example of where we should not be selling. We should hang on to an asset and making better use of it for the public.

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

I would thank the Minister for his kind comments originally. Basically, the Public Accounts Committee said this Plan is a good start. One of the things we did find out when we were looking at the Property Plan: these properties in the Property Plan and particularly these 2 properties have been identified for disposal for some time so that there has been a good opportunity for everybody within the States' system to work out whether they need them. This House itself has a significant reluctance to sell property but with these particular ones there is a case of location, location, location. These are not the best locations. They are good. They are convenient for the school but it is not going to be an asset which will appreciate perhaps as fast as other locations. As Senator Shenton knows, in investment there is a time to cut losses and sell or cut profits, take your profit, and sell in favour of better opportunities elsewhere. You cannot just go on hoarding assets in case because you end up with an attic full of rubbish. We have been assured on the Public Accounts Committee that the proceeds from the sale of properties will be retained for capital expenditure and this is something we shall be watching very closely. I did, in fact, query the similar case at Les Quennevais School with the 2 properties on the corner of the school premises, but there were particularly good and valid reasons there to hold one and sell the other. I really cannot see why the House is getting itself in such a tizz over this. I think there are valid reasons for selling these

properties. The proceeds are going into a capital fund, not into revenue expenditure and I would not support the amendment.

**8.1.21 Senator F.E. Cohen:**

As someone who is known for my attic full of rubbish, I am not quite sure how to follow that. My comments do not relate specifically to these properties because there is, of course, the possibility that if they are disposed of that it could result in a planning application so please take the comments generally. Property Holdings' position is rather like that of a medium or large property company. In Jersey terms, certainly, a large property company. Good practice is to review your portfolio regularly and, in fact, good practice is to review your portfolio annually. What you do is to look at the redundant properties and you look at those properties where you believe that growth is limited or where you believe that there has been exceptional growth over a period of time that is unlikely to continue. Once you have done that, you look at selling the redundant property and getting better value elsewhere. In most cases with a property company that will be you buy other property that you consider undervalued. But in the case of Property Holdings we can take the holistic States of Jersey view and we could say that we extend that concept to getting better value in any other area where we feel we can get better value. The key is that we reinvest and in the States of Jersey's case it could be that we reinvest the money in better education or in many other of the areas that we have to cover, including social housing. But it is reinvesting. The key is that we must not waste the money. I think it is also important that we should not get emotional about a particular property unless we have very good reason. There will be cases where we have very good reason but bear in mind that this represents less than 1 per cent of the total value of the portfolio and that is the whole programme over the next few years, not just the property that we are presently considering. So, in summary, I feel that if the properties in question fail the analysis of retaining them, then they should be sold. But the most important thing of all is to make sure you get the best possible price.

**8.1.22 The Connétable of St. Ouen:**

I have to say I totally agree with the Minister of Planning and his assessment of the situation but I rise just to take issue with the Deputy of Grouville who, as Assistant Minister of Education, feels that there may be a need for these properties within the Education Department portfolio in the future. Now, I was under the impression, having read this, that all these properties - not only this particular one - but all the properties in this Plan had been thoroughly discussed with each department and each department had been asked whether they felt that there was a need for them to be retained by the States overall. So obviously, in this particular case, Education have said no and it just appears to me that the Assistant Minister is not going along with her department.

**The Deputy of Grouville:**

Can I just clarify what I said. I did say that Education are always on catch-up because we cannot foresee when a baby boom is going to happen and when a school might wish to expand. We are 4 and a half years behind the times and this school may need to expand at some point in the future. I think when Education, Sport and Culture were asked for their opinion they had to give their opinion for the then and now, not some time in the future.

**8.1.23 Senator L. Norman:**

Just briefly, if we put aside for a moment the business case and put aside the financial case which is very good anyway for the sale of these properties, it is States' policy and has been reinforced for at least the last 20 years; it is policy to encourage Jersey people to own their own homes. We encourage more owner-occupation and evidence of that is that even the Housing Minister's recent plan to sell of 800 of the States' rental homes. Now here is a small but symbolic way to move ahead with that policy, to activate that policy and to meet the objectives that the States have said they want to achieve over, as I say, the last 2 decades at least. Home ownership is the aspiration of very many Jersey families. There are many who will not be able to achieve it but there are many

who also will be able to achieve it if we help and encourage them to do so, and with the sale of these 2 properties there are 2 Jersey families who will have that aspiration met. If we do not sell them there are 2 families - anonymous families maybe - whose aspirations will never be achieved. There is no doubt that we must go ahead in my mind with the sale of these properties on the business case, the financial case, but more importantly on the social issues.

