

# STATES OF JERSEY

## OFFICIAL REPORT

TUESDAY, 3rd JUNE 2008

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**ADJOURNMENT.....101**

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

**QUESTIONS**

**1. Written Questions**

**1.1. DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING POLICE CADET TRAINING:**

**Question**

“Can the Minister confirm whether –

- (a) all States of Jersey Police Cadets now have all their basic training completed in Jersey?
- (b) whether any use of made of Police Training Colleges such as Ashford in Kent and, if not, why?
- (c) whether any provision is made to allow Jersey Police Officers to carry out police work and study in the UK with UK police forces for training and experience purposes?
- (d) whether any provision is made for Jersey Police Cadets and Jersey Police Officers to study and become familiar with UK Criminal Law, as well as Jersey Law?”

**Answer**

- (a) New officers are not cadets; they are sworn in police officers from the commencement of their training.

As is now the case with all UK forces, the States of Jersey Police are responsible for providing their own foundation training for new police officers. The States of Jersey Police have been running the in-house foundation training since July 2005.

This is an extensive fifteen week training programme, which provides inputs on local law and procedures from week one. A number of practical tasks are included to assess each officer on their ability to put into practice the classroom based lessons. This knowledge is further tested in formal law based examinations. Some of these practical tasks are conducted in public areas, for example the pocket notebook exercise is conducted in the town area and officers ask members of the public a number of questions.

Fitness and officer safety are key parts of the programme.

Community involvement in the force’s training programme is a vital component and includes as examples: working with staff from the Shelter as an exercise about a drunken person; working with DVS in respect of road checks and Construction and Use offences.

- (b) No. This is because these centres are now closed and the National Policing Improvement Agency (formerly Centrex) is no longer responsible for providing any national police foundation training. To ensure an independent verification of the progress of the recruits trained in house, the States of Jersey Police have an arrangement with the Police Service of Northern Ireland to assess and report on each course at its conclusion.

- (c) New officers first gain some experience of another Police Force when, at the end of their foundation course they travel to Belfast, where they undertake and are assessed on a series of practical tasks. These tasks are used to validate the training conducted locally, as mentioned above. Whilst there, local officers also gain a valuable insight into the sensitivities of policing diverse communities particularly in the case of Belfast.

The States of Jersey Police regularly send officers away on training courses to the United Kingdom and elsewhere. For example, new CID officers undertake their initial CID training course



in United Kingdom. Senior Investigating Officers also attend courses in the United Kingdom. The States of Jersey Police is aware of the advantages and benefits of receiving such training and linking into the relevant experience available in the United Kingdom. These are only two examples of the many courses States of Jersey Police officers attend in the United Kingdom.

Some States of Jersey Police officers have undertaken secondments to various UK forces to develop either specialist skills or gain a wider experience of policing. For example, the States of Jersey Police have regularly provided assistance to Dorset Police by sending a specialist search team to assist with their policing operation for political party conferences.

The force is committed to developing staff to provide the best possible policing service to the Island, as well as providing opportunities for senior officers to develop and compete for senior positions locally.

(d) The foundation course focuses on Jersey Law which is, after all, the law in force in the Island where they will police. This is a considerable advantage over previous UK-based training which taught recruits English Law, requiring them to be effectively re-trained in Jersey Law upon their return. Nonetheless, Jersey Law often relies on the ‘jurisprudence of the UK courts’, and case studies take this into account.

## **1.2 SENATOR B.E. SHENTON OF THE MINISTER FOR HOME AFFAIRS REGARDING POLITICAL ACCOUNTABILITY:**

### **Question**

Can the Minister describe her political role, with particular regard to the relationship with the police, and the concept of political and public accountability?

### **Answer**

In order to understand the complex nature of police accountability, it is necessary to map out the terrain and to highlight a number of themes.

From the outset it is essential to understand that “accountability” and “control” should not be confused.

**Accountability:** This involves having to account for what you do. Built into the legal, organisational and political frameworks are constraints on the exercise of police discretion and these provide forms of accountability at each level.

**Control:** This implies being directed and restricted in what you do. Control of the Police is both undesirable and inappropriate in a democratic society. Police powers which provide safety and security could if carried to excess begin to deny freedom. This is the paradox of police governance. Stark demonstrations of where the Police have been required to carry out the directions of the dominant political regime are provided by Nazi Germany and South Africa, and there are other examples from around the world. The delicate balance that must exist between our security and our freedom is the paradox of police governance.

Executive powers of direction and control over the Police would leave the Police not directly answerable to the community or the States, but to the government of the day. Former Police Commissioner Robert Mark warned that the danger of subversion of the operational independence and thus the impartiality of the Police is that the operational role of the Police could be dictated by one or other political faction or party.<sup>1</sup>

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<sup>1</sup> Mark, R., ‘Police of the eighties’, *Police Review*, 1980, pp.292-3

**Separation of powers:** There is a need to balance the unwarranted exercise of police power with mechanisms to enable their effective operation. The separation of powers is the way that freedom and security are reconciled. The role of the Police is to provide safety and security but the price for this is some loss of freedom in terms of political direction. Clearly it is necessary for the Police to maintain degrees of independence from Government direction as there may be occasions when they are investigating Government members or departments.

The notion of the separation of powers and police operational independence has a long history and can only be understood in terms of the Police Force (Jersey) Law 1974, custom and practice and legal opinions of the Law Officers on issues such as the Chief Officer's employment status. Together they provide the three main sources of checks and balances on police powers. The first is legal such as the Police Force (Jersey) Law 1974; Police Procedures and Criminal Evidence Law (PPCE) and the various codes under the Law. Secondly there are organisational constraints which are provided through Police discipline and force orders. Thirdly are political constraints which are provided by the Minister.

**Legal accountability:** In one sense the 'police chief' is a legal entity as well as a person. His primary responsibility is to the law. The Law Officers have opined that the Police Chief, and indeed all sworn police officers, are not "employees" but when sworn in assume a distinct legal status which holds them semi-detached from direct government control in operational matters. This is common practice in jurisdictions operating within the traditions of democracy all of which see a need to have measures in place which provide reassurance that the Police service (and other areas of criminal justice such as the prosecutions service and the courts) cannot be manipulated for political purposes. Laws are usually crafted which draw a distinction between accountability, which is seen as desirable, and control, which is not.

