

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 27th MARCH 2007**

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

## **QUESTIONS**

### **1. Written Questions**

#### **1.1 DEPUTY D.W. MEZBOURIAN OF ST. LAWRENCE OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE NEED TO PROVE ONE'S IDENTITY WHEN APPLYING FOR A SOCIAL SECURITY CARD:**

##### **Question**

In the absence of a statutory requirement to provide evidence of identity in order to be issued with a Social Security card, has the Minister given consideration to introducing a policy whereby such proof of identity is required and if so, when will this be introduced, what document will be considered acceptable as proof of identity and for what reason?

##### **Answer**

The Department has for some time requested proof of identity on registration for social security purposes and the issue of a social security card.

Acceptable documents for proof of identity are a passport, national identity cards or a driving licence and the Department has found that most people registering will have one of these, especially new entrants to the Island. As proof of identity, these are most acceptable because of the photographic evidence involved and the processes that have to be undertaken to acquire these documents.

In the absence of a passport or driving licence, then other photographic identification would be accepted, for example those issued by the Parishes for proof of age. In the absence of any photographic proof, then other documentation can be considered on an individual basis, by exception. However, further documentary proof may be required before benefits can be paid.

#### **1.2 SENATOR B.E. SHENTON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE SALE OF THE MONT MADO QUARRY:**

##### **Question**

Would the Minister explain in detail the rationale behind his original decision to offer for sale the Mont Mado quarry exclusively to 3 neighbours rather than place the property on the open market to achieve the best price for the Jersey taxpayer?

##### **Answer**

The 2006 States Property Plan, approved by the States in June 2006, explicitly states that appropriate methods of disposal will be used according to individual circumstances. In this particular case it was appropriate in the first instance to limit the invitation to tender to the 3 parties who have a particular interest in the site. Two of those are the owners of adjacent properties and the third was the previous lessee of the quarry.

There are legal restrictions with regard to claimed rights of way and rights to lay services using the current access roadway to the site, which is in the ownership of one of those parties. Although alternative access to the site might be possible from La Ruelle de la Carrière, the previous



Connétable of St John had indicated that the Roads Committee was not in a position to approve such access without benefit of a development proposal.

The select tender process should have achieved full value for the site as the identified parties who submitted tenders have more to gain than those with no rights to or legal interest in the site. However, the highest tender received did not reflect what the Minister believed the potential value of the site might be and it was therefore decided to proceed by re-advertising on an open tender basis.

### **1.3 DEPUTY D.W.MEZBOURIAM OF ST. LAWRENCE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE WAY IN WHICH PARKING FINES CAN BE APPEALED:**

#### **Question**

Would the Minister advise Members whether there is an appeals system in place for parking tickets issued by his Department and, if so, will he please describe the appeals process. Additionally, would the Minister advise whether, if a genuine mistake can be proven to have been made, the whole of the fine or only a partial amount can be waived and if so, who is responsible for making that decision?

Would the Minister provide details of the number of appeals which were made in 2006, 2005 and 2004 and also advise the number of successful applications in each year, identifying whether that was for a complete or partial waiver?

#### **Answer**

The appeals process for parking tickets issued within Transport and Technical services is as follows -

If a member of the public feels that they have a valid reason to appeal a parking ticket, they have 21 days from the date of issue of the Excess Charge Notice to supply the Parking Control Section within Transport and Technical Services with a letter of appeal and any relevant evidence to substantiate the appeal request.

The appeal is recorded and forwarded to the appeal administrator, a member of staff within the Parking Control Section, who considers the evidence provided by both the issuing officer and that provided by the person appealing. If the evidence is such that it confirms the issuing of the ticket was for a valid reason, then the appeal is declined. If there are extenuating circumstances, it may be that the Excess Charge is reduced. If the evidence confirms that the ticket was issued incorrectly, it will be cancelled.

If the member of public is not satisfied with this response, there is an opportunity to make a 2nd appeal which will be forwarded to the Manager of the Parking Control Section who independently reviews the appeal.

If the decision of this 2nd appeal is not accepted by the person appealing, the final option is to refer to the Court where the Magistrate can make an independent decision.

Regarding whether a genuine mistake can be proven, this will be considered in the extenuating circumstances and at any of the 3 stages of the appeals process, there is the

opportunity to reduce or cancel the fine. Every single appeal will be reviewed independently on its own merits.

The number of appeals, cancellations and part payments for off-street parking over the last three years is shown in the table below.

	<b>No. of Excess Charge Notices Issued</b>	<b>Appeals Received</b>	<b>Cancelled after Appeal</b>	<b>Part Paid after Appeal</b>
<b>2004</b>	<b>13,782</b>	<b>3,462</b>	<b>1,782</b>	<b>1,322</b>
<b>2005</b>	<b>11,375</b>	<b>2,488</b>	<b>1,475</b>	<b>742</b>
<b>2006</b>	<b>12,308</b>	<b>2,196</b>	<b>605</b>	<b>76</b>

In general, the trend of fewer appeals being received and the higher number of appeals being upheld is due to improved quality of the supporting evidence, such as digital photographs, which are now taken with every ticket issued.

#### **1.4 DEPUTY S. PITMAN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE CIRCUMSTANCES IN WHICH TENANTS COULD BE EVICTED FROM PROPERTIES IDENTIFIED FOR SALE WITHIN THE SOCIAL HOUSING PROPERTY PLAN:**

##### **Question**

Would the Minister inform members whether there are any circumstances in which those States Tenants whose homes are designated for sale under the Social Housing Property Plan will be evicted?

##### **Answer**

The Social Housing Property Plan specifies some 800 homes for sale to tenants over a ten-year period. Some tenants will want to purchase as soon as possible and others at some point over that ten-year period. Understandably, some will not be able to purchase and others simply do not wish to do so. If a tenant does not wish to purchase their home they will not be under any compulsion to do so. It is a matter for them.

With regard to eviction, I have said on several occasions that none of the 800 will be evicted on the basis that they do not wish to purchase their home. Most sales will be to sitting tenants, with the remainder generated from natural movement within the stock. Over the last ten years, some 4,500 homes have been allocated on this basis.

When the future is so bright for States tenants and when a number of those tenants could soon have a unique opportunity to purchase their home, what a real pity that I continue to have to answer questions immersed in negativity.

## **1.5 DEPUTY S. PITMAN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE REDEVELOPMENT OF CONVENT AND CAESAREA COURTS:**

### **Question**

1. Would the Minister inform members how many new units will replace Convent Court and Caesarea Court (high rise), once they are demolished? Furthermore, would he also confirm the number and type of these units i.e. 1, 2, 3-bedroom and sheltered housing accommodation?
2. Following the Minister's statement on 27th February 2007 that each individual resident of Convent and Caesarea Court would be visited 'this year' to assess their need and requirements with regard to the newly built units, would the Minister inform members how soon these visits will take place?
3. Would the Minister inform Members when the concrete degradation of Caesarea and Convent Courts was identified as a serious concern by his Department?
4. In an answer on 27th February 2007, regarding the elderly residents of Caesarea Court, the Minister informed members that he will be 'working very closely with the Planning Minister to try to identify land that we desperately need to produce more sheltered homes for the elderly'. Would the Minister clarify for Members whether he was only referring to the elderly residents currently living at Caesarea Court and, if not, would he explain to which 'elderly' people he was actually referring?

### **Answer**

1. Convent Court and Caesarea Court will be demolished if the States Assembly approve the Social Housing Property Plan, to be debated on 19<sup>th</sup> June 2007. The Planning Minister will only allow the demolition to proceed when he has approved a replacement scheme of suitable Town Houses and sheltered type accommodation. It would be presumptuous to say how many at this stage, save that a new scheme will greatly enhance the area and will provide the type of homes our tenants have every right to expect. The future for States Tenants has never been brighter.
2. The Social Housing Property Plan details a number of refurbishment projects. Those residents affected in 2007 and 2008 will be visited this year. The Housing Department is a very small department with limited staff resources. These visits will therefore take time to arrange and for obvious reasons will not take place until the States have made a decision in June. However, I am confident residents of Caesarea Court and Convent Court will have been visited by the end of August 2007.
3. Concrete degradation was identified as a problem in 2001. In 2003 the building was scaffolded and remediation works undertaken. This is an on-going requirement.
4. I am delighted we are all living longer! However in order to cater for an ageing society, we need to ensure we have the right type and quantity of homes. Even today, the greatest demand for social housing is in the one bedroom category. By 2030 some 30 per cent of Jersey's population will be over normal retirement age. I am working closely with the Planning Minister to ensure an adequate supply of sheltered housing is available soon and

of course to meet the continuing demands into the future. The Social Housing Property Plan is very much about realigning the current States Rental stock to meet this very need.

## **1.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING '(j)' CATEGORY EMPLOYEES:**

### **Question 1**

- (a) Will the Chief Minister advise whether the ratio of 1.8 dependants per immigrant worker arising from the 2001 census is still applicable to new '(j)' category employees today, and if not will he inform members what the correct figure is?
- (b) Will he further inform members –
  - (i) what overall change occurred in '(j)' category consent activity between the first half of 2006 (to June 1st) and the second half in real and percentage terms?
  - (ii) what change occurred in the proportions of time-limited and unlimited consents over this period?
- (c) Does the Chief Minister consider that there is a link between the 77 per cent rise (from 84 to 149) in '(j)' category purchase consents between 2005 and 2006, the increase in permanent '(j)' category licences and the change in policy to allow private sector '(j)' categories to purchase in their own names? Is the trend in increased '(j)' category numbers and '(j)' category purchase consents predicted to continue?
- (d) Given that the 2 per cent of the working population who are '(j)' categories were responsible for 7.3 per cent of house purchase consents in 2006, does the Chief Minister still maintain that '(j)' category activity has no effect on house-price inflation which we have witnessed in the latter half of 2006 and into 2007?
- (e) Does the Minister anticipate that the rate at which '(j)' category approvals become converted into '(j)' category housing consents will increase now that most '(j)' categories will be permanent appointments?

### **Answer**

- (a) The ratio of 1.8 dependants per '(j)' category employee was calculated at the time of the 2001 census. The Jersey Annual Social Survey provides a good point of reference, and the next round of the survey - which will be taking place later this year - should provide a sample of sufficient size to be able to comment on any change in the average number of dependents, and there will be a further opportunity to assess the ratio of dependents after the 2011 census.
- (b)(i) Fifty-seven '(j)' category purchase consents were issued over the 5-month period to 31st May 2006, and 92 for the 7-month period to 31st December 2006. On a like-for-like basis, this represents a 15 per cent increase (accounting for the different time frames).

It is worth noting that the latter part of the year, covering the summer months, is a traditionally busier period for the whole housing market. In 2005, for example, 31 '(j)' category consents were issued in the period to 31st May, and 53 in the period from 1st June to 31st December.

- (ii) Over the first 5 months to 31st May 2006, 95 per cent of applications were granted with a time limit; over the 7 months between 1st June and 31st December 2006, 32 per cent of applications were granted with a time limited consent.
- (c) It is interesting to note that growth in ‘(j)’ purchase consents was higher before the introduction of the new Contract Policy than it was after the policy was introduced, as evidenced by the table below.

<b>‘j’ purchase consents</b>	<b>2005</b>	<b>2006</b>	<b>% increase on prior period</b>
<b>Pre-new Contract Policy</b>			
Five Months to 31 <sup>st</sup> May	31	57	84%
<b>Post-new Contract Policy</b>			
Seven Months to 31 <sup>st</sup> December	53	92	74%
<b>12 Month Period</b>	<b>84</b>	<b>149</b>	<b>77%</b>

This is the case because it is the performance of the economy, and financial considerations, which overridingly drives housing demand, as opposed to something like a new Contract Policy. At the same time, and vitally, this consequence of economic success needs close monitoring. This is taking place, with decisions on ‘(j)’ applications being made within the overall States approved target of 2 per cent economic growth and no more than 1 per cent average annual working population growth.

- (d) It has never been stated that ‘(j)’ category purchases have *no* impact on the housing market, simply that any impact is *minimal* in light of the fact that 92 per cent of purchases are made by locally qualified individuals. This was clearly stated in a previous response given on the 21st November 2006. As also stated in the same response -

“it is simply not plausible, in the context of large increases in local employment and real economic growth for the first time in 5 years, to ascribe the increase in house prices to a small number of essential employees.”.

It should be noted that 3 per cent of the total working population are ‘(j)’ category employees (Manpower Survey – 30th June 2006). The figure of 2 per cent comes from the manpower survey, but is a private sector comparison only.

- (e) The statistics in the table in answer (c) above are clear. Growth in ‘(j)’ purchases did not accelerate on introduction of the new contract policy, but is rather a consequence of economic growth.

The new contract policy reduces staff turnover and encourages stability in the labour market, and by the same token, over the medium term, the new policy will also reduce turnover and volumes in the housing market.

## Question 2

Will the Minister reveal to members what figures are projected for possible net annual inward migration to achieve the 2 per cent economic growth called for in the economic growth plan and whether this figure refers to heads of households only or includes dependants?

### Answer

The States' target of 2 per cent real economic growth is based on 1 per cent growth in the workforce. The growth in the workforce will be achieved through increased participation of local people, and inward migration will only be allowed where key skills (that will facilitate growth and employment) are required and where housing requirements be accommodated within existing projections.

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

### Question

- (a) Would the Minister advise members whether he initially considered that a global telecoms operator would be the best and most likely purchaser of JT, and, if so, does he remain of that view or has some form of private equity now become more likely, and if so, does this eliminate the possible benefit from economies of scale predicted and increase the risks of major asset-stripping or job losses following privatisation?
- (b) Does the Minister now accept that statements from the Jersey Competition Regulatory Authority's own report to the Economic Development Minister, and reproduced on page 69 of S.R.5/2007 that both the Competition (Jersey) Law 2005 and the Telecommunications (Jersey) Law 2002 are "*not optimal*" do provide evidence that the powers of the J.C.R.A. do require review, contrary to his answers of the 13th March 2007?
- (c) Is the Minister able to assure members that he would make every effort, as Minister for Treasury and Resources, to ensure that the Jersey Competition Regulatory Authority has sufficient funds to enable it to enforce its decisions under the Competition (Jersey) Law 2005?

### Answer

- (a) This question infers a simplistic view of the merits of both private equity and global telecoms operators as possible purchasers of Jersey Telecom. In practise it may not necessarily be the case that a particular global telecoms operator will automatically have greater access to economies of scale than a particular private equity buyer, nor is it necessarily the case that a particular private equity buyer will plan to own the company for a shorter period than a global operator.

Should the States decide to proceed with the sale of Jersey Telecom the eventual buyer will be selected on that buyer's specific merits and in particular the buyer's ability to meet each of the Minister's 4 sale principles -

- (i) Sufficient arrangements are in place to protect the Island's consumers and ensure the maintenance of the Island's essential telecommunications infrastructure.

- (ii) The best possible basis is provided for the long-term growth and development of Jersey Telecom.
  - (iii) The existing rights of Jersey Telecom's employees are adequately safeguarded.
  - (iv) The best price is obtained on behalf of the people of Jersey, consistent with the above 3 principles, with the proceeds reinvested in the Strategic Reserve.
- (b) The J.C.R.A.'s comments referred to in the question are taken out of context and do not provide evidence that the J.C.R.A.'s powers require constant review. The J.C.R.A. statement was highlighting that where it is possible, effective competition is preferable or more 'optimal' than regulation. The J.C.R.A.'s detailed views and comments on the interpretation of evidence provided to the Economic Affairs Scrutiny Sub-Panel are published on the J.C.R.A.'s website.

The Minister is, however, of the view that the J.C.R.A.'s powers should be kept under periodic review to ensure that it has, at all times, the necessary powers to carry out its functions.

States Members with any questions or concerns in relation to the J.C.R.A.'s powers in respect of the regulation of telecommunications were invited to a presentation by the J.C.R.A. on Monday 26th March 2007. Should Members have any further concerns or questions the Minister for Treasury and Resources invites Members to put these concerns either to himself or to the Minister for Economic Development so that they may be taken into consideration and addressed as appropriate.

- (c) The Minister for Economic Development is responsible for the provision of the J.C.R.A.'s funding in relation to the Competition (Jersey) Law 2005. In the unlikely event that the J.C.R.A. requires additional funding to enforce telecommunications decisions made under the Competition (Jersey) Law 2005 the Minister for Treasury and Resources will ensure that the Authority receives the necessary funds.

The Minister highlights that the cost of regulation and enforcement of decisions made by the J.C.R.A. under the Telecommunications (Jersey) Law 2002 is funded through the licence fees of telecommunications operators. Such fees may be varied by the J.C.R.A. as required.

## **1.8 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE SUBSIDY OF B.M.I.'s HEATHROW ROUTE:**

### **Question**

Would the Minister agreed to publish the advice he received from the J.C.R.A. over the subsidy to B.M.I. for the Heathrow link?

## **Answer**

The Minister is not in a position to publish the J.C.R.A. advice as it contains commercially sensitive information. However, following consultation with the J.C.R.A. I am content to supply Scrutiny with an executive summary on the standard confidential basis.

## **1.9 DEPUTY G.P. SOUTHERN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE GROWTH OF THE JOB MARKET:**

### **Question**

What information on the growth of the job market, particularly any rise in the number of low paid jobs, through the Regulation of Undertakings and Development Law or other means, does the Minister have to add to the investigation conducted by Social Security, Treasury and Resources and the Economic Advisor into the increase in levels of Supplementation?

### **Answer**

The full range of employment information gained from the 6-monthly manpower survey - more properly termed an employment census - together with the full range of other statistical data produced by the Statistics Unit, including the annual earnings survey, is available to the Social Security and Treasury and Resources Departments, and to the Economic Advisor. This information is also publicly available.

As noted by the Chief Minister in response to a related question tabled on 27th February 2007 “..Jersey has a complete measure of employment every 6 months and indeed the level of data we have on employment far exceeds that of other comparable jurisdictions.”

This is a solid foundation for further analysis, in which, the Economic Development Department and the Population Office, which includes the Regulation of Undertakings function, will be working closely with the Social Security and Treasury and Resources Departments, the Economic Advisor, and others.

### **Previous related questions and answers:**

**13th March, 2006**

#### **Social Security Question from Deputy Southern**

##### **Question 2**

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

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



## Answer

It would be a strange review if I were able to consider any options for supplementation before the detailed analysis was undertaken. Options will be put forward on the completion of the analysis. The fundamental question of Social Security funding, including the proportion of funding and the earnings ceiling will be part of the review of Social Security outlined in R.C.49/2004 which is due to begin after the income support system is implemented and will also inform the Triennial Actuarial Review for the period ending December 2006 .

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

**27<sup>th</sup> February, 2006**

## Social Security Question from Deputy Southern

### Question 3

Would the Minister inform members what progress, if any, has been made in assessing the causes of the unexpected large rises in supplementation predicted for coming years and state whether new estimates are available?

## Answer

A larger than budgeted increase in supplementation is estimated for 2006. The final figure will not be known until the last quarter (October to December 2006) is processed in March 2007. The predicted figure is £56.56 million compared to a budgeted figure of £53.2 million. With the contributions collected from workers and employers estimated to be £123.155 million supplementation represents 31.5 per cent of Social Security contributory income This increase in supplementation follows on from a trend of relatively low increases in supplementation; 2002 £48.14 million, 2003 £49.89 million (3.6 per cent increase), 2004 £50.8 million (1.8 per cent), 2005 £50.78 million (0.05 per cent decrease) 2006 (estimate) £56.56 million (11.4 per cent). By way of comparison increases in contribution income over the same period were; 2002 £103.99 million, 2003 £108.43 million (4.3 per cent increase), 2004 £110.32 million (1.8 per cent), 2005 £115.50 million (4.7 per cent) and 2006 (estimate) £123.15 million (6.6 per cent).

**Table showing increases in contribution income and supplementation**

	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006 (EST)</b>
<b>Contributions paid (£millions)</b>	<b>103.99</b>	<b>108.43</b>	<b>110.32</b>	<b>115.50</b>	<b>123.15</b>
<b>Percentage increase</b>		<b>+4.3%</b>	<b>+1.8%</b>	<b>+4.7%</b>	<b>+6.6%</b>
<b>Supplementation (£millions)</b>	<b>48.14</b>	<b>49.89</b>	<b>50.80</b>	<b>50.78</b>	<b>56.56</b>
<b>Percentage increase</b>		<b>+3.6%</b>	<b>+1.8%</b>	<b>-0.05%</b>	<b>+11.4%</b>

The reason for this unexpected increase is that the average number of contributors attracting supplementation increased compared to the previous year and the average value of supplementation also increased. The average number of overall contributors also increased. In 2005, the average number of contributors was 55,180 of which 31,887 attracted supplementation with an average value of £132.70 a month. In 2006, the estimated figures are 56,169 (1.8 per cent increase), 32,720 (2.6 per cent increase) and £144.07 (8.6 per cent increase). This trend appeared to begin in the last quarter of 2005, and continued throughout 2006. The Department is committed to analysing contribution data to determine the significant variables in the labour market that drive the total value of supplementation. This work will be undertaken with amongst others the Economic Adviser and the Treasury and Resources Department. The purpose will be to understand the sensitivities in the labour market so that even though supplementation is calculated in arrears and therefore reacts to changes in the labour market, better estimates and forecasts can be made in the future. This major review will also identify options for reducing or limiting expenditure on supplementation.

**1.10 DEPUTY G.P. SOUTHERN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE GRANTING OF A LICENCE TO A THIRD SUPERMARKET OPERATOR:**

**Question**

Would the Minister agree to bring any decision to grant a licence to a third supermarket operator to the States for approval? Will he further inform the Assembly what talks, if any, have taken place with possible operators and in particular with respect to the Waterfront, whether any understandings or agreements have been reached?

**Answer**

The development of the retail sector is guided by the retail framework which was approved by the Council of Ministers and published in June 2006.

The Assembly will be aware that in order for any new undertaking to commence in the Island it must have a licence under the Regulation of Undertakings and Development (Jersey) Law, 1973. As Minister for Economic Development, I am responsible for administering the Law. In considering applications on their merits, I am required under the Law to have regard to the need to regulate and manage demand on the resources of the Island and to protect the integrity of the Island in commercial and financial matters. Many applications submitted contain confidential information which cannot and indeed should not be revealed. As with Planning applications, it would not be normal States' business to consider matters where authority to take decisions has already been delegated.

Similarly, Planning approval will also be required if a new supermarket involved some form of development, this would be a matter for the Minister for Planning and Environment to decide. A licence may also be required under Part 3 of the Regulation of Undertakings and Development (Jersey) Law.

The Assembly is aware of interest by French supermarket operators as this has been widely spoken of in connection with a potential Cherbourg freight link. In addition to interest from two French supermarkets, 3 U.K. based supermarkets are exploring market opportunities in Jersey. Discussions have been held with these operators to inform them of the processes that they would need to go through in seeking consents to operate in the Island. I am also aware that supermarket operators have had discussions with the Planning and Environment Department to clarify planning criteria

relating to supermarket development in Jersey. I have been advised by Planning and Environment that no commitments have been made to developers or operators.

I can therefore confirm that currently no undertakings or agreements have been made with any supermarket in relation to either the Waterfront or any other location in the Island.

## **2. Oral Questions**

### **2.1 Deputy G.P. Southern of St. Helier of the Chief Minister regarding the release of the findings of the Population Review Officer Group:**

Would the Chief Minister inform Members whether the findings of the Population Review Officer Group will be released for public consultation, and if so, when?

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

Yes, Sir. I have always said that we would make the findings public and we will. The initial research, which runs to over 200 pages, has recently been discussed by the Council of Ministers. The Council was pleased with the level and depth of the initial analysis. The Council identified a requirement to improve our understanding of the likely development potential in St. Helier and the Waterfront, together with a review of how such a development could be planned. This will be evaluated further over the coming weeks, drawing on the forthcoming *EDAW Report* on St. Helier regeneration. The Council of Ministers will then reconsider their report to ensure that it presents sufficient information to support a full and balanced debate. I anticipate that the report will be published before the summer recess and full public consultation will be organised after the summer.

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

The contents of this review have a great bearing on 2 issues; migration and population. When will the Minister be coming to the House with a proposition on possible potential population growth?

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

The Deputy is quite right. The work being undertaken does have a great bearing, and its findings will have a great bearing on both population, not just numbers, but population profile and make-up, not least the effect of the ageing population, and on migration. We will obviously be coming to the House for a full debate, but we believe it very important, because of the fundamental nature of the issue, that a full consultation programme is undertaken before we do so. So, I would anticipate that we would be in a position to come to the House either towards the end of the year or at the latest, early next year.

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

With the emphasis being placed upon the ageing population, does the study conducted predispose itself towards a scenario where population is growing?

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

That depends on what period you look at within the forecast period conducted by the study. There are times when the population will be growing; there are times when it will be decreasing. But the Deputy, of course, will have all that information, together with all other States Members, as I already said, before the summer recess.

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

Do the parameters for economic growth at 2 per cent - meaning 1 per cent growth in jobs - do those parameters still hold for the projections?

**Senator F.H. Walker:**

A number of different possible scenarios have been included in the report, and it will, of course, be for States Members to decide which scenario is most appropriate for the future of Jersey. In the meantime, of course, there is no question whatsoever of any change, either up or down, to the decisions reached by the States on the migration policy last year.

**2.2 Deputy J.A. Martin of St. Helier of the Minister for Treasury and Resources regarding the increase in 2006 of people registered under I.T.I.S.:**

Would the Minister inform how many more people were registered with the Income Tax Department in 2006 under the new I.T.I.S. Scheme (Income Tax Instalment Scheme) than in 2005? Also whether the numbers are cross-referenced with the amount of licences issued under the Regulation of Undertakings and Development Law? Thank you.

**Deputy J.A.N. Le Fondré of St. Lawrence (Assistant Minister for Treasury and Resources):**

I.T.I.S. registration started in early 2005 ahead of the formal start of I.T.I.S. on 1st January 2006. Now, the vast majority of the extra 16,700 personal taxpayers registered by Income Tax in that period from early 2005 to the end of 2006 were individuals who needed to register to obtain an effective rate notice to present to their employer. That included individuals already resident in the Island, but who were not previously required to be registered with Income Tax as they were permanently tax exempt due to their high tax threshold levels. They also included, of course, individuals new to the Island, however short their stay, and whether on a temporary or permanent basis. There is a slightly further analysis provided which is the number of new employee cases registered in 2004, before any registrations for I.T.I.S., totalled just over 3,700, whereas in contrast the new cases under I.T.I.S. in 2005 totalled 7,856; and the number of new cases registered in 2006 totalled 8,880. There is no cross-referencing at all from Income Tax with the number of licences issued under the Regulation of Undertakings Law, as the Comptroller of Income Tax is bound by his Royal Court Oath of Office not to divulge any information that comes into his possession in relation to a taxpayer.

**2.2.1 Deputy J.A. Martin:**

I thank the Assistant Minister for the very detailed reply. I am very, very surprised that we have a Regulation to limit the number of people coming into the Island under the Regulation of Undertakings Law but it is not cross-referenced with the I.T.I.S. scheme - the actual people working in the Island and paying tax or even not paying tax because of their low income level. Would the Assistant Minister take it upon himself to see the Minister and to look into this because under population this is the only true cross-reference we have of who is doing the jobs and who is paying the tax? Also if these 2 departments are certainly not talking to each other, Sir, can the Minister assure me and the States that they will try to do so in the future? Thank you.

**Deputy J.A.N. Le Fondré:**

I think there is a difficulty there, Sir, in that obviously it is a problem one does encounter from time to time of the confidentiality of information within Income Tax and the Comptroller does take his Royal Court Oath very seriously. The other point I would make is that there is a difference between taxpayers and population, and without wishing to sound glib about it, obviously the population comprises children and pensioners, for example, as well as working population, and they do not figure on our radar at all.

**2.2.2 Deputy J.A. Martin:**

I am sorry, Sir, I think the Assistant Minister is missing my point. I totally understand that the working population does not... but the population we are looking to increase or decrease or stabilise, is the working population. I would think it would be easy if... and I will just pick a

number out of the air - there are 40,000 licences registered, they will have a name and they will have a company. Now, it cannot be rocket science, Sir, to cross-reference this with the people paying I.T.I.S. Now, will the Assistant Minister take it on board to see if this can be done? Thank you, Sir.

**Deputy J.A.N. Le Fondré:**

I am certainly happy to raise it with the Minister as to whether it can be done, but I would suggest that there are likely to be problems ahead on that matter.

**2.2.3 Senator P.F. Routier:**

Could the Assistant Minister clarify whether the responses that the businesses have to make to the Regulation of Undertakings returns do not have the names of individual workers on their returns? It is just broad numbers so that it would be difficult to have any cross-reference with the tax returns for income tax payers?

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

I have to say obviously that is probably more a matter for Economic Development than the Treasury, but my understanding is that the number of licences granted is a quantum, it is a total. It does not necessarily give the breakdown of individual employees.

**2.3 Deputy S. Pitman of St. Helier of the Minister for Planning and Environment regarding the development of a policy to reduce the use of paper and envelopes, to increase recycling and to increase the use of such recycled products:**

Following the launch of the Eco-Active Initiative, would the Minister inform Members whether his department will be developing a States policy to reduce the use of paper and envelopes, increase the recycling of such resources, and encourage the use of recycled products?

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

The Eco-Active website is already creating a discussion about how we can behave more environmentally responsibly. I am pleased to report that the website is now being updated constantly and we have a new blogger every week. The practical delivery of environmentally positive actions needs to be led by States' departments, and Eco-Active will provide important information and advice to help at private, corporate and government level. The States Recycling Team within T.T.S. (Transport and Technical Services) already support and encourage initiatives for recycling office commodities like paper and printer cartridges. These opportunities are already in place in most locations, but I would be delighted to see even greater levels of participation. Already there has been positive take-up with recent schemes, including recycling paper, cans, and spent toner cartridges. There has also been a switch to a recycled brand of headed paper. Importantly, we must recognise that we can only achieve enhanced recycling within the States and across the Island if we have the funds to process the materials that we collect. That is the purpose of the current Environmental Taxes Consultation Paper. This proposes spending an additional £1 million annually on enhanced recycling out of the proposed ring-fenced fund. There are many examples of how we can do better and at the same time save money. The States I.T. Department is asking all employees to turn off their computers overnight and at weekends. This could be a key part of a scheme to save up to £40,000 annually on the States' electricity bill. Thank you.

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

In his response the Minister, I feel, did not accurately answer the question, which I believe was asking whether a policy would be introduced on the matter of recycling. The Minister advised us that his department is giving advice to other States departments, and I believe advice in this case is

not enough. I believe that we should be working to a prescribed policy, and I would like the Minister to comment upon that, please?

**Senator F.E. Cohen:**

As I explained in some detail in my response, the T.T.S. Department - under whom recycling mainly comes - are already involved in a number of schemes to promote recycling. Within my department we are doing everything we possibly can, but the Eco-Active Initiative is at early stages and I can assure the House that in a relatively short time we will have a policy in place within my department to promote recycling and other environmentally positive initiatives throughout the department.

**2.3.2 Deputy S. Pitman:**

Yes, Sir. Could the Minister inform Members how his department will work with T.T.S. in developing such a policy?

**Senator F.E. Cohen:**

My department will proactively engage with T.T.S. - and is already proactively engaging with T.T.S. - to ensure that a policy is implemented. But as I stressed earlier, in terms of having real impact throughout the Island the only way we are going to be able to have real impact in relation to many of these environmentally positive measures is if we are able to engender support among the community for a ring-fenced Environmental Fund paid for out of environmental taxes, and that is precisely what the Environmental Taxes Consultation Paper is all about.

**2.3.3 Deputy G.P. Southern:**

Will the Minister not agree that the only thing we are recycling here is hot air, words, and waffle? When is he going to come to the House with some concrete proposals to reduce energy consumption for example?

**Senator F.E. Cohen:**

I do not think it would be correct to accuse me as the one who is waffling. **[Laughter]** We are within the department in the very final stages of preparing an energy policy. We are doing everything we possibly can to move forward on Eco-Active as a central part of creating an environment within which people are empowered to make environmentally positive decisions. I do not see that we can do much more.

**2.3.4 Deputy G.P. Southern:**

Will his initiative contain realistic and achievable targets for this Island to achieve in terms of energy consumption?

**Senator F.E. Cohen:**

Yes, Sir, that is the precise objective of the energy policy. But remember the energy policy at some point will be subject to a States debate and it will be States Members who determine what part is implemented and what part is not.

**2.3.5 Deputy S. Pitman:**

Does the Minister have any figures on how much the States currently recycle, and if not could he supply them?

**Senator F.E. Cohen:**

I do not have any precise figures, but I had predicted that question and have already asked for an answer. As soon as I have the answer it will be circulated to all Members.

### **2.3.6 Deputy G.C.L. Baudains of St. Clement:**

I wonder if the Minister could advise us when the energy policy might be coming to Members for consultation, because it does...

### **The Greffier of the States (in the Chair):**

I think you are pre-empting a later question, Deputy, are you not? I think the Constable of Grouville is asking that very thing.

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

In that case I shall leave it to somebody else to ask the question, Sir.

### **2.3.7 Deputy R.G. Le Hérissier of St. Saviour:**

Could the Minister inform us how closely and on what projects he is working with the Minister for Transport and Technical Services?

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

The departments, Sir, are jointly working on a range of initiatives but, as I have repeatedly said, the implementation of these initiatives largely depends on the public's acceptance of the concept of paying environmental taxes. We really are not going to achieve very much at all in our endeavours to promote more environmentally positive thinking and to provide the facilities that Islanders want, including better recycling, better bus services, et cetera, without having some funds to use. That is the purpose of a ring-fenced or hypothecated environmental tax. But, as I have said, we are in the early stage, or mid-stages, of the consultation process, and it very much depends on Islanders' response.