**The Deputy Bailiff:**

Does any other Member wish to speak on the amendment? Very well. I call upon Deputy Breckon to reply.

**8.1.24 Deputy A. Breckon:**

I understand in general terms that estate agents and property negotiators are paid on a commission-only basis and from what I have heard recently, Sir, I do not think would generate any fees. Because some Members have given us their benefit of desirable residences or undesirable and I do not think they would have closed the sale as it were. The Treasury Minister said that all States' departments have been consulted and a number of other Members would say that and I am not sure if Senator Perchard's had a bump on the head. I am not sure where he was coming from with what he was saying. But the idea was that we are renting property with public money and helping people to do that and they are paying us back to an extent and, rather than get in that market, this was the opportunity to do that and that was the reason why I mentioned the public sector. But I would ask the Treasury Minister if the employees were consulted, rather than a department. Somebody in a department says: "No, I am all right. We do not need it." But somebody in there might well have a housing problem. We have got lots of employees. Did anybody ask them? That is the question. Nobody has told me that and that is what we are talking about. These are in the main local people who might have a housing need and did we ask them? The answer nobody has given me. The Minister did also say that we are landlords to our own employees. Well, that is not necessarily a bad thing and he did mention the fact that these were desirable residences. He used it in different tones but that was the essence of what he said. The Housing Minister said that at the moment we have enough family homes and that was due to the 45/55 per cent and he said that was for the next 4 or 5 years. Deputy Le Hérissier again questioned whether Health and Social Services had consulted employees or just gone to the department. I was amazed to find that these houses had been empty for 2 years because that could have generated probably about £30,000. Now there might well be reasons for that but I have not heard them. The Assistant Treasury Minister also told us that we own 97 units. I do not particularly like the term "units"; I would assume that that is flats and houses and we also rent 24 units. Well, I would respectfully suggest that those 24 units we will not need 2 of them if we retain these properties because somebody could move into these houses and the rent would come. Simple enough: Q.E.D. (*quod erat demonstrandum*). He has also said we tried to get tenants. Again, did we ask the people working in the public sector as a starting point and that is the starting point and again that has not been proven to me and Deputy Huet picked-up on the point as well that perhaps the properties had been left to deteriorate. Maybe the answer to this is nobody has got any money to put them back into a habitable condition. If they were built in 1990 they cannot be that bad surely and I do not know the last time anybody lived there, but if they have been empty for 2 years that is not a bad starting point. Senator Walker suggested we are sitting on a depreciating asset. This is Jersey residential property that is depreciating. Well, if he goes across the hall he will see that the Property Price Index that was published recently does not show that at all. I do not think much Jersey residential property is depreciating at all in any sector across the whole economy. Senator Walker also mentioned the benefit of selling these properties could be used in some other way but I would suggest another solution to that and that is the rental income from this would be higher than perhaps what could be generated from it and that could be used in some other way. So that would be offset by what we might be doing, we have approved G.S.T. this morning. We might need to bring somebody in to do that and they can go and live here. What is wrong with that? What about the future then? Somebody has mentioned we need a crystal

ball but I do not think we would lose anything at all by not including these for sale at the moment. I want some point of clarification from the Assistant Minister because, again without naming any individuals, R6 - what it says, Sir: "Land transaction. For the public of the Island to enter into an agreement with Mr. and Mrs. So-and-So in relation to the lease of a 3-bedroom property known as Something-or-Other, the lease shall be for a period of 3 years with effect from 24th February 2007 upon tenants internal repairing terms. The rental shall be £18,540 subject to annual review in accordance with the Jersey Retail Prices Index." Now, regardless of who that is for, if you put the 2 together and if somebody has a special need or whatever it is I am sure that could happen to these properties if that is what is required. That is a rental income of about £700 a week on the 2 properties. So, what I would suggest to those that say: "Well, do not do it", where does that come from if we sell these properties? There will be fees and all sorts else involved and for me, Sir, it is an easy solution to sell them because it is then not our problem any more but I think we have a duty as well to make best use. I think best use would happen at the moment if we retain them. I just conclude, Sir, by one comment and ask Members before they do vote if these were your 2 houses would you be selling them? If the answer is yes then vote against and if you think they are a depreciating asset vote against. If you think that the public can get best value then I would suggest you vote with the amendment. I maintain the amendment, Sir, and I ask for the Appel.