The nearest we have to a written philosophical framework in Jersey is paragraph 7.3.2 of the first Clothier report which stated:

"A society is entitled to tell its Chief Officers of Police what is required of them and to make sure they do it. It should abstain from telling Chief Officers how to do it because that is a matter for their professional expertise."

It is probably right to say that subsequent Law Officers' opinion may be read as taking a somewhat more robust view of operational independence than Clothier but nevertheless the principle is the same. If traditional freedoms are to be maintained a Police service needs to be politically accountable but free from day to day political control, particularly in matters of investigation and arrest. There also need to be safeguards against indirect influence such as the ability to interfere in human resource issues and decisions to demote or transfer officers.

So long as everyone has a broad understanding of the proper principles which underpin this thinking and the place of legitimate operational independence in a framework of good governance there will be few occasions when the detailed provisions of the law would need to be invoked. I will now touch briefly on this formal legal framework.

Formal legal accountability is set out in Article 9 of the Police Force (Jersey) Law 1974. Article 9(3) provides that the Police Chief is responsible to the Minister for the administration, discipline, training and organisation of the force (but curiously not its performance). Under the law the Minister has powers to suspend the Police Chief but he/she can only be removed from office by a meeting of the States as a whole (Article 9(2)).

In my view the exercise of such powers should be only in extremis and should have to be fully and objectively justified. Successive UK Home Secretaries have never accepted overall responsibility for and control of policing. They have been reluctant to constrain the operational independence of the Police. Rather there have been examples where the Home Secretary has reinforced that operational independence. For example, the UK Home Secretary gave Chief Constables permission to by-pass police authorities over the refusal of some Chief Constables to obey instructions from

their local police authority not to purchase plastic bullets. Also in the UK, the Chief Constable can decline to give a report to his police authority if he thinks it will not be in the public's interest to do so, or if he thinks such a report is not needed for the Police Authority's exercise of its duties.

Here in Jersey everything should be done to avoid getting into a position where such draconian powers might be exercised. The bottom line, as a matter of law, is that if the Home Affairs Minister cannot resolve any differences then it requires a full meeting of the States to suspend or remove the Chief Officer.

**Internal organisational responsibility:** In addition to their primary responsibility under the Police Force (Jersey) Law 1974, the Police are answerable also to the internal disciplinary regulations of the force. The introduction of the States of Jersey Police Professional Standards Unit has further enhanced accountability in this area.

**Political accountability:** This is a form of 'indirect accountability' because of the distinct operational autonomy of the Police. What happens routinely is that the force drafts an annual business plan which seeks to align priorities with resources. This is presented to the Minister for agreement and thereafter constitutes a political mandate to act within the parameters of the plan. All plans need to be flexible to respond to operational priorities and political involvement is sustained by a programme of regular meetings with the Minister to seek agreement on issues which would benefit from a political view. The Police Chief also meets with the Chief Minister and provides a confidential briefing on matters affecting the security of the island. As well as the Education and Home Affairs Scrutiny Panel some States members take a close interest in policing issues and correspond directly with the Chief Officer as well as asking questions of the Minister in the States. This process enables the wider political community to influence police priorities and address constituents' concerns.

**Public accountability:** The principle of public accountability as a further safeguard is important. It has been appropriate for the Police to seek public accountability through the following:

- 1) Regular meetings between the Police and key stakeholders to discuss matters of joint interest eg The Connétable of St. Helier and the executive of the Honorary Police Association.
- 2) Soundings of the non-political community are taken through a rolling programme of customer questionnaires. Information from this source is used to fine-tune policy and determine priorities for the next year.
- 3) The media are an important source of public scrutiny and accountability.

There are additional external bodies providing further oversight of SOJP activities. Firstly, the islands' independent Police Complaints Authority exercises close oversight of professional standards issues and complaints against officers and reports annually to the States. Secondly, HM Inspectorate of Constabulary provides independent detailed advice to the Minister on how operational accountability is working in practice.

In accordance with particular operational requirements other agencies may be involved in providing oversight and ensuring appropriate accountability. For example, in the historic abuse inquiry the ACPO Homicide Working Group and the National Policing Improvement Agency have been overseeing the phase of the inquiry at Haut de la Garenne and have stated that they see the operation there as an example of best practice.

**Financial accountability:** The Chief Officer, Home Affairs, rather than the Police Chief, is the accounting officer legally responsible. He monitors significant areas of expenditure, carrying out early checks and regular review to ensure best value. Additional input on the financial aspects of the inquiry at Haut de la Garenne is being supplemented by the ACPO Homicide Working Group. They have said that the Senior Investigating Officer in the historic abuse inquiry should continue to consider the financial implications and would be failing in his duty if he did not do so.

Finally, I offer a few thoughts which have been fed into the new draft Police Law. It will set up a Police Authority to improve accountability of the Police. Much current good practice, the annual plan, the joint working protocols with the Honorary Police, and the ability of the Minister to call in an inspectorate to address any concerns will be formally incorporated in the law. It will also make clear that the Minister can call the force to account for performance. It will however include measures intended to protect day to day operational independence in matters of operational deployment. My belief is that the law would not pass the 'good governance' test if it were otherwise.

**1.3 SENATOR J.L. PERCHARD OF THE MINISTER FOR HOME AFFAIRS REGARDING INVESTIGATIONS INTO THE CONDUCT OF THE DEPUTY CHIEF OFFICER OF THE STATES OF JERSEY POLICE:**

**Question**

“Will the Minister advise whether the Deputy Chief Officer of Police is under investigation by detectives from Devon and Cornwall Police for alleged abuse of authority and if so, when did the investigation begin and when is it expected to be concluded?”

**Answer**

I believe that the question refers to complaints from persons affected by anti –corruption investigations led by the Deputy Chief Officer. Devon and Cornwall Police began their investigation in November 2007. Two of the persons complaining are former police officers who left the force in consequence of those investigations. I was advised that a request for an investigation by an outside force was a legal requirement in the circumstances and accordingly Devon & Cornwall police were asked to assist. For legal reasons their enquiries are not fully complete but all matters which have been concluded at this time have resulted in findings that the complaints are unsubstantiated and in some cases vexatious. The investigations have been overseen by the Police Complaints Authority.