### **2.4 Deputy K.C. Lewis of St. Saviour of the Minister for Treasury and Resources regarding Jersey Post plans for the closure of post offices:**

Would the Minister advise Members whether he has been notified by Jersey Post of any plans to close post offices in the Island?

### **Deputy J.A.N. Le Fondré (Assistant Minister for Treasury and Resources):**

Yes, Sir. Under the terms of the memorandum of understanding, which is between Jersey Post and the Minister for Treasury and Resources, the company is required to notify the Minister of any plans, such as the closure of sub post offices, and no such notification has been made.

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

It has recently been disclosed that in the United Kingdom the postal service intends to close down in excess of 2,500 post offices. In Jersey the post office is the hub of the community, especially in rural Parishes. Will the Minister assure Members that any such proposals in Jersey would be vigorously rejected? Thank you, Sir.

### **Deputy J.A.N. Le Fondré:**

I would never wish to say "never" because I have been tripped-up by saying those things in the past. Certainly, Sir, I am in agreement with the Deputy that we definitely value the community value of sub post offices and it would, I believe, have to require particular circumstances to warrant such a closure.

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

Would the Assistant Minister confirm that, given the dramatic decreases in parcel post that occurred in the last year, the amount of throughput through sub post offices is much reduced and is making their position very vulnerable?

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

I am unable to confirm that, Sir, because obviously the Deputy has far more information to his hand than I do. I am happy to check that out and come back to him.

**2.4.3 Deputy G.P. Southern:**

In addition to the 70 redundancies in Offshore Solutions, the fulfilment branch of the Post Office, has the Minister been informed how many voluntary redundancies have taken place among the admin staff and whether notice has been given that further redundancies are being made this year?

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

I am not entirely sure what that has to do with the original question, Sir. This question is about sub post offices. But, no, I have not been informed, Sir, and again if you wish to have information I am sure we can find out.

**2.5 Connétable G.F. Butcher of St. John of the Minister for Planning and Environment regarding the proposed development and by-pass scheme for St. John:**

Would the Minister advise the Assembly when he or his department's officers were first made aware of the proposed development and by-pass scheme in St. John? How many meetings were held to discuss the proposal? On what dates they were held, and who was present?

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

I am advised that the proposal, or something similar to it, was raised informally by its designer with the Planning Department many years ago. I do not have precise details of any discussions that took place at that time. The matter first came to my attention on 19th February 2007 when I held a meeting at their request with a representative of a land owner in the area and the scheme's designer. I was accompanied by a principal planning officer. My general view on such a significant proposal in a rural Parish is that the first step should be to gain the support of the Constable. Therefore, I advised the promoters that I would not offer an opinion and suggested they speak directly to the Constable. This is the only meeting held to discuss the recent proposal of which I am aware. Furthermore, I have decided that I would not determine any planning application should one emerge. The son of one of the key landowners was a close friend. Sadly, he has recently died but I do still occasionally have contact with his mother. Therefore, the matter will be referred to the Planning Applications Panel.

**2.5.1 The Connétable of St. John:**

Would the Minister also confirm that he is not currently recommending rezoning any of the fields connected with this plan?

**Senator F.E. Cohen:**

I am not entirely sure, because I am uncertain whether some of the fields connected with this plan may be involved in the Constable's recommendations in relation to the provision of sheltered housing. I do not think they are, so if they are I will send a revised answer out. But I think you can take it that we are not.

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

I may have misheard what the Minister said, but I understood he said he consulted landowners in the area, or was it all the landowners concerned? Could he inform the House whether the landowners within that area were also consulted?



**Senator F.E. Cohen:**

I did not say that I had consulted the landowners. What I said was, and I will repeat it, the matter first came to my attention on 19th February 2007 when I held a meeting at their request with a representative of the landowner in the area and the scheme's designer. I was accompanied by a principal planning officer. I did not offer an opinion and I directed them to the Constable.

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

If indeed necessary would the Minister be prepared to attend a public meeting in St. John, should one be held?

**Senator F.E. Cohen:**

No, Sir, I think it would be inappropriate for me to do so. I think, bearing in mind my relationship with one of the families involved, I think it would be more appropriate that the Assistant Minister, Deputy Pryke, attended such a meeting.

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

Would the Minister be prepared to explain who exactly he has met and discussed this with so far?

**Senator F.E. Cohen:**

I think I have already said that the only meeting I have held was one meeting on 19th February 2007. I have had a brief discussion with the Deputy himself, of which he is aware. That was a private discussion. Again, I offered no opinion.

**2.5.5 The Connétable of St. John:**

Would the Minister confirm that the other person at the meeting was a Mr. Spencer-Nairn?

**Senator F.E. Cohen:**

I think it would be inappropriate for me to comment on exactly who was at the meeting in a public forum. I am prepared to give the answer to the Constable in private.

**2.5.6 Deputy R.G. Le Hérisier:**

Could the Minister outline under what conditions he does meet people who have development plans and wish to discuss the viability of those plans?

**Senator F.E. Cohen:**

I have got an open-door policy. I am prepared really to meet anybody, providing the meeting is in the presence of a planning officer. I meet occasionally applicants; I meet regularly objectors. In fact I held a number of meetings yesterday with objectors. I believe that it is very important that Islanders have direct access to the Minister and I spend a great deal of my time interacting as much as I possibly can with Islanders who have concerns, either for, or against developments.

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

Could the Minister inform us whether or not he is suggesting that the Planning Department would seriously consider this form of development in the countryside?

**Senator F.E. Cohen:**

As I have explained, I have no opinion. I have directed those present at the meeting to the Constable. If the Constable was prepared to bring this forward as some sort of a proposal then, yes, of course, we would look at it. I am not prepared to comment until I hear the Constable's views.

## **2.6 Connétable D.J. Murphy of Grouville of the Minister for Treasury and Resources regarding criteria associated with funding granted from the Drug Trafficking Confiscation Fund:**

In his written answer to a question on 13th February this year referring to the Drug Trafficking Confiscation Fund, the Minister referred to some applications being turned down because they were not: “80 per cent for illegal drug misuse.” Would the Minister explain to the Assembly what this condition means and also what other conditions are attached to these funds?

### **Deputy J.A.N. Le Fondré (Assistant Minister for Treasury and Resources):**

The use of the Drug Trafficking Confiscation Fund is determined by Article 24 of the Drug Trafficking Offences (Jersey) Law 1988, which specifically states the following: “Moneys in the fund shall be applied by the Minister for the purposes of (a) Promoting or supporting measures which in the opinion of the Minister may assist in (1) preventing, suppressing, or otherwise dealing with drug trafficking or the misuse of controlled drugs; (2) dealing with the consequences of the misuse of controlled drugs; or (3) without prejudice to the generality of clauses (1) and (2) facilitating the enforcement of any enactment dealing with drug trafficking or the misuse of controlled drugs. (b) Discharging Jersey’s obligations under assets sharing arrangements. (c) Meeting the expenses incurred by the Minister in administering the fund.” I have passed a copy of that particular extract to the Connétable. The 80 per cent rule which he has referred to was developed to ensure that the overwhelming purpose of any funds being granted is to deal with the misuse of controlled drugs in accordance with the requirements of the Law. The other main criteria against which applications are assessed is that the fund should normally only be used to finance non-recurring expenditure, as by its very nature the source of funds of the Drug Trafficking Confiscation Fund is unpredictable. I have discussed the matter at quite some length with the Treasurer, who is adamant that the criteria applied to the fund are absolutely correct. As Members are aware the Comptroller and Auditor General is also in the process of conducting a review as to the governance of the Fund, and I am sure Members will be delighted to receive his report in due course.

### **2.6.1 The Connétable of Grouville:**

Referring to Article 24(4)(a)(ii) dealing with the consequences of the misuse of controlled drugs, and then to Part 5, Article 24: “Before promoting or supporting any measure under paragraph (4)(a), the Minister should consult with the Attorney General with such other persons or bodies including other Ministers which he considers appropriate.” Now, nowhere in this Article does it refer to 80 per cent of the charity or the institution having to be spent on illegal drug work, i.e. either the consequences of, or the misuse of, and I wonder where the Minister got the figure of 80 per cent from in order to assess the generality of the charity concerned?

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

I did inquire on this matter of the 80 per cent rule, and it goes back certainly I think it was to the early 1990s when the whole thing was set up, I believe, by the Finance and Economic Committee of the day, or in conjunction with the officers. My understanding is that the principal purpose of the fund has to be... it is how you weight the criteria of are you assisting in dealing with the consequences of the misuse of controlled drugs. Therefore, if, for example, you were dealing with purely trying to rehabilitate an alcoholic, that would not meet the purposes of the fund. A certain proportion of the use of that money has to be towards the misuse of drugs, for example. The 80 per cent is obviously a very safe rule, because if 80 per cent of the money is used towards that purpose you are definitely falling within the purposes of the fund. I would have to say that as an accountant it is very dangerous for an accountant to try and re-interpret the Law, and I would pass the question, or suggest that the Connétable ask the question of the Solicitor General or the Attorney General as to whether the 80 per cent is an appropriate level or not, or whether it can be applied at a lower rate.

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

Of this more or less unknown fund, could the Assistant Minister advise us how many politicians are involved with the decision of granting applications?

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

That is very easy, Sir. None.

**2.6.3 Deputy J.J. Huet:**

So, is the Assistant Minister saying that these large funds are solely being administered by civil servants?

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

Yes, Sir. My understanding is that the system was set up as I said in the early 1990s and it is chaired by the Treasurer of the States who, as I said, is adamant that the governance is appropriately being observed. They do very rigorously look at the criteria on the funds, and the other members of that fund include the Chief Executive Officers of Health, Home Affairs and, I believe, Education. I can obviously confirm those details with the Deputy in due course.

**2.6.4 Deputy R.G. Le Hérissier:**

In the case of dispute, or where a particular department is looking for an allocation from the Fund, does the chief officer of that particular department withdraw from that discussion?

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

My understanding is, yes, but we would have to confirm that, Sir.

**2.6.5 The Connétable of Grouville:**

I am still a little bit worried about the 80 per cent rule, because on my trawling through the figures and through the amounts that have been paid out from this fund, £66,675 was paid out for a boat for the harbour. Now, whereas I can understand that they do need a speedboat - or a very fast rib - in these cases to try and catch these guys, I cannot believe that the sole use of that boat 100 per cent of the time was chasing drug smugglers. On the second occasion I have to say there is £634,000 which was paid to the police on a confidential basis, so we do not know what that was used for at all. Now, I am not by any means belittling the police situation in this. They have a very difficult job to do and I am sure they need all the resources they can get. However, I do abhor the lack of political control over the dispensation of money, which is over half a million pounds.

**The Greffier of the States (in the Chair):**

Your question?

**The Connétable of Grouville:**

Would the Minister agree? [Laughter]

**Deputy J.A.N. Le Fondré:**

I think I will defer that one and wait for the response of the Comptroller and the Auditor General's report. I believe that is an issue that he should be considering in considering the governance of the Fund. If that is something that is deemed appropriate for the C.A.G. (Comptroller and Auditor General) to be looking at, then I think he should do so and we should wait his response.

**2.6.6 Deputy J.J. Huet:**

Could I ask does the Assistant Minister really believe it is correct that a huge fund like this is administered by a group of people that are not elected to the States, and that no politicians are involved. At the end of this, this is money, and should it be down to just a group of civil servants to issue what happens to it?

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

As I said, Sir, the governance is under review at the moment. The system was set up in the early 1990s. I think it is certainly time that it is reassessed on that basis. I think it is probably a matter for further discussion between the Minister and the Treasurer and I would await the outcome of those discussions.

**2.7 Deputy A.E. Pryke of Trinity of the Minister for Health and Social Services regarding the move of patients from the Leoville and McKinstry Wards at Overdale:**

Would the Minister inform Members whether all the patients from Leoville and McKinstry Wards at Overdale have now moved and, if not, how many are still in the wards and what plans are in place as to when and where they will be moved?

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

Before the transfer process began there were 47 continuing nursing care beds in Leoville and McKinstry Wards. In addition there were 7 respite beds, 4 of which were for patients who required nursing care and 3 of these respite beds were for patients who required care from support workers. Working with the residents, their families, and caring staff, my department has transferred 25 continuing care patients to the Silver Springs Nursing Home. All of the feedback we have received from residents and their families is that the quality of the service at the Silver Springs Nursing Home is everything that we expected it to be: excellent. The remaining 22 continuing care patients reside in McKinstry Ward. This ward is the least bad of the 2 wards in the short-term. The aim is to transfer the 22 patients to private sector institutions as quickly as possible and I have charged my Chief Officer with the task of bringing this about. For respite patients not requiring nursing care, care continues to be provided in the short term on McKinstry Ward. It is anticipated that this will continue for a few weeks before the service transfers to a private residential facility. As negotiations have not been completed in this regard, I am afraid I cannot name the institution. For respite patients requiring nursing care, this facility is now provided from Little Grove Nursing Home on a trial basis, supported by a service level agreement between this institution and my department.

**2.7.1 The Deputy of Trinity:**

Can the Minister inform the House what was the reason for the delay, please?

**Senator S. Syvret:**

Yes, Sir, the reason for the delay is a lack of availability of these kinds of beds in the private sector. For reasons outside of our control, institutions such as the Lakeside Home have not come on-stream in the way in which we hoped. Therefore, our plans have, indeed, been put back and we are behind schedule. It is regrettable under the few observations in the Scrutiny Panel report on the Overdale and McKinstry Ward - to which I would say I agreed with in an unqualified sense - was the target for completion of the move was too optimistic and so it has proven to be.

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

Could the Minister confirm the number of contract beds in the private sector, whether all these beds are currently occupied and if there is a waiting list for any of them?

**Senator S. Syvret:**

I do not know the precise detail of all of the contract beds we have within the private sector. I can get that information later if the Deputy wishes me to do it. My understanding is that all of them are full at the moment and there is not space available. This is why we are having difficulty finding placements for those patients remaining at McKinstry.

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

Will the Minister advise the House what effect this delay is having upon the patients and their families?

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

It certainly is not good. As I said very early on in this process, living in a hospital ward-style environment as a permanent residence is far, far from satisfactory. Patients and their families have no privacy. It is not really what you could describe as a home-like environment. Therefore, that will be affecting patients' quality of life. As I have already said, it is regrettable, but because of factors outside of our control we were not able to meet the completion target dates, but we are doing the best that we can.

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

Can the Minister confirm that he is able to maintain the high level of services he provides because he refused cuts to accommodate the R.P.I. (Retail Price Index) pay award for 2007 and achieved additional funding from a central resource?

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

There was some discussion over the funding of the pay award. My department has made some contribution to funding that pay award, but not the amount that was requested from the centre. As it were, the cost to do so would have made cuts that I was not prepared to make. In any event, even had the whole amount requested by the centre been made over to them and taken off the Health Department's budget, this would not have impacted on elderly continuing care. It has to be said this is a priority service and will continue to be funded.

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

Could the Minister give us the actual deadline by which the wards at Leoville and McKinsty will be empty and all the appropriate transfers have taken place?

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

I am afraid I cannot give that precise deadline. All I can inform the Assembly is that I have requested my Chief Officer and his team to do all that they possibly can to complete the transfer process at the earliest possible opportunity. At the moment we are stymied by the lack of availability of suitable beds in the private sector. This is not a matter directly in our control, so I could not guarantee a precise date.

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

Would this not cause the Minister to revisit his original decision to cancel the building of the facility at Belle Vue?

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

The decision to not build the facility at Belle Vue was not just my decision, it was a decision made by the old Health and Social Services Committee; moreover it is a decision that was endorsed by this Assembly when the then current Business Plan was passed and the capital programme was clearly laid out in an annexe to that report. I would be more than happy to build a new residential care home - one that would be built and run in the public sector - very, very happy indeed. If the Deputy and others would like to persuade my colleagues in the Treasury and elsewhere to make the funds available, I would be absolutely delighted.

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

Could the Minister confirm that with an increasing ageing population - which will double in size by 2030 - that the situation will get very much worse on demand for care beds? Has the Minister any figures and has he any worries on this increasing ageing, medically unfit population?

**Senator S. Syvret:**

Yes, Sir, I have a lot of worries. I do not know the precise figures that the Senator is requesting, but it is true to say in general terms that we have an ageing population, in common with all of the rest of the developed world. More and more people are living longer and, it has to be said, healthier lives in many cases too. So it is not necessarily the case that simply as people age they always become in need of care. But the basic point is correct: there will be a growing need for residential care home placements and, indeed, nursing home placements. This is very much a strategic priority that will feature in the forthcoming Health and Social Care structure.

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

Minister, is the question of shortage down to a price factor at all between what the public sector is prepared to pay or what are the demands of the private sector? There is a proposal for the redevelopment of Westmount which will include some residential care facilities. Does he have any knowledge of this and would he support such a proposal? Thank you, Sir.

**Senator S. Syvret:**

I was vaguely aware that there might be such a proposal involving properties concerning the Parish of St. Helier. I do not yet know the details, but as for the creation of any new modernised care home facility, I would be more than happy to see it take place. As far as price is concerned, I hesitate to answer the question because the current situation is not caused by pricing difficulties, but on the other hand, I certainly could not say - because it would not be the case - that price is no object. We have to be in a position where we strike a reasonably good bargain with these private sector providers.

**2.7.9 Deputy D.W. Mezbourian:**

The Minister has told us that the delays are indeed having a detrimental effect upon the patients of Overdale, and a number of us have been contacted by family members of some of those patients. We all have concerns at this situation, but I would like to know how specifically is the problem for the patients being addressed by Health and Social Services? What is being done to improve the patients' current situation?

**Senator S. Syvret:**

Improving the patients' current situation will be very difficult within that building. But as is always the case at this facility, the standard of care, as has been widely acknowledged, is extremely high. The staff who work there do absolutely all they can to improve and make as good as possible the quality of life of all the patients there. The place is kept warm, dry, and clean. There are facilities of a limited extent for the clients of that facility but, ultimately, the building is profoundly unsatisfactory in that it is an old hospital ward-style type of environment. Really, the kind of quality in improvement of the care that we wish to give these patients will not be able to happen in that building.

**2.8 Deputy R.G. Le Hérissier of the Minister for Treasury and Resources regarding Central Market opening hours:**

Are there any plans in the near future to extend the opening hours of the Central Market?

**Deputy J.A.N. Le Fondré (Assistant Minister for Treasury and Resources - rapporteur):**

I thank the Deputy for his concise question and in the spirit of being brief and to the point my answer is as follows: no. Thank you, Sir. [Laughter]

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

Given this has been a contentious issue previously, what discussions are taking place away from the public gaze?

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

At the moment, Sir, I would say that Property Holdings has only relatively recently taken over control of the markets and, indeed, I am - on my rather long "to do" list - intending to visit the Market some time during the next few months. I am happy to speak to the leaseholders and the traders, in an official capacity, rather than to purchase something, Sir. I am obviously happy to speak to the leaseholders and see what their views are on extended opening hours, but I think one would very much have to speak to the people operating the businesses in the premises first before we start even considering the matter.

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

Would the Assistant Minister confirm that there is a viable leaseholders' group with whom he is able to negotiate and discuss these issues, and will he be commencing these negotiations or discussions as soon as possible?

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

I am unaware of any particular pressure to amend the opening hours in the markets. My understanding is that there is a group - the leaseholders - who one can deal with as a body and, as I said, unaware of any particular pressures, we will meet with them at some point and discuss matters. I would add, Sir, I know the Deputy is very keen, for example, on the Thursday afternoon closure, but at the moment it does allow cleaning and minor maintenance to be carried out during a working week. If the market was opened on a full opening hour basis that is work that would probably have to be done out-of-hours.

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

I think we are all very well aware, Sir, that all small businesses in Jersey are under tremendous pressure. If all the leaseholders were in agreement that they should open on a Thursday afternoon, I think this would be an excellent idea. Does the Minister not agree?

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

If they were all in agreement, I probably would, Sir. My understanding is that they have been consulted about this from time-to-time. Most recently it was in regard to opening on the Sunday before Christmas last year. The majority so far have preferred to maintain existing arrangements. The other matter, of course, is to do with security. While it is open - the Fish Market - it is possible to barricade off, for example, one end of the market so that the restaurant at the end can be open. In the Central Market it is somewhat more difficult and you basically have to have either everyone open or everyone closed. It is very difficult to have certain stallholders open and certain closed because of the public access that is there, Sir.

## **2.9 Deputy R.G. Le Hérissier of the Minister for Housing regarding estimates of the requirement for sheltered housing units:**

Will the Minister advise Members how his department estimated the number of units of sheltered housing which will be required in the immediate future, and would he further advise what will happen to the properties vacated by tenants moving to such sheltered accommodation?

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

Based on our March 2007 waiting list figures there are currently 155 individuals waiting to be housed by the department in one-bedroom, sheltered, retirement or lifetime homes. There are a

further 191 existing tenants who need to be moved to more suitable one-bedroom, sheltered, retirement or lifetime homes. This gives an immediate need from our side of 346 homes. But I am aware that there are certain Connétables who do have a list of people in a similar situation. The department's Social Housing Property Plan proposes the demolition of certain properties, such as Convent Court, which would provide a full mix of accommodation. Much of it is one-bedroom flats and bed-sits. The department is also proposing phasing-out the majority of bed-sit accommodation, approximately 80, which are not considered suitable as lifetime homes. When one considers all this together with the fact that the proportion of our population above normal working age is going to increase from the current level of 17 per cent to 30 per cent by 2030, there is, Sir - I would submit - irrefutable evidence of a desperate and growing need for sheltered, retirement, or lifetime buyer homes. If all these homes were provided immediately those homes vacated by existing tenants which were suitable for re-letting would then be available for new tenants on our current waiting list.

**2.9.1 Deputy R.G. Le Hérisier:**

Am I to infer from the Minister's answer that the majority of sheltered homes will, in fact, be directed to people leaving the States' housing sector or will be they available to all-comers, so to speak, on some kind of selection system?

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

It is to all-comers. Currently we do have, as I say, 191 existing tenants that would need to move. We have also a waiting list which is a mixture from our accommodation and also from the private sector. As I say, I am well aware that some of the Connétables - I think, particularly Trinity who I will be proposing some sheltered accommodation for - can fill that accommodation immediately on completion. So there is a desperate need for sheltered accommodation. I am currently in the same position as the Health Minister with this ageing population: absolutely desperate.

**2.9.2 Connétable M.K. Jackson of St. Brelade:**

Would the Minister advise the Members what the age criteria for the figures of 105 and 191 are?

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

Yes, Sir. Currently over-60 is classed as retirement age. One or 2 fall below that criteria where there are serious medical or disability grounds, but generally it is over the age of 60. Nobody comes on our housing list until the age of 60.

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

Just as a point of clarification from the Minister, he referred to 155 individuals waiting to be housed. Is that 155 different cases that need to be housed? For example, a couple would be one case?

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

Yes.

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

Or is that 155 individuals?

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

No, that would be individual cases. I do apologise.

**2.9.5 Deputy S. Pitman:**

I ask this question as there appears to be no answer for it in my written questions to the Minister, Sir. In an answer on 27th February regarding the elderly residents of Caesarea Court, the Minister informed Members that he will be working very closely with the Planning Minister to try to



identify land that we desperately need to produce more sheltered homes for the elderly. Would the Minister clarify for Members whether he was only referring to the residents currently living at Caesarea Court and, if not, would he explain to which elderly people he was referring?

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

The Planning Minister and the Assistant Ministers and all the department officials met only this week again and it is proposed that land will be coming forward for proposals for support by this Assembly, which will meet the needs of all Island retired needs. I cannot say anything else. I am having great support from the Minister for Planning and his officers and everyone will know that the document that has been produced by Planning recently - the Planning for Homes document - clearly identifies a need of over 400 homes and it will include homes that are currently on all the waiting lists, including the housing stock.

**2.9.6 Deputy J.A. Martin:**

I was slightly confused with part of the answer: the estimated number of units. I understand exactly that the Housing Minister has the figures of the tenants in States' accommodation already. I think where Deputy Le Hérisier has a problem - and many other Members - we need the exact amount of the estimated. Would the Minister not be much better, Sir, working completely with the Constables to find out exactly. I know it is not an exact science but we need to know more on how many people and what type of person. It seems to me that the Minister seems to be saying: "We need 400 sheltered homes but these are only for people who now cannot afford their own home." Illness does not come with not affording your own home. If you need sheltered housing; you might be now living in a 5, 6, 7-bedroom house, but you still cannot occupy that. This is where the confusion seems to be coming in, Sir.

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

There is no confusion. The confusion is by these Members who continue to ask these same questions week after week. It is irrefutable that there is a need for up to 400 homes identified by all the departments and identified by the Planning Department. I have given the figure this morning of 346 that we know that we need now at this present time. It is an ageing population that is going to double by 2030. The evidence is irrefutable and, in fact, the evidence coming forward from some other Connétables is that they have waiting lists as well which are apart from ours. It is an ageing population. We do have people that, by the day and by the week, are coming on-board because of medical difficulties. People are living older and longer and the policy of the Health Department, and our department, and Planning is to keep people in their homes as long as possible. We are getting huge pressures from Health; we are getting pressures from everywhere around: the family; nursing, all of them that we need to care for people in their own homes and keeping their homes, and keep them out of the care homes and residential homes. No question. Keep asking the same questions; you will get the same answers. I am not going to change. It is irrefutable. We want around 400 homes for social rented housing.

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

It might be that if we keep applying the same answers to the same questions, we will still have to keep asking the same questions [Laughter] but...

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

But you do not understand.

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

Well, exactly. I do not think many of us understand, Sir. I would like to understand why it is that we are told there is not a black hole when we were told there was going to be one; why it is we do have a thriving economy when we were told we were not going to have one.

**The Greffier of the States (in the Chair):**

Do you have a question on housing, please, Deputy?

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

It is a question, Sir. Why it is that we are in a desperate situation, with the full support of the Ministers, many of which have been in post for long enough now under this Ministerial system to handle things?

**The Greffier of the States (in the Chair):**

Deputy, if this is a question on housing, will you please come to the question? **[Laughter]**

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

The question is, Sir, is why are we in this position; what is going wrong and does the Minister believe that further reductions in the qualifications to the residencies of people that qualify for accommodation is going to help in this situation where we have nowhere to put the sick and elderly, and no homes to build them?

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

I get a bit fed up listening to this same old record. **[Laughter]** Remember that we are reducing qualifications and it is an agreed policy of this Assembly to reduce it down to 10 years. Many of these children living in these unqualified homes are Jersey-born children just like yours, Deputy, and mine. **[Interruption]** They have not had the ability or otherwise to have a home life that all of us have been able to aspire with our own children. We do have a divine right to reduce housing qualifications to make life a little bit easier - down to 10 years, as agreed - so that we can show some moral responsibility.

**2.9.8 Deputy S. Pitman:**

I find myself asking the same questions because the Senator has not answered 4 of my written questions for this session. Would he firstly please confirm that he will answer these questions in written form? Secondly, Sir, could he confirm whether or not Convent Court will be demolished next year and, if not, when? Thirdly, Sir, could I ask him when Caesarea Court is reconstructed will be there enough units for the current elderly residents living there?

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

I am not going to keep replying and answering to all these questions. If the Deputy would like to put it in writing to me I will make sure she gets a reply because I will send the registered envelope so that she does understand. Quite honestly, I am getting fed up with this... **[Interruption]** and I want to be able to debate with a property plan which will identify all these issues and answer all the questions.

**The Greffier of the States (in the Chair):**

We must move on. We have a lot of questions to get through.

**Senator F.H. Walker:**

I am sorry, can I just make a clarification? I have never said that there is no black hole. That was an interpretation of the remarks I made to a meeting of States Members on Friday and a speech I subsequently made, put on my comments by the *Jersey Evening Post*. I did not say that there was no black hole. What I did say was that the financial situation - and this is matter of record - has materially improved.

**The Greffier of the States (in the Chair):**

We must move on because time is running out and we have a lot of other questions to ask.

**Deputy S. Pitman:**

I do not have a written answer to 4 of my questions.

**The Greffier of the States (in the Chair):**

Well, it is a matter for Ministers how they answer questions; you must take a political view on how Ministers answer questions. There is no requirement for Ministers to answer questions, Deputy. Ministers answer as they wish.

**Deputy S. Pitman:**

There are 4 questions he has not answered.

**The Greffier of the States (in the Chair):**

Well, it is a matter for you, Deputy, to take whatever action you wish to take. We come now to a question from The Connétable of Grouville to the Minister for Planning and Environment. [Interruption]

**2.10 The Connétable of Grouville of the Minister for Planning and Environment regarding the publication of the new Energy Policy Report:**

I am sorry, the Minister obviously has not finished answering questions yet. [Laughter] Would the Minister for Planning and Environment update the Assembly on the publication date for the new *Energy Policy Report*, please?

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

The final data sets for inclusion in this document are being concluded this week and it is the intention to have a final draft version ready for consideration by the Council of Ministers on 12th April. The draft document will take the form of a green paper, that is, a document setting out information options for discussion. Assuming that the draft document is accepted by the Council of Ministers, it will be released for public consultation before the end of April. Following consultation on this green paper, a further report will be produced - a white paper - which will, in the light of the comments received, firm-up on policy options recommended for adoption and for agreement by the States.

**2.10.1 The Connétable of Grouville:**

Is the Minister aware that Alderney Renewable Energy and the OpenHydro Group are investing several million euros in installing and deploying tidal turbines in the Alderney Race? I believe that the States of Guernsey already have a stake in this business and I would ask the Minister whether, in fact, he thinks that his department are not really taking it seriously enough and we should be up there and also taking a stake in this business. When it does come into operation it is going to produce extremely cheap and extremely reliable electricity. If we wait around too long, we are not going to be part of it.

**Senator F.E. Cohen:**

I am aware of the Constable's interest in tidal power and I have been assured repeatedly by my department that the *Energy Policy Green Paper* will include a comprehensive analysis of tidal power so that he will be fully satisfied that all issues relating to tidal power have been examined. I would say at this stage that I have also been advised by my department - and remember, I am not a scientist and not an expert in this area - that tidal power technology is in its relative infancy and that it may not be economically viable to invest in tidal power for Jersey at the present time.

**2.10.2 The Connétable of Grouville:**

I hear what the Minister says, Sir, but the fact is that very clever people are putting a lot of money into these tidal power stations. **[Interruption]** There is one in Lynmouth, which is already in operation, and another one which is coming on track for the national grid in Strangford Lough in Northern Ireland. So I would like to ask him if he would reassess the situation in his report and start taking this energy source extremely seriously? It may not be viable today, or economic today, but oil prices are not going to drop and tomorrow they may be very cheap indeed. **[Aside]**

**Senator F.E. Cohen:**

I agree entirely and have great sympathy for the sentiments expressed by the Constable, and I can assure him that tidal power and its potential will be fully examined in the forthcoming energy policy documents. I think it may also be worthwhile the Constable sitting down with the Director of Environment and myself and discussing the issue, because he is better off to hear the science first-hand rather than from me.

**2.10.3 Senator S. Syvret:**

I was going to ask when we were planning to send the gun boats in to seize Alderney territory but I do not think that comes under the responsibility of the Environment Minister. Could the Minister say whether he or his department has a kind of general view as to what year global oil production will peak?

**Senator F.E. Cohen:**

In response to the first part of the Minister's question, unfortunately, I do not have a ship available to me any more because the Minister for Economic Development has taken the Fisheries protection vessel away from me. **[Members: Oh!]** As far as... **[Interruption]** a department view on peak oil production, I am afraid I do not have an answer, but there will be a meeting shortly of the Energy Policy Group, including the Minister, and I am sure he can raise that question with the Director of Environment at that time.

**2.10.4 Deputy S.C. Ferguson:**

I wonder if the Minister could tell us who he has used as his electrical consultant on tidal power, because I am not sure that anyone, with respect, in his department has the background to be able to comment on this.

**Senator F.E. Cohen:**

I have absolutely no idea, but I will ask the Director of Environment and I will circulate a response as soon as possible. I think the Director of Environment may be away at the moment, so there may be a few days delay.

**2.11 Deputy K.C. Lewis of the Chief Minister regarding any plans to revise Protocol 3 under the new draft treaty of the European Constitution:**

Would the Chief Minister advise Members whether he has been notified of any plans to revise Protocol 3 under the new draft treaty of the European Constitution and, if so, will he also advise

whether any pressure has been brought to bear in relation to any changes which specifically affect Crown dependencies, including the Channel Islands?

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

In 2003 the then Policy and Resources Committee was notified of plans to review Protocol 3 as part of drafting the then proposed European Constitution. A new protocol was proposed to cover the dependant territories of all the member states, for example, Gibraltar, the Channel Islands, the Isle of Man and the Canary Islands. Jersey's Law Officers and the Policy and Resources Department were closely involved in discussions on the new protocol, and they proposed a number of minor amendments to the draft. The principal objective in these discussions was to ensure that any changes were limited only to necessary minor and insubstantial drafting revisions. Jersey's present relationship with Europe would remain unchanged in legal effect, notwithstanding any modifications to the text of the treaty. There have been no further plans to revise the protocol and no pressure has been brought in relation to Jersey as part of this process. According to accepted constitutional practice, the U.K. (United Kingdom) will be required to seek the approval of the States of Jersey before any new provisions are agreed.

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

I thank the Chief Minister for his reply, Sir. The European Union has just celebrated its 50th birthday. The chairmanship is now passed to Germany under the presidency of Chancellor Myrle who has made it clear that all countries of the European Union and affiliated nations will be encouraged to bring in tax harmonisation. Will the Chief Minister be opposing this? Thank you, Sir.