**The Deputy Bailiff:**

The Appel is asked for in relation to the amendment of Deputy Breckon. Therefore, the vote is for or against that amendment. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 20</b>	<b>CONTRE: 23</b>	<b>ABSTAIN: 0</b>
Senator B.E. Shenton	Senator L. Norman	
Connétable of St. Mary	Senator F.H. Walker	
Connétable of St. Peter	Senator T.A. Le Sueur	
Connétable of St. Clement	Senator P.F. Routier	
Connétable of Grouville	Senator T.J. Le Main	
Connétable of St. John	Senator F.E. Cohen	
Deputy R.C. Duhamel (S)	Senator J.L. Perchard	
Deputy A. Breckon (S)	Connétable of St. Ouen	
Deputy J.J. Huet (H)	Connétable of St. Helier	
Deputy of St. Martin	Connétable of Trinity	
Deputy R.G. Le Hérissier (S)	Connétable of St. Brelade	
Deputy G.P. Southern (H)	Connétable of St. Martin	
Deputy of St. Ouen	Deputy C.J. Scott Warren (S)	
Deputy of Grouville	Deputy J.B. Fox (H)	

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

### **The Deputy Bailiff:**

We come next to the second amendment of the Property Plan lodged by Senator Shenton and I will ask the Greffier to read that amendment.

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

At the end of the proposition after the words as detailed in appendix A insert the words “except 1 Oxford Road, St. Helier offices and workshop ER1515/1.”

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

I will be fairly brief with my opening speech. I reserve the right to have a long closing speech if necessary depending on what people say. The property was willed to the benefit of the Island by the late Harold Le Seilleur and I do not think anyone would underestimate what an absolutely generous gesture this was to give not only this but also a number of other properties to the Island. May I suggest that whatever happens today the very least the States should do is put a plaque on the property as a testament to his generosity if Planning will allow us. **[Laughter]** If it is in plastic it should be all right. One of the first things that happened was the property got designated as a Site of Special Interest and the Planning Minister said the other day that it was one of his favourite properties in the town area and I think also, from an external appearance, it is also one of mine. I think the character and the shape of the building should be retained at all costs. I did ask about the placing of the Site of Special Interest designation on the property and the Planning Minister came back and said: “Well, no one objected to it at the time.” But, of course, the States owned the property at the time, so it would have been up to us to object to it. I got involved primarily because I was approached by the Youth Action Team that had been looking for a while for a workshop area that they could use as an apprentice training ground for mechanics, builders and so on. The concept that they had was that the St. Mark’s Road Hostel was in disrepair and the property at St. Mark’s Road was probably worth more on the open market, given its better condition, than the Le Seilleur property. So, therefore, we could sell the St. Mark’s Road property instead and realise more funds. Since that initial approach, I have also been approached by a number of other charities and individuals that have shown an interest in the property. I visited the property a few weeks ago and part of the problem is that the Site of Special Interest restrictions are quite onerous. The downstairs ceiling level is exceedingly low and certainly I could not stand up there. Now, I know that this may be a subjective thing; certainly my definition of high hedges is probably different from the Planning

Minister's. **[Laughter]** But, certainly I could not see any real use for the property unless some of the restrictions were lifted. As I said before, I am not going to go into great detail because I provided briefing notes and the actual amendment itself for everyone to have a look at. What I will do is sit down and hopefully the Planning Minister will concede that perhaps they could be a little bit more flexible on the S.S.I. (Site of Special Interest) designation and perhaps the Health Minister will concede that we could have another look at the property. The last thing I want to do is to delay the sale and leave it lying in disrepair for another 12 months and then it come back to the States. All I am asking for is time to have another good look at the property. I am not sure why it is on the business property plan anyway because the proceeds from the sale will go to the Le Seilleur Trust as opposed to the States itself. Obviously it depends on Members whether they want to speak before Senator Syvret and Senator Cohen, but I would like certainly to hear their views. Certainly with the number of emails and letters and correspondence that I have, I think we can drive this forward. I would have thought that the Chief Minister would have supported this amendment simply because it will keep me busy for a considerable period of time if it does go through and I will not be such a nuisance to him. But, anyway, I will wait and see what Senator Cohen and Senator Syvret say.