**1.4 SENATOR J.L. PERCHARD OF THE MINISTER FOR HOME AFFAIRS REGARDING THE FRAGMENT FOUND IN FEBRUARY 2008 AT HAUT DE LA GARENNE:**

**Question**

Will the Minister inform the Assembly who informed the States of Jersey Police that the fragment, found in February 2008 under a stairwell at Haut de la Garenne, was not bone and the date that this information was received by the Police?

**Answer**

The laboratory informed the States of Jersey Police on 31st March 2008, for the first time, that they had some concern about what the item was. Over the next few days they continued to say that "we do not think this is bone unless it is very old bone." Nothing more definitive than this was given.

On Saturday 17th May the laboratory were asked if they were now saying it was definitively not bone. They said that they did not believe it to be bone but if we wanted a definitive answer then we should have it re-examined. To date, although the opinion is now less conclusive, the States of Jersey Police have not had a definitive contradiction of the original belief.

**1.5 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHIEF MINISTER REGARDING THE ERECTION OF A FERRIS WHEEL ON THE WATERFRONT:**

**Question**

“Would the Chief Minister outline the nature of, and who was included in, the consultation process associated with the erection of the Ferris wheel on Waterfront property administered by WEB and would he advise whether any financial implications arise for either the States or WEB?”

**Answer**

The Waterfront Enterprise Board was approached by Paul Talbot, the organiser and co-ordinator of the event, to place the wheel at Les Jardins de la Mer on public land that is administered by WEB.

A condition of the approval to use the site was that the organiser obtained all necessary consents.

Mr. Talbot duly received approvals and support from Jersey Airport, Jersey Harbours, Planning and Environment Department and the Tourism Department.

The Waterfront Enterprise Board has levied a fee of £7,000 for the use of the site for a period of 18 weeks. The organiser is responsible for all operating and re-instatement costs together with all necessary insurances (Public Liability insurance cover = £10m).

**1.6 DEPUTY I.J. GORST OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING ROAD WORKS AT RUE DE MAUPERTUIS, ST. CLEMENT:**

**Question**

Will the Minister advise –

- (i) the purpose of the road works on Rue de Maupertuis, St. Clement?

**Answer**

The recent roadworks in Rue du Maupertuis were intended to lay a foul sewer connection from an existing sewer on the south side of Rue du Maupertuis across the road to connect the new development site on Field 40 to main drains.

**Question**

- (ii) the length of time to date that the work has taken?

**Answer**

The works were abandoned shortly after commencement as the existing sewer is very deep and the ground was found to be very poor and there was concern for the integrity of adjacent utility services and structures, including the road.

**Question**

- (iii) the scope of the work undertaken to date?

**Answer**

The original work consisted of excavating down onto the existing sewer to connect a new branch pipe and lay this back to the boundary of the development site. In addition to this, an existing length of downstream foul sewer required upgrading as a result of the additional flows from the new development and it was intended that this would be carried out within the next couple of months, at the same time as a surface water extension from the entrance to Le Squez to serve the site was to be laid in Rue du Maupertuis. Given the problems with the ground in the area, a new proposal is being considered which will entail the development site pumping from the site along Rue du Maupertuis to the Public foul pumping station at the entrance to Le Marais estate. This will avoid having to upgrade the existing sewer and hence, any deep excavation in Rue du Maupertuis, although the surface water extension, which is at a much shallower depth, is still required.

**Question**

(iv) the expected length of time to completion?

**Answer**

The estimated time for the carrying out of the surface water extension from the Le Squez entrance to the development site plus the laying of a pumping main from the development site back to the Public pumping station by the Le Marais entrance is likely to take approximately 10 weeks. It is anticipated that this work will shortly be put out to tender with work commencing as soon as a contractor is appointed.

**Question**

(v) the full cost of the work?

**Answer**

Until tenders are received for the work, the full cost will not be known.

**Question**

(vi) who will be liable to meet the cost of the work?

**Answer**

All costs are being met by the developer of the Field 40 site as they are works required to serve the Field 40 development.

**Question**

(vii) what advice or comment was given to the Planning and Environment Department in relation to drainage issues when the original planning application was being considered for the development in Field 40 St. Clement?

**Answer**

The comment sheet sent to Planning for works required to cater for this development is attached to this document.

**Question**

(viii) whether the department will undertake to review fully the way it approaches drainage issues on new or proposed developments?

**Answer**

The Comments sheet submitted for this development clearly states that sewer upgrades and extensions are required if this development goes ahead and that the developer is responsible for the funding of these works. It is for any developer of new sites to establish at the outset of a project the drainage requirements for both on-site works and the connection to the public sewer. This requirement was clearly stated on the TTS comments sheet provided to the planning department as part of the original planning application in November 2005. Consequently, I do not see any requirement for any change to departmental procedures but in conjunction with the planning department, I am always happy to review processes to ensure we provide the best possible service to the public.

**1.7 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HOME AFFAIRS REGARDING PROSECUTIONS FOR THE POSSESSION OF MACHINE GUNS:**

**Question**

“Following statements by the States of Jersey Police regarding the alleged possession of machine guns (including a single-shot machine gun) by Islanders, would the Minister advise how many successful prosecutions, if any, there have been?”

**Answer**

In the two years since comment was made regarding the alleged possession of machine guns I can confirm that the States of Jersey Police have undertaken 23 separate investigations into incidents involving potential firearms offences. Of these 23, two investigations have involved firearms believed capable of discharging more than one round with one single pull of the trigger. Of these two, neither resulted in a prosecution: one was found to involve a de-activated firearm and the other will not be proceeded with on the advice of the Law Officers Department.

In total, 27 individual persons have been investigated for firearms offences of whom 13 have been convicted before the Royal or Magistrates Courts; 5 have been formally dealt with through the Parish Hall system; 2 have been charged and await the outcome of their cases before the Court; 1 has been charged but the charge was not proceeded with; 3 were considered to have committed no crimes after the investigation and there are 3 current ongoing investigations awaiting finalisation or a formal decision to prosecute.

Of those cases investigated, the firearms involved have included 3 machine guns; rifles; shotguns; revolvers; handguns; air rifles and air pistols.

**1.8 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HOME AFFAIRS REGARDING MEDIA STATEMENTS MADE BY THE DEPUTY CHIEF OFFICER OF THE STATES OF JERSEY POLICE:**

**Question**

“Would the Minister advise members whether she believes that statements made in the media by the Deputy Chief Officer have always been accurate and proportionate and, if not, does she consider that he should be suspended from duty whilst investigations into his conduct are carried out?”