**Senator F.H. Walker:**

Yes, Sir. As will the U.K. government as well, unless things change materially, Sir.

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

I wonder if the Chief Minister might circulate the proposals that were drafted in 2003 for the new protocol with the amendments that were suggested by the Law Officers at the time to all Members so that they might be made aware as to what the contents of those were and the relevance of those amendments?

**Senator F.H. Walker:**

I will take advice. I can assure the Deputy and the House it was nothing of any significance whatsoever, but I will take advice on whether or not they can be circulated and, if so, will do so.

**2.12 Deputy G.P. Southern of the Chief Minister regarding the possibility of the submission of a complaint to the European Union about the favourable treatment by the United Kingdom Government of the Value Added Tax revenues:**

What consideration, if any, has the Chief Minister given to the possibility of submitting a complaint to the European Union, possibly in conjunction with his counterpart in Guernsey, concerning the United Kingdom Government's favourable treatment of the Isle of Man's Value Added Tax revenues?

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

This is not a new matter and it has been considered repeatedly in the past. In the first instance, of course, this is a matter between the Isle of Man and the U.K. Government and I am aware it is currently under discussion and that an announcement is expected shortly.

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

May I ask the Chief Minister whether or not the recent analysis of the situation, that was published in various forms of communication within Jersey recently of the V.A.T. (Value Added Tax) advantages that the Isle of Man is receiving, is accurate?

**Senator F.H. Walker:**

No, Sir, it was not accurate.

**2.12.2 Deputy G.P. Southern:**

Nonetheless, and notwithstanding an impending announcement from the U.K. Government, does the Minister accept that effectively a subsidy is offered through the V.A.T. scheme in the Isle of Man to the downward spiral - the race to 'Zero/10' - which we are now engaged in with the Isle of Man?

**Senator F.H. Walker:**

Yes, Sir, I do.

**2.12.3 Deputy G.P. Southern:**

Does he not feel that this is a complete absence of a level playing field which would make such tax competition viable for this Island to engage in?

**Senator F.H. Walker:**

I do consider it tilts the playing field, yes.

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

I was surprised by the Chief Minister's answer that it was not accurate, Sir. Would the Chief Minister be able to indicate, or in the future circulate, exactly what was inaccurate about the statements that were made in relation to the V.A.T. advantages?

**Senator F.H. Walker:**

I am assuming that the Deputy is referring to the item put out by the Tax Justice Network, and if that is the case I reconfirm that it was far from accurate, and I am more than happy to seek to correct it. But we, in fact, do not have access to the detailed figures ourselves. It is a matter, as I said in my original answer, between the Isle of Man Government and the U.K. Government, but I am quite happy to correct it as far as possible. Certainly, it greatly overstated the figures involved.

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

May I press the Chief Minister then for a consideration - I am not asking for an answer yes or no at this stage - whether or not it might be in this Island's best interest to fully understand the position that the Government of the Isle of Man has with the United Kingdom in this regard, and whether or not our government is willing to seek to clarify what the actual position is in terms of favourability, so that we are operating in the future with the knowledge of whether or not we are on a level playing field?

**Senator F.H. Walker:**

I think the answer to the Deputy's second part of the question will be covered by the circulation of the information I offered in response to his last one. I think I would merely say that in relation to the issue, client diplomacy, I think, has a great deal of merit.

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

Could the Chief Minister confirm that he, his department and my Scrutiny Panel have had some initial discussion on us conducting a Scrutiny review into the whole aspect of the level playing field and the various confusing parts to it that apply across other particular aspects of the fiscal changes

that we are undergoing? Could he confirm that we have already had that and that it is likely that we will be carrying out a review shortly where States Members will, hopefully, as a result of that report, become fully aware of all of the details and that that is the case? Thank you, Sir.

**Senator F.H. Walker:**

I can confirm, Sir, that that work is being undertaken and that discussions have been held. I think they were productive and will turn out to be productive, but it is the first time it has been suggested to me that that should include the Isle of Man/U.K. common purse arrangement. That is a new proposal. It is not one I believe is worth us pursuing. This is a matter between the Isle of Man Government and the U.K. As I said, it is under review at the moment and we do expect an announcement in the near future. I strongly suggest we leave it there.

**2.13 Deputy J.A. Martin of the Minister for Health and Social Services regarding the development of a new Health Register:**

Would the Minister inform Members how much progress has been made in developing the new Health Register for all Islanders, whether there has been any data protection issues and, if so, what these are? Thank you.

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

The Health database is about getting more timely treatment to those who need it. The database is not up-to-date at the moment and therefore Island screening programmes have fallen behind that which will take place in England. G.P.s (general practitioners), the hospital and the Public Health Department need to offer screening and other preventative services as an essential part of the Island's comprehensive health service. The States of Jersey are acting on a fundamental recommendation contained in the *Medical Officer of Health's Annual Report*. I fully support the creation of a health database. It will bring about a tremendous improvement in health and social care in Jersey. The approach has the full support and involvement of leading Island G.P.s and key hospital consultants who are actively working together to create the database to improve screening, immunisation and the quality and efficiency of other aspects of patients' health care.

**2.13.1 Deputy J.A. Martin:**

I do not think the Minister touched on my question. I did ask how far advanced it was and how much progress has been made, and whether he had any knowledge of data protection issues, and neither of these questions were answered. So could the Minister, please, answer directly both those questions? Thank you.

**Senator S. Syvret:**

The screening database hopefully will be completed some time this year, and that will lead to an improvement in services in terms of screening. It should not be confused with the much broader, longer-term health I.T. (information technology) investment which aims ultimately to move towards a completely integrated patient record system that makes the sharing of information among clinicians who need to see it much more speedy and effective. There has been some discussion between the Medical Officer of Health and the Data Protection Registrar, and any concerns I think that were expressed have been done so satisfactorily, certainly as far as the Health and Social Services proposals are concerned. I could not comment whether the view is the same of the plans for the overall Island population database which is not within the responsibility of my department.

**2.13.2 Deputy J.A. Martin:**

Well, my understanding is that that is the concern. There are 2 departments and 2 registers, or even now maybe, the Minister has said, 3 registers. This is cost, this is duplication, and the Data Protection Registrar has issues about how one registry is being formed and whether the other population register will be just piggy-backed on to the back of it. Also, could the Minister tell the House how much his department has already put forward to this Health Registration Scheme?

**Senator S. Syvret:**

As far as the cost that we have invested so far in the health screening database, it is about £60,000 so far, but that, of course, is very, very small compared to the long-term investment in the overall health database. I cannot answer for the Central States' issues as far as the database is concerned. All I can tell the Assembly is that the expert medical opinion is united in the importance, and great improvement will be brought about in health care delivery by a comprehensive electronic patient database. That is what we will be working towards in the next 2 or 3 years at Health and Social Services. The Data Protection Law is pretty clear and that database, while some of its methodology and approaches might be adopted by the Central States of Jersey population database, the information contained in the health database will be absolutely confidential. It is gathered for health purposes and that is all it can be used for.

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

The Minister says that the reason and the rationale for the Health Register is so that we can reduce the waiting times in relation to various sectors within the health realm, whether it be screening or improving services. The National Institute for Clinical Excellence sets targets whereby patients should be receiving, or expecting to be receiving, procedures and care. Would the Minister be able to circulate to Members now a comparison of the waiting times for various services in relation to those expectations indicated by the National Institute for Clinical Excellence, so that once the Register is in place we will be able to see whether or not there has been any marked improvement after a period of time?

**Senator S. Syvret:**

I am not entirely sure what the Deputy is talking about. The issues we are talking about here are the needs to improve screening, and that will make the database much more comprehensive and patients will get called for screening and get reminded to come and get screened for a variety of illnesses. It will also enable us to keep a much more effective and comprehensive database as far as child immunisations are concerned. As far as the clinical procedures - if that is what the Deputy is getting into - that take place in the hospital operations, and so on, the waiting times in Jersey are currently extremely good compared to the U.K. average. We have achieved great things in the last couple of years in bringing waiting times down. I do not have the precise list of current waiting times for current procedures with me at the moment, but I can certainly make that available should the Deputy wish it.

**2.13.4 Deputy S.C. Ferguson:**

Will the Minister tell us whether there is an option to opt out of having your data spread all around an electronic system?

**Senator S. Syvret:**

I am not an expert in the Data Protection Law, but my understanding is that you can opt out if you wish, but there would be consequences. I mean, there are certain data sets that people cannot opt out of, for example, income tax and things of that nature. I do not think that kind of statutory requirement applies to the health data. The point is as society moves more and more towards a completely electronic database it is going to seriously jeopardise the speed and effectiveness of your treatment as an individual patient if you have insisted on not being a part of the electronic database, instead just using old paper records.



## **2.14 The Deputy of St. Martin of the Minister for Home Affairs regarding the compatibility of the Draft Prison (Amendment No. 6) (Jersey) Law 200- (P.17/2007) with the European Convention on Human Rights:**

I think it might be helpful, Sir, before I ask my question for Members to note that P.18 - the draft Prison Amendment Law - was down for debate today, but it has been deferred to another date. At the time I lodged my question I was not aware of its being deferred. Also I was not aware that the Minister would not be in the House today. Could I ask the Assistant Minister would he advise Members what advice the Minister received to enable her to make the statement in P.18/2007 that the Draft Prison (Amendment No. 6) (Jersey) Law 200- P.18/2007 is compatible with Convention of Human Rights of the Human Rights (Jersey) Law 2000?

### **The Deputy of St. John (Assistant Minister for Home Affairs - rapporteur):**

As the Deputy has already reiterated, the debate for P.18 has been postponed until 1st May to enable advice on human rights compliance to be obtained from the Law Officers' Department. The Ministerial decision that gave rise to the lodging of this amendment was an oversight on the part of Home Affairs Department in that it was under the misapprehension that human rights compliance considerations had been cleared when, in fact, the Law Officers' Department has still work to complete on it. As soon as this became apparent, which was very soon after the Projet had been lodged, it was immediately withdrawn and a new date sought for debate. Should the proposition be deemed to be compliant the statement as signed will stand and the debate can proceed. If not, the proposition could be withdrawn and revised when lodged, or amendments could be lodged to P.18. Thank you, Sir.

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

Can I seek assurance from the Assistant Minister that when the proposition is re-lodged it will clarify the situation which at present allows for a male officer to search a female prisoner, and for a female officer to search a male officer, and will that be a human rights complaint?

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

I cannot comment at this stage on the outcome of the Law Officers' review of this document. However, that is exactly the sort of thing that they are looking at and if the Deputy is unhappy with the contents of the Projet when it is finally lodged then he should consider putting forward an amendment, Sir.

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

I think I understood from the Assistant Minister's response that it was felt that this Projet was not considered to be human rights-compliant and it was realised at a pretty early stage after it was lodged. My concern would therefore be that this may have happened in the past and not been noticed. I wonder whether the Assistant Minister will confirm to the House that this has, or has not, happened?

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

As I have already outlined, this was basically an administrative error: it should not have come before the House until it had been confirmed fully human rights compliant by the Law Officers. It was an error; it was noticed very quickly and withdrawn, and will be resubmitted to this House for debate on 1st May.

### **The Greffier of the States (in the Chair):**

I think just to clarify from the Chair, Deputy, my understanding of the Assistant Minister's answer was not that it was found that the draft was not human rights-compliant, but that it was found that the statement had been signed without confirmation.

**The Deputy of St. John:**

That is correct. I mean, we are awaiting the advice of the Law Officers and should that advice be incompatible with human rights then we will lodge an amended version of the Projet, Sir.

**2.14.3 Deputy G.P. Southern:**

Does the Assistant Minister not consider that this particular incident reveals some confusion over the processes by which human rights compliance is established, and would he not agree with me that a review, in conjunction with the Law Officers' Department, should be conducted as a matter of some urgency?

**The Deputy of St. John:**

There is no confusion. The fact was that the Home Affairs Department had unfortunately thought that this had been compliant when it had not. Very soon after it was lodged it was withdrawn for that very reason. The Law Officers take human rights compliance very seriously since this House signed up to various items which ensure that Projets of this type are human rights-compliant before coming before this House. They take that matter, as far as I am concerned, very seriously, Sir.

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

Will the Assistant Minister confirm when the Minister and the Assistant Minister met the Education and Home Affairs Scrutiny Panel we did draw their attention to our concerns that it may not be human rights-compliant and can he also appreciate that the concerns raised by our Panel really have proved fruitful?

**The Deputy of St. John:**

Yes, Sir, the Deputy is quite correct and the Law Officers were advised of that which is even more the reason why that Projet should not come before the House today, Sir. Thank you.

**2.15 Deputy S. Pitman of the Minister for Social Security regarding the completion and return of Income Support application forms:**

Would the Minister inform Members how many people have contacted the department to request assistance in completing the new income support forms, how many have still not been returned and what will happen to those who do not return them by the department's stated deadline?

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

I cannot tell Members the number of people who have specifically requested assistance with completing the transitional form which is being used to obtain information from existing beneficiaries. The department has not been collecting that particular information, although I can tell Members that the department is currently dealing with about 30 to 40 inquiries a day about income support, whether it be through phone calls, letters or visits. Some 6,239 forms have been issued and over 3,300 have already been returned. I would encourage anyone who has received a form to return it as soon as possible. The department is obviously monitoring the return of forms and will be sending out a series of reminders to those who have not returned the form, so as to ensure that everybody has the opportunity to do so and is aware of the consequences of not returning a form. If anyone chooses not to submit a form, income support cannot be paid from the date of implementation and it would not be possible to calculate and pay the protected benefit which has been promised. The department will treat claims received after the implementation date as new claims to Income Support.

**2.15.1 Deputy G.P. Southern:**

Is the department prepared to make temporary payments to those who fail to meet the deadlines his department is setting?

**Senator P.F. Routier:**

If anybody comes to the department after the implementation date they will be assessed as a new Income Support claim.

**2.15.2 Deputy J.A. Martin:**

That slightly concerns me because I thought before they go live that the Social Security Department should absolutely make sure that everybody who is already receiving benefit is on the new system; people who come in after, I appreciate that cannot happen, Sir. Would the Minister confirm that there is maybe some difficulty down at the department at the moment, or update us with the transfer of staff from the St. Helier Welfare? I think they were expecting 10 new staff to join and be trained up in the new system. I have heard - and it is just a rumour, Sir - that this is now not occurring.

**Senator P.F. Routier:**

Rumours are rumours, Sir, and I do not think Members should take note of rumours. The St. Helier staff have agreed to join us and they are being slotted into the positions which are available within our department. If a member of staff from St. Helier decided they did not want to come to us that is certainly their choice, but the last we heard they have all agreed to come to us. We are not experiencing any problems with dealing with the workload at the present time and everything seems to be on track to ensure that we do implement on 30th July. I am pleased to have this question today, because I do really want to ask people to return their forms and we do want to help people to ensure that they can fill in the forms. The departments are ready, willing and able to help people to complete the forms.

**2.15.3 Deputy D.W. Mezbourian:**

Will the Minister advise the House what proof of identity will be required before a claimant is able to benefit from the income support scheme?

**Senator P.F. Routier:**

The proof of identity is an issue that we do take very seriously and the proof of identity would be either a passport or other photographic identification, but that is the proof of identity.

**2.15.4 Deputy I.J. Gorst:**

Could the Minister confirm that the S.L.A. (service level agreements) have now been signed with the other Parishes which will be helping with the implementation and payment of income support and whether those Parishes are satisfied with those agreements? Thank you.

**Senator P.F. Routier:**

I have been meeting with the Constables quite recently. It appears that we are having, obviously, dealings with Parishes who are going to be providing more of a service than others. Three Parishes are working on a more detailed service level agreement, which are St. Clement, St. Brelade and St. Saviour, and we are finalising that document for the service level agreement to be signed. The other Parishes will be signing a different level of service level agreement. But they have not been signed as yet, but will be in the very near future.

**The Greffier of the States (in the Chair):**

Now, we are nearly out of time, but I think just to allow Senator Shenton to ask his question I will just allow one more question on this one which is Deputy Pitman, who asked the original question.

**2.15.5 Deputy S. Pitman:**

How is the department encouraging those people who are not currently claiming benefits who could potentially claim Income Support?

**Senator P.F. Routier:**

We are introducing a public awareness campaign which will be starting very soon and making sure that people are aware of the new Income Support system. The final date when that kicks-off has not been finalised yet. Obviously, what we need to do within this House is to ensure that we have debated the Regulations, and we know exactly what we will be telling people. So when the Regulations have been debated here we will then be in a position to inform people of the exact detail of the scheme.

**The Greffier of the States (in the Chair):**

We come, finally, to the question Senator Shenton will ask of the Minister for Treasury and Resources.

**Senator B.E. Shenton:**

Can I just ask who is going to be answering this question?

**The Greffier of the States (in the Chair):**

I assume it is the Assistant Minister, is it? Are you answering?

**Deputy J.A.N. Le Fondré:**

Yes.

**2.16 Senator B.E. Shenton of the Minister for Treasury and Resources regarding commercial expertise within Property Holdings and the extent of the Accounting Officer's responsibilities:**

Would the Minister inform Members why he proceeded with significant asset disposals before addressing the requirement for additional commercial expertise within Property Holdings which had been identified within the *Public Accounts Committee's Report on the States' Property Plan*? Would he also advise the extent of the relevant Accounting Officer's responsibilities in this area, and confirm the number of employees and estimated total cost of running Property Holdings for 2007?

**Deputy J.A.N. Le Fondré (Assistant Minister for Treasury and Resources - rapporteur):**

It is a slightly longer answer compared to one of my earlier ones. To answer the last part of the question first, the 2007 budget for Property Holdings is based on a staff complement of 53 in the 3 sections, and this will increase as further transfers from other States' departments are expected to take place during the course of the year. The total net revenue budget for Property Holdings in 2007 is projected to be £3.7 million, but this will depend on further transfers of staff and functions during the year. For an example, there have been delays in transferring the Health Property portfolio which is not yet included within the Property Holdings banner of management. So I therefore do emphasise that the exact numbers are very much dependent upon the outcome of detailed negotiations with remaining departments and the unions. In the meantime, the disposal programme is proceeding as approved by the States in June 2006. I think it is important to clarify that the P.A.C. (Public Accounts Committee) report simply identifies that Property Holdings needs to either have commercial property expertise within its own organisation, or ready access to such expertise from the private sector. I would add, that in my view, the key part of the function attributable to Property Holdings will be the introduction of the charging mechanism States-wide which will start to ensure not only that the States properly fund maintenance to States' property, but also begin to recognise the value of that property. The departments directly employ qualified valuers, surveyors, design and management staff. It has ready access to and uses private sector expertise as and when appropriate, and to date I am satisfied that it is being managed in a professional manner and with the requisite integrity. I think the only bit I have not answered is in

relation to the Accounting Officer. The Accounting Officer's responsibilities are no different to that of other accounting officers in the States, in that he is accountable for the proper financial management of his organisation, and the safeguarding of public funds and assets as required under the Public Finances Jersey Law 2005; its subsidiary Regulations and Directions. Thank you, Sir.

**The Greffier of the States (in the Chair):**

I will allow one supplementary, Senator. We are out of time.

**2.16.1 Senator B.E. Shenton:**

The Accounting Officer is ultimately responsible for the Treasury. Who is this States' Accounting Officer ultimately responsible for?

**Deputy J.A.N. Le Fondré:**

Could you just repeat that? I did not hear the last part of the question, Sir.

**2.16.2 Senator B.E. Shenton:**

Given that the Accounting Officer is the States' Treasurer, where does the accountability stop? Who is he responsible to?

**Deputy J.A.N. Le Fondré:**

Who is the Treasurer responsible to, or who is the Accounting Officer of Property Holdings responsible to? Accounting Officer of Property Holdings, I have to say, I have always understood that he reports to the Treasurer, but he is bound under the Regulations. The Accounting Officer for Property Holdings is the Chief Executive of that department. Thank you, Sir.

**The Greffier of the States (in the Chair):**

We are now over the 90 minutes and we must therefore conclude oral questions.

### **3. Questions to Ministers without notice - The Minister for Health and Social Services**

**The Greffier of the States (in the Chair):**

We now come to oral questions without notice and the first question period is to the Minister for Health and Social Services and I invite questions.

**3.1 Deputy K.C. Lewis:**

The nurses and health workers are the backbone of the Jersey Health Service, working very long hours and many of whom are educated to the agreed standard in their field. They have been grossly undervalued for so long and should be given a fair salary for their excellent work. Does the Minister not agree?

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

The Deputy is absolutely right about nursing staff being the backbone of the service. They fulfil a vital and central role at the moment, but moreover they are going to have to fulfil an even greater role of greater responsibility in the future. This is because things like the introduction of the European Working Time Directive is going to make it very difficult for the Jersey General Hospital to have the same level of junior doctor support that we have at present. More and more nurses will have to step into that role to make sure the patients are cared for adequately. I think society in general - and I am not just talking about Jersey here - has undervalued nurses and society is going to pay a price for that. There is a global shortage of nursing staff and the demand is going to become absolutely astronomical in the coming years. There is a slight softening of the situation in

the United Kingdom at the moment because of the immense budgetary pressures that many N.H.S. (National Health Service) Trusts have come under, so they have had to release some staff. But there is no doubt the general trend in the long term will be a much, much greater demand for nurses and upon nurses. The simple mark of reality we face is that if we want nurses to carry out this crucial role for the community, we are going to have to pay them commensurately with their skills and dedication.

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

That leads nicely into my question: why are nurses at the moment, in the General Hospital, working hours that would take them into an overtime position and then being asked to take time off in lieu? In other words, they end up working longer hours than they had planned to work to carry out longer lists that they are servicing, and then find themselves in the position that they are forced to take the time off and not paid overtime. Is this satisfactory, and is the Minister aware of this occurrence and in which areas it is happening?

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

I would have to investigate the matter to answer the Deputy's position comprehensively. It has to be understood that there are many complex and confounding factors that affect the rota upon which the nurses work. In some cases the arrangements are that if they work a certain amount of extra they will get time off in lieu. Another situation is that they will get paid overtime. It varies. There is not one single set system across the entire organisation, but certainly the general point is true that our nurses are worked extremely hard in the organisation.

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

Bearing in mind the acknowledged shortage of suitably qualified medical staff, is the department changing its recruitment strategy in order to recruit and retain to Jersey suitably qualified staff?

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

The answer to that question is, yes, we are. While we have had a reasonably good and reasonably successful recruiting process in the past, as the pressure has risen in other jurisdictions for the staff the recruiting process has become much, much more difficult. More and more we are adopting our own approach within Health and Social Services rather than using simply sample States' H.R. (human resources) practices. For example, any nurse expressing an interest, say, in a nursing job in Australia will have that inquiry followed up avidly. They will be given all the information, assistance, support that they need that might help and encourage to take up the post. In Jersey we have not met that standard, but certainly we are moving towards doing so now. It is also true to say that the lack of any adequate or serious resettlement package for nursing staff is another serious disincentive to nurses coming to Jersey, as well as the fact that rates that are paid between nurses here and nurses in the U.K. have broadly equalled, and there is not the differential advantage that Jersey used to have.

### **3.4 Deputy S. Power of St. Brelade:**

Could the Minister give the Assembly an indication of his future plans for the provision of respite care in the private sector, and could he indicate whether or not the plans are to keep the 7-plus respite beds in the one location in the private sector?

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

We will be using the private sector to deliver respite care, as I indicated in an answer earlier this morning. I cannot guarantee at the moment that all the respite beds would be in the same building, but certainly once we have had a settled definite contract it is our wish and our intention to have all of the respite beds provided by the same institution. This, of course, depends on the normal factors of the availability, the contracts, the costs and all of the other commercial variables that have to be

taken into account. But the need to keep that kind of a facility and the staff who work in it focused in one location is recognised by the organisation.

**3.5 Deputy S. Power:**

My question, Sir, is related to the previous question. Would the Minister not agree that it is in a family's best interest and for the respite patient's best care and interests to have continuity of care, because some of these patients use respite once a month, twice a month or once every 2 months?

**Senator S. Syvret:**

Yes, Sir, continuity of care is always an extremely important consideration, and one that will be one of the major considerations in any decision in respect of patient care, client care in whatever field. However, continuity of care cannot always be guaranteed and indeed may not always be possible, and there may be substantial advantages to moving to a different environment which would outweigh the advantages of continuity of care.

**3.6 Senator J.L. Perchard:**

In a recent open letter the Minister made reference to morally bankrupt policies adopted by the States of Jersey.

**The Greffier of the States (in the Chair):**

I am not sure this is relevant to the Ministerial question time, Senator. You are relating it to health matters, are you?

**Senator J.L. Perchard:**

Yes.

**Senator S. Syvret:**

I am happy to answer it.

**The Greffier of the States (in the Chair):**

I know you will be happy to answer.

**Senator J.L. Perchard:**

Would he expand on whether morally bankrupt policies exist within the Health Department?

**Senator S. Syvret:**

Well, I am not in a position to answer that question precisely, because I do not know which moral framework Senator Perchard uses and adheres to. Perhaps if he wishes to explain that to me afterwards, I would be happy to try and answer his question. As far as my view of morally bankrupt policies are concerned, I would suggest charging people tax on things like incontinence pads and dressings for ulcerated legs for pensioners is the kind of thing I would describe as morally bankrupt.

**3.7 The Deputy of Trinity:**

Could the Minister inform the House what measures the Alcohol and Drugs Service has put in place regarding the abuse of Fentanyl patches, please, and if doctors have supported any measures at looking at reducing the numbers of patches they prescribe?

**Senator S. Syvret:**

Yes, Sir. As a result of a number of tragic deaths which have occurred as a result of the abuse and misuse of Fentanyl patches, as a matter of some urgency the Alcohol and Drugs Service have taken a look at the situation. We have co-operated fully with other organisations, such as the police,

where appropriate. We have also discussed this with Island G.P.s, and both the Medical Officer of Health and her Deputy Medical Officer of Health have been in contact with the Island's general practitioner community warning them of the need to only prescribe this kind of drug where there is absolutely a genuine and legitimate need for it, although we have to be pretty confident that most G.P.s do meet that standard, anyway. But the danger is that some still will find its way on to the street and be misused, possibly with tragic consequences.

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

As the Minister is aware, recently, unfortunately, my wife and I had to call upon the services of his department, who were exemplary in their attendance at our house for our child becoming ill. We then experienced an issue where, although everything worked out fine, we have put forward from our own experience a question in regards to noise levels outside of the sick kids unit and the maternity unit and it has been eloquently suggested - and I commend him for it - by Deputy Fox that perhaps we might benefit from signs to indicate to people who are in the area. I am not saying anything about the people in the area or that they should not be there, but what progress, if any, has been made in relation to improving knowledge of the locations of these sensitive units to people that might be gathering in the vicinity of that area of the hospital?

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

I am aware of the issue raised by the Deputy. There is signage around the hospital saying that it is a hospital, so could people please be quiet. But it is not, in reality, possible or practical to guarantee always absolutely minimal noise or disturbance around the building. I am aware that sometimes excessive noise - especially late at night - can certainly be problematic for the clients of the organisation, but ultimately it is not all entirely within our control. The hospital is next to a public park, and the public park, therefore, is a legitimate congregation and play area for children and young people. I would not want people that are simply gathering, perfectly lawfully, to socialise and enjoy themselves to feel under pressure or any way driven away from the area.

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

Specifically with regard to his department - Health and Social Services - is the Minister now happy with the new arrangements that have come out of our Scrutiny Panel's review of the G.S.T. (Goods and Services Tax) Law or are there still some blind spots that he might be worried about?

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

I am considering that very question at the moment. I am engaged in the post-reading of the Law. In tribute to Senator Le Sueur and others, I have met with him and the Chief Minister some time ago to discuss all of this detail, and I think it is fair to say that we are 95 per cent of the way there to agreeing all that I was seeking in the original amendment that sought to exempt medical products and medical services from the G.S.T. We are 90, 95 per cent of the way there.

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

Mindful of the growing demands on services provided by care homes, does the Minister believe that very sophisticated, technologically-advanced sheltered housing units could go some way to solving this problem? Thank you, Sir.

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

Yes, indeed, Sir. This is very much the kind of development we will be advocating and hoping that takes place in the future. New advances in care facilities, be they nursing homes, residential homes or sheltered housing of the kind the Deputy described - that is, more technologically advanced and therefore able to address more complex client needs in this case, at the moment - is certainly something that we believe the Island needs and this kind of approach; this kind of development for the future will be advocated in the health strategy.



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

For some years there has been a problem with infirm patients being unable to feed themselves and effectively starving to death. Can the Minister tell us what steps he is taking to ensure that this does not continue to happen at the hospital? I received news of a case of this last week.

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

Well, Sir, perhaps in private the Deputy can make me aware of the details of that particular case, because certainly it is true that this has become a problem in some institutions in the United Kingdom, but I am not aware of it being a problem in Jersey. I think it is quite misleading to say that patients are starving to death in the Jersey Hospital because of a lack of care. I just do not believe that there is any evidence for that. I think that is an absolutely wild and excessive accusation which is taken, I am afraid, from U.K. situations reported by tabloid newspapers.

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

Can I ask the Minister if he has spoken with the Director of Age Concern recently? I can confirm that this happened because it happened with my mother.

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

I do not want to get involved in discussing individual patient details, but if, as I have said already, the Deputy has specific examples where this may have occurred, I invite her, please, to email me with the details. Because if, hypothetically, this kind of thing was occurring, I would regard it as very serious and I would want to take action to see that the problem was addressed.

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

Prior to the introduction of the independent complaints process by the end of this year, would the Minister tell us what is in place to deal with this small group of highly intractable complaints where complainants essentially have fallen out with the Health Department and there is no apparent resolution to the complaint? Is there, for example, a possibility of bringing in independent assessors?

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

There is always the possibility of bringing in independent assessors on an *ad hoc* informal basis, but as far as the overall complaints procedure is concerned, it is certainly true to say that some complaints in some particular cases do become intractable and, therefore, an external agency is often needed to intervene. In the present situation, we have our internal complaints procedure. There are, of course, the higher clinical bodies, such as the G.M.C. (General Medical Council) and others that patients can complain to ultimately if they consider they have been failed in some kind of clinical way and, there is, of course, the Administrative Decisions Review Court which people can turn to here if they ultimately feel that decisions made by the department have been wrong or they have been treated badly in some way. But the solution is to get a proper, comprehensive, independent complaints procedure in place that will be what we call a second tier complaint level. Obviously, initial complaints will always be dealt with initially by the organisation just to get a general picture. If the client is not happy then it moves up to the second tier of independent investigation scrutiny. We are hoping to have that in place by the end of this year.

### **3.13 Deputy J.J. Huet:**

Is the Minister aware that there is a system in place now down at the General Hospital - this is in reference to Deputy Ferguson's question, because I was in there a couple of weeks ago - where a red circle is placed on the headboard above the patient that could be suffering from this problem. It is great to know that there is this, but is the Minister aware that not all his domestic staff know what that circle means? I saw that in the hospital. It is there but I do not think the staff are all aware of it, and would he assure us that he will make sure that they are now aware of it?

**Senator S. Syvret:**

As far as patient care is concerned, domestic staff are not able, or employed, to make clinical decisions about the treatment of patients. It is up to the nursing staff and other clinically-trained staff to make decisions. It is true that some patients have no appetite and do not want to eat, or will not eat, and that does occur, because people cannot be compelled to eat. You cannot force-feed people. But what we do strive to do is avoid the situation which we have seen, reported in some U.K. institutions, whereby older people could eat, and would eat, but they need a little assistance to do so, but there is not sufficient nursing staff or time available to give them that assistance. That, I think, is the problem in some places in the United Kingdom. As far as I am aware, we have not had that problem in Jersey.

**Deputy J.J. Huet:**

A supplementary, Sir.

**The Greffier of the States (in the Chair):**

I am sorry, time is well over, Deputy.

**Deputy J.J. Huet:**

Well, it does go with the question, Sir.

**The Greffier of the States (in the Chair):**

Well, I am sorry, time is up, Deputy. Just table an oral question for next time, perhaps.

**4. Questions to Ministers without notice - The Minister for Education, Sport and Culture**

**The Greffier of the States (in the Chair):**

I come now to questions for the Minister for Education, Sport and Culture. I invite questions. Deputy Southern?

**4.1 Deputy G.P. Southern:**

On the assumption that his department will take its share of the £2.5 million funding for the 2007 Pay Award at R.P.I., will the Minister undertake to inform Members what cuts in service this will mean for individual schools and put these latest cuts in the context of previous efficiency savings and planned budget reductions?

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

Teachers, as I understand it, are currently being balloted on whether they will accept the proposed pay increase or not. Until I know their decision we cannot accurately gauge what savings we will have to make throughout my department to meet the States' ceiling on spending and where we will have to make those savings.

**4.2 Deputy G.P. Southern:**

Whether or not the teachers accept the R.P.I. award offer that will either mean that £2.5 million has to be saved from departmental budgets or a greater sum has to be saved from departmental budgets. Will the Minister, in principle, agree to inform Members what these cuts will mean for individual schools in the context of previously made planned reductions of budget?

**Senator M.E. Vibert:**

We will be informing schools and all other areas of my Ministry as to what savings will have to be made. I want to ensure that there are no cuts whatsoever to the quality of service we deliver, both to students and to any other users of our premises. We will be looking and pro-rating, if necessary, areas but we will also be ensuring that we maintain our services as much as possible. I do not think

it would be helpful to issue an indicative list of cuts or savings to any part of the area because they are not finalised yet.