### **The Deputy Bailiff:**

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

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

As Senator Shenton correctly said, the building belongs to the Le Seilleur Trust and as the Health and Social Services are basically the principal beneficiary of that Trust, I have an interest in that matter in that professional sense, being the Minister of Health and Social Services. I am not certain entirely of the legal niceties of the situation but my recollection from last time we went around this particular circuit is that the site could not be sold in any event without then the permission of the Health and Social Services Committee, and I think a similar provision now applies in my case. I have had some email correspondence with Senator Shenton and Senator Cohen on this subject over the last few days and I am reasonable confident that we can get together and try and devise and come to an agreed way forward. I do believe that the building should be an S.S.I. It is a fairly unique building, of interesting local architecture and all kinds of historical connotations, but I do think the particular requirements of the S.S.I. need to be subject to negotiation because, as Senator Shenton correctly said, at the moment the building is - to all practical intents and purposes - simply unusable and would remain so unless, for example, we can get sufficient relaxation to raise the floor height and perhaps fireproof the building because the upper floor, including the cladding in the roof, is largely timber and it would be an extreme fire hazard in that condition. What I am hoping is that we will be able to get a slightly modified view of the property from the Planning Department through negotiation with the Planning Minister. This would then, to some limited extent I would have thought, increase the value of the property. The property could then be sold either to the States or to the private sector or to some Trust that may want to run the building and renovate it for community purposes, thus getting a better price for the Le Seilleur Trust, which has to be a principal objective, but also rescuing, renovating and restoring the building so that it is a practical, useful building that will fulfil a modern purpose. To that end, I am in the process of organising an opportunity when Senator Shenton, Senator Cohen, I, Deputy Hilton as Chairman of the Millennium Town Park and Implementation Group will meet on site with the respective officers and try and work out a way forward. That, I hope, will be the outcome of the discussion we have today. My understanding is that Senator Shenton and Senator Cohen are both happy with that approach and that is what I think we should do.

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

Senator Shenton no doubt thinks that from my perspective this is a tall building but I can assure the House that I do not. It is, however, a very important mid-19th century workshop, which is virtually intact. It has fine decorative brickwork. It has a fine roof structure and it has fine decorative timber on the upper floors. It was once a much-loved building and it was built in the days when people cared about the design of the buildings in which they worked. Furthermore, it has been used as a reference point for architectural influence in relation to a number of recent other local buildings, including the recent houses that I think are quite superb, designed by Naish Waddington nearby and loosely based on the architectural principles of this workshop. But I do accept that buildings must live and that compromise may be essential in ensuring that a building lives but the start point is not the removal of its S.S.I. status. Its S.S.I. status is well-deserved and I do not intend to remove it. I will compromise and that will result in delivering high value but I will not do that by removing its S.S.I. status. This building is in a very interesting location. It is very near the imminent town park and, as such, it has potentially high value and it has high value for a use such as, for example, a restaurant. I would like to use the model that we developed in relation to the Ladies College where we took local noted heritage experts, put them together with the Historic Buildings Officer and came out with excellent proposals and potentially higher value. The property does need to be sold and it needs to be sold to a skilled, commercially-minded purchaser who can provide a new practical use to ensure that the building is regenerated for future generations and we can ensure that that is combined with achieving the best price. It is not suitable to keep this in public ownership. It is too expensive to restore but, as I have said, it does have a very high value, potentially, in the private sector for such use as a restaurant, particularly in view of the imminent town park. Thank you.

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

I am very heartened by the comments of all 3 speakers we have heard this afternoon because I feared that what the proposition was saying in deleting these premises from the list was that it would stay empty and deteriorate still further for another year or 5. But what we have heard this afternoon is, yes, an indication that the property has to be sold but, yes also, that it has to be improved and developed in a way which maintains its S.S.I. status but still is a usable building. I have confidence that, between the Planning Minister and the Minister for Health and Senator Shenton and myself, we can come up with a solution which is in the interests of everybody and particularly in the interests of the trustees of the Le Seilleur properties. I say “trustees” in the loose sense because, although this building is on the list of properties within the Property Plan, as Senator Syvret rightly says the proceeds of sale would go to the benefit of the Health and Social Services Department for the benefit of the health and welfare of the people of the Island. So it is in their interests that this property is sold. It is in their interests that this property is sold at the best possible price and that best possible price can be achieved by reasonable negotiation and consultation between the parties concerned, particularly in respect of the planning matters. So, as I say, Sir, in view of the comments and the helpful stance taken by Minister of Planning, I believe that Senator Shenton should have the reassurance that he seeks and hopefully we can then proceed.