**Answer**

The Minister has asked the Chief Officer, States of Jersey Police for a written report which will cover information conveyed to the media. The Minister is therefore unable to answer this particular question until the report has been considered.

**1.9 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE ‘SUPER-FILL’ AT LA COLLETTE:**

**Question**

Would the Minister advise whether Planning permission was required for the ‘superfill’ at La Collette and, if so -

(i) What were the conditions applied in relation to its height, visibility when viewed from the east of the Island and its potential to interrupt the view of St. Aubin’s Bay?

**Answer**

I can confirm that Planning Permission was required for the superfilling at La Collette and what has occurred has done so in the context of the relevant approvals for the site.

Planning Permit 17742 (18 October 1991) granted planning permission for the formation of a breakwater that created the La Collette II reclamation project. Planning Permit 17742/B (12

September 1995) gave permission for infilling of the area created by the breakwater and allowed for superfilling over and above the height of the breakwater where the site was to be used for the disposal of ash from the incinerator at Bellozanne. This was located on the north-eastern area of the site and allowed for superfilling up to 8m above the level of the top of the breakwater.

Subsequently Planning Permit 17742/C (18 October 1996) granted permission for landscape tipping along the north eastern edge of the La Collette site – again over the ash pit areas - up to a maximum height of some 10m above the level of the top of the new sea wall.

As detailed above, a condition was imposed limiting the superfill to 10m above the height of the top of the newly formed seawall. However none of the Permits have specific conditions relating to the superfill's visibility from the east or its potential to interrupt the view of St. Aubin's Bay. These decisions were taken prior to my election as a State's Member but I am certain that these issues would have been taken into consideration in assessing the applications by the then Planning and Environment Committee.

### **Question**

(ii) What discussions, if any, have taken place between him and the Minister for Transport and Technical Services in relation to this matter?

### **Answer**

The existing superfill already has planning permission so I have not had any discussions with my Ministerial colleague about the current situation. However we have had discussions in relation to the proposed new Energy from Waste Plant (EfW).

The Outline Planning approval for the EfW (PP/2007/0050) requires a significant landscape bund to be constructed between the EfW and the bay at Havre des Pas. It is anticipated that the height of the superfill will increase to 14m above the level of the sea wall to benefit the visual impact of the EFW. This increase will be contoured and shaped so as to form a natural looking feature. My architectural advisors have been engaged in the landscaping issues, the final details of which will be contained in the forthcoming planning application for the chosen scheme.

## **1.10 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING ELECTIONEERING BY PUBLIC EMPLOYEES:**

### **Question**

“Would the Chief Minister confirm that public employees campaigning for election are entitled to campaign during vacation periods and during ‘Time off in Lieu’?

If limitations or restrictions exist would the Chief Minister confirm that they are consistent with the European Convention on Human Rights and other relevant legislation?”

### **Answer**

Under the Regulations which amended the Employment of States of Jersey Employees (Jersey) Law 2005 and which were approved by the States last September, a public employee whose post is classified as "politically eligible" can participate in political activities, including campaigning for election, at any time outside of work. This includes vacation periods and 'time off in lieu.'

Pursuant to the above provisions, if a politically eligible employee wishes to stand for election to the States, he or she is required to take unpaid special leave of absence from the date they are formally nominated as a candidate until the date of swearing in as a States Member if successful or at a date not exceeding four weeks after the election if unsuccessful.

Whilst it is not necessary or appropriate to lodge a statement of compatibility in relation to the Regulations, it is believed that such Regulations (and their application) are consistent with Convention rights and other relevant legislation.



**1.11 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING YOUNG OFFENDERS BEING PLACED AT H.M.P. LA MOYE:**

**Question**

When will the practice of placing young people in HMP La Moye cease?

**Answer**

Currently, any 15 – 18 year old children sentenced to custody serve their sentence at HM Prison La Moye. Boys are located in the Young Offenders Institution (YOI), which contains male young offenders aged under 21 years; girls are placed in the female wing of the prison which contains prisoners of all age groups. Greenfields Secure Unit holds children of both genders up to school leaving age who have not been convicted by the Courts but who have to be secured for their own safety or the safety of others. Both establishments contain vulnerable individuals as well as those who pose significant management problems, but the numbers involved are usually very low.

The difficulty for the corporate parent at present is that whilst Greenfields may be the best place for a 16 year old offender, they could be sharing that accommodation with an 11 or 12 year old who is extremely vulnerable. This can pose similar difficulties to those which arise when a fifteen year old offender is placed in the YOI with a 20 year old. A series of different establishments for different age groups, needs and genders might result in some offenders serving sentences in solitary confinement, which again would not be acceptable. There are no simple answers.

The Corporate Parent is considering proposals which would allow the placement in either the YOI or Greenfields of school age children aged 15 plus according to their maturity, risk and vulnerability. Before making a final decision on this issue the Corporate Parent also wishes to study the findings of Andrew Williamson and the Howard League for Penal Reform who have been asked to comment on this issue.

**1.12 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE SUCCESS OF GREENFIELDS:**

**Question**

Is Greenfields fulfilling its original objectives and if not, why not ?

**Answer**

I do believe that Greenfields is fulfilling its original objectives.

The new Greenfields opened in October 2006 following a recommendation in the Kathie Bull Report which stated unequivocally that the old facility, namely Les Chenes, was inappropriate as a secure facility for 11 to 16 year old children.

Greenfields is responsible for caring for two groups of children. Firstly, those children (within this age group) who are remanded there from the criminal justice system here in Jersey and secondly, children (within this age group) who place themselves at risk through destructive lifestyle choices.

The new Greenfields conforms to the mainland's Care Standards, which is an important measure of the quality of care provided. In a recent public statement, Andrew Williamson – who of course is completing his Inquiry into certain aspects of our Children's Services – has commented on the high quality provision which Greenfields represents.

**1.13 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING HOSPITAL WAITING LISTS:**

## **Question**

How is the maximum waiting time limit of 6 months for treatment calculated? Are all specialities conforming to this limit? What exceptions exist and why?

## **Answer**

The maximum waiting time for those patients on waiting lists for elective surgical procedures and certain diagnostic procedures is three months and not six months, as the Deputy states. As this is the maximum waiting time, it should be noted that the majority of patients are seen within weeks and not months. Some procedures have such low waiting times that the operations are scheduled at a time that is mutually convenient to the surgeon and to the patient.