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

The Minister will be aware that the Education, Sport and Culture facilities were used for the Swimmarathon last weekend. Given that the States' team of Deputies Le Fondré, Pryke, Martin, Connétable Jackson and Mrs. Walker achieved an astounding 42 laps and raised a total of £232, and given that His Excellency's team were absolutely outstanding, **[Laughter]** does the Minister not consider that this was an excellent use of the facilities, and that the staff should be congratulated on the support they gave this event?

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

Unsurprisingly, Sir, I wholeheartedly agree, and I was particularly taken with the Lieutenant Governor's Speedos; very fetching, I thought. Our staff always reacts very, very favourably to the Swimarathon, and put in a lot of hours. I would like to congratulate everyone involved in this year's Swimarathon, and to say that the Swimarathon, since it began, has raised over £2.5 million and it is a fantastic community fundraising event. I would echo Deputy Ferguson's congratulations, not only to the States' team and the Lieutenant Governor's team, but to all the teams who took part and all the people who pledged money for such a good cause.

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

Will the Minister give an update on Fort Regent in respect of the additional floor that may be developed for conference facilities and also an update on the progress, if any, of the lift from Snow Hill to the Fort?

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

I am eagerly awaiting the EDAW report on St. Helier which I understand is due very shortly, which covers the whole of the town area and includes Fort Regent and on which decisions on the future of the Fort are to be made as soon as possible. It needs to be upgraded and refurbished and this could include, and should include in my view, high-speed access from Snow Hill, and it could include a conference centre, without impinging on the Fort's role as a sports centre, if that is in the best interests of the Island. I am hoping the EDAW report will at least allow us to move forward.

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

What argument was put forward by the Minister in his recent unsuccessful attempt to secure additional funding towards early years education?

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

When I addressed the Council of Ministers on the proposals that I have brought forward for nursery education on the Island, I used numerous and many cogent arguments involving the fact that nursery education has proven to be of immense value, not just to the child, but to society, and is a fantastic investment in the future. Unfortunately, at present, the Council of Ministers cannot find a way under the current funding to meet the funding requirement, but I am continuing ways of looking at this because I believe that introducing the concept of an amount of free nursery education for all 3 to 5-year olds on the Island will be one of the best investments in the future of Jersey the States could ever make.

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

A supplementary, Sir? Would the Minister advise the House how he thinks, retrospectively, his argument could have been more robust? **[Laughter]**

**Senator M.E. Vibert:**

I am not sure, Sir, how I could think retrospectively. I not only made the argument, I produced a report which has been published which makes those arguments. Unfortunately, the States has set a spending ceiling. There are lots of demands for that money from all the various departments but, as I said, I believe that this issue of access to early years education is an investment for the future and I will be continuing to work on my fellow Ministers to persuade them it is something we should go ahead with.

**4.6 Senator J.L. Perchard:**

Will the Minister join me in congratulating Jersey's cricket team [**Members: Oh!**] in its recent victories over Italy in the International Cricket Council qualifying tournament, which will almost certainly mean promotion for the Jersey Island side and significant new funding from the I.C.C. (International Cricket Council) for the sport? Will he, as Minister, reaffirm his department's support and future plans for all sport, especially for children? [**Aside**]

**Senator M.E. Vibert:**

The Jersey cricket team has done the Island proud in Italy, and I am pleased to say... [**Interruption**] I officially wrote to the President of the J.I.C.C. (Jersey International Cricket Council) yesterday and believe the letter was hand-delivered to the team as they came off the plane at the airport, giving myself and the Ministry's congratulations to a job well done. The team had to win one and perform well in another match against Italy to pursue their aim of getting into the European league. They won the first 2 matches, and the third match was rained-off. So they did brilliantly and I believe it is a way forward for many sports to look at the example set by cricket. Perhaps one day we will see Jersey in the World Cup. We have development plans for all sports in the Island. Sport is a very important part of the Island's culture. It is also a very important part of ensuring that the Island remains fit and healthy in the foreseeable future, and the fitter people are, the less call there will be on health services and other areas. So I urge everyone to support sport and I urge all States Members to get an Active Card and to get up to one of our centres and keep fit, ready for next year's Swimathon.

**4.7 Senator B.E. Shenton:**

At the moment, some of my tax goes towards payment of nursery care of wealthy friends with pre-school children. You are proposing that in future I pay for the nursery care for all my wealthy colleagues with pre-school children. The Minister often advocates means testing; why does he not apply these standards when it comes to his own department?

**Senator M.E. Vibert:**

I may like to inform Senator Shenton and others that his tax money goes to free education for all children in the Island between the ages of 5 and 16, regardless of their parents, and it is also used between the ages of 16 and 18 for free education. I do not know if he is suggesting that everybody should pay for all education on the Island. It is a question of when that free education starts. We looked at means testing and for that age group it can be very counterproductive, and result in children who would really benefit from nursery education and care not being able to access it. So it is a question of is an amount of it provided, as we do with all other education from 5 to 16, 5 to 18, as a free right or do we means test it? I believe that the best benefit to the Island will be to offer a certain number of hours free nursery education for all children and it will be repaid so many times over in the future when we have less problems when those young people attain adulthood.

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

I do not like to discuss this in this context, but I felt that I was unable to ask a supplementary from the Health Minister. It does relate to young people. It does relate to the impacts of young people and sick, young people and people with nowhere to go because of a lack of perceived youth facilities. The issue of young people congregating outside of the hospital setting off fireworks at

3.00 a.m. in the morning, smashing bottles and screaming and shouting is one that causes great distress to sick children, the hospital staff that are nursing them and the parents that are watching over them. Does the Minister recognise that this is an issue that needs addressing - from a social perspective - the provision of more social facilities for young people? Also, is there any option or any possibility that the Minister might be able to communicate through the schools that the sensitive locations of these wards, in relation to that park, are something that needs to be borne in mind when they are setting fireworks off at 3.00 a.m. in the morning?

**Senator M.E. Vibert:**

I regret that people would disturb the hospital at that time. I think it would unreasonable to expect us to provide youth facilities and youth clubs open at 3.00 a.m. in the morning. I think the issue here, and where the question really lies, it is young people doing this and they are below 16. For example, I would question what on earth they are doing out at that time and why their parents do not know where they are and why they let them out at that time. This is, in my view, dereliction of a parental duty and should be addressed in that way. We educate our children in the schools through personal, social and health education and respect for other people is a cornerstone of that part of the curriculum. So, I share Deputy Le Claire's regret that this happens. I believe that it needs to be dealt with by educating the parents as well as the children, and I would hope that if things like this did happen, the police would certainly ensure that the people causing such a disturbance were moved on and dealt with.

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

Briefly, Sir, the police are dealing with it on an ongoing basis. I really thank the Minister for his helpful answer. May I press him further that he might bring it up, or consider bringing it up, with the head teachers to communicate it to the young people so they are aware as to what they are doing and where they are doing it?

**Senator M.E. Vibert:**

As I said, Sir, respect for other people which this area covers is part of our personal, social and health education, but I will ask that in relation to noise outside the hospital it is conveyed through the schools.

**4.9 Deputy I.J. Gorst:**

Senator Shenton did ask the Minister my question, albeit with a slightly different vocab. In light of the Minister saying that his preferred option for early years care is to provide something like 20 hours free to every child in that age group, has he considered the impact that this may have on the excellent private provision which is already being affected by his current policy?

**Senator M.E. Vibert:**

Absolutely, Sir. In fact the proposals are wholeheartedly supported by the private providers, because it would involve them in the provision of this care, saving us from continuing the current policy of building nursery classes when we redevelop primary schools, which is a States' policy, and also funding those nursery classes through an increase from the subvention from finance. So, the private providers are very, very much in favour of this because they see first hand the benefit this would bring to the Island.

**4.10 Deputy S. Pitman:**

Could the Minister inform members what progress has been made by his department in establishing Youth Service service-level agreements with the Parishes?

**Senator M.E. Vibert:**

Yes, Sir, considerable progress has been made. We have a number of agreements with a number of Parishes and we have a number of Parishes expressing interest in reaching new agreements with us, so that initiative is progressing very well.

**4.11 The Connétable of Grouville:**

Would the Minister agree with me that the achievements of the Jersey Rugby Club under-18s [Laughter] is unique in its own way and that they have now reached the final of their division and that the final will be held at St. Peters in 2 weeks time and would he agree with me that a trip by States Members out there to watch this game would be very educational?

**Senator S. Syvret:**

Sir, on a point of order. Could I just make the point that these kind of questions, while drawing attention to the great achievements, really are using up question time would could be used for much more important and realistic questions?

**The Greffier of the States (in the Chair):**

I could say from the Chair's side I slightly share your view. I had taken the decision to allow another 2 or 3 minutes just to make sure the time taken on these matters was not preventing Members asking other policy matters. We will allow the Minister to respond briefly.

**Senator M.E. Vibert:**

Briefly, Sir, perhaps I can make a blanket response and say that the achievements of all our sports teams is an indication of the States good sense in continuing to invest in high quality sports facilities in the Island.

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

Can the Minister tell the House what progress has been made to increase the number of places available in the construction facility at Highlands for school leavers?

**Senator M.E. Vibert:**

Yes, we are having a review with Highlands of the provision of not only the construction but all the trades. It is quite difficult to increase at short notice such provision but as part of our 14 to 19 curriculum review we are working with Highlands - in fact I have got a meeting arranged for the not too distant future - where we will be talking with Highlands about how we can increase provision where required.

**4.13 Deputy K.C. Lewis:**

Would the Minister or his assistant update Members regarding negotiations for the amphibious DUKW service to Elizabeth Castle?

**Senator M.E. Vibert:**

Elizabeth Castle will be open from this Saturday, 30th March, for free guided walking tours, I am informed by the Jersey Heritage Trust. Since the original delay in the delivery of the new vehicles by the new operators, the operators have been negotiating with the old operators to utilise their own vehicles in the interim. They have offered to purchase those old vehicles, based on a valuation by an independent U.K. expert. Unfortunately this offer has been rejected. They have also discussed leasing or subcontracting the vehicles but that has not been successful either. Therefore, alternative ways have been looked at and the new operators are aiming to import a 49-seater version of the Hydra-Terra amphibious vehicle which would be in operation sometime in May and until then the castle will be open, as I said, for free guided walking tours.

**The Greffier of the States (in the Chair):**

Final question, Deputy Pitman.

**4.14 Deputy S. Pitman:**

I would like to expand on my last question. Could the Minister confirm what Parishes have entered into service-level agreements with the Youth Service and what is the detail of these service level agreements?

**Senator M.E. Vibert:**

I cannot give the detail of these agreements that have been signed between the Parishes and ourselves and I do not think people would expect me to read out agreements such as this. There are a number that have been done, St. Ouen is an example. I have not got an up-to-date list of all the Parishes that have signed agreements but, as I said, the initiative is proceeding well and if Deputy Pitman wishes to know which ones, if she would like to contact the department or the Youth Service, or even ask somebody she knows who is very closely connected with the Youth Service, I am sure they can tell her, Sir.

**PERSONAL STATEMENTS**

**5. The Greffier of the States (in the Chair):**

That brings question time to an end. We now come to statements so, firstly, a personal statement by Deputy Baudains.

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

It was with some surprise that I found I had been declared '*en default*' for the sitting on 14th March 2007. I thank the Deputy of St. Peter for explaining my absence in Norway, but as I make no apologies for that absence I believe, Sir, that Members are entitled to an explanation. As we all know, the work of a States Member covers many functions and, while I appreciate attendance at States Assemblies is supposed to override all other appointments, pragmatism also plays a part, as does equity. I can recall many occasions when Members have been granted *default excusé*, ranging from being on holiday through to meetings with visiting dignitaries to trips on official business, which at times can be open to question. Members will recall references I have made in the past to the abduction of 3 children from Jersey to Norway in 2005. The mother has been fighting the illegal abduction of her children without success in the last 3 court appearances. Having been involved from the early days when my assistance was first sought and bearing in mind my knowledge of both their and our court rulings and legal issues, it was decided to enter me as a witness for the custody case to be heard from 14th to 16th March 2007. To pull out would have irreparably damaged the mother's case. To ask for an adjournment, while I debated government reform, would have had a similar effect. In this case I believe attempting to achieve the return of 3 children outweighed any influence I could have had during the in committee debate. I therefore maintain the hours I spent revisiting my files in preparation for the court, together with travelling there at my own expense, was the correct decision to make.

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

**6. The Greffier of the States (in the Chair):**

We come now to a statement to be made by the Chairman of the Education and Home Affairs Scrutiny Panel.

### **6.1 The Deputy of St. Martin (Chairman of the Education and Home Affairs Scrutiny Panel):**

In December 2006 in response to the publication of the Minister for Education, Sport and Culture's proposals for financial support for students in higher education, the Education and Home Affairs Scrutiny Panel decided to examine this topic to ascertain if there was scope for review. The Panel reviewed available documentation, including *inter alia* the initial green paper and results of consultation. From the outset it was noted there was extremely tight timescale as it would be necessary for whatever funding measures were adopted to be in place in good time to assist students starting university in autumn 2007 with payment of top-up fees. Further clarification was requested from the Minister concerning other possible options for funding and requesting details of why these options had been rejected. The Minister was also invited to discuss this matter when he attended a regular Panel briefing on 5th February 2007. As a result of this process the Panel has decided that there will be very little benefit in the Panel undertaking a general review of the Minister's proposal at this time for the following reasons. The optimum time for general review to be undertaken would have been at the time of issue of a green paper. Unfortunately, at that time the Panel - in its earlier guise as the Social Affairs Scrutiny Panel, which had a remit covering 5 departments - already had a full work programme and did not have the capacity to undertake such a review. In view of the urgency of implementing a robust scheme in time to benefit the next student intake, there is not realistically enough time for a meaningful review of the proposed introduction of student loans to take place. Thirdly, public consultation had been carried out and there is some evidence that the results had been incorporated into the background paper supporting the Minister's proposals. However, the Panel is concerned that a number of questions raised during the consultation process remain to be addressed. Discussions with the Minister on several specific areas which concerned the Panel have revealed that these areas are still under consideration by the department. These areas are local business bursary schemes, tax incentives and defining a family in relation to parental contributions. It has been agreed with the Minister that the Panel should be kept informed of work done in these areas and it is noted that the input of Scrutiny to this ongoing work would be welcome. The Panel, therefore, considers that the important area of further education funding should be kept under general consideration. The Panel will not be reviewing the general principles of the introduction of student loans but notes that the possibility of a formal review being undertaken into one or more of the detailed aspects of general funding is still under consideration. The Panel will also keep a watching brief on the student loans scheme itself as it develops and will monitor the effect its implementation has on the students, their families and number of students entering further education over the next one or 2 academic years.

### **The Greffier of the States (in the Chair):**

Are there any questions for the Chairman on the statement? Very well, we come then to a statement to be made by the Chairman of the Economic Affairs Scrutiny Panel.

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

As Chairman of the Economic Affairs Scrutiny Panel I am pleased to inform Members that the Chief Minister, on behalf of the Treasury and Resources Minister, has accepted one of the 5 recommendations made in our report *Jersey Telecom Privatisation - S.R.5* of 2007. He has agreed that there should be a further cost benefit analysis performed before any proposal to sell-off the States shareholding in Jersey Telecom is brought to a States Assembly. I am pleased to note the willingness of the Treasury and Resources Minister to co-operate over this vital issue and thank the Chief Minister in particular for his willingness to resolve differences in approach that have arisen. We have now agreed that the assessment body should be made up of the following personnel: Ian Black, Treasurer of the States; Bob Lawrence, Managing Director of Jersey Telecom; David Parker, Advisor to the Scrutiny Panel; and Bill Ogle, Chief Executive, States of Jersey, acting as



chairman. Both the funding and responsibility for the conduct of this inquiry will be shared between the Scrutiny Panel and the Treasury and Resources Minister. Terms of reference are currently being drawn-up to ensure an in-depth assessment of the wider economic and social implications, many of which were highlighted in the Panel's report. The assessment body is expected to complete its work and report within a 12-week timescale - likely to be in early July - and as a result of this, debate on the proposition "JT Group Limited ('Jersey Telecom'): proposed Sale - P.28 of 2007, lodged on 20th February 2007 by the Treasury and Resources Minister - is to be deferred until the new session. In accepting this deferment, the Chief Minister has effectively agreed, with inclusion of Dr. Parker, that any privatisation should be properly designed, planned and timetabled. A rushed privatisation is likely to be a bad privatisation. This deferral will give all Members the opportunity to fully understand the wider implications of divestment and produce a better informed and more comprehensive debate when a proposition is brought before the Assembly.

**The Greffier of the States (in the Chair):**

Any questions for the Chairman?

**PUBLIC BUSINESS**

**7. President of Chairmen's Committee: vote of no confidence (P.40/2007)**

**The Greffier of the States (in the Chair):**

The Assembly moves to Public Business and the first item of Public Business is the proposition of Deputy Ferguson of St. Brelade "President of the Chairmen's Committee: vote of no confidence." I ask the Greffier to read the proposition.

**The Deputy Greffier:**

The States are asked to decide whether they are of opinion that they have no confidence in the President of the Chairmen's Committee.

**7.1 Deputy S.C. Ferguson:**

The signatories to this proposition, representing as we do the majority of Members on the Chairmen's Committee, regret the necessity to bring this vote of no confidence to the Assembly. We have made strenuous efforts to avoid such a step, as we wish to avoid a potentially fractious debate. Sadly these efforts have come to no avail. I should, perhaps, add that Deputy Duhamel's chairmanship of the Environment Panel is not and should not be included in this debate. We are merely suggesting that there should be change of leadership of Scrutiny. The terms of reference of the Chairmen's Committee are set out in paragraph 143 of Standing Orders. However, if we are not careful Scrutiny is in danger of the Panels working in an unco-ordinated manner and going off like a firecracker. The Chairmen's Committee has a responsibility - first to Privileges and Procedures Committee, and ultimately to this Assembly - to ensure that all the resources employed, both monetary and manpower resources, are employed effectively, add value and provide best value for money. This is best accomplished by Scrutiny working with Ministers, questioning the quality of decisions where necessary, but in all events working in a co-ordinated manner, reaching its own decisions by consensus and carrying these out. One of the reasons for change to a Ministerial system was to improve the speed of decision-making. In the same way Scrutiny must make decisions and follow them through. They may not be the correct decisions but if we keep reviewing them then we are falling victim to the habits of the past and providing no leadership whatsoever. The best ideas for detailed change of Scrutiny will come from within Scrutiny, much as the best recommendations for change in an organisation will come from the frontline troops. The Chairmen's Committee is responsible for the overall policy and planning for Scrutiny and

should give leadership to the Scrutiny operation. It is, therefore, essential that the President implements and promotes the agreed policies of the Chairmen's Committee. We are also concerned that the Committee should be working with Scrutiny management and the States Greffe on reforms in the administrative support and there should be a much stronger liaison between the Chairmen's Committee and these 2 groups. Staff turnover is an excellent indicator of morale in the workplace and there has been a much higher turnover of Scrutiny officers than I would expect to see. There are also a number of items which require further discussion and resolution. Some of these relate to relations with the Council of Ministers and some to relations between Scrutiny and this Assembly. Despite the period of shadow Scrutiny, some of these snags could not have been identified in the shadow period and they now require attention. They have been on the agenda for some months and we appear to be going nowhere. They must be dealt with. Members will have noted that the Law and the Standing Orders make considerable provision for procedures to be adopted for resignations or dismissal of Chief Ministers and the Chairman of the P.P.C. (Privileges and Procedures Committee). The one area ignored was the Chairmen's Committee. Under the old Committee system the Committee resigned. The chairmen of the Scrutiny Panels and the Public Accounts Committee are on the Chairmen's Committee by virtue of their office, *ex officio*, and wholesale resignations would merely reduce the Scrutiny system to disarray, while not addressing the situation. This is not in the interest of good government as there are important pieces of Scrutiny being undertaken at the moment and extremely important reports being produced. There has been considerable discussion with the Bailiff and the Greffier as to the procedure to be adopted in this instance. The preferred route would have been for the Chairman to acknowledge that he no longer had the confidence of the majority of his Committee and resign, which is why we have had considerable discussions with Deputy Duhamel, but he has chosen not to follow this option. This proposition is being supported by 5 out of the 8 members of the Chairmen's Committee. In the context of a board of directors, we 5 represent a majority. If this were a board of directors, a changeover of power would have been effected swiftly and with the minimum of fuss. I should, perhaps, at this stage point out that the disaffected members cannot by any stretch of the imagination be labelled as a fractious clique or even silly little men or women. In fact, a more desperate bunch is hard to find, with opinions ranging from all across the spectrum. This unrest has been rumbling on for some months since last October. We have important pieces of work like the Code of Practice still outstanding, but we spend meetings scrambling about in the minutiae of Committee work, agonising over the meaning of every word and frequently revisiting decisions, instead of getting on with the business of co-ordinating Scrutiny. I would remind Members that Scrutiny is the business of evaluating the quality of decision-making of the Council of Ministers and producing reports which ensure that there are informed debates on policy. It is not there to propose alternative policy. It forces a rethink, perhaps, if the quality of the evidence supporting quality is substandard and it is certainly not there to provide opposition. In other words, Scrutiny is there to make sure that the decisions of this Assembly are well thought out, thoroughly debated, and represent the best possible approach of the Island. For Scrutiny to achieve this, it needs strong leadership, better co-ordination and teamwork. At the moment it is a discussion shop with no common sense of purpose. Decisions are revisited and the consensus ignored. We have a number of Members elected to this House in 2005 who have had excellent ideas as how to move Scrutiny forward, as expressed on the Scrutiny away day, and they find these ideas being dismissed. This is not teamwork. Every team has differences of opinion but it is in the nature of teamwork that everyone accepts the majority decision, unless there are compelling reasons of conscience, and everyone gets on with the job. We all work with decisions from time to time that we would not personally want. The Chairmen's Committee is not there to dictate the minutiae of work to each Panel, but there should be a general approach for Scrutiny and the President - as the public face of Scrutiny - should carry that message to the public. It is like the proverbial mousetrap. It is no use having the best mousetrap in the world if no one knows that it exists. In order to make sure that our mousetrap was well advertised, the Chairmen's Committee authorised issue of a newsletter, *Scrutiny Matters*. There have been a number of missives going round the Assembly claiming that

this will cost £40,000 a year. In the interests of informed debate, I would have liked to give you the facts. The consensus of the Chairmen's Committee is that it is probable that 2 issues a year is appropriate, since the whole Scrutiny/public engagement programme is in the experimental stage. The newsletter is bundled-up with the *Consumer Council Newsletter*, thereby halving postage costs and reducing these from around £9,000 to around £4,000. Printing is done by the same printers as do the *Consumer Council Newsletter* printing and will cost something in the order of £4,000. This gives a total of some £9,000 twice a year. I do have the details in the Chairmen's Committee minute of 19th February agreed to by Deputy Duhamel, Deputy Southern, Deputy Ferguson, Deputy Hill, Deputy Reed and Deputy Ryan. Apologies were received from Deputy Le Hérissier and Deputy Breckon was absent. I have mentioned the reasons for this proposition. We have had no alternative. Yes, there are proposals to change Standing Orders from all corners of the Assembly and from within and outside Scrutiny. The problem with these is the time required. We need to get the Chairmen's Committee functioning cohesively and moving forward now. We can then proceed with carefully thought-out and agreed changes to Standing Orders. I have heard it mentioned that I seconded the nomination of the current Chairman but, as Cicero said: "No sensible person has declared a change of opinion to be in constancy." Again, in a moment of aberration, Deputy Le Hérissier questioned whether the Executive should participate in this vote. The consensus of the signatories to this proposition is that the original decision was made by this House and it is therefore right and proper that the House should vote on this proposition. I would therefore ask the House to support this vote of no confidence and to allow us to get on with the business of Scrutiny.

**The Greffier of the States (in the Chair):**

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition? Deputy Le Claire. Perhaps I could firstly ask Deputy Duhamel. Deputy Duhamel has 2 occasions to speak during this debate. He is entitled to speak at any time he wishes but Standing Orders provide that he must be given the opportunity to speak a second time before the summing up. I wonder if you wish to speak first, Deputy, or later in the debate?

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

I think I would prefer to speak earlier rather than later.

**The Greffier of the States (in the Chair):**

Do you wish to speak now? Very well, I call you first, Deputy Duhamel.

**The Deputy of St. Martin:**

Could I just make a statement before Deputy Duhamel does speak? I note this only for Ministers in the House. This is a very important debate and really I would ask that those Ministers who are outside the Chamber please return because, after all, we should have a full hearing.

**7.2 Deputy R.C. Duhamel:**

I would like to take this opportunity to set out the role of the Chairmen's Committee and its record over the first year of Ministerial government. The report in P.40 refers to a fractious debate. I have no intention whatsoever of making personal attacks on States Members. In my view, politics should concern itself with addressing policy issues, rather than attacking politicians on the basis of their style or personality. There are legitimate policy issues to be addressed regarding the role of the Committee and I will confine my comments to these policy issues. Ministerial government was introduced just over a year ago. There will inevitably be a period of settling-in and adjustments as different aspects of the new system are put to the test for the first time. The role and the status of the Chairmen's Committee is just one of many matters that will need to be reviewed and refined over the coming months. The Committee has an important role to play in the general development of Ministerial government, in that it brings together the Scrutiny chairmen on a regular basis. It is thus a useful mechanism for comparing the effectiveness of different types of Scrutiny, the manner

in which the Scrutiny Panels communicate with different Ministers and departments and identifying and resolving common problems. The Committee has initiated the provision of shared resources in both public relations and accountancy advice, so that the Panels can have access to professional advice at a reasonable cost. It has acted very quickly to resolve the excessive workload of the original Social Affairs Panel. Following criticism of the *Overdale Report*, the Committee acted to vigorously defend the panel. This co-ordinating and communicating role is, in my opinion, the role envisaged by the States and the role set out in the Standing Orders. I believe that it is the strength of the Scrutiny system that Panels are independent and are responsible for Scrutiny within their particular area. At present all Panel decisions need to be agreed by the Panel itself under Standing Order 138 and by a majority of those Panel members. The chairman of the Panel does not have any authority to override a majority of Panel members. Communication with the public should always be well focused. The role of the Scrutiny Panels is to undertake reviews of Ministerial government. Politicians and the public should be engaged throughout the process and the results of the reviews communicated to both politicians and the public. It is very important that Scrutiny is seen as a reliable source of information and that it is not associated with political spin. So, what is the remit of the Chairmen's Committee and the work done in 2006? Following the terms of reference set out in the Standing Orders, the work of the Committee during the first year can be summarised as follows. Under A: co-ordinating body for the work of P.A.C. (Public Accounts Committee) and Scrutiny Panels to avoid overlaps or gaps. Work was undertaken to resolve issues dealing with the Sexual Offences Law, the sale of Jersey Telecom and - indeed the current one - the Telephone Masts Review. The Committee discussed and resolved issues of possible overlap between Panels in respect of these reviews and sorted the issues out. The Committee did not discuss any gaps in the overall coverage of individual Panels of the areas of responsibility for the Ministers because, indeed, although it is a responsibility to monitor this coverage, we have not established that it is a relevant thing to be doing within the first year of operation, but it is on the books as something to do in the future. Item B: allocation of resources to P.A.C. and Scrutiny Panels. We have put aside budget allocations to Panels and the P.A.C. who did not have funding. We have brought forward approval for the funding for Sub-Panels on various occasions and, indeed, we have brought forward successfully funding of the fifth Panel. Budgets were maintained by the Committee during the year, including a reallocation to provide that funding for the fifth Panel. Item C: to keep under review the operation of the Scrutiny function. Well, indeed, we looked at the formation of the fifth Panel successfully. We have looked at additional administrative staff. There has been a request from the Scrutiny Manager for additional administrative assistance and this should have been discussed at a Committee meeting on 9th March. The provision of additional staff has been delayed due to the timing of this particular vote of no confidence. We have had an away day. We have discussed 'Item B' agenda items and that is almost satisfactorily resolved and in a lot better shape than we started with and, indeed, we have a revised Scrutiny website. Item D: co-ordinate and prepare an annual report. The report is in preparation at the moment. It has been finalised; it has been put to bed; it is about to be published. Item E: close contact with the Council of Ministers. Individually and through the Committee we have had meetings with the Council of Ministers and individual Ministers to discuss the Strategic Plan, the individual business plans and other issues. Items F and G: prepare codes of practice for Scrutiny Panels and communications between Scrutiny and the Council of Ministers. We have implemented informally - although we would have preferred it to have been formally accepted by this House - a draft code of practice as instructed by the Standing Orders and the only reason that that code has not been formally ratified by this House is due to the unsuccessful negotiations at this time over legal advice. Those issues are ongoing and will hopefully be resolved in a very short period of time. So, I submit, Sir, to the House that the Committee has fulfilled its obligations in all areas covered by the Standing Orders and there is no evidence presented in P.40 to suggest otherwise. So, what are our plans for 2007? Well, in 2007 we would like to complete work on the new Scrutiny website and encourage Panels to investigate alternative methods of reporting review findings. A lot of members of the public are suggesting that our reports are boring, they are technical, they are detailed, and we have to find a new way to

present them in a form that is, perhaps, a little more digestible to those who are not experts - or as expert - in the areas under investigation. We want to continue to support the citizenship curriculum, along with the Council of Ministers. We would like to set up, as agreed at our away day, quarterly meetings for all Scrutiny members so we can rub shoulders together and spread the word. We would like to improve training for Scrutiny officers. One of the suggestions made by Deputy Ferguson was that we have a high turnover of staff. Members must realise, and I am sure they do, that prior to a year ago most Members were not working for Scrutiny, they were working either in different occupations or with the Greffe. There is a training element to bring new Scrutiny Officers on board, to bring them up to the levels required in order to work effectively within the system, and it goes without saying that exactly the same thing can be applied to a number of the newer politicians working within Scrutiny for the first time. Review the administrative support for Scrutiny and the relationship between the States Greffe and the Scrutiny Section. One of the suggestions is should Scrutiny have its own Chief Officer? It is something to be looked at. Complete the work on legal advice for Scrutiny Panels. As I said, that is the stumbling block towards the formal ratification of the draft protocol for code of practice. Further improve access to 'Part B' agenda items. As I said earlier, we have made huge strides in that direction and under a confidentiality agreement Scrutiny members are able to receive some, if not all, of those agenda items. The final thing, Sir, is to co-ordinate the business plan review. We were told at a meeting by the Council of Ministers the other day that the business plans are up for grabs and the budget plans have to be looked at and that indeed, Sir, will form a large chunk of our work. With its recent government reforms, Jersey has chosen to maintain its tradition of independent politicians. I would like Members to think about this a little bit. The membership of the Council of Ministers has been drawn from all areas of the political spectrum: the left, the right, the centre, up, down, whatever you want to call it. Ministers have been given considerable responsibility as individuals and are free to act within their particular area. The Council of Ministers is responsible for setting an overall strategic direction and proposing an Annual Business Plan. Within this very broad framework Ministers take and make their own decisions. Scrutiny Panels have been introduced to provide a counterweight to the individual responsibility of the Minister. Each Panel is responsible for its own area of work and controls its own budget. My understanding of the role of the Chairmen's Committee is that it provides a simple method of co-ordination between these individual Panels. The Committee has very limited powers to interfere with the work of those Panels. The existing control which the Chairmen's Committee has over individual Panels is limited to only 3 circumstances. The first is where 2 Panels are seeking to undertake any work that overlaps. It is an issue that the Chairmen's Committee will look at and seek a resolution as to which Panel has the greater claim, if you like, to that particular area of work. If no resolution can be found where one Panel agrees that the prior slice of the pie, if you like, should be taken over by another Panel, then we have the mechanism of setting up Sub-Panels and we do that. The second area of responsibility of the Chairmen's Panel over individual Panels is where a Panel has failed to scrutinise a particular aspect of its responsibility over a period of time. The key words here, Sir, are "over a period of time". It is early days. We have been going for just over the year and I think as time pans out that will become an issue that we discuss on a more regular basis at the Chairmen's Panel. The last area over which the Chairmen's Committee has a limited element of power is when a Panel wishes to allocate some of its resources to a Sub-Panel or an individual Member. So, as set out, Sir, the Committee has used its powers, limited as they may be, in 2 instances and the third instance of looking at responsibilities over a period of time, will be coming to the fore when we get around to doing it and sufficient time has passed. Immediate proposals: one of the main topics of discussion within the Committee during 2006 has been that of communication. Scrutiny Panels need to ensure that their work is understood by the public and easily accessible. The nature of Scrutiny and the way it has been organised in Jersey provides opportunities for communication with the general public throughout the Scrutiny process. It is not just something that we tack-on at the end. Review topics are often initiated as a result of public concern and during a review advertisements in the local press are used to call for evidence, hearings are held in public and reports are published. The