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

Members may recall that I invested quite a deal of time and effort on this property quite a few years ago to try and get the building in a state that it would be suitable for people with learning disabilities to have a workshop there. Through my position on the Employment and Social Security Committee, I managed to encourage the Committee to look at plans and have them drawn-up, which I am sure we still have in the department somewhere and can find them and help with whatever comes forward in the future. But what faltered, unfortunately, was that the restrictions that were put on the building by the Planning Department at the time did make the renovation of the building very, very expensive. We have heard from the Planning Minister a few moments ago to say that renovation will be expensive. So, if we have an idea that there will be some sort of community use for the project, it could well be that what is needed to bring the property into a state

of repair will perhaps make it unviable for community use. That is the worry that I have, because the position we got to with the community use we intended having was that it was going to cost, at that stage, £1.8 million to get the building into any reasonable state and that was not luxurious by any shape or form. But if now the Planning Minister is saying that perhaps he might relax the conditions on the building which would allow the internal floor to be altered... whether he will or not, I have to say that probably increases the price even more because that was not costed in the plans that we had built-up. So I would just urge a word of caution that it could well be very, very expensive to renovate. I think there is obviously a will that this property is ideal for community use but there is going to be a big price ticket and who is going to pay that, I do not know. If it is sold to a private developer to renovate it, to get it to a situation where a community use can be used, they are going to want a return on their money in some way, shape or form. So I think we are opening a can of worms here today. I have been round this loop already and it is a real tricky one. I would urge Members to work towards a way forward for us in the hope that we can get it for community use because it is in an ideal location. I have to say that, if there is going to be a community use, I would like to put first stab on that and get it for work opportunities for people with learning disabilities because it would be ideal for that. But I think from what we have heard today and the speakers we have heard, there is a keenness to go forward with this and the way it appears that people are thinking about is to sell the property. So, with all that in mind, I feel that it is probably still worth including it within the Property Plan because that is the way we will work to achieve whatever we want to achieve. So I will not be supporting the proposition because I think we can achieve a community use, hopefully, if we can get the price right, by including it within the Property Plan.

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

About a year ago, Sir, I was walking in Croydon in Surrey and I came upon a building pretty much of the same or similar size as this building. On the outside of the building there were individuals on ladders with white hats carrying out electrical works and, as I rounded the corner, there was a very small roof with about 15 people wearing blue hats working on the roof. As I got closer, I suddenly realised that there was no building under the roof, it was just a roof, and it was a building that was used in that area to teach people construction skills. The people that were learning the construction skills, the roofers and the electrical people and the painters, *et cetera*, were people that were being re-skilled from within the community. It has been an idea that I have been trying to put before the Minister for Education, Sport and Culture and I have discussed with the Minister for Social Security today and also with Senator Shenton about perhaps using this building for that purpose. I have also discussed it with Deputy Duhamel and the Constable of St. Helier who was looking to do something with a private company called Peirson from within the Parish. Generally my thinking is that we perhaps could use this building to create a duplicate of what they do in Croydon in the skills club. They offer skills for people, not just teenagers but people of all ages, to re-skill themselves in various trades such as plumbing, roofing, painting, glazing, construction, *et cetera*. If we could get the private sector on board, which is what I would hope to do in conjunction with the Ministries, and give ourselves some opportunity to train people and retrain people from within the workforce, where perhaps in the future they are on income support and we want to get them back into the community, there would be a facility that would enable them to come out as a skilled contributor to society. At the same time, if the States were able to give some leeway to Senator Shenton today, perhaps we could get - if the States were prepared to go that far - the backing of the private sector in the various aspects of the construction industry in Jersey to come forward and collectively renovate it for that purpose. I do hope that Members will give it some serious thought because it is something that is up and running in the United Kingdom and it offers not only an apprenticeship scheme for those that have no skills, but a re-skilling scheme for those that have skills that are no longer of use. We have a large construction industry in Jersey. We always have had a shortage of people that have been able to turn up on the site properly skilled from within the community. There are many people leaving school in Jersey that are not adequately skilled or do not want to work in



the finance sector. We could produce something that would give people with limited abilities or disabilities the opportunity to learn within a safe environment and to come out with a certification that would give them real employment and not just a hobby.

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

I visited and looked around this building several years ago with Senator Shenton and I also support the S.S.I. status and I very much hope that a good and appropriate use can be found by the proposed group as mentioned by the Minister for Health. I would ask for clarification regarding the group that proposes to meet, that includes the Assistant Minister of Housing, as to whether this group can meet if the amendment is unsuccessful. What is the situation and way forward for the group, Sir?

**8.2.7 Senator S. Syvret:**

The debate we are having at the moment is largely academic because the building cannot be sold and will not be sold without my consent. So, regardless of the States' decision today, I am determined that the group will get together and try and come up with a positive use. So we are wasting our time right now.