All of the work – and indeed, all of the public and media statements made on the subject of waiting times – has focussed on these elective surgical procedures and certain diagnostic procedures.

The success in reducing waiting times is in large part due to the pivotal role of the Waiting List Project Group – which comprises of consultants, senior nurses and operational managers. Given the success to date (as above), the work of this Group is now moving to examine and reduce the outpatient waiting time – the aim being to reduce this to a maximum of three months. I shall be receiving a progress report on the Group's work in this regard in the autumn of this year.

Whilst in many specialties the concept of reducing the outpatient waiting time (i.e. the time from the GP writing a letter of referral to the patient receiving an outpatient consultation) translates well, in others it does not. A good example of the latter is diabetes. A patient might be referred to the Diabetic Centre, who may see a nurse practitioner first – or may require diagnostic tests undertaken by another specialist. The last health care practitioner a diabetic patient might see is the consultant – the consultant focussing his time on the most complex cases which require his expertise. Notwithstanding this, the aim is to reduce all waiting to all health care professionals where this is possible in a small island context.

Another example of patients having to wait longer than three months is in the field of musculo-skeletal medicine. Specifically, Jersey has two eminent orthopaedic specialists who visit the Island to undertake specialist shoulder surgery as they visit every six months and by definition, patients must wait more than three months – although there is the option of an eligible patient either visiting the specialist on the mainland or seeing the other of these two specialists.

One of the characteristics of small islands is that they have a high number of 'single handed' consultants – in other words, one consultant per specialty. This obviously causes difficulties to the continuation of the service if that consultant is absent for some reason.

## **1.14 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE APPOINTMENT OF LOCAL AIR TRAFFIC CONTROLLERS:**

### **Question**

What procedures are in place to ensure that local candidates are in place to compete for the position of Air Traffic Controller?

### **Answer**

An Air Traffic Controller is a role that is highly specialised and one which requires extensive training and development.

Jersey Airport has a programme in place to train ATCOs (at present there are four trainees on a three year programme), but, from time to time, it is necessary to supplement the team with experienced qualified staff.

The ATC unit does not currently have its full complement of ATCO as not all trainees reach the required standard. The situation is further complicated by a requirement to release a number of experienced controllers to develop and deliver the new ATC centre.

In order to correct the situation the ATS management in conjunction with the Airport Operations Director has formulated the following plan.

1. To introduce a regular and structured liaison with Island schools and careers officers to raise the profile of ATC as a dynamic and rewarding career. This can be achieved by regular school visits and by better promotion of the opportunities available. This plan will enable us to develop our requirement earlier and to correctly service the unit with the trained staff needed.

2. In the short term experienced ATCO are needed in order to deliver trained staff in the shortest possible time. This will re-establish the unit manning at the correct levels and add the flexibility needed to allow the current staff to deliver the new ATC building in 2010. The only option available to deliver staff in this timescale is J cat external recruitment.

Posts are advertised both locally and in the UK. Preference will be given to any locally qualified ATCO who meets the essential criteria for the post, whether currently residing in Jersey or not.

**1.15 DEPUTY R.G. LE HÉRISSEUR OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE PUBLICATION OF A REPORT INTO THE RESIGNATION OF MR. S. BELLWOOD:**

**Question**

When will the Report on the circumstances surrounding the resignation of Mr. S. Bellwood be published?

**Answer**

This report, following an independent investigation by Professor Robert Upex, is expected to be presented to the States Employment Board during the first half of June, 2008, and will be published soon after we receive it.

**1.16 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING PAYMENTS TO AIRLINES TO OPERATE LONDON ROUTES:**

**Question**

Can the Minister confirm whether an agreement is in existence in the latest calendar year to pay an amount in the region of £400,000 to any airline to operate any one particular service to a major London Airport ?

**Answer**

The Economic Development Department operates a policy to develop new routes to and from Jersey. A sophisticated and sustainable network is absolutely vital to the Island's economy and Economic Development and Jersey Airport work closely together to ensure the development of the network.

This policy is proving to be highly successful and has contributed to the increase in arrivals over the past 18 months. Air arrivals in 2007 were a solid 4.3% greater than in 2006, the first significant growth for many years. Air arrivals to 31st April were 8.5% up on the same four month period in 2007.

Any airline wishing to start a new route may apply to the Department for support to help launch that route and these applications are subject to a rigorous net economic benefit analysis.

Any resultant financial element of the applications incentives that the Department and the Airport provide are of course commercial in confidence but can be examined by Scrutiny or the PAC to evaluate whether they provide Value for Money.

**1.17 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE PURCHASE OF FERRIES BY JERSEY HERITAGE TRUST:**

**Question**

Would the Minister advise whether Jersey Heritage Trust purchased two ferries in the sum of £500,000 for the Castle Ferry service and, if so, outline all the reasons for this purchase?

**Answer**

The amphibious vehicle service to Elizabeth Castle was previously operated privately under contract with the Jersey Heritage Trust in return for an annual fee payable by the Trust. I can confirm that the Jersey Heritage Trust has now elected to take over the running of the service itself rather than to pay a third party. An agreement was reached, which includes but is not limited to the purchase of the vehicles, to facilitate this arrangement. I have asked the Jersey Heritage Trust to supply me with a report into the background to the purchase and it would be premature for me to comment further on the detail in advance of having received that report.

**1.18 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING WAGE INFLATION:**

**Question**

Following his written response of 13th May to question 3873 when he stated that ‘many low to middle income earners will see a cut in their income tax’, will the Minister advise what figure he has for the percentage or absolute reduction in tax bills for those on marginal rate of income tax?

**Answer**

The reduction, and the percentage reduction, in tax bills depends on individual circumstances.

Examples of total tax cuts, in monetary terms, over the three years 2007, 2008 and 2009, resulting from increases in exemption limits, are:

Single person	£374
Married man	£598
Single person, over age 63	£414
Married couple, over age 63	£684
For one child not in further education	£135
For one child in further education	£270

As a further example of how generous these increases in exemption limits, together with child allowance have been, in 2006, a married couple, both working, with two children (one at University) and paying mortgage interest of £7,500, would not have become liable to income tax until their income exceeded £37,180. Due to these increases in exemption limits and child allowance, that very same married couple would not become liable to income tax in 2009 until their income exceeds £40,890.