Scrutiny process is well supported by local media, who report regularly on individual hearings, public meetings and final reports. I looked back over the evening papers a while ago, Sir, and more often than not there are items to do with one Scrutiny Panel or another on a regular basis. The general public, however, is becoming extremely sophisticated in the way it accesses news and information and it is important that Scrutiny communicates with the public in a number of different ways. The old-fashioned methods are not necessarily the best. The Committee has been active in the redesign of the Scrutiny website and has encouraged a project to include information about Scrutiny in the curriculum for citizenship in secondary schools. An informal group of Scrutiny members - the so-called Public Engagement Group - has been set up to consider communications in more detail. This group recommended that a professional public relations company be appointed in the short term to assist Scrutiny Panels in presenting information to the public. The Committee appointed a company in this role in October. Although not specifically recorded in the Committee minutes, the Committee has also discussed informally the extent of its role and its relationship with the individual Scrutiny Panels. The wording of the P.40 report made some assumptions regarding this role. It describes the Committee as the face of Scrutiny. It suggests that the President needs to demonstrate strong leadership and to promote the agreed policies of the Committee. Recent discussions with individual Committee members have suggested that they would like the Committee to be seen as leading the Panels rather than co-ordinating them. In response to these views, I prepared a paper setting out various changes to Standing Orders to strengthen the role of the Committee. We must be quite clear, Sir, that any changes in how the Committee is run has to be ratified through the required Standing Orders. This House decides on whether or not we need to go in that direction or, indeed, that anything that is being suggested is, indeed, the right way to go. It is what this House is set up to do. In response to these informal discussions, I drafted a discussion paper which I presented to the Privileges and P.P.C. Inquiry during the week of 5th March. In summary, I put forward suggestions which would have given the Committee a stronger co-ordinating role and some direct influence over other individual Panels. In essence, it proposed that the Committee be given the responsibility for promoting Scrutiny which it does not have at the moment. From the promotion of Scrutiny the information relating to Scrutiny is a function of the P.P.C. Committee at the present time. If the House would like it changed, fair enough. It needs to be debated, discussed and the Standing Order changed. So, with that in mind, Sir, this paper was presented to the P.P.C. The paper, as I said, was put forward as a discussion document and it would, therefore, be for the States to decide whether it was appropriate for the Committee to take on that particular role at present. Speaking personally - and I am allowed to have a personal opinion - I believe that it is probably too early to come forward to the House with those changes but nevertheless, should a majority of Members wish that it be discussed on the floor of the House - and that is the right place to do so - then that is what would happen. So, it is not a case of dragging one's feet. There have been moves to push forward the consensus views of the Chairmen's Committee to the relevant bodies and that is what I have done. There is a major discussion to be had by the politicians and the public of Jersey regarding the role, however, of political parties. It has been suggested that Scrutiny will never be completely successful until parties are established throughout the Jersey political system. I would like to see the role of parties considered carefully while we are discussing the composition of the States Assembly. I think that these are important matters that do need careful consideration and a move to establish a role for the Chairmen's Committee, which suggests that Scrutiny would be pursuing a much clearer political aim, however, seems to be a little premature. This paper that was presented to the P.P.C. would have been discussed, as I said earlier, at the Chairmen's Committee planned for 9th March. It was not discussed because P.40 had been lodged and under the Rules and Regulations no major items of business could be discussed. Before I finish, I would like to refer to a number of statements made in P.40 which have not been substantiated. It is suggested that the President has been continually revisiting the decisions made. The minutes do not provide any evidence of any decisions being revisited on a regular basis, if at all, and Deputy Ferguson has not provided any details of these decisions in her speech. The only evidence, so to speak, that could be referred to, or decision that

has been questioned by my Panel - as my Panel, the Environmental Panel, has the complete and utter right to do so - was whether or not they wished to participate in the production of a newsletter. The Committee, when it was asked - and bear in mind that I have had a number of changes in my Committee in terms of membership, so it was right and proper that the issue be reconsidered by that body before monies were called upon from our particular budget to be put into a collective exercise - came to the conclusion that, based on the content of that letter and, indeed, the cost (some £10,000 or just less an issue and we were originally notified, although suggestions are that the plans have been drawn back somewhat, that there were going to be some 4 issues at £10,000, that is £40,000, plus monies that are being expended to a communications agency for normal day-to-day other works) they did not wish to participate on the grounds of the content. Then an opportunity was given for one member of every Committee to have their own personal biographical details put into the newsletter and my Committee suggested that it was either all or none. The editorial licence, so to speak, was retained and has to be retained by the individual Panels themselves and that was ratified in the minutes at a previous Chairmen's Committee. So, having taken the issue back to my Committee and got an unfavourable decision according to the majority of members, that decision was conveyed to them. At no time was any suggestion made by myself in order to frustrate the efforts of the production of that newsletter. I think Members have a copy of it placed in their pigeonholes today and, indeed, a number of Members have already read it. So, continually revisiting decisions; I do not think that that claim can be substantiated. Likewise, there has been an allegation that the signatories - the 5 signatories - wish to seek to reform the whole area of administration support and the implication by that is that I do not wish to seek reforms in this area. As I have already mentioned, the provision of additional administrative support was on the agenda of the meeting of 9th March. I have not opposed any suggestions to review the administrative support functions and, again, as already mentioned, this is one of the priorities for 2007. That said, Sir, any discussions of the adequacy of the staff to carry out the functions has to be done in the general ambit of the States and the requirement for staff and the costs that go with it. The third statement that I would like to take issue with is that the President implements and promotes the agreed policies of the Committee. I have set out the actions of the Committee in its first year. All of these actions have been implemented in the normal way. It is not the function of the President of the Chairmen's Committee to be promoting a particular policy. The Chairmen's Committee is a collection of individual Scrutiny Panels who meet to carry out specific functions, and although it might be mooted or argued that that might become something that a more co-ordinated or centrally controlled Chairmen's Committee might wish to undertake in the future, in order to decide that, as I said earlier, Sir, the required Standing Order needs to be brought to this House, agreed, debated and put into the Standing Orders. Deputy Ferguson has referred to the actions of the Environmental Scrutiny Panel in choosing not to take part in the Scrutiny newsletter. I have no power as Chairman of the Scrutiny Panel to impose the decision of the Chairmen's Committee on my own Scrutiny Panel. As I said earlier, my Panel agreed unanimously that it was inappropriate to use Scrutiny Panel funds, which were given to each Panel, to contribute towards the centralised production for a newsletter. A management style that is much more consensual in approach. Well, Sir, I have bent over backwards to be consensual. We take votes on everything and the votes are recorded. Examination of the minutes by Members will show you that there has only been one decision against which a dissent has been recorded and that was Deputy Le Hérisier recording his dissent on 17th February 2006 in respect of the review of the school milk which he felt should be done by the Economic Affairs Committee rather than Social Affairs. I think that was the decision, he wanted it at Social Affairs, rather than at Economic Affairs, or the other way round. But that is it. So, I do not think the statement about a management style that is much more consensual in approach ...I could not be more consensual if I tried, Sir. So, what is the conclusion? Well, the President holds power in 2 areas. The timing of the Committee meeting; I can call a meeting, that is one of my powers. Secondly, I can provide advice to the States Assembly, and I have done that on at least one occasion, if a referral to Scrutiny is not clear cut. That is it. It is difficult to see how the exercise of these 2 powers by one chairman or another will make a great deal of difference to

the Scrutiny function. I am a strong supporter of the Scrutiny function and remain so. I believe that it is vital for Scrutiny and Ministers to work together in a co-operative atmosphere, but I am concerned that moves to strengthen the central role of the Committee will inevitably lead to a polarisation between Scrutiny and Ministerial government. On 12th January Deputy Southern submitted a paper to the Committee which suggested that Ministers and Assistant Ministers should be barred from participating in the selection and appointment of Scrutiny Panel members, contrary to the Rules and Regulations at the moment. The Minister recorded my concern at this proposal. Deputy Southern was asked to resubmit a more worked-up paper and presumably this is it. I think, Sir, that suggestions of this nature can be divisive and can lead to an increasingly partisan States Assembly. That is something, Sir, that I think this House should debate and is something that I would not necessarily support. I have chosen to defend my position as Chairman, Sir, because I believe that I have acted fairly and impartially and because I value the reputation of Scrutiny. I do not wish Scrutiny Panels to be subject to undue influence from any political quarter. The role of Scrutiny is to hold the Executive to account. I believe that the Scrutiny Panels are settling into this work and that there is much goodwill between Scrutiny and the Executive. I believe the Committee exists to ensure reasonable co-ordination between Panels. I do not believe that the public expect us to spend a large proportion of our time thinking about our public image. The work of Scrutiny should be self-evident. If we do not engage the public through the wide range of reviews that we undertake, I fail to see how sending them a newsletter containing a list of those reviews is going to help. Scrutiny does not need to spin its message. The focus of Scrutiny should be to ensure that departments and Ministers are working as effectively as possible for the public of the Island. Different Scrutiny Panels will scrutinise in different ways and politicians and administrators will gain experience over the next few years. Sir, I did not enter politics to play games. I treat people with honesty and respect. I am interested in the long-term future of Jersey and I am not interested in making short-term compromises for political expediency. I believe that taxpayers expect politicians to work hard within their chosen area of responsibility and ensure that money is spent wisely on the key aims of government. Scrutiny has undertaken much good work in its first year and will, undoubtedly, improve during the lifetime of this Assembly. It is still, however, early days. Sir, I hope that the House will continue to support my Presidency of the Chairmen's Committee and resoundingly reject P.40. Thank you, Sir.

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

I do not need more than the time prescribed before lunch, Sir, but I do think that this proposition has been ill-thought through and gravely ill-brought. The proposer of the motion of no confidence makes the point that, because of an error in oversight in setting up the Ministerial system from the Committee system, that no effective mechanism was left to deal with the vote of no confidence in the Chairmen's Committee. The President of the Chairmen's Committee has set out his powers and the functions of the Chairmen's Committee. The difficulty now is, how do people who are in a Committee who find themselves unable to support their President, continue to act in that Committee? Their answer has been to bring a vote of no confidence. But as they are sitting there *ex officio* and as they are not bringing a proposition of no confidence in his chairmanship of the Environment Panel surely he will still remain. So, they will still be working with him. So, they do not want to work with him, they just want him removed from his post, but they will still be working with him. The issue, as I understand it - and I may be wrong because I have been wrong in the past, but I do not think I am wrong this time - is that it is about a newsletter and the proposals which have been dismissed at the beginning of rumours of £40,000 an issue have been squashed by the proposer of the motion because they are down to 2 issues at £10,000 each. Well, I am not very good at maths, but 2 times 20 is what, £40,000 for a newsletter. £40,000 for a newsletter to communicate what Scrutiny is doing with more emphasis, I would say, in my opinion of self-promotion rather than the promotion of Scrutiny. You can put your message across to people within Jersey through the States Communication Department. The Chief Minister and that department have been offering accessibility and the resources there that we are paying for anyway,



the taxpayer is paying for. You can send an email for £500 to 35,000 people or 35,000 email addresses in Jersey; £500 and not £40,000. When the proposal came to the Environment Scrutiny Panel at one of my first meetings, I said it was something that we should be gravely concerned about, that a spin doctor or a public relations company has been employed to take £5,000 from each of our Committees to publish a newsletter which may not be necessarily repeated, that does not even wear the face of the Chairman or the Chairwoman of the Scrutiny Panels concerned. I, along with other members of the Environment Panel, said that we would not play ball. We did not want to see money in that direction being spent on promoting what Scrutiny are doing. After all, will people read it? For the very, very time-poor in Jersey, they have a very short... one thing that we are all short of is time and if leaflets fall through people's doors, normally they are scantily read and quickly binned. That does not help from an environmental perspective in relation to what we are doing. The proposer of the motion says that the President is the public face of Scrutiny and that that should be the person that puts across the message but is not that in effect setting up in opposition? Is not that in effect what we are not trying to do? Surely, we have just seen today Deputy Southern standing on his feet saying how wonderful it is that the Chief Minister has accepted one of his recommendations. If Scrutiny was not working how could that have been possible for him to have made that statement this morning? It is not about the fact that Scrutiny is not working, Scrutiny is working, but what is not working is perhaps they do not like the fact that the Chairman has gone back to them and said: "I am sorry, my Panel does not want to give you the £5,000 that you wanted to spend to fund this newsletter." Now, Deputy Duhamel may not be zippy, he may not be zappy but one thing he is, he is extremely hard working, fastidious and he does bend over backwards to facilitate debate and he always puts things to a vote. No doubt we will hear from other Members that have seconded this proposition today why they believe that this proposition should be approved by the Assembly this afternoon, but the bare bones of the matter so far that have been laid out before the Assembly is that it is about whether or not Scrutiny is able to get its message out to the public. I would say in these times of increasing taxations and decreasing expectations, the last thing the public wants to see is £40,000 being spent on a newsletter to tell them what their States Members are doing. I think we could employ another officer, conduct another 2 reviews with that kind of money, and it is disgraceful that we are unable to present reports due to the fact that we do not have the resources in Scrutiny which have been, in this instance, recommended to be siphoned-off in that direction where we are waiting for officers' time to deliver things that we have been waiting for in relation to things like solid waste strategy, where we have expected States expenditure of £100 million. So, no, I do not think it is the right proposition. If there was a vote of no confidence in Deputy Duhamel for his actions, then if they could not work with him it would naturally fall as the Chairman of the Environment Panel. I would put it, Sir, that this is not a correct motion with the motives that I believe are behind this, which are the facts that the money is not going to be available to pay for the posting out of these newsletters that was expected and they are jolly well upset because it has put them in a difficult position. Let Members read the newsletter. Let Members decide for themselves over the lunchtime period whether or not they think that is a good use of States funds for personal promotion of individuals that are doing things they should be doing anyway.

**Deputy J.A. Martin:**

I just wanted a quick clarification from Deputy Duhamel on his speech. He said he had presented some new ways forward to P.P.C.; it is the dates I am confused about. I think he said he had presented a paper on the 5th March, which, if this proposition had not have been brought, would have been discussed by the Chairmen's Committee on 9th March. Are these dates correct? I would have thought if it was about overall Scrutiny amendments to Standing Orders, it should have been discussed by the Chairmen's Committee prior to being presented to P.P.C., but I may have got the dates wrong.

**The Greffier of the States (in the Chair):**

Do you wish to clarify that?

**Deputy R.C. Duhamel:**

I will come back with the dates this afternoon.

**The Greffier of the States (in the Chair):**

The adjournment is proposed. The Assembly stands adjourned until 2.15pm.

## **LUNCHEON ADJOURNMENT**

**The Bailiff:**

The debate continues on the proposition of Deputy Ferguson. Does any other Member wish to speak? Deputy Southern.

**7.4 Deputy G.P. Southern:**

It is indeed regretful that anybody is having to speak in this debate today because let us place this motion of no confidence in its context. If the leader of a group of people loses the trust of that group of people and they say: "Hang on, we do not want to follow you any more" and that leader says: "But I have the interests of our objective foremost in my goals. I have the interest of Scrutiny as prime issue before me", but the people who are being led say: "Well, hang on, we do not like the way you do things and we no longer wish to follow you; please will you organise a timely and appropriate handover? We think we need some fresh input, impetus; we need fresh leadership. Let us arrange a handover quietly, because we are a new organisation and the last thing we want is to be seen to be split and squabbling among ourselves in public" and you give not one but 2 opportunities for that leader to take the honourable course and quietly resign and hand-on in a seamless transfer and that leader does not take the opportunity. Instead he stands there and says: "I have done absolutely nothing wrong; force me out... Let us be seen to be squabbling among ourselves. Let us have Scrutiny to be the first area that is seen as weaker than another." Does that leader have Scrutiny as his prime objective? I do not believe so and yet here we are today squabbling like school children. Listening to Deputy Duhamel's speech I kept asking myself - and it was a long litany of achievements - but I kept thinking: "Hang on, what committee on what planet, circling around what star is he talking about?" He was not talking about the Committee that I have sat on for the last 15 months, which has made some achievements and has made some progress but it has been led by the Chairman. It has dragged its President kicking and screaming along to make any progress at all, time and time and time again. This is an internal management issue and should have been dealt with as such. It should not be before us. The progress we have made has been made by the Chairs and in particular, in terms of getting a profile for Scrutiny, by the members of the Public Engagement Group and those young members - new members - to Scrutiny, have established themselves full of enthusiasm and have managed to make some progress, dragged back it seems, time and time again, by the President. The President said that he has been through the minutes and he sees no issues over which there has been repetition, where issues have been dragged back to the Committee time and time again, but that is in fact incorrect. We took a decision - if we are going to focus on the newsletter - to improve our profile and put out a newsletter in principle 5 months ago, perhaps: "Decision taken in principle, we will get on with it." We delegated a group of people to get on with it. Can this President let that group of people get on with it? He finds it very difficult. Whenever you see on the agenda "Progress with ..." expect the principle to come up, introduced by the President, time and time again. The reason why you do not see in the minutes great long discussions about issues is because some of us have got used very

early on - as the principle is yet again about to be re-hashed - of saying: "Hang on, we decided this last month, can we move on to the next issue? Hang on, we decided this 3 months ago, can we move on to the next issue?" That is the reality: constant vigilance to make sure that we do not have a 20-minute conversation about the principles underlying a decision made months ago, again and again. One has to ask oneself, why does this particular President do that? If you look at the issues you will find that time and time again it is an issue on which the President was defeated. Call for the vote and it goes 4:3; often it goes 6:1 against what the President wants. This is a President who cannot accept being told what to do; cannot accept when a decision goes against him; and will do whatever he can to slow down progress, to revisit the decision, to change the direction of where we are going, despite the issue. Focusing in particular on this newsletter, it is instructive to see what happened. In terms of the appointment of the people in charge of doing it - the P.R. (public relations) company in charge of doing it - who did not want the people who eventually were appointed? The President, who did not wish, yet had reservations, about the whole principle of doing a newsletter to raise the profile, some of which he has referred to in his speech, but nonetheless having lost the vote, supposed to get on with it. We have a President who will not, when asked, get on with delivering what the Chairmen's Committee have asked. Time and time again things get stuck. As far as I am concerned, and certainly we are concerned, it is an issue which we believe is holding back Scrutiny and if allowed to continue will end up with a negative image, a do nothing, go nowhere image of Scrutiny at the end of 3 years unless we change and we change our leadership now, so that we can get on with things. While I am on it, one final point. There were hints in Deputy Duhamel's speech that somehow this was all some Machiavellian plot to politicise, and in particular to party-politicise Scrutiny. Since I am the most political and certainly the most party political member of the Chairmen's Committee, I must assume that that hint was supposed to refer to me. Can I make it clear to anybody who has heard or might be thinking that I am trying to politicise Scrutiny, keep very clear that I am not? The integrity of Scrutiny, as distinct from opposition, must be maintained and I see that above all and I have certainly attempted in my 15 months to deliver that; make a clear distinction between my political views and what I state as a Chair in Scrutiny and I hope I have succeeded and am succeeding. In case anybody is tempted by the little rumour going round - it is a Machiavellian plot to politicise, to party-politicise Scrutiny - may I make it clear that I am not a candidate to replace the current President and I will not be in the process that follows. I am assured that there are plenty of speakers coming after me who may well feel as angry as I do at having to bring this motion of no confidence and I have assured them I am going to stay calm and not get personal about things because some people following behind me are going to let the steam off themselves.

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

I am speaking in support of Deputy Duhamel. My comments relating to Deputy Duhamel are based entirely on my relationship with him as Chairman of the Environment Scrutiny Panel and during my first year as Minister we have built-up a very positive relationship. Together with his Panel members he has provided many excellent useful ideas that have improved the planning process. We have agreed to meet - and have done so for some time - monthly for breakfast, where we have a confidential exchange of views on current matters relating to planning and environment. I have found these conversations to be very useful in achieving progress across the whole range of my portfolio and, despite having given Deputy Duhamel many pieces of very confidential information, not once has he ever broken that confidence and shared the information with anyone else. Deputy Duhamel, furthermore, has demonstrated a long-term commitment to a variety of environmental issues. His views, while often unconventional, are always relevant and to some extent on many issues he could be regarded as a man ahead of his time and I have found his input in relation to a variety of environmental issues both useful and extremely enlightening. I will be very short and sum up by saying the Deputy has my respect and he has my support.

## **7.6 Connétable A.S. Crowcroft of St. Helier:**

When Deputy Southern was speaking I had what I am sure Senator Syvret would call a Kafkaesque moment, and for those Members who do not explain, it goes something like this. Deputy Duhamel is to be blamed for this proposition being brought because he did not resign when he was asked to. Deputy Southern said we should not be seen to be squabbling and how awful it is that Deputy Duhamel did not just quietly resign when we came around to his house and told him, and I quote: “We do not like the way you do things. We do not want to follow the leader any more.” Well, if that is all the evidence that this proposition is based on, it is a waste of our time and it is regrettable that it has been brought. **[Approbation]** Indeed the earliest remark by the Deputy was even more quaint, it was not Kafkaesque or Orwellian, it was simply crocodile tears. He said it is so regrettable that this motion has had to be brought and I saw that big green crocodile opening its jaws as he said that. So, I think that is a weak start to his speech and of course the Deputy goes on to say he accepts the progress that has been made by the Panel but says it is in spite of the Chairman rather than because of him, which is a point of view but it does not seem to me to be one that is normally used in bringing votes of no confidence in committees. So, where is the evidence-based case for which Deputy Southern is so fond of looking? Deputy Duhamel did a very good demolition job on the proposition when he spoke this morning and on the opening speech by Deputy Ferguson. Deputy Southern contends that not to remove the Chairman is to do nothing and it has perpetuated the “go nowhere” image of Scrutiny. Well, again, I do not see the evidence. Particularly, I think, impressive - and I never thought it would happen - is a creation of the new Panel and its resourcing. I think many people were sceptical that would happen. That has happened under Deputy Duhamel’s chairmanship of that Committee, possibly in spite of it but it has happened and does seem to me that the Chairman of a Committee can rightfully take some credit for things that happen under his or her chairmanship. Deputy Duhamel - I have recently joined his panel - is not the kind of Chairman who takes the credit for things, who bangs the table, who insists people do what he says. He is a consensus-builder and he allows people to speak. Sometimes the meetings go on a little longer than one would wish and I have been criticised for being rather too impatient sometimes as a Chairman. Deputy Duhamel allows people to have their say and to express their ideas and I really can see, Sir, no evidence in this proposition. I have heard nothing yet in this debate that would lead me to take what I think is a nuclear option and to remove somebody from this position. I think it would be thoroughly counterproductive and I do regret that it has been brought at all.

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

How easy it is to make comments from outside, naively discounting the actual cause of this vote of no confidence and it is clear to anyone that has chaired a committee that the Chairman of any committee should have the support of, if not all, the majority of members, as without a majority that person has no mandate. Some may consider that that person is putting their own ambition and interests ahead of that of the Committee and in this case the States and I suggest that is exactly what is happening today. We have heard Deputy Duhamel speak of many of the achievements of the Committee and, whether you care to believe it or not, I, for one, will say that it has definitely been, for the most part, despite our Chairman’s role, as required, as President of this important Committee. He demonstrated in his speech when he quite clearly said the Panels are independent and this is part of the main problem. The President does not accept the role of the Chairmen’s Committee as an overseeing committee but prefers to promote total independence of the individual Panel and that autonomy that goes with it. This is not taking care of Scrutiny as a whole. This is not focusing on the benefits of Scrutiny and improvements that we all have come to expect. As President he has a duty to promote the overall value of Scrutiny and set an example. He is, like it or not, as President of that Committee, the face of Scrutiny. He is required to promote and actively highlight the benefits that Scrutiny does offer; however there have been times in the media where it has been quite clear what his views are about Scrutiny and the benefits that can come from it. I would just like to maybe give you a little bit of background regarding the position of the

Chairmen's Committee and the responsibilities of the Chairmen's Committee and the Panel and in fact the P.P.C. We invited the Accounting Officer, who is the States Greffier, to clearly spell out what the position is and if you will bear with me I would like to read from this document.

**The Bailiff:**

Deputy, would you please speak through the Chair?

**The Deputy of St. Ouen:**

Sorry, Sir. This paper says: "The position between the Chairmen's Committee and individual Panel is not 100 per cent clear in the relevant legislation. What is clear [and this is the first point] is that the budget for Scrutiny is voted as part of the overall budget for what is described in the Public Finances Law as the budget of the States Assembly and its services. This is under the political control of Privileges and Procedures and obviously the States Greffier is the Accounting Officer for that body. An agreed amount of the total budget is allocated by P.P.C. to the Scrutiny function and for convenience this is placed under the political control of the Chairmen's Committee. The Chairmen's Committee is given a role in Standing Orders which implies that it would have some control over allocation of resources as Standing Orders 1.4.3(b) gives [and it speaks about and the reference is to oversee the prioritisation and allocation of resources to the P.A.C. and Scrutiny Panels]. This year the agreement from the Chairmen's Committee has been that a certain sum (in this case about £80,000 per Panel) has been allocated to each Panel to spend on research, visits, transcripts", *et cetera*. However, it has certainly become apparent that certain Panels have been quite protective of this funding and have come to regard it as their money, which it clearly is not. It is an allocated sum provided to those Panels to fulfil their requirements and function within Scrutiny. There is nothing to say the relationship between the Chairmen's Committee and individual Panels was never intended to be anything other than consensual, with the Chairmen's Committee playing an oversight role and I say this is the main problem that we are faced with. I am not suggesting - and in response to Senator Cohen - that Deputy Duhamel is not an able Chairman of the Environment Panel. That is not the issue today. The issue is that as a member of the Chairmen's Committee I feel very strongly that if we are to develop Scrutiny in a proper manner that we need a change in our leadership. I had hoped, like many others... and I have spoken directly, Sir, to the President, asking him to consider his position, quite rightly, because I do believe that this could have been resolved properly. However, to say that the President was unaware of the concerns is, in my words, absolute rubbish. It was the whole purpose and the reason, predominantly, behind in part for the Scrutiny away day that we held in October, because concerns were being raised by members of Scrutiny regarding how Scrutiny was lacking drive and direction, and again this is part of the requirements of the Chairmen's Committee. This is the role, that it is there to drive; it is there to encourage; it is there to promote; it is there to make the Council of Ministers accountable; it is there to engage with the Council of Ministers in a meaningful way, not as an opposition. We are there to add value and we are adding value. Panels are making a lot of difference. We are seeing a far more accountable government, far more information flowing from departments which support the policy-making decisions, which quite rightly we were expecting and was part of the reason for introducing this new style of government, but for anyone to suggest that 5 members out of a committee of 8 can be discounted and discarded and their views rejected out of hand because people not involved with that committee choose to believe that one person's view is more important than those 5, well, I am sorry, I am obviously in the wrong game. I believe in teamwork as much as I am sure our Chief Minister encourages teamwork within the Council of Ministers. I do not expect to agree with everybody; however I do expect that those people working in that team will work for the same goals, for the same aims and recognise when there is a view that a different direction needs to be taken, and in this case the direction means a change of leadership. This does not mean that Deputy Duhamel is not going to be part of that team. All it is doing is changing and requiring the leadership. One other problem - and I think we are all

probably guilty of this in some respects but more importantly with the Chairmen's Committee role and the President of it - you have to and are required to delegate certain responsibilities because that is the most effective and efficient way of achieving a quicker development, quicker response. In this case the Chairmen's Committee decided to set up, because of the lack of movement and development of Scrutiny as a whole, a small group, which you have already heard mentioned we call P.E.G. (Public Engagement Group). That came out of a decision by all Scrutiny members from our away day. It was one of the main things: "Look, come on, let us get our act together; let us get the message across; let us be more co-ordinated; let us tell the public what we are about; let us develop our role." Quite rightly that group was formed and then spent time investigating the whole load of options. In fairness that group, time after time after time, went back to the Chairmen's Committee - quite rightfully because the Chairmen's Committee was the deciding body - with views and thoughts and these have been supported. We have got some great news to tell. We have got a Scrutiny newsletter that is just out. That is good news. Okay, some may not like some of the bits and pieces; maybe the pictures are not great but it is good news. **[Laughter]** We have got a Scrutiny guide that is being developed and literally complete, which explains more about Scrutiny, encourages public involvement, which we are all wanting to do, whether it is Executive or non-Executive. So, it is not to say that we are not suggesting that the President is completely responsible but - and it is a big "but" - ultimately there is only one leader and if the leader is not taking that control, if the leader is not accepting the guidance and the views of others, then we were left with only this. I, one could argue, could have resigned, because I am one of 2 members that are elected on to the Chairmen's Committee. However, 5 other members - the rest of the members **[Laughter]** on that Committee are there because they are Chairmen of individual Panels. There is an inability to resign from that and in fact the advice was sought from the Bailiff who confirmed that exact point that if we were to seek a change and that the President did not support that view, then the only option was to ask for a vote of no confidence in the Chairman. I take no pleasure in this; however I do want to see - and I stand here wishing to see - Scrutiny move forward under a leadership that is more in tune with the majority of its members. I really do ask Members to really take that into account as they consider voting on this matter. Thank you.

### **7.8 Deputy P.N. Troy of St. Brelade:**

When the States, via P.P.C., of which I was a member on the run-up to Ministerial government, when the Panels were set up, it was very much the intention that the Panels would have independence, so that they would not have influences from the Chairmen's Committee over what they could and could not scrutinise. So, the Member who says it is one of the problems, then that Member should be addressing as to whether we need to change the system but I do not think so. I think these Panels do need that authority to carry out their own Scrutiny process. We heard from Deputy Duhamel how the Panels can determine what they want to scrutinise, subject only to the Chairmen's Committee deciding on overlap, neglected subjects and resources. Deputy Duhamel also fully outlined the achievements of the Chairmen's Committee and one must ask where is the failure that Members claim exists? He gave us a full list of everything that that Chairmen's Committee had achieved and one Member said: "We achieved it despite Deputy Duhamel", but I think you have to look at if all of this has been achieved and Deputy Duhamel has been heading the Committee, he has steered everyone to fully meet the programme that he was meant to meet and I think that must be recognised. So, I am obviously going to be voting against the proposition, for which I feel the proposer really did not make a case. No strong evidence came forward; others have said this. There is really nothing concrete in this vote of no confidence. It is just that we do not like the way that Deputy Duhamel operates. Well, some of us do not like the way that some other Members operate in the Chamber or operate their Ministry or operate whatever their function, but we do not suddenly decide that we are not going to speak to them anymore; we are going to throw our toys out of the pram. I think we have to be mature and I think communications have broken down here. It is just the case that communications have broken down between the members

and the Chairman, perhaps. No one has come forward with any real evidence, so I will be voting against the proposition.

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

There is no doubt of the importance of the role of Scrutiny within any Ministerial form of government. There must be then no doubt as to the importance of the role played by the Scrutiny Chairmen's Committee within our own fledgling system. We have read in the report attached to this proposition, and we have heard it said today, that the Chairmen's Committee is regarded as the face of Scrutiny. I do not agree with that view. I believe that the President of the Chairmen's Committee is far more likely to be regarded as the face of Scrutiny. To me then as an ordinary - and I thank Deputy Southern for using the term "young" - Scrutiny member, although whether that term is applicable to me may be debatable, the role of President of the Chairmen's Committee is a role of paramount importance. Now, what we are not debating today is whether or not we have confidence in Deputy Duhamel as Chairman of the Environment Scrutiny Panel; we are debating whether we have confidence in him as President of the Chairmen's Committee. I have listened with interest to the views of members of the Chairmen's Committee, those who work more closely with the President in that role than perhaps any other Member of the House. Frankly, though, I was extremely disappointed with what the proposer told us today. There was little evidence put forward to substantiate the allegations that we have heard; and what have we heard? We have heard that the signatories to this wish to see a change in management style to one that is more consensual, based on the assumption that the President implements and promotes the agreed policies of the Committee. We have heard that the current President does not do that and that conflict has arisen because they have understood that they were working to an agreed position, whereas the President has been continually revisiting decisions already made. We know then the expectations that they have of the President and we have heard, too, that for them those expectations are not being met. So, what do I as a Member - new both to the House and to Scrutiny - expect from the person occupying the President's role, a role that has a limited formal remit upon which we may assess whether or not it is being competently fulfilled? Perhaps not surprisingly I want someone who is enthusiastic about Scrutiny; someone who is not only keen to but capable of promoting Scrutiny to the public and to the Executive at every opportunity. I expect that person to let the public know that Scrutiny protects their interests; to let the public know that Scrutiny gives them a voice to influence the development of policies and strategies that affect their lives. I expect, too, concerns within the Chairmen's Committee to be dealt with swiftly and effectively. I expect them to be resolved, and we have heard that this is not the case. Members will no doubt have welcomed the President's description of what Scrutiny has achieved to date, a description that was both upbeat and encouraging. Regretfully some members of Scrutiny firmly believe that those achievements were reached in spite of rather than because of the input of the President. I do not sit on the Committee; I have to make my own assessment of the situation. Doing that I would agree that the President must indeed take some credit for some of the Scrutiny achievements to date. However, I believe that this debate will be decided upon personal expectations. Have my personal expectations of the President been met? On balance so far, they have not. Many in the Executive may not perhaps have a great deal of direct contact with the Deputy in his role as President of the Chairmen's Committee and they may feel that they should not therefore vote upon the proposition. Indeed, I can almost hear them saying: "It is a Scrutiny matter; leave it to them." Many of us feel though that it is regrettable that the matter should indeed have been brought to the House. Nevertheless, the President of the Chairmen's Committee was appointed by this Assembly; this Assembly then must have expectations of the person fulfilling that role. Before casting our vote today - and we should all vote - I suggest that we ask ourselves, as I have done, whether or not those expectations have been met.