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

I think, Sir, that the Senator is almost correct in that he does have the final veto on whether the property is sold or not, if that decision ever reaches him. Of course, if it was withdrawn from the Property Plan, then the decision would never get to that stage. So I think it is important, if we want to achieve the objectives of the Senator and others, that Senator Shenton withdraws his amendment that was used in this Property Plan, that recognises that, although it is in the Property Plan as available for sale, I would not sell and would not be able to sell without the consent of Senator Syvret as the Health Minister.

**Senator S. Syvret:**

Just to be nit-picking, I think regardless of what the Property Plan says, if the purposes of the Trust were to be met I could bring a proposition here as a standalone proposition to sell the building, whether it is in the Property Plan or not.

**The Deputy Bailiff:**

Does any other Member wish to speak on the amendment? Very well, I call upon Senator Shenton to reply.

**8.2.8 Senator B.E. Shenton:**

Well, I hope everyone is clear about that. **[Laughter]**

**Senator L. Norman:**

Could I ask a clarification, Sir? If Senator Syvret, as Health Minister, has the right to veto the sale, to stop the sale, does he have the right also to sell it without the States' permission? If the States say they wish to sell it...

**Senator S. Syvret:**

No.

**The Deputy Bailiff:**

No, I do not think the Senator was saying that. He was saying he would have to bring a proposition. So I think the matter for the Assembly is that if the amendment is passed, then at present it is taken off the list. That means it cannot be sold until first some new proposition is brought to the Assembly to allow it to be sold and Senator Syvret as Health Minister gives his

consent to it. If, on the other hand, the amendment today is lost, then this Assembly has given its approval to its sale but it still cannot in fact be sold until Senator Syvret as Health Minister gives his approval.

**Senator B.E. Shenton:**

The long and the short of it is, whatever happens today, a group of us are going to meet and try and get the best value out of the property going forward and we are well aware that you cannot magic funds out of thin air and we have to be realistic with regard to getting the money together to do the property up. There may be a possibility of using private funds through a charitable trust or something similar but it is an avenue that we have to explore. When I put in the amendment, I think the first line, if I remember it, was an apology to Members for the late notice of the amendment being lodged. What happened was I phoned up the States Greffe to ask when the deadline was, to find out it was the following day. So it was quite a rushed amendment. I do not think that it should have been on the Property Plan in the first place, to be honest with you. I mean the proceeds go to the Le Seilleur Trust. It is up to the Health Minister to decide whether to sell it and, in some ways, it sort of sums up the whole property holdings situation. **[Laughter]** So I put the amendment forward and leave it to Members to work out in their own minds which way they wish to vote. Thank you.

**The Deputy Bailiff:**

Very well, the Appel is called for and the matter before the Assembly is for or against the amendment of Senator Shenton. The Greffier will open the voting.

<b>POUR: 25</b>	<b>CONTRE: 19</b>	<b>ABSTAIN: 1</b>
Senator S. Syvret	Senator F.H. Walker	Senator F.E. Cohen
Senator L. Norman	Senator T.A. Le Sueur	
Senator W. Kinnard	Senator P.F. Routier	
Senator T.J. Le Main	Senator J.L. Perchard	
Senator B.E. Shenton	Connétable of St. Clement	
Connétable of St. Ouen	Connétable of St. Helier	
Connétable of St. Mary	Connétable of Grouville	
Connétable of St. Peter	Connétable of St. Brelade	
Connétable of Trinity	Connétable of St. Martin	
Connétable of St. John	Deputy J.J. Huet (H)	
Deputy R.C. Duhamel (S)	Deputy of St. Martin	
Deputy A. Breckon (S)	Deputy C.J. Scott Warren (S)	
Deputy G.P. Southern (H)	Deputy R.G. Le Hérisier (S)	
Deputy of St. Ouen	Deputy J.B. Fox (H)	

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

### **The Deputy Bailiff:**

So we return then to the debate on the Property Plan, as amended.