## **1.19 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING REDUCTIONS IN TAX BILLS FOR THOSE ON MARGINAL RATES OF INCOME TAX:**

### **Question**

- (1) “Does the Minister have figures for 2006 and 2007 relating to the average annual bonus per FTE in the Finance Sector (given that in 2005, according to the Jersey Economic Digest 2006, it was £5,600, raising the average weekly earnings figure from £710 to £820)?
- (2) Does the Minister accept that the rate of wage inflation is driven by competition from the Finance sector and if so, what proposals, if any, does he have to curb wage claims in the Private sector, and the Finance sector in particular, in order to give his anti-inflation strategy any possibility of success?”

### **Answer**

- (1) The estimate of the average bonus paid per FTE working in the finance sector in Jersey for 2006 was approximately £5,400 per annum. This figure is derived from data collected for the 2006 Survey of Financial Institutions. The figure for 2007 will be available on 2<sup>nd</sup> July 2008, when the 2007 survey of Financial Institutions will be published.
- (2) It is important to make a distinction between wage increases that reflect productivity improvements and those that do not. Wage increases based on productivity improvements are an important way in which Islanders can increase their standard of living and directly contribute to the Strategic Plan objectives of economic growth and good employment opportunities for all. Wage increases that do not reflect productivity improvements pose a real risk of adding to inflationary pressure in the economy. Wage inflation in Jersey could result from of a whole host of factors that combine to influence both the supply and demand for labour in the Island.

The Minister does not see it as government’s role to curb wage claims in the private sector and rather that the government should focus on facilitating productivity improvements across the economy. This will allow employees to earn more through higher wages, generate economic growth and improve the standard of living for Islanders without increasing inflationary pressure.

## **2. Oral Questions**

### **2.1 Deputy R.G. Le Hérissier of St. Saviour of the Minister for Health and Social Services regarding a possible conflict between the role of Senator Perchard as Assistant Minister in charge of Children’s Services and his membership of the Chief Minister’s Advisory Group relating to the Haut de la Garenne affair:**

Does the Minister consider that any conflict exists between the role of Senator Perchard as Assistant Minister in charge of Children’s Services and his membership of the Chief Minister’s Advisory Group relating to the Haut de la Garenne affair?

#### **Senator B.E. Shenton (The Minister for Health and Social Services):**

As Minister for Health and Social Services I am ultimately accountable for ensuring that the children in our care are safe and free from danger. I have delegated responsibility for social services to Senator Jim Perchard in whom I have complete confidence and I do not feel that his role on the Advisory Group conflicts him in any way. In fact, I believe the opposite. Can anyone imagine what it was like to be within our care system when the Island was subjected to the media frenzy following the discovery a child’s remains earlier this year? Can you imagine the psychological damage potentially caused by stories of mass murder, mass graves and torture chambers? Can you imagine the effect on former residents who were led to believe that they were perhaps lucky to be alive? As Assistant Minister responsible for children the Senator is in a position to provide valuable input to the group.

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

Would the Minister not acknowledge that he has utterly missed the point, and that it is the role of the Assistant Minister to remain utterly independent of what is going on elsewhere and not to be identified with a body which looks increasingly like an official spin?

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

I am very sorry that the Deputy feels that way about the advisory body. The Advisory Group was to provide advice at a time when we needed input from the people in positions who knew what was going on. The Senator was in a position to know what was happening in the children's service at that time and provide valuable input to the group.

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

Does the Minister for Health and Social Services not consider that his position and that of his Assistant Minister is palpably absurd? There can be no other functioning democracy on the face of the planet whereby the politicians with responsibility for child protection would be publicly, proactively and repeatedly attacking a police investigation into child abuse.

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

The Assistant Minister and myself have never attacked the police investigation into child abuse. Where we have raised questions was when the discovery of a child's remains was announced and indeed it was the Chief Minister that phoned me up on the Saturday to say that a child's body had been found. This is obviously not the case and I do not want to dwell on it at this time. All I would say is that we do have victims of child abuse out there and I am surprised that the Senator would want to make political capital out of it.

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

Would the Minister, given what is perceived by many as a grave error, now acknowledge that the Assistant Minister should not be party to any groups whose role could be misconstrued and that he should remain as a totally independent person fostering the best in children's services?

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

No, what I would say to the Deputy is that in future any of these groups, if they are set up, should be set up with terms of reference that are distributed to the whole States Chamber so that we can all fully understand what the group has been set up for and how the Members have been chosen to be on that group.

## **2.2 Deputy S.C. Ferguson of St. Brelade of the Minister for Economic Development regarding the cessation of milk deliveries for all Parishes outside St. Helier:**

I should perhaps say that this question has been bouncing around the Ministries because I originally asked it of the Minister for Social Security, but the Minister for Economic Development has gallantly agreed to take it on.

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

I was just about to ask my Assistant Minister, Constable Fisher - with responsibility for milk - to take this [Laughter].

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

Given that the milk deliveries have stopped for all Parishes outside St. Helier what steps, if any, are being taken to ensure that housebound or disabled pensioners can still have milk delivered?

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

I do not see myself as a knight in shining armour gallantly riding to the rescue, but I do want to make the point that I do not believe this question is correctly addressed to the Economic Development Department because it is not an Economic Development issue. It is more a welfare issue, income support or possibly a health issue, but it certainly is not an economic development issue. I will do my best to answer the question from the information I have. The Deputy will be aware that Jersey Dairy ceased its home delivery in 2005 due to the significant losses it was incurring on that operation. One employee who was made redundant as a result of that decision decided to set up his own home delivery service called Sunrise Deliveries and took on the housebound or disabled pensioners as part of his customer base. Due to the ever-increasing costs of delivery this company was losing money on delivering to the country Parishes and has discontinued this service. Jersey Dairy does not have the resource to resume this loss-making service. Fresh milk is just one element of a normal shopping basket. Those on low incomes with personal care needs receive additional sums under income support to cover those needs which would include paying for deliveries from shops offering home delivery services if they are unable to shop themselves.

**2.2.1 Deputy S.C. Ferguson:**

That really is not an answer. I wonder if - seeing that the Member does not believe that it should be for Economic Development - perhaps in his capacity as a member of the Comité des Connétables he can comment on this? Perhaps Economic Development could combine the school milk deliveries with the deliveries to housebound pensioners so that the 2 can still carry on. Would the Assistant Minister care to comment?