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

I believe passionately in Scrutiny. I have wanted to ensure that Scrutiny maintained, produced, projected a strong image and so I am sad that I must say that, no matter what the outcome of this current debate, I think Scrutiny suffers today. I had anticipated that this should be a fairly cut-and-dried debate. Current Standing Orders, of course, unfortunately make this a matter for the States but it would seem to be only reasonable that if 5 persons on a committee of 8 are unable to work under the current leader then something has to change. Deputy Duhamel, and also to some extent Deputy Le Claire, has chosen to narrow the issue in some respects to a matter of P.R. I would like to say a few words on Scrutiny and its public image. I am one of the newer but not necessarily younger Members of this House and as such I think I have had fewer problems than many in accepting our new form of government. The Executive and non-Executive roles seem quite logical to me. I came with no baggage but I came with an expectation that Scrutiny would be a powerful complement to the strong and an effective Executive but a constructive critic where that Executive displayed shortcomings. I had not been working in Scrutiny for very long when it became painfully obvious to me that although the Executive were presenting a strong and unified image to the public, the same could not be said for Scrutiny. I voiced my concern through my Panel Chairman and through him to the Chairmen's Committee. It seems I was not alone in having these concerns and with the backing of the Chairmen's Committee the Public Engagement Group was formed. Deputy Duhamel has focused on the current newsletter but there is much more to P.E.G. than this. The group has been working quietly behind the scenes for months now, producing an engagement strategy, liaising with the Education Department on the citizenship programme, for example. It is true that a P.R. consultant has been engaged with the approval of the Chairmen's Committee but this for a strictly limited period in order to achieve specific targets, certainly not an open-ended contract. The President has said that the Committee has fulfilled its obligations under Standing Orders in its terms of reference but at what bureaucratic cost? I have to say that when I became involved in P.E.G. I had absolutely no idea that they would still be functioning more than 6 months later. I envisaged that it would quickly set up procedures for promoting Scrutiny to the public and then it would disband; its procedures would be in place, there would be no need to perpetuate the group. I was not counting then on the bureaucracy of the Chairmen's Committee, which made for very slow progress. Researching the stages that had happened in the production, for example, of the newsletter, I had cause to look at the minutes of the Chairmen's Committee on the website. It has been said today that the minutes do not provide any examples of shortcomings in the Chairmen's Committee workings. I just wonder where all the minutes are? There are 17 meetings on the website, up to and including the meeting held on the 9th February. The minutes of the meeting of the 9th February are headed up "40th Meeting". Forty meetings in a year to fulfil what the President has said are really quite limited terms of reference. Surely this is an indication that there must be some problems on that Chairmen's Committee for this much time, this much administration to be taken up in such a limited term of reference. I, too, am looking to see more examples specifically of exactly what problems have been encountered. It has already been pointed out it is extremely difficult on the outside of a committee to understand the stresses, the strains on that committee. I would like to echo what has been said before, that perhaps things are achieved despite certain tendencies rather than because of them. I would also on the other hand like to echo the fact that this debate is not about Deputy Duhamel's role as Chairman of the Environment Panel; that simply is not up for question here. I would just like to ask, in summing-up, for more clarification of what problems there have been but I think that certainly looking through the minutes makes very revealing reading.

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

I have no particular difficulty with Deputy Duhamel personally. I share some of his views and respect him as a long-standing Member of this House. Nonetheless, I have to make the observation that should this proposition fail we run the risk of a very unco-ordinated Committee which will be



incapable of proper functioning to its full potential. I therefore intend to support this proposition in the interests of future properly co-ordinated good government.

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

I have known Deputy Duhamel from the day we were first elected in 1993 to this House and we have worked on a couple of committees together, in fact committees that I have been President of: President of Telecoms - I invited him on to that Committee - and also as President of Social Security. I recognise that when he thinks about things he thinks about them very thoroughly and he, I would have to say, sometimes comes with some off-the-wall versions of the way we think about things but that I do not criticise at all because I think it is very, very good to have a different point of view within a membership of an organisation. Although it can be quite frustrating at times, it is right that these things are aired and you have an opportunity to discuss things. I have a sneaky feeling that the Chairmen's Committee are experiencing things which I have experienced when I have been the President of various committees, but it is something that is appropriate to have, to have different views and different ways of doing things, and it is up to the membership of that committee to work together and to find ways of being able to achieve things and, which from the evidence we have had, the Chairmen's Committee and the Scrutiny Panels have been doing the work that they have set out to do. I personally think that it is a matter for members to achieve a mechanism where they can work together and I think they have gone about it the wrong way in bringing forward this proposition. On the other side of that I would hope the outcome of this proposition is that Deputy Duhamel maintains his position as Chairman but I believe he would need to recognise that perhaps he needs to do things in a different way. It is probably both points of view need to come together and perhaps the Deputy needs to think about the way he does things and to work in a way that meets the needs of the full committee. I am going to not support this proposition and I believe that both the Deputy and the other members of the Committee should endeavour to work together in a far more positive way.

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

I join the many Members who are sad and disappointed that this debate is taking place at all. Nevertheless, I do very much agree with the sentiments of Deputy Mezbourian, and indeed the Deputy of St. Mary, but this is a matter for the States because of the way it is set up. It is indeed a matter for the States and now the proposition has been brought, rightly or wrongly, we do have to deal with it. I think I, and perhaps other Ministers, are in a somewhat difficult position here because we are outsiders looking in and we are acutely conscious of the need for independence between Scrutiny and indeed the Chairmen's Committee and the Council of Ministers. Nevertheless, it is a States matter and I think we do need to express a view. It would be quickly apparent, Sir, that the Council of Ministers has no collective view on this and there will be contrary voting among Ministers on this proposition, and that is fine because I think it probably would be wrong if we did have a collective view on this. I think it should be a free vote and Ministers should be entitled - and I think it is important that they are entitled - to reach their own views on something which involves Scrutiny and, of course, the Chairmen's Committee. If the Chairmen's Committee has any role at all, and there seems to be some question over that, it is an important role. I think it is, or should be, a very important role indeed. I refer back the Deputy of St. Ouen's speech, it should be a co-ordinating, overseeing role, not interfering with the work of the Scrutiny Panels but it should be co-ordinating and overseeing that work in a proper joined-up and sensible way. It should be maintaining and enhancing the independence and the balance between the Council of Ministers and the Scrutiny Panels. It should be adding to that, not taking no role in that, and certainly not detracting from it. There have been suggestions, and indeed, it is in the proposition, that it is not doing a good job. There have even been questions that I think I have referred to already of what its job is. Now, until members of the Chairmen's Committee can agree what their job is - and there clearly is division on that - then they are unlikely to achieve it. It is impossible, in fact, in those circumstances, for them to achieve a great deal. The Council of Ministers and the

Chairmen's Committee meets on, I do not know, a regular, if not frequent basis and I can only describe those meetings - the best adjective I can come up with - as slippery. Slippery because it is very difficult to have a meeting which sticks to the point and sticks to the agenda and reaches a clear, concise conclusion at the end of it and I find and I know other Ministers, whatever their views on today's proposition, find that frustrating and difficult. It is clear from those meetings that there is no cohesion among the members of the Chairmen's Committee and we have witnessed real confusion among members about what they are there for and what their views on a particular topic or topics may be. Now, I do not think that is good. They should be coming to the Council of Ministers with an agenda, with clarity if necessary, arguing till the cows come home with us about what the result is going to be but we are not getting that. Therefore I do not think, no matter how well intentioned Deputy Duhamel may be as President and how sincere he is - neither of which I in any way question - they are fulfilling this very important role in that respect. Now, that is my personal observation and looking in, if you like, from the outside. I think we need a Chairmen's Committee that is clear, has clear objectives, has a plan which everyone is signed up to so that each of the Panels is working in its own independent way but working to a programme, nevertheless so every States Member, indeed, knows exactly what to expect from Scrutiny and will get it. There is little sign of that co-ordination or that planning and I think that weakens Scrutiny and I do not think we can afford to have a weakened Scrutiny. We need a strong Scrutiny and it has to be led and joined up, if you like, by the Chairmen's Committee. I have thought long and hard about making this speech and I thought long and hard about which way I was going to vote. There was some discussion among some Ministers, at least, about us not voting on this proposition because it is, as I think the Deputy of St. Mary suggested, some may think a matter for Scrutiny. I have not shared that view. I do think we need to vote and certainly, as I have indicated, I will be voting in favour of the proposition and I will be doing so with some sadness, in many respects, because I have no will and no wish to vote against Deputy Duhamel but I really do think a change is required. I think a change is necessary if Scrutiny is going to be the strong voice that we all believe it should be and if it is going to achieve that, then change at the top of the Chairmen's Committee is, in my view, necessary. So, with some reluctance but nevertheless positively - if that does not contradict itself - I am going to vote in favour of the proposition.

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

I have learnt from my great mentor over there to have the last speech but he clearly is back in action in that regard. I would like to thank the Chief Minister for those words. I was wondering where he was going to come from and I hate to spill the crocodile tears, as the Constable of St. Helier describes them, but it is an immensely sad moment for all of us. Although people like the Constable of St. Mary may choose to disagree, I did develop a degree of high respect for Deputy Duhamel on the Environment Committee. We did have our fights; we had a lot of fights, in fact. We were chastised by the Constable of St. Mary, often, for being unfair and we had a lot of fights over budget and I am afraid, Sir, I am going to have to trespass into that territory. I am sorry that the Minister for the Environment who, I am afraid, gave a rather narrow speech on the subject, ought to be here because Deputy Le Claire, who is a newcomer to that Committee, said how terribly shocked he was that they were being asked to give this vast amount of money to a newsletter. He then of course, did that sleight of hand and conjured up £40,000, which was a speculative figure as opposed to the actual dedicated figure, which of course, at a maximum could be £20,000.

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

On a point of order, Sir, the information that was given to us at the time we considered it, there were going to be 4 issues and the outcome of each issue was going to be in the region of £9,000 to £10,000 per issue for a year, £40,000 is why I...

## Deputy R.G. Le Hérisier:

Well, all I can tell the Deputy, Sir, is that he is now benefiting from additional information which should allay some of his concerns. He really should have looked much more closely at the budget. He should have looked, for example, at the £18,539 dedicated to the waste report of his Committee, which is yet to be published and I would have hoped he would have been looking at issues like that and looking much more closely at home, as we all do and as we did continually on the Committee. So, do not turn your focus entirely on outside things, is what I say, Sir. I am sorry I have had to trespass into that but it does give a slightly different perspective to the kind of information that has been going around. I think this is very embarrassing because it is 53 people carrying out a performance appraisal on an individual in public and obviously, that is not the best personnel management style one could wish for but nevertheless how we have ended-up. I would like, Sir, to emphasise the Deputy of St. Ouen's point about the independence of the budget. The budget is held by P.P.C.; it is delegated to the Chairmen's Committee. It is not them - except by custom and practice that is now developing - delegated with an absolute right to the individual Panels. There may be an emerging picture in that regard but that is not the way that the budget is handled at the moment. So this protection line, Sir, that Deputy Duhamel has pushed, that the Panels' total independence must be preserved, *et cetera*, is not quite right. The second issue about Panels' independence, Deputy Troy is absolutely right, some of that independence was given for the very reason he adduced, namely that they can choose their topic and, other than the management issues Deputy Duhamel referred to - namely that they should not wander off and that they should have some reasonable disciplines in the way they work - that there should be some controls or some nudges, Sir, placed upon them by the Chairmen's Committee. But the whole idea, Sir, was not that individual Panels wandered off in a totally independent way in every regard. It was obviously seen that there were certain co-ordinating efforts that had to be made. Yes, it is a very difficult line to draw, between co-ordination and control, but I do not think - and it is up to the Chairmen of the Panels to talk about this - at the moment, they have been pushed to this. Quite frankly, Deputy Duhamel's characterisation of a Panel such as his own as one of enjoying utter and complete independence and which shall not be interfered with is a total over dramatisation of the position. There is never, as far as I am aware - and the Chairman can speak to this - that attempt to sort of interfere to that extent with a Panel's view. The third thing I would like to refer to, Sir, there has been much play of the newsletter, for example, but as Deputy Mezbourian and the Deputy of St. Mary said, Sir, this was based upon a proper analysis of why we were failing. It was not just to get a newsletter out. It was to do with the fact that we needed to revise the way we held public meetings; we needed to look at the way we advertised our meetings, be it through the *Jersey Evening Post*, or through another media; we needed to see whether the website could be more interactive; and we needed to see how we could integrate with a citizenship programme which we started discussing with, in a very positive way, I should add, with the Education Department several months ago. So there was a whole range of initiatives that have been done, as the Deputy of St. Mary said, behind the scenes, and they have been done, Sir, on the initiative and through the enthusiasm and through the push of a lot of the new members. A lot of what you might call the old dodderers have emerged because we have been pushed and we have been heavily criticised because we have allowed, in their view, a situation of drift. We have allowed a situation of drift to occur. They have become very annoyed at the way - rightly or wrongly - Scrutiny is portraying itself. They believe we could be much more focused, as the Chief Minister said, for example. That was why that group was set up. The newsletter was simply part of it and put against £149,000 a year for the Communications Unit - and there were attempts, several times, to use that Unit, by the way, before that thing, as Deputy Le Claire quite rightly said: "Did we seek to do it?" Of course we sought to do it - and put aside the £200,000, for example, for the branding exercise, I am afraid our money was chickenfeed in that context, chickenfeed. So, we may well have made mistakes, I do not deny that for a moment. But, in terms of analysing our situation, in terms of communication, we are looking at a much bigger issue than people running down the road in a misguided way with

a newsletter. Another issue, Sir, that has arisen and it is addressed, I see, in the paper today, Deputy Duhamel has made the comment: "Well, they go on about my management style; it is like going on about my hairstyle or my clothing." Not mine, Deputy Duhamel's I presume, although it may be we come from the same stylistic orientation so to speak. But, of course it is not that, Sir. That is an attempt to sadly to trivialise the situation, that is why it has been - and I do agree with Deputy Troy, in a sense, and Senator Routier - a very difficult case to argue because we have this constant argument in politics: "Oh and I noticed Senator Syvret running that argument last night. Oh, you must focus on policy. Look at how all these people, when they are bankrupt in terms of their views, they have to move on to personalities", for example. Well, it is not personalities but it is style, Sir; it is the way we approach things; it is whether we work as a team and it has to be a slow team because, as Deputy Duhamel said, he has no control, he has to move, in a sense, at the speed of the slowest, but it is not entirely that. We have to move, Sir, with the team and we have to get as much of their approval as possible. So, style does matter an awful lot. Maybe not style; maybe approach would be a slightly more accurate word. It matters an awful lot and that is why, Sir, in a sense, it has been quite difficult to argue this case in terms of all sorts of "Is it in the minutes?" and "Show me the evidence" and so forth, and I entirely take Deputy Troy's point. But that is why it has been so difficult to argue this particular case. The other thing, Sir, it has been said: "Why have we come up with this so suddenly?" Well, this has been discussed for some months. There were various possibilities put forward, most particularly, Sir, the notion that this House could vote on a change to Standing Orders and we could rotate the position on a once a year basis. That was tried; it was rejected for various reasons, by the Chairmen's Committee, partly because we sensed there was perhaps a hidden agenda to that move. So the Chairmen's Committee was not prepared to move on that and, secondly, Sir because changing chairmanship once a year when there were so many important policy issues floating through would have been quite wrong then and would have destabilised Scrutiny further. So, Sir, to sum up, this is a much broader issue than it has been portrayed. Yes, it is difficult to wrestle with some of the evidence in this area and, as the Chief Minister said, it is utterly critical to Scrutiny. There are an enormous amount of enthusiastic, hard-driving, hardworking people on Scrutiny and despite the enormous efforts- and I would praise Deputy Duhamel, his dedication is absolutely without parallel - it has to be said, despite the enormous amount of effort, the chemistry in a very, very important way, Sir, does not work and it is time to move on.

#### **7.15 Connétable K.A. Le Brun of St. Mary:**

Most probably, as you are all well aware, I do sit on this Scrutiny of the environment and, yes, we have had our little focuses in the past but nevertheless, I have always felt that Deputy Duhamel certainly tried to give us all our say and what we wished to and came with the right, hopefully, decision in the end. I think it is a very difficult one this, I must admit, because I can remember Senator Syvret mentioning the other day about power and his word was "power". I think that, as well, you are getting the power from the Ministerial side of things so also one has got to look forward, or towards the power of the opposition as well and to move forward together. Certainly, knowing the members, but not having naturally been on the Chairmen's Committee, you have got on that Committee very many individuals championing with their own way forward as well and I think it is a very difficult one. No matter who would be Chairman of that Committee is going to find it very, very difficult. Just as well as one has got to tend to look to the future and champion the cause of Scrutiny, I think one has got to be very careful that you do not necessarily champion the cause of the opposition to that extent because I think one has to move forward together. Scrutiny has got its direction to go, which can be to scrutinise some short sharp ones and on the other hand look to help, and, as I mentioned, about the Citizens Panel and the Minister for Planning as well, saying how helpful it has been from his point of view. So, I think it is a very difficult one too. You have to have somebody there that possibly has not got too many forceful and strong views but to try and get the consensus of those and put it through in the rightful manner. I am sure, like everything, going into the first year of the new Ministerial government, there are problems, there have been

problems but this surely is the stage now to review all those problems and to sit down and find a way forward, not necessarily just because you cannot get your own way you then want to change the person that is the Chairman. It has been different and it is different over this last year, with the difference being from the new Members and the old Members because the whole Ministerial government has been different to the previous Committee system. Some of us who have been used to this system have had to change our ways and some of the newer Members, having not known that, literally only see the one way forward. But I think one has certainly got to be, as the Chief Minister said, focused on the way through. I do not think it needs, necessarily, a change of Chairman, at this stage. I think it needs a whole review of which is the correct way forward because, having never come this way before, we do not know if we are going in the right direction and it has to be a consensus of all thoughts. The Deputy of St. Ouen's speech - I would like to call it a speech - I think was too emotional and I think this is the problem at the moment, is that there is too much emotion going on without thought and without looking towards the future and looking inwardly, should we say, for everybody else and I do feel that he was very, very emotional. That, if I may say so, would be the kind of Chairman I do not think would be the right person, that attitude of that one would be the right person to take forward. That attitude, as it came across and I think that was too emotional without trying to see all the views in that direction. So, with that, I will sit down and will be against the proposal.

#### **7.16 Deputy A. Breckon:**

I attended my first meeting in an official capacity in December last year, that is as Chairman of the Health, Social Services, Employment, Social Security and Housing Panel. I had attended a previous meeting as Vice-Chairman of the Economic Affairs Panel in the absence of Deputy Southern so I did have a knowledge of what or what not to expect. I will come back to that, Sir, in a minute or 2 but I want Members to perhaps cast their minds back to the telephone masts investigation and Deputy Ryan's proposal that we have a Committee of Inquiry. Members may remember that Deputy Duhamel, as President of the Chairmen's Panel, used that position which is in Standing Orders - I forget which one it is, 78 or 80 or whatever - to ask for a direction from the chair that it be referred to Scrutiny. The reference was confusing at the time because it was nothing to do with the inquiry itself, it was whether it should be looked at, and that did cause some confusion. I was a bit in the dark at the time because it was being transferred on to my watch quite conveniently by the Deputy of St. Martin at the time, who was handing over responsibilities for all things that were mildly painful and I was not sure what had gone on at a Chairmen's meeting a day or so before. I was reliably informed - and Deputy Duhamel said this this morning - that he resolved the overlaps in the telecom masts. Now the overlaps, to the reference of the various Scrutiny Panels, whether it was Economic Development, whether it was Health or Environment, but the minutes did not show that and it was indecisive about what the decision was so I think, perhaps, at the time, the House may have not seen the clear picture that emerged from that earlier meeting and I myself did not until some week or so later. Having said that, Deputy Duhamel at that time was acting as President of the Chairmen's Committee and did have that authority and Standing Orders to influence what this House may or may not have decided. What flowed from that, there was a debate behind the scenes for another 3 weeks or so, about what was going to happen. Again, I would contend that Deputy Duhamel said this morning that to resolve the overlaps with the Telecom masts; well I do not think he did. So I think that claim is not substantiated and I think minutes and events will show that. Having said that, Sir, things have moved on and from that a positive review will emerge but I do not think it is to any thanks to Deputy Duhamel at all.

#### **Deputy R.C. Duhamel:**

On a point of clarification, would the Deputy advise the House, who is the member of staff he is using in order to conduct the telephone review?

## **Deputy A. Breckon:**

We have got a member of staff on secondment, Sir, and the reason we have got that is because when this was referred to the watch, there was nobody to do it. We did not have an office. So that is the situation. Sir, I would say the Chairmen's Committee, to me, has appeared to have what I would call a repetitive agenda. The times I have seen things on the agenda and thought: "I thought we had decided this or we had not, or somebody was going to do something." Items appear to have come up again and again and I feel sometimes we have been there, we have decided that it should move on and I have had the feeling that there have been some items that have been off the agenda, that have been discussed and I do not think that is good and healthy in open government. I think wherever possible, we should share information with colleagues, regardless of where they are in this House wherever possible. I think that is good government and I do not necessarily think that has happened in the case of the Chairmen's Committee. I feel, Sir, as well as having rules and regulations, sometimes there is an unwritten responsibility; there are some times where people have to get the bull by the horns and move things on and drive it and sometimes somebody's enthusiasm can get results fairly quickly and if we go to sleep on issues, they seem to go on for ever more. Although that is not written, Sir, that something that is down to an individual or a group of individuals to do and we have a very confident and a competent staff and I think we could do that with them. But where we are at the moment, Sir, I believe could be affecting morale if they feel unloved and perhaps messed about a bit and do not think we should be doing that; we should be taking them with us. But we need, sometimes, a leader, we need a mover and a shaker, and we need to do that. That, I believe, will lead to progress, not for Scrutiny but for the system, for the government and for the people of the Island. I think, Sir, sometimes we seem to have had, with the Chairmen's Committee, what to me appears to be a logjam. What has happened is things disappear and come back again and I do not think it is very productive and I do not think it is the best use of time. Having said that, others have already mentioned we are on a learning curve and we must progress and we must learn from things but the question is indeed how we do that. The Chairmen's Committee did discuss at the end of 2006 the possibility of having a rotating chair and that is a case of we would move things on. Standing Orders did not allow that because, in general terms, the terms of office of members are 3 years, linked to the political cycle, and that was the case with Deputy Duhamel's chairmanship. We did have a serious discussion about that and my recollection is that Deputy Duhamel was asked if he would stand down so that we could do that and he declined that and that was in, I believe, December last year, or it might have been January because sometimes these meetings blur into each other. So that is really the first approach that was made and then there was the possibility of could Standing Orders be changed? Yes, but whatever. So there has been a degree of discussion behind the scenes, Sir, and I do not think it is good and healthy because it is not what we are supposed to be doing and we need to move on and that is why perhaps we are where we are today. What I would like to touch on, Sir, is there has been a point of focus about a production of a newsletter and it was before my time but my understanding is that there was the P.E.G. which was set up to look at how Scrutiny was seen in the public and to get some profile. It was the Public Engagement Group and the members were proactive, they were keen and this came from those members and it was put to the Chairmen's Committee rather than from the Chairmen's Committee. I should declare an interest, Sir, in that I have been involved in the production of newsletters over the last 11 years and I have just worked it out on this scrap of paper and in that time I am probably talking about over 1.3 million newsletters that have been delivered to the Island ourselves. So I would not claim to be an expert but, with respect to the other members of the Committee, I did have some knowledge about the subject, about the production and the costs, the distribution and whatever else. I did review the consultants' proposals. I thought they were over the top, they were expensive, and I did make recommendations about what we may do and I then withdrew from the decision. I did not leave the Island, as Deputy Ferguson said this morning; I did that because of a conflict because it was a shared cost with the Consumer Council of which I have another interest. But I would say, Sir, that I have also done this previously with the

Privileges and Procedures Committee and I have done it with the Communications Unit so it is not something that has not been done before, Members will be aware. I am in discussions at the moment with Transport and Technical Services about something in the future. So it is something that is done because it is public money and we are responsible for saving it wherever we can. I would say that Deputy Le Claire's figures are wrong; he did say this morning £20,000 for one issue. It is probably about £8,800 for one issue.

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

On the point of order, Sir, if the Member would let me just clarify. As the transcript will bear out, what I said was from the proposer's speech indicating 2 issues at £20,000; 2 issues at £10,000 each, I was told. I said if you double that, it is £40,000, which is what we considered when it came to Committee.

**Deputy A. Breckon:**

Could I remind the Deputy, Sir? This was something that was worked on about 6 months ago and, to my knowledge, it was fairly new to the Environment Scrutiny Panel, probably in the last month. I do not have a problem with him changing his mind but it is difficult if somebody has worked on something for 6 months and then you come new to the issue and at that stage, where you get committed to print and to distribution, you pay the money anyway. If you do not go, you pay the money and I am not sure what information you were given and how it was presented, and I understand as well that the Constable of St. Helier is fairly new to the Panel. I do not, again, have any problem with you revisiting the decision but you must be aware of the consequences if you get committed to people's time and effort if you withdraw. So it is not a case of we do not like it; it is a case of sometimes you have to live with the majority decision and I think, really, that is where we are. The transcript, I am sure, will show what you said or what you thought you said or what you might have said it, so we will see anyway. Senator Walker hinted at slippery meetings. I should say, Sir, we have had some extra meetings on various subjects and sometimes I have left thinking: "What was that about and what did we decide? What have we achieved and where will it go and who will progress this?" I would quote as an example, access to legal advice and there has been some dispute about the opinion of the learned Attorney and how that could be interpreted and who should have access to it and there are some understandable concerns there but we have never between the Executive and Scrutiny, resolved those issues. We had a meeting the other day and I said "Well, okay then, if they are not resolved, let us do something about it, let us bring a proposition to this House to seek the money for independent legal advice for Scrutiny. If that is where we are and that is what we need then let us do it and let us have that debate. If there is a debate to be had, let us have it here. Let us not have any more of these corridor meetings, bring a proposition and the money must be found, if that is what is agreed, for this legal advice. But at least do it; bring it out in the open. Let us not have another 49 meetings over the next 18 months." I think any Member of the Chamber could do it but it would have some effect if it was done through the Chairmen's Committee, which would be seen to be the co-ordinating body. Unfortunately, we have not had the driver to do that and I think perhaps with some leadership that would happen but at the moment, I must admit, I cannot see it. Having said what I have said, Sir, I think we need to be positive and these things are never very pleasant but we need to move on. We need to think about things like staff morale. This is a public hearing - a very public hearing - but, believe me, it has been tried to resolve this privately. It has not happened and I have some concern, Sir, that other things have been discussed, privately, that are better aired publicly or we all should move on. But in conclusion, Sir, I would say I think this system will survive this test and if this vote of no confidence is supported, which I believe it should, I think it will strengthen the system because it shows that we can examine ourselves and, where necessary, we can challenge ourselves.

I do not think that is harmful; I think that is good and healthy. It may be unfortunate, but, as they say, we are where we are. So, I hope Members will support the vote of no confidence.

**7,17 Deputy J.J. Huet:**

Well, Sir, I heard Deputy Routier say that when we all came to the House and at that time there was 10 of us that came in with Senator Routier. There are 5 of us still left in the Chamber and 4 of us have now spoken this morning. It is not as if one cannot say you do not know the people you have been with - it is 14 years - but I have to say that Senator Walker managed to take the wind out of my sails, but I will come back to that shortly. Senator Routier said that he remembers being the Chairman of a couple of committees where he had Deputy Duhamel and he said that one has to learn to manage if you have got an odd one out. But there is a big difference. If you are the Chairman of a committee and you have got one member who is the odd one out, that is one way of handling things; if you have 5 members of a committee and the Chairman is the odd one out, that is another way of handling it. It is completely different. The rumour has been round the Chamber that this motion would be lost because the people that do not like Scrutiny would vote for Deputy Duhamel to stay, and this is where I have to say the wind was taken completely out of my sails when Senator Walker spoke.

**The Bailiff:**

You should not listen to rumours, Deputy Huet.

**Deputy J.J. Huet:**

No, definitely not, Sir. **[Laughter]** Very correct, Sir. I thought “Well, that was wrong, was it not?” Because we have Senator Routier saying one side and Senator Walker saying the other side and I was pleased to hear that and I am just saying that I hope that there is no twist to that and everybody will make their own mind up on the actual facts, one way or the other. Thank you, Sir.

**7.18 Deputy S. Power:**

I will start by saying in March - I think it was April - 2005 when I was outside the States looking in, I looked at this new wave of political support for one focused opinion at the time and my remarks here are an observation rather than a criticism. There was a great meeting one night at Fort Regent and there were many disparate parts of different viewpoints of Jersey represented at Fort Regent that night. I looked at that amalgam of differing political viewpoints and I watched the media reports for the next couple of days and I said to myself: “The biggest threat to this is not from outside that Fort Regent meeting, it was from within.” I feel the same way today about Scrutiny. I think there is a threat to Scrutiny today, from within and the same thing that I saw happening at Fort Regent and after Fort Regent 2 years ago, I feel may be happening now. Deputy Duhamel, in my personal opinion, is one of the great cerebral heavyweights of this Chamber and I put him in the same company as Deputy Troy, Deputy de Faye, Senator Norman, Deputy Southern and Deputy Le Hérissier, and I am sorry to those of you who are left out. **[Laughter]** I did qualify it by saying that it is a personal opinion and I have listened with great interest to what Deputy Duhamel has said over the last 15 months on the Environment Panel and, much and all as things are not perfect on the Council of Ministers - we know that from much documented reports recently - things are also not perfect on Scrutiny. But it is how we deal with the problem. So, while Scrutiny leaders, the chairs of Scrutiny have chosen to, I presume, I think the correct phrase is “wash their linen in public”, the Council of Ministers choose not to do so. I am sure the Chief Minister earlier on, when he was here, was thanking his lucky stars today to be where he is today and to not be where Deputy Duhamel is today. All of the predictions of votes of no confidence in Ministers over the past 12 to 15 months, who is going to be the first Minister with a vote of no confidence against him - or, dare I say, her - have not materialised and there has been no vote of no confidence in any Minister, and I am sure, when he saw P.40 sailing through his letterbox, he breathed a sigh of relief and he thanked his lucky stars. So, here we are, witnessing today, Scrutiny against Scrutiny, no



conspiracy theory from the Executive, from the Council of Ministers or from that diffuse party called the establishment party. The actual problem is Scrutiny against Scrutiny. I was elected on to the Environment Panel in December 2005 and, for a number of reasons that I am not going to go into today, I was not exactly top of the pops then. But Deputy Duhamel did give me a position on the Panel and I wholeheartedly embraced and enjoyed my role. There were times on the Environment Panel when Deputy Duhamel painted a picture of what we could be doing on Scrutiny with his depth of knowledge and passion that took my breath away and he impressed me with his passion for the Island he was born in. There were other times on the Environment Panel when I was very unhappy. There were a number of times when I felt frustrated that what I wanted to do, the direction that I wanted to take designer homes in; however I did accept the majority vote and, in certain situations, the unanimous vote. Deputy Duhamel is very much like the Chief Minister; he has to do a juggling act, one on the Environment Panel and one as President of the Chairmen's Committee. I calculated that there are 55 years of political experience on the Chairmen's Committee if you add up the accumulative amount of years that the various Chairs have served in this Chamber and, much like the Chief Minister, he also has to seek consensus and at times that must be as difficult for him as it is on the Council of Ministers. The stewardship, whether it is the Chairmen's Committee or the Council of Ministers, is a matter of consensus and I feel, today, that this exercise in bringing a vote of no confidence in Deputy Duhamel is not the correct way forward. I am very worried about the effect it will have on Scrutiny and I feel that not only will it affect work within Scrutiny but it has a knock-on effect within the public. I saw the Chief Minister look at Deputy Troy when Deputy Troy was speaking and he was shaking his head when Deputy Troy was referring to the description Deputy Duhamel gave of the great work that Scrutiny has done. Well, there has been some tremendous work done on Scrutiny, a lot has been achieved, but there are errors to be corrected, there are problems in Scrutiny. I personally feel, today, that Scrutiny can become very effective and can become more effective but I am very uncomfortable with this vote of no confidence. I feel that if the vote of no confidence were to fail the Chairmen of the individual Panels should resign and should be re-elected by this Assembly. So, I shall not be supporting the proposition.

#### **7.19 Deputy C.J. Scott Warren of St. Saviour:**

Members will know that Deputy Duhamel is my fellow Deputy in No. 1 District of St. Saviour and he has, at all times, been a good and very helpful colleague. I have to say that I have no first-hand knowledge of how Deputy Duhamel works as President of the Chairmen's Committee. I was pleased and voted for him to become Chairman of the Environment Scrutiny Panel because he has a science background. He must be an asset with that knowledge and, basically, it is his forte and I believe most Members would agree about that. I am very sad that Deputy Duhamel finds himself in this position here today. I believe that in future Scrutiny chairs should be able to elect their Presidents on maybe a one or 2-year term of office and that the Chairmen of the Scrutiny Panels should still be elected by the States Assembly but then they should have that ability to elect and re-elect - reaffirm if need be - the person they have got as their leader. If I were in Deputy Duhamel's shoes, I would, to be honest, probably have stepped aside to give another Panel Chairman a turn at the top. It is far less onerous and nerve-racking than facing a no confidence vote here today. As I believe I have said, I think this is a sad day for Scrutiny. Without majority support, it will be very difficult for a President or a Chairman to operate effectively. Therefore, I cannot see how Deputy Duhamel can win this, in the true sense of the word, today - this is whichever way the vote goes - because each of us have our strengths and weaknesses and we need to contribute accordingly. We need the support of our colleagues to stay in positions and I must reiterate that I believe that Deputy Duhamel does have a very great deal to contribute to Scrutiny. I think the fact is that the Standing Orders - we are in early days in this Government - have not been... I was on the former Privileges and Procedures Committee and we knew that they would need tweaking, that they were not going to be perfect. All of us need to contribute what we know we do best. I always had a high regard for Deputy Duhamel on the environment issues, ever since I have been on Public Services for 3

years in 1999, and I am very happy for him to be on this Committee that he heads at the moment but I would prefer that he had the support of his fellow colleagues. Thank you.