### **8.3 The Deputy of St. Ouen:**

As has been mentioned already that within the report and also by the Treasury Minister, the P.A.C. (Public Accounts Committee) has given some form of support to this plan and, as I stand up today, I stand up acknowledging that I am a member of P.A.C. but also I choose to exercise my own right as an individual States Member to express my own personal view. With regards to the P.A.C. comments, the actual comment was that it was a step towards the achievement of an effective property management, efficient departmental management and the maximisation of the value of States' property holdings; a very qualified recommendation. In fact, the public accounts highlighted a number of concerns which cannot be overlooked. These include slow progress in implementing P.93 in 2005 which was approved in July of that year. The result is that this business plan is a limited restatement of a series of aspirations and intentions together with a list of properties intended for disposal, most of which were identified long ago and, at that time, suggested to be surplus to the requirements of the States. The anticipated transfer of all property management responsibilities to Property Holdings has not been finalised by the end of 2006 and it is my belief that all property transfers have not been finalised to date. The degree of co-operation received from some departments over the transfer of budgets and staff has caused delay. There is a lack of certain professional skills available within Property Holdings. An asset manager is required to be responsible for establishing departmental property requirements. Commercial property expertise is also required when surplus property is sold so that the States' interests are properly safeguarded and that asset values are maximised. This is of major importance and has already become a concern in recent property transactions brought to the States. The creation of an appropriate financial environment is also critical if departments are to manage their needs for property more effectively. The introduction of a fair and equitable method of charging should be introduced as a matter of urgency as presently there is little encouragement for departments to become more efficient as most departments do not pay rent for the property they are using. The creation of a Property Board was

envisaged in the original proposition. This still has not happened. Furthermore, the purpose of the Property Board appears now to be changing somewhat. It has been suggested that, instead of having an overseeing role which was envisaged in P.93, it could become more of a Customer Services Board which monitors occupants' - i.e. States' departments' - satisfaction in the way property is maintained for their use. This is not at all what was envisaged, as I have said before. The preparation of business plans for examination by the States Assembly was intended to be an important element in the oversight of Jersey Property Holdings and the plans for property disposals in particular. It should be noted that this oversight role could be circumvented if Property Holdings and the Minister were to make extensive use of the powers in the States' Standing Orders to make disposals without prior reference in a business plan agreed by this States Assembly. I am not suggesting that that has been the case to date, I hasten to add, because I am very supportive of the Treasury Minister and his endeavours to address this issue. However, I do believe it is a concern and I believe that some thought must be given to this issue. The proposition intended that benchmarks would be set in the Property Business Plan to enable comparisons to be made with the private sector, yet this is not included. There is a suggestion that Property Holdings should become a trading organisation. The view expressed quite clearly by the Public Accounts Committee is that, while this might eventually be appropriate for Property Holdings, it is far more important to first complete the formation of Property Holdings envisaged in that original proposition which was approved by this House, including the detailed proposals for the oversight of Jersey Property Holdings. The realisable value of properties identified for disposal within this Plan represents total projected receipts for not only 2007, but 2008 and 2009. Finally, it is the view of the Public Accounts Committee that the proceeds from the sale of any capital assets, as has been stated before, should be used solely to fund future capital expenditure and not revenue expenditure. I aim to elaborate on some of these concerns during the rest of my speech. The States approved the proposition P.93 in July 2005 entitled "States of Jersey Properties: establishment". Contained within that proposition were a number of principles on which the future management and administration of States' property should be based. These included the creation of Property Holdings in order to develop a modern and innovative approach to the management of property. To do this, all staff will be transferred into a single department with existing staff and budgets to manage it. Lastly, the States will set the longer-term property strategy as part of the Strategic Plan and, annually, the Property Business Plan will be brought to the States for a decision as part of that overall States' business plan. An important point is that it was proposed that initially the States would consider and decide on a long-term property strategy prior to approving the annual Property Business Plan. A plan was included as part of the Strategic Plan. However, I believe it certainly was not a comprehensive plan as described in the original proposition. Even the Chief Officer of Property Holdings claimed that the initial plan was quite a hurried exercise. This view is shared by the Comptroller and Auditor General in his report who stated: "Jersey Property Holdings was expected to prepare 2 plans, an Annual Business Plan and a Property Plan. The plan for Property Holdings included in the States' 2007 Strategic Plan and the 2007 Business Plan meets the requirements for an Annual Business Plan and is not intended - not intended - to be the Property Plan envisaged in the 2005 proposition." He goes on to say: "That is under development and will be published in due course." I believe reference has been made about that within the current business plan report. The problem that this Assembly faces is that, due to the lack of information which one would have expected to accompany any long-term Property Plan, Members are unable to fully understand why these properties have been chosen and whether disposal is the best option. We are told that the master plan, if you like - the Strategic Plan - will not be available until the end of this year; more than 2 years after the original approval of P.93 by this Assembly. This is not good enough. Property Holdings are charged with delivering property or services according to the agreed and funded service requirements. Departmental accountability is to be achieved by setting asset management targets in terms of cost, delivery of savings, returns for reinvestment and project targets and timetables. Service level agreements are to be put in place to ensure property standards meet service needs. Approved objectives, or some of the approved objectives, are to meet the