**The Connétable of St. Lawrence:**

No, I would not really. I would have to think about that.

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

Is the Assistant Minister aware that the delivery of school milk forms an integral part of the capacity of this particular entrepreneur to continue to deliver this valuable social service to many pensioners on the Island and that school milk funding must continue?

**The Connétable of St. Lawrence:**

I think that is a different subject all together. We are going to be debating school milk later on. This question is about deliveries to the housebound and disabled elderly people and I do not suppose any of them attend school.

**2.2.3 Deputy G.P. Southern:**

The Assistant Minister is obviously not aware that Sunrise Deliveries has taken over the school milk delivery service and this formed an integral part of the functioning of Sunrise Deliveries and without the school milk it is likely that this particular service may cease.

**The Bailiff:**

Deputy, I do not think that is, with respect, a matter for the Assistant Minister arising out of this question.

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

In view of the uncertainty as to which department should be dealing with this, can I have an assurance from the Assistant Minister that he will meet with the Ministers for Health and Social Security with a view to ironing-out this problem because clearly there is a problem and the sooner it is dealt with the better?

**The Connétable of St. Lawrence:**

I do not really see that as my role. I think the position should be that the question needs to be directed at one or other or both of the Ministers mentioned.

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

In that case, will the Assistant Minister on the part of the Minister agree to take this back to the Council of Ministers and deal with this issue which I brought to the House a year ago: and now here it is again? Will he take it to the Council of Ministers?

**The Connétable of St. Lawrence:**

I may be wrong, but I think where Deputy Southern is referring to school milk which is **[Interruption]** He is not? He tells me he is not referring to school milk. Nevertheless, it is not an Economic Development issue and I do not think anybody can say that it is. To me, we are responsible in Economic Development for the development of the industry - the dairy industry - which does not include beneficial delivery of school milk to people who are in an unfortunate situation.

**Deputy G.P. Southern:**

If I may, the question was will he agree to take it to the Council of Ministers to resolve the issue?

**The Bailiff:**

I think the answer to that, I heard, was: "No".

**2.2.6 Deputy G.C.L. Baudains of St. Clement:**

On a point of order, I wonder if I could ask why it was not possible to deliver this question to somebody who has responsibility for this because it does seem to be going around in circles and no satisfactory answer is forthcoming.

**The Bailiff:**

Any Member can ask any question of the Assistant Minister for Economic Development which relates to his functions. What does not relate to the Assistant Minister's functions is school milk.

**2.2.7 Senator F.H. Walker:**

Can I endorse the comments of the Assistant Minister and say this is clearly not an issue for Economic Development and ask him if he will accept my invitation to discuss this with me so that we can resolve this matter and ensure that we do allocate the whole question of milk deliveries to disabled pensioners to the appropriate Minister?

**The Connétable of St. Lawrence:**

I would be delighted to speak with the Chief Minister.

**2.3 Deputy K.C. Lewis of St. Saviour of the Minister for Education, Sport and Culture regarding the purchase of amphibious vehicles operating to Elizabeth Castle by the Jersey Heritage Trust:**

Under what circumstances has the Jersey Heritage Trust purchased the amphibious vehicles operating to Elizabeth Castle?

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

I have asked the Jersey Heritage Trust for a full report on the circumstance of the purchase and will be able to answer the question in detail once I have this report.

**2.3.1 Deputy K.C. Lewis:**



The route to Elizabeth Castle is an extremely challenging route. With the new amphibious vehicles there have been a catalogue of incidents - surely on this kind of route safety must be absolutely paramount. Does the Minister not agree?

**Senator M.E. Vibert:**

Absolutely.

**2.3.2 Deputy R.G. Le Hérissier:**

Could the Minister outline how the accountability of the Trust to him is carried out in practice and what kind of reporting relationship he has with the Trust?

**Senator M.E. Vibert:**

We have a Service Level Agreement with the Jersey Heritage Trust and other cultural providers in return for being the purveyors of the grant to the Trust. We have regular reports on both financial and on the progress that they are making against the Service Level Agreement. Of course, as the Deputy is fully aware, as he was the one who made the point so forcibly in the cultural strategy, these are arm-length organisations that need to be able to operate themselves. The Jersey Heritage Trust was set up by the States and there are a number of States Members as trustees on the Jersey Heritage Trust. So, while we pass on the grant; help where we can; make sure there is a Service Level Agreement; and that the Trust meets that agreement, the Trust is an independent body and is not part of the States. It is not a department of the States. My department does not decide what they buy and what they do not buy.

**2.3.3 Deputy R.G. Le Hérissier:**

Could the Minister, in this perfectly acceptable arms-length relationship he has, outline what approval he has given and what structures he has put in place so that at arms length he is absolutely assured that financial controls are as tight as they can humanly be?

**Senator M.E. Vibert:**

We receive regular reports from the Jersey Heritage Trust and other bodies on how their finances are going and I can assure you we are not lax in any way. The Deputy might remember how I took a stand, against quite considerable opposition, ensuring that the Jersey Opera House stuck to its budget and did not overspend. I do not think that we can be accused of not holding the bodies that we grant aiding to, to account.

**2.3.4 Deputy R.G. Le Hérissier:**

Can I, therefore, assume with the Minister's reassurances that there is absolutely no possibility that a purchase of £500,000 would escape his notice?

**Senator M.E. Vibert:**

It certainly has not escaped my notice which is why I have asked for a full report on it.

**2.3.5 Deputy R.G. Le Hérissier:**

Would it escape his notice in terms of normal reporting procedures?

**Senator M.E. Vibert:**

If I understood the question perhaps I could answer it.

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

I wonder if the Minister who has asked for a report into this incident would confirm that he will have the report published when it is complete.

**Senator M.E. Vibert:**

Absolutely. Obviously, I will be discussing with the Trust whether there is any commercial confidentiality in it, but I think it is very important that States Members have as much information as possible about it, including the fact that, of course, the amphibious vehicles under discussion are approved by the Marine and Coast Guard Agency and the Harbour Office.

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

In an answer a few minutes ago the Minister said that this was not public money. Could I ask where the money is coming from for the Heritage Trust? Is it not part of public money so, therefore, the cost for the repayment does come from the taxpayer?