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

I was one of the 2 Members, Sir, who are on the Chairmen's Panel who has not signed the proposition and it was not because I am in support of Deputy Duhamel or I am opposed to it. I just felt that the way in which we as the Chairmen have approached the whole thing really was not the way forward. There was and there has been, as we have heard, some festering about the role of Deputy Duhamel and in fact it would be wrong to say, I suppose - or right to say, whichever you want to do - but being a Chairman of this particular Panel is a difficult role because it has some quite strong personalities on that Committee. We have all come in with different views. I think we all like to work with consensus providing they work with my consensus, work with Deputy Duhamel's consensus and so on. It is just a difficult way to go forward. But I felt, really, that we should have handled it better and, really, I suppose the straw that broke the camel's back was the issue of the newsletter. When I think right back to the newsletter I think what a silly thing for us to be falling out over because, really, I have not been jumping up and down with the thought of the newsletter but I have been prepared to give it a go because I think, without trying, we will not know whether we are doing the right thing or wrong thing. I also question whether we are going to get value for money but we will only find out once we have done it and if we think it was successful we will repeat it. If not, we may re-jig, think it up and do it again but I really think that when we had this problem with the newsletter and when we found that Environment were not going to support it, what we should have done, as a Chairmen's Panel, is to come back, sat around a table and see the way forward. As it was, it was not done and we had a few people who were rather agitated, went off down their own sweet way and then have said: "Put a gun to Deputy Duhamel's head" and then asked us, the other 2 members who had not signed, whether we would agree with them. I just felt that was not the way forward. I also accept that if we are going to have this debate, there is going to be a lot of dirty washing done in the public. Indeed, that is what has happened today. However, I think it is probably... if it is the only way to do it, well, so be it. I think one of the problems we have had all along was Scrutiny; not just with the Chairmen's Panel but with Scrutiny *per se*. I think we have had difficulty in leadership because we are not quite sure of the direction which should have been taken and I think one day we have really got to go back to going right from the start. Can anyone think of any committee, department or anything else that has been set up without having an executive officer? I find it absolutely amazing to think that here we have such a major issue as Scrutiny, yet we brought no one in, even on a 3-year '(j)', to show the way forward, someone with Scrutiny experience. It was not done. So, anyway, we have now got this vote of confidence or no confidence and we have heard the evidence. In actual fact, I was wanting to come today to listen to the evidence because, as far as I am concerned, I am not supporting Deputy Duhamel, I am not opposing him, I want to hear the evidence. All I have got is 3 bits of evidence: (1) that they do not like Deputy Duhamel's management style. Well, I am sure people do not like mine either but we have all got our own styles. I do find his style sometimes difficult to comprehend but, that is Deputy Duhamel. (2) We have also been told there has been a turnover, a higher than expected turnover of Scrutiny Officers. Well, I stand corrected but I believe we may have had one. He may have gone, I understand, for a career move. Irrespective of what he has gone for, I understand only one. So, if we have had one in 15 months; that is not bad. (3) The third one is that new members' views were not taken forward but we were not told what views were not taken forward. I know that we have had P.E.G., our engagement group, and I think they have worked very well. I have been delighted, really, with what they have produced. However, again, the proof will be in the pudding. So, no evidence there. We heard from Deputy Le Claire, who talked about the newsletter clearly as a problem for Environment. They do not think they are getting value for money and this is their right. They chose not to go in. I am disappointed because I think they ought to try. Like my Panel, we ought to try to see if it is going to settle. However, that was their decision but that really has really led to where we are now with looking to see

whether Deputy Duhamel is the right person to lead. We have heard from Deputy Southern and he said: "Well, we should have an orderly takeover." Well, I suppose if you have a gun held to your head that is one way of having an orderly take-over. In fact, in fairness to Deputy Southern, he has been unhappy about the way Deputy Duhamel was running for some months. We discussed this at length last October and it was decided then the only way forward was to bring a proposition to change the means in which we could have a quiet and peaceful turnover but it has not come. We were also told that decisions have not been taken forward but, again, we were never given any examples of which ones were not taken forward. We have had Senator Cohen and the Constable of St. Helier both being supportive of Deputy Duhamel. Deputy Reed had a very strong speech and he said we have got to develop in a proper manner and we must change the Chairman. I was waiting for reasons as to why we should change the Chairman. Deputy Troy made reference to the Deputy's speech and he has talked about the achievements. Quite right, the Panel has made achievements. It could have done better but, again, would a different Chairman have made any difference? Again, not because we have a young Member, she happens to be on my Panel, but she is a young Member and the youngest in age as well, that is Deputy Mezbourian. I thought she made a very good speech and, again, she pointed out the issues that are facing and have faced the Chairmen's Panel. Indeed, Deputy Gallichan, the Deputy of St. Mary, said it is a sad day for Scrutiny and I agree with her. We should not be having this speech or this debate today but we are where we are and she had been looking for more information about the problems on the Committee. Well, since her speech there have been a number and no doubt you have heard a few more of the problems but also again, I would hope to think, some successes of the Committee. Constable Jackson, he is not here, but I was a bit surprised, with him saying he has got to support the proposition because, if the proposition fails, there are problems ahead. Well, I am sad to say, if the proposition succeeds, there are also going to be problems ahead, so there is no way of winning. So, you could almost toss a coin to say which way you want to vote. Senator Routier said that, again, he thinks that we have got to work a lot more together and I support that. I think we have got to work a lot harder and, again, he says he will not support the proposition. Senator Walker quite rightly says it is a matter for the States and I am glad he says that and I would hope that every Member will vote because, again, as Deputy Mezbourian said, everyone had the opportunity of voting the Panel on so you should all have the opportunity of voting the Panel out or indeed giving your support. He said that we should have a greater co-ordinating and overseeing role. Well, again, I agree with that but whether that will be with the new Chairman or not remains to be seen. In fact, I would ask Members to consider who is going to be the new Chairman because it would appear that we have Deputy Southern who does not want the job; Deputy Ferguson, I heard on the radio, said she does not want the job. I do not think Deputy Ryan wants it. I do not want it. I would have thought Deputy Breckon has more than enough on his plate. The Deputy of St. Ouen cannot do it because he is not a Chairman and the Deputy Le Hérissier cannot do it because he is not a Chairman. So it is going to be difficult finding out who is going to do the job if we do not have Deputy Duhamel.

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

As a point of information, Deputy Ferguson has indicated that she will be putting her name forward.

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

Well, I am glad I have heard that, Sir, because I listened to the radio interview and I have not heard that since the day the proposition was lodged. So, again, I stand corrected if indeed Deputy Ferguson is willing to stand. Well, at least we know where we are with that one. My good friend in front of me, Deputy Le Hérissier, we have had discussions about that and he says there are broad issues and there are. I think we both discussed at length and I think we have probably got to maybe

agree to disagree but really it is a difficult decision for both of us to take. He just feels that our efforts are not really achieving all the work we are putting in. Well, that remains to be seen. I think the Constable of St. Mary quite rightly said it is a difficult job being a Chairman and I think it is a very difficult job being the Chairman of a Scrutiny Committee. Deputy Breckon, I am afraid, he made reference, Sir, to the mobile masts proposition and how some way or other Deputy Duhamel used his influence for the States to be agreed for this to be referred to Scrutiny. In actual fact that was right but I do not think Deputy Breckon was really fair. What he should have said was, of course, it was for the Panel then to decide whether they wish to take it forward or wish not to and his Panel then decided, Sir, to take it forward. So, really, the decision was down to Deputy Breckon and his Panel itself. He talked about logjams on the Committee but, again, gave no examples. He mentioned about learning curves. We will all accept that it has been a deep and steep learning curve. Deputy Huet talked about...

**The Bailiff:**

Deputy, I am sorry to interrupt you but the Assembly is going to have 2 summing-up speeches and I do not know whether the Assembly is really expecting a third. The Assembly certainly wishes to hear what you have to say but I do not think you need to sum up what everyone else has to say.

**The Deputy of St. Martin:**

Well, I am just covering some of the points, Sir. In fact you could almost say the words that Deputy Huet said. Sir, you have taken the wind out of my sails because she referred to what Senator Walker said, but I think she had a good point. She said: "Make your own mind up" and I hope that is what Members will be doing, make their own minds up, listening to all the evidence that is there and even the evidence against, but my point is there is very little evidence for. You will be pleased to know, Sir, there is only one other person to follow, Sir. I will just mention that one and that is Deputy Scott Warren who talked about Deputy Duhamel stepping aside. Well, I do not think Deputy Duhamel needs to step aside. It is for this House to make their minds up. They have heard the evidence. Make your minds up; vote whichever way you want to; bear in mind what the consequences are going to be. Thank you, Sir.

**7.21 Deputy J.A. Martin:**

It is not very often I stand up in this House and I have to agree with basically every word that the Chief Minister said in his speech [Laughter] but I must admit I did. I am not a Chair of Chairs but I have, on occasion been sent because the Chair of one of either of my Scrutiny Panels has not been available to have meetings either at the Chairmen's Committee or when we have had delegations in front of the Council of Ministers. I must just say I think the Chief Minister was quite kind when he said they were slippery. I find them downright embarrassing sometimes because we, as Scrutiny, are not singing from the same hymn sheet. We may discuss things before we go in and then Deputy Duhamel will revisit, again and again, the question - and I will just stick to one point but there are other points - of legal advice. Now, the Attorney General, Sir, has made it quite clear - I have no problem, I am under no illusion where the Attorney stands on his legal advice - he wants it to be for the Council of Ministers. I think he has made that quite clear and I think he has not changed his stance but Deputy Duhamel seems to think that if he keeps bringing it back and bringing it back that the Attorney General will change his mind. Now, this is one point where we have difficulty with Deputy Duhamel. It has turned into a personality thing and this is why, also, I did not want to vote for the proposition without explaining to the Deputy why, if I do, which I probably will, vote for the proposition because, as a States Member and a hard worker, I have no problem, like everybody else here, with Deputy Duhamel's commitment. Unfortunately he is a totally born optimist where probably I am borderline pessimistic and I have to admire, Sir, his optimism. After 18 months or more, we must sort out the protocols to Scrutiny and we are not doing it under Deputy Duhamel's leadership. It is called co-ordination. They have meetings, the

Chairmen's Committee. The agenda goes on from 9.30 a.m. to 2 p.m., Sir, you talk about evidence. It has upset me today that it is Scrutiny to have the first vote of no confidence. Deputy Duhamel decided not to stand aside and I have gone through like he did, obviously, at the time and there were discussions with you, Sir, that this was the only way unless every Chairman of every other Panel resigned, which means Scrutiny falls basically, which could be the next option. I do not know how the main Committee and 5 out of the main Committee, not Deputy Duhamel himself but now we have heard from the Deputy of St. Martin, say that they cannot work with the style of Deputy Duhamel. I was quite upset in his speech where he tried to say that his style of government was not oppositional and not party political and that this vote had been brought because there may be certain members on the Chair of Chairs or even in Scrutiny itself that have an ulterior motive, Sir. That is certainly not the case. I would not need to have been asked twice, especially as scrutineer, and the passion the Deputy has for Scrutiny, he would still be the Chair of Environment. It is exactly what Deputy Huet says. He is the Chair of Environment; he works with his Committee who he chooses. On the Chairs' Committee he is working with people or chairing the Committee of people that are put there and he cannot change. To ask Deputy Duhamel to change his style after 14 years in this House, I think, is even being more optimistic than he is, Sir. So, as I say, there might not be a lot of evidence and it is a sad day for this House because whoever it was going to be, this was the only way, after talking to other Scrutiny members, it seems to have come down to the argument over, "Oh, well, Environment did not put in for a newsletter". We were told we would have the Communications Unit. We are never going to have the Communications Unit; it is not even in the budget for next year for Scrutiny. So new members felt that we wanted to get a voice out there and Deputy Duhamel, under the old Environment Scrutiny Panel, had agreed to this and then he has a new Panel and instead of championing this because it was a decision already made, it went back to the Committee and the decision was overturned, which I do not agree is the right way for even the Chairman of the Environment Panel, let alone the Chair of Chairs. Just one thing he did say, it is this revisiting. We know and I know that I have a lot of different opinions to people in the House, but I think I have learnt over the years that I can tolerate the policies and tolerate the person even if I do not agree with the policies of the person. Now this is where we really have got to be, today, look at what you have. You have got 2 people in the House for the second term, quite a few years of experience, who have signed this and there could have been more signatures but they did stick to the Chairmen's Panel on the proposition. It will be a close call and it is certainly not, either way, a very good day for the Government. But what I will say about the telephone mast issue, Deputy Duhamel interrupted Deputy Breckon to say, "Yes, but whose officer did you use?" Yes, it was one of the Environment Panel's officers to, Sir, the detriment of designer homes which has not been produced and is months and months overdue because the Deputy gave away one of his officers to do a subject that he was passionate about, Sir. Now, is this the way to make decisions? Frankly, I do not think so. I am sorry it has come to this. I personally apologise to Deputy Duhamel that I am going to support the proposition because as a person I think he is great; as a Chair of Chairs, I am sorry, I think it has been long enough. We have not resolved one very important issue and that is legal advice and with this Chair we will not do that on Scrutiny. Thank you, Sir.

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

Can I raise a point of order, Sir?

**The Bailiff:**

Yes.

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

I raise this now because I wanted to speak to the voting arrangements and I am quite conscious that it is preferable to hear the 2 summings-up and go straight to a vote. So, rather than raise the matter

as we are poised to go to a vote, I think it is more appropriate to raise it now so that we can have the 2 summings-up without interruption and lead on to the vote. I am very grateful, Sir, to the Greffier. In a sense I have spoken to you already through your *alter persona* in the form of the Greffier standing in for you this morning. I am grateful also to the written response that I have had but I think it is a matter worth sharing with the House. My concern is a simple one and that is that this vote, it appears to me, will either go to a standing vote or an appel. I do not believe that is right. We are elected, all the various positions, Ministers, Assistant Ministers, Chairs of the Panels, on a secret ballot and it is done so on a secret ballot for, I think, very good reasons. Now, this may have been some oversight in Standing Orders, but it seems to me that it is not right that we have 2 summings-up and then we go to an open ballot. I think that is divisive and I think it is not an appropriate way forward, so I would be indicating that we suspend Standing Orders. I have an early view, Sir, of your view but I would ask you to use - you are the only person in the Chamber with this ability, Sir - your jurisprudential overview because it seems to me only right and proper that when people are elected to an office in this House, whatever it is, by secret ballot, then clearly it is natural justice and equity that they are unelected from that office by secret ballot. I raise this matter now, Sir, as I say, because it has the potential to go to discussion or debate, particularly if I ask for a suspension of Standing Orders, and I would rather that we have that debate now and clear the matter up rather than interrupt what effectively will be 2 summings-up and a vote. How do you suggest we proceed, Sir. [Laughter]

**The Bailiff:**

Well, Deputy, that was a most eloquent speech, but I think you already know the answer which I am going to give to the point of order and that is that Standing Orders simply do not allow Members to vote secretly on a proposition of this kind. Now, whether Members wish to change Standing Orders or not is a matter perhaps for another day. I do not think it is open to you to propose the suspension of Standing Orders because if these Standing Orders are suspended there will be no provisions for any vote at all. I do not think that technically it can be done and it is a matter which, I suggest, that you raise with the P.P.C. if you think that is the right thing to do.

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

Thank you, Sir. Naturally, I am disappointed with your ruling but, clearly, if there is no provision to deal with this matter today, Sir, it will have to be something I will raise with Privileges and Procedures.

**The Bailiff:**

Very well.

**Deputy R.C. Duhamel:**

Might I beg the indulgence of the House? I should have been forewarned, I did not know how long the vote was going on for and it is probably a sign of ageing as much as anything else, or the excitement of the day, I am bursting for a leak. Would we be able to stop? [Laughter]

**The Bailiff:**

I am not sure that is parliamentary language, but I suggest that you retire quickly and there are other matters which the Assembly can perhaps...

**Deputy R.C. Duhamel:**

Okay, right, thank you very much, Sir.

**The Bailiff:**

May I have Members' attention? The Deputy of St. John has raised with me a difficulty that he has because he is obliged to be out of the Island tomorrow on States' business and he has been deputed by the Minister for Home Affairs to deal with Projet 19, the draft Regulation of Investigatory Powers (Amendment) (Jersey) Law. **[Aside]** He has asked me whether this matter might be adjourned to the next meeting of the States on 17th April. Are Members content to leave that over until 17th April? I hope, Deputy, that you heard that little intervention and if Members are content Projet 19 will be adjourned until the next meeting on 17th April.

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

**Senator P.F. Routier:**

Could I suggest that we do the Third Reading for the Minimum Wage thing which is the item after the next major debate, really?

**The Bailiff:**

Is that an entirely uncontroversial matter?

**Senator P.F. Routier:**

Well, it is just a matter of Third Reading of the... I believe it is uncontroversial.

**The Bailiff:**

Well, if Members are content to deal with the Third Reading before Deputy Duhamel returns, I will ask the Greffier to read the citation of the draft.

**The Greffier of the States:**

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

**8.1 Senator P.F. Routier:**

Members will recall that at our last sitting, due to amendments which Deputy Southern brought forward regarding the student rates, we decided, on the hoof, to take out the references to the student rate in Article 2 and also a consequential amendment in Article 4 to the Regulations. Then we needed the assurance from the law drafting people that the Regulations still hung together and I have had that assurance and I believe they can proceed and I propose them in Third Reading, Sir.

**The Bailiff:**

The Bill is proposed in Third Reading. Is it seconded? **[Seconded]** Seconded. Does any Member wish to speak on the Bill in Third Reading? Deputy Southern?

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

Just to inquire whether the amendment to Article 4 takes out Article 4(b) which is the total reference to any other reason for paying less than the minimum wage, apart from a trainee rate?

**8.3 Senator P.F. Routier:**

Yes, it does have that effect and in fact I will also be lodging a proposition which will amend the Law completely that there is no ability to have that come forward. Perhaps while I am on my feet, Sir, I will, obviously after this is approved, be making the Order for the minimum wage itself.

**The Bailiff:**

I put the Bill in Third Reading. Those Members in favour of adopting it, kindly show? Those against? The Bill is adopted in Third Reading.

**Deputy P.N. Troy:**

Can I just ask regarding the movement of the item for Home Affairs, Sir? Two weeks ago we had a vote on whether the Minister for Home Affairs should be *defaut excusé* because she was not available and the Assistant Minister was not available, Sir. This week the Minister is again absent and the Assistant Minister is absent tomorrow. Everybody knows that States business is scheduled for a 2-day sitting and can we ask Home Affairs to explain why the Minister and Assistant Minister are missing the States, Sir?

**The Deputy of St. John:**

Yes, certainly. I think it was referred to by Deputy Ryan that we were conducting interviews for Superintendent of the Police last week and it was a difficult date to arrange with so many people involved and it did unfortunately clash with a States day. I have an appointment in the Isle of Man with Her Majesty's Prison and the police there tomorrow which was also arranged, I agree, on a States day but when the agenda was originally published it was quite a short one. It was perhaps remiss of us to do that on a Wednesday after the Tuesday but that is why it was arranged, Sir.

**Deputy P.N. Troy:**

Can I ask the President of P.P.C. to write to the Minister and Assistant Minister, Sir?

**Senator B.E. Shenton:**

Is it not the case that Senator Kinnard has gone on holiday?

**The Bailiff:**

I do not know.

**The Deputy of St. John:**

I can perhaps inform. Some of you may well be aware that Senator Kinnard has been unwell for some time and was strongly advised by her doctor to take a few weeks off to recuperate from pneumonia. That is why she is absent and that is why it clashes with me also being absent from the Island, Sir.

**The Bailiff:**

Thank you, Assistant Minister.

**9. President of Chairmen's Committee: vote of no confidence (P.40/2007) (resumption...)**

**The Bailiff:**

Now, can we return to the debate on the proposition of Deputy Ferguson? I call upon Deputy Duhamel to reply.



### **9.1 Deputy R.C. Duhamel:**

I should be fairly brief, I think. It has been a long day and first of all I would like to thank all of those who have had kind words to say about me, justified or not, and, indeed, all of those who have had perhaps slightly unkind words, but never mind. The big issue really that I think we should be taking into account is whether or not the case has been made in P.40 for the removal of the Chairman of the Panel or the President of the Committee. I would argue quite strongly that it has not and we have heard varying speeches in content as to the absence of any specific evidence, other than to say that there are certain issues that quite rightly need to be addressed. The one that springs to mind is perhaps the length of time, as mentioned by Deputy Martin, over legal advice. We have to ask ourselves why we are here. The Chairmen's Committee took a decision early on in the House, with the agreement of the Council of Ministers, by and large, not to debate on the floor of the House a code of practice without the legal advice issue being sorted. I admit it has been taking a long time and I agree wholeheartedly with Deputy Martin that I am, perhaps, over-optimistic of a satisfactory solution to the problem. But that said, we have to go at the pace of the slowest and in this particular case I think we have been held up in our discussions with the Council of Ministers. That is probably going to upset a few of them but, at the end of the day, we are making the efforts on this side of the House and we are appreciative in the efforts that are being made on the other side of the House to come together to solve this gritty problem. The Committee has agreed and continue to agree and it is fully documented in the minutes that I would continue to hold discussions with Senator Walker and, indeed, Connétable Gray from the P.P.C. Those discussions are still ongoing. I would hope that, as I said in my earlier speech, an early resolution can be found. But it will be definitely taken on board; it is not ignored; it is not going to be bypassed. It will require strong efforts, not only on my behalf but on behalf of the other Chairmen of the Chairmen's Panel, in order to achieve a satisfactory resolution of that issue. One of the chords also that I would like to resonate with is the comments from Senator Routier. I think he was absolutely right in suggesting that whatever the outcome today I am still a member of the Chairmen's Committee or I am still a member and the President of that Committee. That being said, I do relish the prospect either way and would like to convince the House or assure the House that I will do whatever needs to be done in order to build bridges between those persons who have moved this vote of no confidence in the first place. It is not a particularly nice issue to be at the end of a vote of no confidence at any day but, that said, I think we do have to work together. It is there under the Standing Orders and, come what may, we have to work together. We are *ex officio* members of the Chairmen's Committee and we should be big enough and bold enough and brave enough to bury our differences at every Committee meeting and work as far as possible together. That is not to say that we are not going to have our differences and it is right to expect that in any particular Committee situation there will be differences; you cannot escape them. But it is how we come to resolve those differences that is important. I think, certainly from what I said earlier, I have not hesitated in suggesting both to the Chairmen's Panel and the individuals on it, or indeed to members of the P.P.C., that if there are certain issues that need to be addressed in terms of the development of the Scrutiny function then the right and proper way is to come forward with suggestions by way of amendments to Standing Orders in order to resolve those issues within the Assembly. I have taken some steps to do that. I will continue to take those steps to do that because I feel that that is the right and proper way. This House is a debating assembly and we cannot resolve issues behind closed doors if there are sets of rules that tell us that the right and proper place is in this Chamber. As I said, Sir, the single issue that has annoyed a number of Members is the unanimous decision of the members of my Environment Scrutiny Panel not to participate in the last particular newsletter. Now that does not suggest that there will be other occasions where the same question can be put. That is not to suggest that there might be other formats which might find more favour with my Environment Scrutiny Panel in order to assist them in coming to some kind of consensus point of view in being party to a combined publication. But that said, Sir, I would reserve the right, and do so under the existing Standing Orders, to defend the decisions of all my members on my Committee to do what they are entitled to do under the existing rules and

regulations. If we want to change them, let us change them. With that last comment, Sir, I think I should sit down. I thank the Deputy of St. Martin for his comments in summing-up. He covered many of the points as you referred to, Sir. But I think the one point I would just like to briefly comment upon is that this issue must be voted upon by all Members of the House. Under the existing rules we have the right to confer upon any of the Chairmen the right to be President of the Chairmen's Committee or indeed the right to take it away. An abstention in this case is not the right way forward. We must have the courage of our conviction, based on the evidence that you have heard today, to vote one way or the other and I would urge Members to do whatever they need to do. Thank you, Sir.

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

It has been a long day. We have heard a number of views of the issues. What are the issues? Apart from the party political broadcast on behalf of the Environment Party, the issue is that Deputy Duhamel does take a slightly different view of the world. If you consider the stand on legal opinion, he says we can work towards a finalisation of this. Well, we have been doing that for 18 months and I see no chance of the Attorney General changing his stance on that. A different approach has been made in several meetings but has been ignored. So we have now got a Gordian Knot situation and it will take a fairly sort of blunt instrument to solve it. The Deputy keeps referring to his Environment Panel's stand on the newsletter but, hang on a minute, it is the position of Chairman of the Chairmen's Committee we are talking about. He promises to change. Well, yes, he did 3 months ago and we have gone as far as we can; we have bent over backwards. I have heard a call for evidence. The strongest evidence that you have got is that 5 of the 8 members of the Chairmen's Committee have asked for a change. Now, by no stretch of the imagination can my views, which are probably somewhere to the right of Genghis Khan, be compared to those of Deputy Southern, who is probably somewhere to the left of Karl Marx. **[Laughter]** Hyperbole: exaggeration for the sake of effect. As the Chief Minister says we have got to be able to meet with the Council of Ministers in an organised manner. That has not been evident to the Council of Ministers and unfortunately that evidence is only seen by the Council of Ministers and the Chairmen's Committee. The Connétable of St. Mary raised many points which were covered at the away day. We have been offered use of the Chief Minister's Communications Unit but that is going to cost us as well. There is a real conflict because they are trying to work for 2 masters. I am grateful to the Deputy of St. Martin for his summing-up. He forgot to mention that we have re-hashed the appointment of the P.R., the code of practice again and the legal advice again, and the new members' views at away day were ignored. The real problem is it is the working of the Committee that is involved. The main evidence is between the Committee members and on occasions it is evident to the Council of Ministers. If you want really detailed evidence then this could come down to a most unpleasant, personal slanging match and I believe that Scrutiny is too important to lower the tone to this level and I will not do this. But I do ask for your vote in the vote of no confidence and I call for the appel.

### **The Bailiff:**

I ask any Member who wishes to vote on this proposition to return to his or her chair and I will ask the Greffier to open the voting which is for or against the proposition of Deputy Ferguson.

### **POUR: 27**

Senator F.H. Walker

Senator B.E. Shenton

Connétable of St. Peter

### **CONTRE: 18**

Senator L. Norman

Senator P.F. Routier

Senator P.F.C. Ozouf

### **ABSTAIN: 3**

Senator S. Syvret

Senator M.E. Vibert

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

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

**The Bailiff:**

Deputy, the Assembly has passed a vote of no confidence in you as President of the Chairmen's Committee. Do you have something to say to the Assembly? **[Laughter]**

**Deputy R.C. Duhamel:**

I am just wondering where I stand in the stocks in Royal Square, Sir. That is fine by me, I am happy to abide by the views of the House. In fact, we have to go to another stage to elect one of our number for the position, so it may well be that somebody is going to nominate me. The eternal optimist, you see.

**The Bailiff:**

I think first of all, Deputy, I have to ask you formally whether you resign from the chairmanship to which the Assembly has appointed you?

**Deputy R.C. Duhamel:**

Is that the formality that I have to resign?

**The Bailiff:**

That is the formality, yes.

**Deputy R.C. Duhamel:**

In that case, I do so resign then.

**The Bailiff:**

Thank you very much. I wonder if perhaps Members would like to leave until tomorrow morning the question of the appointment of a successor to Deputy Duhamel?

**10. Senator S. Syvret: expression of disapproval for conduct (P.43/2007)**

**The Bailiff:**

We come next to the proposition of Deputy Baudains - Projet 43 - and I ask the Greffier to read the proposition.

**The Greffier of the States:**

States are asked to decide where they are of the opinion (a) to express their disapproval of Senator Stuart Syvret's conduct following the publication of his open letter to Mr. Richard Brocken and (b) to request Senator Syvret to resign his membership of the Privileges and Procedures Committee.

**Senator S. Syvret:**

A point of order?

**The Bailiff:**

Yes.

**Senator S. Syvret:**

Could I ask if there are any Members who are Freemasons who intend to participate in any way in this debate declare so as an indirect interest?

**Deputy J.J. Huet:**

Could the Senator repeat that? I missed it, sorry.

**Senator S. Syvret:**

Certainly, Sir. I was making the request that any Members who plan to participate in this debate and who are Freemasons declare it as an indirect interest. **[Aside]**

**The Bailiff:**

No, I rule that out of order, Senator. I call upon Deputy Baudains to address the Assembly.

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

Before I start on my opening speech, Sir, I wonder whether Standing Order 103 - I think it is 103 in the revised edition - could be suspended to enable Senator Syvret to respond just before my summing-up, Sir, because I would not like to think he was disadvantaged. Some people have suggested, Sir, that I brought this proposition, not as a vote of censure but the way it was to disadvantage the Senator, which of course is not the case. On the other hand, I am mindful that if we do suspend that Standing Order I presume it means that anybody can speak twice, so I look for your ruling, Sir.

**The Bailiff:**

What you are asking, Deputy, is whether the Assembly can suspend Standing Order 103(1) so as to permit Senator Syvret to reply immediately before you reply?

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

Indeed, Sir.

**The Bailiff:**

Very well. Is that proposition seconded? Seconded, Deputy Fox? **[Seconded]** I put the proposition. Those Members in favour of adopting it kindly show? Those against? The proposition is adopted and Senator Syvret may address the Assembly twice in relation to this proposition. Deputy Baudains.

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

As I have mentioned in my report, I would rather not have to do this and I have to say that a lot of consideration went into the decision to do so. Having said that, I must say that since the recent outbursts over the last few days, I do believe that I was right to proceed. First of all, Sir, I want to make it absolutely clear what this proposition is not about. It is not about the Senator's original letter; neither is it about the Senator's right to free speech, a diversion that appeared to creep into the looking into of that letter, Sir. That diversion was, I believe, what is commonly known as the straw man tactic where somebody creates a case that appears to be the crux of the argument but, of course, is not and then robustly demolishes the argument, pretending in the process that they have addressed the main case, which is clearly not the issue. It is one of the Senator's favourite speaking ploys, Sir, so I alert Members to it. I am sure we will have examples of it later. Of course the case of that infamous letter is a good example where the P.P.C. was attacked for its temerity to interfere with the right of free speech, but, of course, the free speech was not the issue under consideration. The Committee was investigating the manner in which he had exercised his right to free speech. I have mentioned that, Sir, because I think it is important that we debate the proposition and not be sidetracked into interesting but nevertheless irrelevant arguments. This proposition, Sir, is solely to do with our code of conduct, whether this Assembly agrees that the code of conduct should apply to all Members or whether some should be able to ignore it. It is clear to me, Sir, that the Senator has, in fact, failed to comply with the code on more than one aspect and on more than one occasion. This latest outburst is nothing new, Sir, and I fear if this Assembly does not address the issue it is likely to continue into the future. I ask is it fair that he can insult and demonstrate contempt to his

fellow Members, but expect them to refrain from retaliation? Surely either the code applies to all of us or none of us, in which case we should rescind the code. Sir, if I ignored the code of conduct and insulted the Senator, I am pretty sure that he would be hotfooting it down to P.P.C. to complain. It does appear that the Senator cannot take what he gives out. A good example of that was the Senator's exchange some while ago with Deputy Le Claire where apparently, Sir, a reference by the Deputy to the possibility of the Scrutiny Panel looking into hospital issues might not be impartial was beyond the pale to the Senator. What was the Senator's reaction? He reported the Deputy to P.P.C. for breach of the code, followed by a tirade of abuse. At the time he used such phrases to the Deputy as: "You still do not have the remotest grasp of professional standards of courtesy and respect. I have discussed this defamatory rant of yours with other Members. I do not imagine you are capable of understanding the flaws in your actions." That was just the first 4 sentences, Sir, of a 2-and-a-half page email. Needless to say, in that case P.P.C. found that some of the language used in the email sent by Senator Syvret did not meet the standards of courtesy and respect for a colleague that should be expected between Members. So we have been here before, Sir, but the Senator remains unrepentant. As I have said, if one criticises him, that is intolerable. I believe that aspect is quite important because, apparently, that is the case and as a result how does the Senator manage to reconcile his position on the P.P.C. of which he is a member? As a member, he is therefore enforcing rules that he himself does not believe in and does not comply with and, worse, he is a member of a body for which he has demonstrated nothing but contempt. I believe that makes his continued presence on the Privileges and Procedures Committee untenable, which part (b) of my proposition addresses, Sir. But what of the latest tantrums? Sir, I did consider placing a copy of Privilege and Procedures investigation into his conduct before Members so that they could refresh their memories of the exchanges and emails to give some flavour of the situation but, as the report runs to 54 pages, my environmental conscience persuaded me to quote from it instead. I hope Members do not find that an inconvenience. Sir, what do we have? We have a straightforward investigation by the Privileges and Procedures Committee at that time, carrying out its duties properly under Standing Order 157. Normally, Sir, whoever was being investigated would simply explain their position to the Committee and await the outcome, but not the Senator. According to the code, Sir, a Member should: "At all times treat his fellow Members with courtesy and comply with the reasonable requests of the Privileges and Procedures Committee" but, as we will see, for reasons known only to him, he proceeded to direct a tirade of insults to the Committee. He wasted Committee and officer time sending numerous emails, Sir, few of any relevance to the investigation, some quite bizarre, but all, in my view, with the clear intention of trying to bully the Committee into dropping the investigation, clearly contrary to Standing Order 155(9)(d) in the revised edition. If I may just make some quotes from that report, Sir. It may be useful to remind Members what part of the code the Senator is accused of not complying with. At the risk of boring Members with the code, it does state that: "Elected Members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the States of Jersey and shall endeavour, in the course of their public and private conduct, not to act in a manner which would bring the States or its Members generally into disrepute. Elected Members should at all times treat other Members of the States, officers, members of the public, with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process." Sir, the instances where I believe the code has been breached are numerous. In my view, most of the emails that were exchanged were unacceptable but some stand out more so than the others, Sir. If we look at this one in particular of 9th February, the Senator states: "Could I also make it plain, as I have in previous correspondence, that I require a detailed and clear description of what it is that is complained of, what words or passages are deemed problematic, why they are considered unacceptable, the relevance of any part of the code and an explanation as to why it may be thought that my article breached the code. In order to assist, let me make my position clear. I reject utterly that what I wrote is in breach of any code. If people think it is in breach of the code, the interpretation of the code is wrong. Alternatively, if the interpretation of the code was

hypothetically correct, then the code is not compatible with democracy.” Sir, I do not call that especially helpful. There are other examples from the same date: “For what it is worth, my view is that P.P.C. should either decide that what I wrote does not breach the code for the reasons I give, or that if it does breach the code it is the code which is wrong for not being compatible with free speech and then it must be amended accordingly. Should this not be the finding, the position will be legally challenged by both myself and members of the public. I hope it does not prove necessary to fight this but I and some of my voters will, should it become necessary. I intend to establish a blog sometime in the coming months and I am certainly not going to entertain going through this nonsense every time someone does not like my tone. The age of forelock tugging deference ended in most places in the early 20th century.” Full of courtesy and respect, Sir. Then we have some more emails on 13th February: “Please note that I and some members of the public will shortly submit a formal complaint against the Privileges and Procedures Committee on the grounds that the Committee is in breach of the following parts of the code.” I will not read out that part again but it suggests that the Privileges and Procedures Committee is not conducting itself in a manner tending to maintain and strengthen the public’s trust, *et cetera*, which, frankly, I find quite bizarre. He goes on to suggest: “A detailed case will be submitted in due course but in summary it will be argued that in the absence of actionable liable or use of obscenities, P.P.C. is bringing the States into disrepute by seeking to engage in a censorious action against an elected representative of the public, attacking his freedom of speech, limiting his - and by example and extension others’ - ability to express the concerns of his electorate.” Then we have on February 14th, Sir, a letter to individual members of P.P.C: “Could each of you respond directly to me stating whether you have discussed my letter with members of the public or other States Members? What was the nature of each conversation? Have you been lobbied to get P.P.C. involved in this issue and if so by who? I must emphasise again that free speech is a matter of the utmost importance. I am, therefore, going to fight for freedom of expression without compromise. A motto of the international brigade who fought Franco’s fascists said if you tolerate this your children will be next.” It is quite amazing, some of these emails. Then we have another one on February 16th. This is again obviously to the P.P.C: “Do you really consider this to be a professional or reasonable way to conduct things? Let me put it to you that absolutely no credible or civilised disciplinary procedure would function in this manner. Let me further put it to you that by adopting a chaotic process in which the basic principles of natural justice have clearly been cast aside by refusing to co-operate with my reasonable request to know what precisely is going on, by refusing yourselves to obey parts of the code, you and P.P.C. are acting in breach of the code of conduct.” It goes on obviously to state the code of conduct: “Your conduct of this investigation will be seen by many members of the public as vexatious, frivolous, anonymous and oppressive, an attempt to suppress by censure and example the ability of elected Members to properly represent their constituents.” Sir, there is another 20-odd pages of email there that I am obviously not going to bore Members with but they were all equally discourteous and contemptuous. He was not available to meet with the Privileges and Procedures Committee, despite one of the dates offered being a pre-arranged P.P.C. meeting, of which he is a member, thereby breaching, in the 2006 revised edition, part 9(b) of the code. The Senator has argued that he was only indulging in satire. Well, frankly I am getting a little tired of this excuse. In my view the utterances are not satirical, they are insulting and sarcastic, and in a recent media assertion - I believe it was yesterday - he stated he did not believe in the personal insult. Well, Sir, I am afraid that is simply not true because if we remember, if Members recall, the recent debate on bore holes, it seems to me quite clear that the Senator has not got a clue about ground water because he believes that water comes from the top of the bore hole to the bottom, that is what he told us, but nevertheless, he insults myself and fellow water diviners. He has suggested inaccurately, I am sorry to say, Sir...