current and future property requirements of States services in order to improve efficiency; ensure that property is used, managed and maintained effectively; acquire assets only when to do so would make a contribution towards achieving States' strategic or business objectives; and disposal of or extract better value from property that is not contributing satisfactorily towards service delivery or the achievement of States' objectives. Providing the States with a list of properties accompanied by a bland statement as to why the property is no longer required certainly does not meet the objectives as agreed by this Assembly. Furthermore, we are informed that the overall revenue base budget position of Property Holdings has still to be finalised. Why? Because not all budget transfers have been agreed by individual States' departments. This suggests that the relevant property-related budgets have not been properly defined or accounted for within department budgets. If this is the case, it is yet another poor indictment of the way States' departments collectively manage their finances and highlights the need, yet again, for an improved system of accounting. States Members have been promised this for years. The States' auditors have continually stated this issue must be addressed and yet we are still some way off achieving what many believe to be essential if we are to effectively manage our overall States' finances. One must ask, where do our priorities lie? We have heard the Chief Minister speaking about saving money by stopping the oaths being taken by our Customs Officers and yet we have material concerns about our States' finances, which should have been addressed a long time ago and still are not. Again I see that the issue of G.A.A.P. (Generally Accepted Accounting Principles) compliant accounts has been postponed for yet another year. It is not good enough. If nothing else, today we should insist that, as a matter of urgency, the Chief Minister undertakes to address this failing as his number one priority and I will certainly be listening for his reply. How are we expected to approve expenditure, or in this case a number of disposals, without clear and concise facts and figures? I accept an attempt has been made. However, in my view, it is just not enough. The inability to provide definitive proposals as to how revenue savings targets will be achieved is yet another indication that resources associated with property management are not properly accounted for. Presently we are provided with a number of estimated savings which have been included in both the Strategic Plan and subsequent Business Plan. Even the P.A.C. highlighted the fact that the proposed savings should be easily achievable and were not challenging enough. If we are to approve a Property Plan, I should not need to trawl through other documents to gain an overall picture. Capital expenditure figures should be included in this Plan together with an outline of projects being completed and final cost. There should be an update on progress with regard to which properties have been disposed of and the capital received in the previous 12 or 24 months. The Plan should also include a list of properties which have been identified as surplus to requirements as a direct consequence of better utilisation of premises and office accommodation. None of that is in this Plan. We need to be aware of the value of individual departmental property budgets and staff transferred to Property Holdings so that one can track the corresponding reductions in department budgets and manpower levels. All income and expenditure relating to Property Holdings needs to be properly identified, not guessed at. I am concerned by the comment in the Business Plan which claims that, after the introduction of an asset rental system in 2008, it will be budget neutral as income received into Property Holdings will be offset by corresponding adjustments to departments' expenditure allocations. If we follow this path, it will be difficult to claw-back monies at a later date. Surely it is better to start with making each department make its own case for financial assistance, if indeed that is what is required to pay for their renting their existing properties. Furthermore, what certainty do we have that all resources allocated to property have been identified and returned to Property Holdings in the first place? One could argue that departments will make savings by renting some of their property rather than retaining ownership as is sometimes the case in the private sector. When will a complete States' property register be published? This is a fundamental requirement if we are to consider the best use of all property in States' ownership. I would like to quote, and finish by quoting, extracts from the P.93 report under the heading "Property Strategy": "The States' Property Plan will define departmental property requirements for a 5-year period. The States' Property Plan will also examine the potential to

extract value from States' property assets by obtaining a return of freed-up office space and through the redevelopment of under-utilised properties. This could provide a new income stream, all-capital receipt and further benefits to this Island. The States' Property Plan will identify departments' requirements and produce a prioritised development schedule in accordance with the availability of funding agreed in the States' Business Plan." It then goes on to say: "This overall strategy will be translated into an achievable and affordable States of Jersey Property Holdings Business Plan to be submitted annually for approval by the States as part of the annual Business Plan. It would include the property requirements within the approved States' Property Plan." I, for one, fully support making the best use of States' property. However, I find myself unable to support the Business Plan as it is incomplete and not supported by the Strategic Property Plan envisaged in the original proposition. Thank you, Sir.

### **ADJOURNMENT PROPOSED**

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

It is the appointed hour and, in view of the statement made yesterday by the President of the Privileges and Procedures Committee, I should like to propose the adjournment until 9.30 a.m. tomorrow, Sir.

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

Is that agreed by the Assembly? Very well, the Assembly stands adjourned until 9.30 a.m. tomorrow.

### **ADJOURNMENT**