### **The Bailiff:**

Deputy, I am sorry, but we are not getting into water divining. We must not get into water divining. [Laughter]

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

No, Sir. I left my rods at home, Sir. I was going to say also he suggested, as I said, sadly inaccurately, that I am a multimillionaire. Sir, this was not in fun. It was, I believe, a deliberate attempt to portray me as somebody who could not possibly understand poverty, Sir. Blessed are the ignorant, and I believe the Senator is especially blessed. When I asked, in a genuine attempt to understand his behaviour at a P.P.C. hearing, Sir, whether he is well, again I am abused, putting words in my mouth, Sir, and mocking this time not only water diviners but healers as well. When a Scrutiny Panel investigates the Overdale scandal, as we have heard already today he attacks and insults the Panel. When he published a letter which by many was considered to be inappropriate, he semi-apologised to his Ministerial colleagues and then snubs them by maintaining his position. When P.P.C. investigated the matter - and as I have said let us not forget he is also a member - he calls his fellow members silly little men and suggests they are some type of Nazi sympathiser and then proceeds to be discourteous and unhelpful as he can, as I have demonstrated by the quotes from the emails, Sir. More recently - just a matter of days ago, since this proposition was lodged - he has, in my view, attempted to ridicule this Assembly by asserting the ensuing debate will be a waste of time but a lot of fun. I cannot remember the exact words he used, Sir, because, like most Members, when I get an email from the Senator or other correspondence these days I simply delete it because I have come to realise that I have more important things to do. Sir, as I said at the outset, this is not about Senator Syvret's views or his right to free speech. As most Members will probably know, I happen to agree with much of the Senator's philosophy. It is not even about the Senator's suitability as a Minister, it is about standards. It is about courtesy. It is about behaving in a statesmanlike way, behaving in a way that does not offend the public or bring Jersey into disrepute generally. Sir, it seems to me absurd that this Assembly should go to the trouble it does to address apathy and possibly condone something which can be bringing us all in to disrepute. I have had numerous contacts from the public, phone calls, emails, *et cetera*, saying that they were supporters of Senator Syvret but they are totally amazed by his present behaviour and do not condone it. That is putting it politely, Sir. That is why we have a code of conduct enshrined in Standing Orders. It applies to all of us but it does seem that the Senator refuses to abide by it. Even more worryingly, it does appear that he thinks he is above being judged by his peers. I do not believe this is a matter that this Assembly can simply afford to ignore, Sir, and I make the proposition.

The Bailiff:

Is the proposition, Senator Syvret? [Seconded]

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

It is with great pleasure that I second this proposition and I am looking forward to voting for it all. It really is high time that people like me were put in our place and made to understand just how bad we are bringing the reputation of the States down. But it is difficult, you know, when you have this rebelliousness in you that sometimes you forget how to control yourself, and you do get a little bit above your station and, perhaps, say the wrong thing, rock the boat a little bit too much and upset the natural order of things. Of course, that is never a good thing, is it? People like me who cannot control ourselves in that way, we obviously need a little bit of help, and I am looking for help from my fellow Members of the Assembly today to give me a bit of discipline and a bit of guidance as to what I need to do to control myself in the future. Deputy Baudains' speech was going extremely well. I was disappointed. He lost it a little bit when he started talking about water divining and bore holes, and his property inheritance and things of that nature, and he rather blew his cover



there, I think. He rather revealed what the real needle is behind all this, which is unfortunate because this is an important issue and Members have to learn to be disciplined. I do apologise to the Assembly. I obviously made some serious mistakes in the interpretation of the way in which we do things, such as disciplinary procedures in the 21st century. Any reasonable and respectable organisation, when carrying out investigations or disciplinary procedures against an individual, you would expect them to adhere, at least vaguely, to the basic principle of natural justice. That is what I thought. Clearly I was wrong, and I admit that and I am sorry for it, but I had such a misunderstanding. Deputy Baudains read out at great length a wide variety of my emails, and how I felt at the time when writing them came back to me. I was listening to Deputy Baudains reading out those emails about me requesting from P.P.C. such like a precisely clear explanation of what it is that is complained of, which precisely of the aspects of the open letter that were under investigation, in what way precisely do they merit a breach of the Code or possible breach of the Code, sufficient time to prepare a defence; I was listening to all of that explanation and I was thinking: "Yes, yes, and your point is?" It does seem to me, at least the way I used to think, that that was entirely reasonable, that if you are subject to disciplinary procedure or, for example, a legal action, a civil or criminal action, you are entitled to know precisely what actions it is you are alleged to have committed that are problematic or wrong, why they are so, precisely which aspect of the law apply to your actions and so on. So there I was thinking that I had a right to know these kinds of things, as indeed would any person in a civilised society, but I was deluded clearly. Deputy Baudains said in his speech that me writing those emails to the Chairman and members of the Privileges and Procedures Committee was discourteous and contemptuous. I can see with hindsight that that is absolutely right but at the time it just seemed to me to be reasonable, requiring a clear explanation of what exactly is going on and why, before you attend a disciplinary hearing, it did not seem to me to be terribly out of order. If I got cross with the P.P.C. and made some unfortunate comments about them, I did so in the light of repeated refusal and failure of P.P.C. to address reasonable questions like what is the problem, what are the passages of the open letter you think merit investigation, what is your interpretation, how do you think that they have breached the code? I thought these were perfectly reasonable questions but P.P.C. did not. I got cross with P.P.C. so I can see now that I might have upset them. I got even more cross again, I confess, with P.P.C. when, after some pressing, the Chairman did eventually, with great reluctance I think, cite 3 particular passages of the open letter which were to be the focus of the inquiry and investigation, but then in subsequent correspondence he withdrew that and said: "No, no, these were given merely as examples but it was to be about the entire generality of the open letter". Again, this confused me greatly. So, there we are. I got cross at P.P.C. but clearly I should not have done that. It was quite wrong of me and I have got to learn my lesson and learn to moderate my behaviour in future, because we cannot have this kind of dissent and debate in the 21st century, and we cannot possibly have it in a body with a role in investigating disciplinary matters, like P.P.C., which is expected to adhere to rudimentary standards of natural justice and the basic principles that one would expect to apply in modern society. So it is for those reasons, Sir, that I am supporting Deputy Baudains' proposition today. I think, as I said in the amendments... and I am disappointed that the amendments were not carried because I was quite looking forward to polishing the desk in the outer P.P.C. office because I have not done French-polishing for quite a while. I was quite looking forward to also walking around the Royal Square with a placard round my neck saying: "I dissed a few of the rich and powerful. This is what happens to uppity proles." I was especially looking forward to a discussion on the ontological discussion of pixies at the bottom of the garden rather than this amniotic signifier but unfortunately the Bailiff ruled the amendments out of order. I can see with hindsight, perhaps, why he might have done so, and this is why, of course, people like me need some discipline and we have to be told what we have to do and say. I would say just one point about Deputy Baudains' speech. He asserted that the Code of Conduct for States Members had to apply equally to everybody one and all and, yes, that is absolutely correct. I do, therefore, hope that in future he and P.P.C. as a body will in fact adhere to the Code and Standing Orders themselves. I got the impression that making aspersions in public about a Member's mental health

might not be a courteous way of behaving to Members but Deputy Baudains thinks otherwise, and he thinks clearly that the Code does not apply to him. Likewise, the Standing Orders say that P.P.C. shall not act on anonymous complaints. Yet, in spite of repeated and repeated and repeated requests from me to the Chairman of P.P.C., when he acknowledged in writing that he had had a number of approaches by members he declined to tell me who those members were, and these were *de facto* anonymous complaints. But again, you know, it is all water under the bridge now and I am happy to be seconding Deputy Baudains' proposal today. Hopefully, I will learn my lessons and I just have to carry on trying and endeavouring, really endeavouring, not to upset my colleagues anymore.

### **10.3 Senator F.H. Walker**

A number of Members said in the last debate on the Chairmen's Committee that we did not really want to be having that debate on the floor of the States. Where that applied to the last debate it applies to this debate times 10 or even more. In my view, although a number of Members might well share the concern put forward by Deputy Baudains and responded to by Senator Syvret, we, in my view, should not be wasting the time of this House and we should not be dignifying it with a lengthy debate. I very much hope that Members will keep it short, that they will not turn this into a lengthy and totally unnecessary debate, will come to a vote as quickly as possible and enable us to move on to what I would call the proper business of this Assembly and the business that we are elected to undertake.

### **Deputy A.J.H. MacLean of St. Helier:**

It is just a point of clarification, Sir, if I may. As I understand it, Senator Syvret has accepted the proposition. On that basis, is there any purpose in continuing?

### **The Bailiff:**

It is a matter for Members. If Members do not wish to speak on the debate then I can call upon Senator Syvret to say anything more that he wishes to say and the proposal to apply, but it is entirely a matter for Members.

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

Could I propose that we move on to the next item of business?

### **The Bailiff:**

Standing Order 85 provides that: "The Presiding Officer shall not allow the proposal if it appears to him that it is an abuse of the procedure of the States or an infringement of the rights of a minority." I think it would be an infringement of the rights of the Deputy to bring the proposition if I were to allow a proposition to be moved at this stage of the debate. If Members do not wish to debate it then the matter can be drawn to a conclusion in another way. Does any other Member wish to speak?

### **10.4 Deputy G.W.J. De Faye:**

It is, of course, Deputy Baudains' right to bring any proposition before this House and there may indeed be Members who wish to avail themselves of this particular proposition. Some Members may want to express disapproval of Senator Syvret's conduct following the publication of his open letter to Mr. Brocken, but I should first of all remind Members that, of course, this issue has already been dealt with at Council of Ministers. The Council of Ministers have a slightly higher code of conduct than applies to all States Members. So there is an element of this that smacks of a man - albeit someone who has been tarnished to some extent or disapproved of by the Council of Ministers - being tried for the same crime twice, and that clearly cannot be fair. However, it does seem that Deputy Baudains has distinguished this by referring to matters that have pertained

following that in time. In respect of part (b) of the proposition it really is obviously a matter for Senator Syvret as to whether he wishes to resign or not. It is quite interesting to request someone to do so but it is, to put it mildly, an unusual procedure, and I believe that Senator Walker is right. We do not need to dwell on this for long because this is navel gazing of the most microscopic nature and does not do us any good, and I do not think assists the public in having any confidence in what the States are doing. However, it would be wrong to simply abandon this debate without having a view to the subtext and that is the area that concerns me. I believe that, to start with, I voted in favour of codes of conduct really to see how they go. If this is the way they are going I have got to say I wish I had not voted in favour of them. If this is the future of the States - that on increasingly frequent occasions we will be inspecting the minutiae of individual Members' behaviour - it really is not going to be of great help to good governance. Codes of conduct were really, in my personal opinion, all about cracking down on things of serious import: fingers in tills, helping out chums, taking backhanders. That is serious. We seem, though, to have drifted to the other end of the spectrum and are taking that seriously. I believe this does raise a question, and it is I think the underlying question to Deputy Baudains' proposition which is what exactly is the value or are the values of the various codes of conduct that currently prevail, because I have to say if this is the way it is going I do not think they have any particular value at all. Let us not forget who the bosses are in all this and who does determine our management styles, their view of our behaviour. It is the voters. It is the voters at the end of the day, and that may well be the best way for the code of conduct to be exercised by the people who worry about this most exercising their votes at the ballot box. I really do wonder to what extent we should be carrying out these types of analysis, either in the Chamber or at Privileges and Procedures level. So I do think that before we walk away from this debate all of us should think carefully about the value of having the codes of conduct and what those codes of conduct should say. It is quite clear that they are rigorous to such an extent that they are, as it were, vetting almost every aspect of a Member's behaviour, right down to the exchange of emails and so-called open letters, and is criticism sarcastic, insulting and so on. It is ultimately, I believe, a view of the voter to take to determine whether a Member's behaviour is satisfactory or not, and I think it is dangerous, positively dangerous, for us to become too involved in this issue. It is one thing when we all operate as independent members in a consensual government, but woe betide should we move to party politics because I have just that horrible suspicion that under those circumstances the codes of conduct would be used to whip people into line, to ensure that people toe the line, vote the party line. I think we should be very, very careful because we do not know how things will unfold in the future, but we have already pre-installed the mechanism that will be used and could be used to keep people in line. I think we should reflect upon that over the shorter term before it becomes institutionalised.

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

May I ask a point of clarification, Sir? I am unclear. Senator Syvret, is he accepting part (a) and (b) of the proposition? Part (b) is the request that he resign from the Privileges and Procedures. I do not think he was taking part (a) seriously. I mean, I think he was voting in favour of it but I do not know what his views of part (b) are. I am quite unclear about that and I would be grateful if you would confirm, because if he is accepting part (b) then I assume he is resigning from Privileges and Procedures.

**Senator S. Syvret:**

I support both parts of the proposition and, in fact, I think part (b) more than part (a).

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

Does that mean he is going to resign from Privileges and Procedures?

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

I brought the original draft code of conduct to the States. The Nolan principles are central to the code of conduct in existence in our States of Assembly, as I believe they are at Westminster in the House of Commons. If we want to keep this code we have to use it sensibly and Members need to respect it, otherwise we should make the decision in the near future to bring an amendment to this House to rescind it. Thank you, Sir.

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

I think the House ought to be grateful - if we want to be grateful - to Senator Syvret for accepting it. We do not want to waste any more time on it but I would like to express one word of caution, in particular to P.P.C. We did have an exchange of the emails, and I thought that Standing Order 157(1) was a catchall and really a big brother approach. I really would sincerely ask that P.P.C. in future looks very carefully in future how they deal with cases which we have had with Senator Syvret, because I would really question whether you, the Committee, did approach it in the right manner. I would ask, as I say, as we have now got an admission or a plea from Senator Syvret, that we move on, Sir.

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

Instead of continuing to waffle and, quite frankly, get nowhere, can we proceed with the vote, please?

### **The Greffier of the States (in the Chair):**

It is a matter for your colleagues, Constable, but it does appear no other Members wish to speak. Do you wish to exercise your right to speak again, Senator Syvret?

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

This is a magnificent achievement. Jersey has long been a bastion against the contamination of so-called enlightenment values, and it is good to see that, while standards were beginning to slip a little, we are retrenching back into that age of deference and appropriate and proper respect. I am pleased and honoured and grateful to have played such an important part of this. By disciplining me and putting me into my place, the Assembly has shown that it is going to stick to high standards and never again will this kind of thing happen or, even if it does, woe betide anyone that it might be happening to. So I am very pleased, as father of the House, to be taking part in such an important procedure. I have some sympathy with the words of Deputy De Faye. It is true too that I used to worry very much that when disciplinary procedures and mechanisms were established that they would end up being used as a partisan political tool against individual Members, anyone that happened to do or say something annoying to the other Members would find themselves instantly subject to disciplinary complaints and disciplinary procedures. I used to have that fear and I used to think that really, certainly recently, looking at the code of conduct and Standing Orders, just how profoundly deficient it all was, altogether too ambiguous and vague and not clear enough about the principles of natural justice and so forth. But I have seen the error of my ways and I understand now that the code is there precisely for that reason, so that anyone who steps out of line can be whipped in to shape, and, indeed, it is deliberately vague. Its wording is deliberately kept vague so that we have these catchall general phrases in it such as “conduct that might bring disrepute upon the States” which can, of course, mean absolutely anything at all that you wish it to mean and can be wheeled-in to play at any particular moment should Members and the Assembly decide that something has not made the States, or at least the establishment part of the States, look too good. So, Sir, that is all I have to say on the matter. Certainly, I would be very happy if Deputy Baudains were to bring his dowsing rods in then he can run them over my head and check out my health if he wishes, but, you know, I am more than happy to listen to his views on the subject. I did say that I was happy to engage in a study of theories about pixies at the bottom of the garden. So perhaps I might still do that anyway. Sir, an excellent proposition, timely and well brought by Deputy

Baudains. We will not have Members labouring under the delusion anymore that when they are subject to disciplinary procedures they are entitled to know precisely what it is that is being complained of, what is considered to be the problem, and what parts of the code precisely their actions are alleged to have breached, and why. Never again will we labour under those kinds of delusions. I congratulate Deputy Baudains on his proposal, Sir, and I urge every Member to vote for it.

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

I will disregard the Senator’s tomfoolery and apparent disrespect for this Assembly. It merely reinforces what I was saying earlier. Perhaps he finds himself amusing, Sir, but I can assure him that the members of the public who have contacted me look at it in a different light and they call it childish. One matter that he did raise that was worthy of comment, Sir, was the fact that he continued to suggest that the P.P.C. investigation into his original letter was contrary to the code because it was acting on anonymous complaints. He really does need to read the code perhaps a little more often, Sir, and he would find that is not the case. The P.P.C. is obliged to act on what it suspects to be a breach of the code if it is brought to its attention by whatever means. The P.P.C. was not acting on an anonymous complaint. I know that the Senator likes to think that is convenient for his argument but that was not the case. Just 2 speakers I would refer to, Sir. Deputy de Faye wonders the value of the code of conduct. Well, Sir, I have to say as I said in my opening speech, without such a code we end up in a situation such as we have now. Frankly, I am tired of abiding by the code while others hurl abuse at me. I have to say, Sir, if this Assembly does decide that the code is unimportant, or in fact rescinds it, I can assure the Senator I can give as good if not better than I receive and he will not like it one bit, because he is not a person who can take what he himself gives out. I think Deputy Scott Warren probably summed it up, Sir, that Members should either respect the code or we need to rescind it. I do thank the Senator for agreeing to resign from the P.P.C., Sir, because his position was and is untenable. Most of the members I know are very unhappy about the hypocrisy that would result if he did stay on it and I thank him for agreeing to part (a) as well, Sir. Let us put it to a vote.

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

Are we having this in 2 sections (a) and (b)?

**The Greffier of the States (in the Chair):**

No. The Deputy wishes the vote to be taken together. The matter is for him. The vote is therefore for or against the proposition of Deputy Baudains. I will ask the Greffier to open the voting.

**POUR: 29**

Senator S. Syvret

Senator L. Norman

Senator P.F. Routier

Senator P.F.C. Ozouf

Connétable of St. Mary

Connétable of St. Peter

**CONTRE: 8**

Connétable of St. Clement

Connétable of St. Helier

Connétable of St. Martin

Deputy A. Breckon (S)

Deputy R.G. Le Hérisssier (S)

Deputy P.J.D. Ryan (H)

**ABSTAIN: 7**

Senator F.H. Walker

Senator M.E. Vibert

Senator T.J. Le Main

Senator B.E. Shenton

Deputy S.C. Ferguson (B)

Deputy of Grouville

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

**Senator M.E. Vibert:**

While the father of the House is recovering from his slap on the wrist, could I propose that now might be a good time to adjourn and come back tomorrow to get on with the business of the House?

**The Greffier of the States (in the Chair):**

I would imagine clearly Members do not wish to wish to commence the Jersey College for Girls now. Do Members wish to adjourn now or take some minor items?

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

Before we do that could I ask, Senator Syvret has not been formally asked whether he is resigning from P.P.C? He has, and he has affirmed that. Could I then ask whether he will be offering himself for re-election?

**Senator S. Syvret:**

Yes, I am resigning from P.P.C. No, I will not be seeking re-appointment to the Committee, but I am so going to miss those meetings, listening to at least 4 members in particular for at least 3 hours, constantly shouting each other down, interrupting and talking over each other in rambling digressions.

**The Greffier of the States (in the Chair):**

The adjournment has been proposed.

**Senator F.H. Walker:**

This may not be that popular but we did agree earlier, on the suggestion, I think, of the Deputy of St. John, that we would defer the debate on the RIPL (Regulation of Investigatory Powers) Law until next sitting. The Deputy of St. John is still here. It seems to me it is generally non-controversial. Would it not be better if we dealt with it today and got it out of the way?

**11. Draft Regulation of Investigatory Powers (Amendment) (Jersey) Law 200- (P.19/2007)**

**The Greffier of the States (in the Chair):**

Are Members content to take the P.19 at this stage? There appears to be general consent for it. Before we adjourn the Assembly will take the Draft Regulation of Investigatory Powers (Amendment) (Jersey) Law and ask the Greffier to read the citation.

**The Deputy Greffier:**

Draft Regulation of Investigatory Powers (Amendment) (Jersey) Law. A law to amend the Regulation of the Investigatory Powers (Jersey) Law 2005. The States, subject to the sanction of Her most Excellent Majesty in Council, have adopted the following Law.

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

Within the Regulation of Investigatory Powers (Amendment) (Jersey) Law 2005 there are several references to Wireless Telegraphy Act 1949 which is extended to Jersey Order by Council. This Act regulates the use of the radio spectrum and requires the licensing of apparatus for use in wireless telegraphy. The 1949 Act has been replaced by the Wireless Telegraphy Act 2006 and the Communications Act 2003, both of which are extended to Jersey by Order in Council. The consequential amendments to the Regulation of Investigatory Powers Law are therefore minor and purely technical. Other than the definitions in Article 1 and 2 of the Law, the amendments involve changing references to the 1949 Act in references 8, 22 and 32 with the replacement Acts. I therefore propose the amendments, Sir. Can I take them *en bloc*?

**The Bailiff:**

The principles are proposed and seconded. **[Seconded]** Does anyone wish to speak on the principles of the draft Law?

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

It is rather interesting this morning I should ask a question about the human rights aspect and today again, later on in the day, we have a view from the Minister for Home Affairs that the Draft Regulation of Investigatory Powers are compatible with convention rights. I have raised this issue

before and I will raise it again. I just want to know how it can be right for someone to have their phones tapped and not have the right to find out whether in fact they have been tapped or not? It is an issue which I argued for some time and I do not think it is human rights compatible, and maybe the Assistant Minister may be able to tell the House why he thinks it is compatible with the Human Rights Convention.

**11.3 Senator F.P. Routier:**

I just wanted to have a clarification, because this will affect various telecom companies that are operating in the Island, whether it will be treating them equally regardless of their size and whether they will have to provide services which will enable monitoring of telephone communications on an equal footing basis, and that the cost of that will be shared equally?

**11.4 Deputy G.W.J. De Faye:**

If I can be of some assistance to the Deputy of St. Martin? RIPL recently came up before the Legislation Committee several years ago when I was Vice-President and it is relatively controversial. When it was introduced into the United Kingdom it was described by the more liberal press as a snooper's charter, and the Deputy in some respects is right to harbour concerns about anything to do with telephone tapping and that type of behaviour. But when the Committee looked into these aspects and discussed them in some detail with the Attorney General - though I am pleased to see he is here to advise us - **[Laughter]** the response is fairly clear and stark and that is you may not like the regulation but it is better to have some regulation than no regulation. That is really the key to this legislation. This legislation starts to bring things into line. Now, it may be that it ends up that you do not know that you are being tapped, but the fact is that somebody else does and that is the important issue lying behind this Law. That really is the reason why we need to pass it.

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

When I was working in my former life I did participate in providing some equipment to government agencies, departments, *et cetera*, for surreptitious purposes in relation to their law enforcement duties. One of the concerns that they expressed about the activity of eavesdropping or monitoring people who were being monitored was that in certain circumstances one has to place a device within the premises of an individual, and once that individual has left the premises they do not necessarily want to go back into the premise to remove it to give an indication that that device was ever there. Yet that device would still remain active. Although this may not necessarily be the case now, or in cases with infinity switches where you do not even need a telephone plugged into the wall, what I would like to ask is when a warrant is issued for an eavesdropping purpose is it issued for a period of time - so that information gathered over a set period of time is submittable in law - or is it such that the premise and the line and the place of receiving the communication is admissible in law for ever more? That could come into the area which they brought up as a concern whereby they would be receiving permission to monitor premises and individuals, and in years to come would be continuing to monitor or able to monitor individuals who that did not apply to.

**Deputy K.C.S. Lewis:**

I wonder if I could have some clarification, Sir. I am a bit confused about the wire tapping linked with the European Convention on Human Rights. It does seem a bit ludicrous to attempt a wire tap and then tell them about it. Presumably, all wire taps have to be authorised individually by the Attorney General. Would that be correct, Sir?

**The Greffier of the States (in the Chair):**

You say you are seeking clarification? Is that from the Attorney General? Do you wish to answer the points that are being raised, Attorney General?



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

Certainly, the Regulation of Investigatory Powers (Jersey) Law confers on the Attorney General the power to authorise telephone intercepts which, I think, is the question you are asking. Those are for a fixed period. They are capable of being renewed. Each one is considered on an individual basis and each one takes some time to look at. In answer to the Deputy of St. Martin's point, there seems very little point to me in telling a person under investigation that you are going to tap his telephone because the chances are that he will choose then not to use that telephone in the future for the purposes of the criminal activity. If you were to adopt the position of only telling somebody when you are not tapping their telephone, then if you did not tell them they would know that you were tapping their telephone. So this is not difficult ground to go into, to be honest, and both in the United Kingdom and elsewhere telephone intercepts are regularly made without anyone thinking that this is a disproportionate activity, and that it is justified in the interests of preventing crime.

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

Can I just address the Attorney General on his last answer because I believe the Deputy of St. Martin and myself are thinking along the same lines, in which case the Attorney General may have misunderstood? Certainly, what I was thinking about was a person's right to know that his line has been tapped. Obviously that would not occur while it was being done but if I was to ask was my telephone tapped in 2004, that would be long past the event. I think I would have a right to know.

**H.M. Attorney General:**

I do not feel able to give a categorical answer to that question. I think it would depend on the factual circumstances, but I can tell Members that very often intercept communications take place, if I can put it this way, at day one and then do not happen again after the 3 months has expired for another 9 months, or maybe for a year, so there are sometimes long periods of delay. The police sometimes consider that particular people are engaged in particularly drug trafficking offences which lead to the request for the intercept. Those people sometimes leave the Island. They may have come back again. There may be an issue about not telling them at that stage that they were once under investigation, because if they knew that they might be less inclined to... well, they might be more careful about the way they go about things next time round. So, if I am hesitating it is because I think the factual circumstances are capable of being so various.

**Deputy J.B. Fox:**

This is one of those laws I am afraid society needs for the protection of its citizens and it is much better that we have a law in place that protects our citizens than allows a free for all that happens in some other parts of the world. These types of equipment you can buy off the shelf anywhere and it costs very little nowadays, and there can be all sorts of things against human rights, *et cetera*, but I think for the purposes that we are here today that this update is essential for the well being of our citizens. Thank you.

**Senator S. Syvret:**

Surely if Deputy Baudains' phone has been tapped in 2004 he would have known that by his telepathic powers.

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

Can I just have clarification from the Attorney General, please? As well as possible criminal activity, if there are very significant commercial concerns to Jersey and, I mean, of large importance, could that possibly lead to a phone tapping as well? Thank you.

**H.M. Attorney General:**

I am hesitating because that never used to be the position under the 1993 law but I would have to go back and look at the Regulation of Investigatory Powers Law. I think that the commercial

interests of the Island are covered in the Regulation of Investigatory Powers Law, but I am hesitating about that because I have not looked at it and I have never had such an application yet.

**The Greffier of the States (in the Chair):**

I call on the Assistant Minister to reply.

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

Thank you to Senator Walker for suggesting that we brought this this afternoon. We thought it would be 5 minutes but I will not be too long in summing-up. Just to make Members understand, this Law was adopted by this House in 2005, so it has been in place for some time. This is simply an amendment. Also I would like to remind Members that, as Deputy de Faye said, this is taking the power away from the policing authority and putting it in the hands of the Attorney General so that it cannot be abused by the policing service in any way. I am not suggesting it would be but the whole idea here is that the courts and the Attorney General have the decision as to whether that tap is put in place or not, and that is the right regulation that has been adopted under a number of jurisdictions. There is nothing unusual about it for Jersey. As far as Senator Routier's request about the equal treating of telecommunications companies, he is quite right. Each company is going to be treated quite equally, but there is a cost to Home Affairs as well to cue-in equipment for each operator, and there is an obligation for operators to do the same. They will all need exactly the same type of equipment and it will cost pretty much the same for each of them. Somebody also asked - I am sorry, I do forget who it was - about the period of time that such an order would be in place. I think the Attorney General may have covered this, but there is a fixed time that such an order is in place. The bug does not stay there for ever, which I think is what Deputy Le Claire was asking. As far as being compatible with human rights, yes, it is compatible with human rights and this is the whole idea of the regulation in that it cannot be abused by one authority. It is in the hands of the Attorney General, and like I say, the States did adopt this with the full understanding that it was human rights compliant back in 2005. I therefore propose the Law, Sir.

**The Deputy of St. Martin:**

Just a point of order. I did ask why... but I will not go on because I understand the Attorney General has covered it. I am quite happy with it, what the Attorney General has to say.

**The Greffier of the States (in the Chair):**

I put the proposition. Those Members in favour of adopting kindly show? And against the principles of adopting? Deputy of St. Martin, does the Education and Home Affairs Scrutiny Panel wish to look at this first?

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

No.

**The Greffier of the States (in the Chair):**

Very well. How do you wish to proceed? Does the Minister propose the Articles *en bloc*?

**The Deputy of St. John:**

If I may, Sir.

**The Greffier of the States (in the Chair):**

Does any Member wish to speak on the Articles? I put the Articles. Those Members in favour of adopting them kindly show? Any against? The Articles are adopted. Do you propose the Bill in Third Reading, Minister?

**The Deputy of St. John:**

Yes please, Sir.

**The Greffier of the States (in the Chair):**

Does any Member wish to speak? I put the Draft Law in Third Reading. Those Members in favour of adopting them kindly show? Any against? The Draft Law is adopted in Third Reading. The adjournment is called. We will reconvene at 9.30 a.m. tomorrow morning

**ADJOURNMENT**