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

I believe if the Deputy listens back to any tapes I never said any such thing. I did not say this was not public money. I said the Jersey Heritage Trust is an independent body and we grant aid to it and it also gets a considerable amount of money and other income through its entrance charges at various bodies including, for example, an average of £320,000 per annum from Elizabeth Castle entrance fees. Yes, we give a substantial grant to the Jersey Heritage Trust and that is why we hold them to account. I will continue to hold them to account and that is why I have asked for a full report on this whole issue because I, like other States Members, want to be assured that this is being carried out correctly, that it is the right thing to do and that it has not been a misuse of any part of the grant or funding that goes to the Jersey Heritage Trust.

### **2.3.8 Connétable D.J. Murphy of Grouville:**

Could the Minister please put a time limit on the issuing of the report and, again, I would like to ask if that report will be made public?

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

I have asked for the report as soon as possible and once I have it I would be looking to publish it in the same vein, and I would imagine that would be before the end of this month.

## **2.4 Deputy S. Power of St. Brelade of the Chief Minister regarding the maintenance of the former Tourism Building:**

Would the Chief Minister give assurances that the former Tourism Building will be kept by W.E.B. (Waterfront Enterprise Board) in a condition appropriate to its significance, status and role in the Island's history and that its current dilapidated state - with grass growing out of the roof gutters and peeling paintwork, evident during the recent Liberation Day celebrations - will be addressed?"

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

It is a matter of regret that these historic buildings have fallen into a temporary state of disrepair and I can assure the Deputy they will be fully restored by April 2009.

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

Can the Chief Minister assure us that, for example, the weeds growing out of the gutter which were present, as Deputy Power mentioned, will be removed instantly?

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

I will be doing my level best to ensure that happens. **[Laughter]** I am not known for my gardening skills nor my ability up a ladder. I will not be doing it personally, but will be doing my best to ensure that it is done.

## **2.5 Deputy P.V.F. Le Claire of the Minister for Transport and Technical Services regarding the publication of the Hazard Review Group Phase 2 report on La Collette Fuel Depot and Jersey Gas Facility:**

On 15th January 2008 the Minister stated that the Hazard Review Group signed-off the phase 2 report on La Collette Fuel Depot and Jersey Gas Facility on 14th December 2007, that this report was due to be presented to the Council of Ministers on 24th January 2008 and, subject to approval, would be made public immediately after. Would the Minister update Members on whether or not this has occurred?

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

The report referred to by the Deputy "Land Use Planning Risk Assessment for La Collette Fuel Depot and Jersey Gas Facility" was considered and approved at the Council of Ministers meeting on 24th January 2008. This report was subsequently considered by the Minister for Planning and Environment on 3rd March 2008 and adopted as a supplementary planning guidance note. It was certainly my intention that the document would be available, but regrettably records from the Planning Department and the States Greffe indicate that when the Minister for Planning and Environment signed the Ministerial Decision on this matter the decision summary inadvertently indicated the accompanying report was to be classified as exempt. For this reason the report was not published alongside the Ministerial Decision itself when this was uploaded by the States Greffe on to the States official website in early March. The Minister has now indicated that the report should have been published at the time and I understand that steps are being taken to upload it alongside the decision summary.

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

I wonder if the Minister would also be so kind as to provide members of the Environment Scrutiny Panel - and perhaps any other Members who wish a copy - with a hard copy of that report, please, because we have been waiting to see the contents.

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

This is not really a matter for me, but I am sure that the Deputy and the Environment Scrutiny Panel may avail themselves of hard copy either from the Planning Department or the States Greffe.

## **2.6 Deputy G.C.L. Baudains of the Minister for Transport and Technical Services regarding tenders for the bus service contract:**

Further to his reply to my question of 29th April regarding the likelihood of putting the bus service out to tender, would the Minister undertake to inform Members before his decision whether or not the re-tender takes effect in order that Members are not faced with a fait-accompli?

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

In my answer to the Deputy on 29th April 2008, I stated at that time I had not yet made a decision as to whether the bus service will be put out to tender when the current contract expires in September 2009, but I stated and I quote: "I can assure the Deputy that I will inform States Members as soon as a decision has been made." This is still my intention and I will be making a statement under part K of today's agenda, as can be seen on the supplementary agenda on Members' desks.

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

Can the Minister inform the House whether in the process of reaching his decision he took due account, for example, of the views of Scrutiny and of other people who had a strong interest in this particular issue?

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

I very much wish to be able to take due account of the views of the Scrutiny Panel and they have been in possession of the briefing statement that I gave to them, I believe now, for some 2 months. I have had an indication from the chairman of the panel that he does not agree necessarily with the approach I am taking, but regrettably despite laying down a number of deadlines I have had no response from the Scrutiny Panel, I understand because they wish further information from the department, some of which we simply have not been able to reply to or provide. In fact, Scrutiny were being advised as a matter of courtesy. In reality, the operation of the contract is an entirely executive issue.

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

Would the Minister not agree to inform Members that it was not the case that Scrutiny has been sitting on this for 2 months and, in fact, what had happened was the Minister had called Scrutiny into his confidence and has been meeting with the Minister and his department to look at this issue in quite a large amount of detail - specific detail - in relation to this contract; and what he is asserting this morning is trying to indicate some sort of onus upon Scrutiny for the delay when, in effect, what has happened is he has just disregarded the process altogether because he has got wind of the fact that we may not be agreeing with him and gone ahead and signed the deal?

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

It has always been my intention to make an announcement at this particular States meeting. I have attempted to work with Scrutiny. Indeed, I have been before a Scrutiny Panel to discuss this matter, but I have also, in fairness to myself, laid down a series of deadlines for the chairman of the Scrutiny Panel because I simply wish to make the announcement today, which I am going to do. I would have been extremely interested to have had a full amount of advice from the Scrutiny Panel, but frankly I just cannot keep waiting. At the end of the day there are some important benefits to the travelling public which the agreement that I have agreed will release and the reality is that continued waiting is simply not in the public interest.

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

Is it not the case that the reason the Minister has been waiting is due to the fact that his own department has not been able to furnish the Scrutiny Panel with the information that it requires to make a valued judgment on the issue that he has requested us to look into? The delay is not the Scrutiny Panel's fault; it is the department's fault for not having the information that the Scrutiny Panel requires to make a valued judgment.

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

The department has made every effort to provide information when Scrutiny Panel has requested it. The only information that has not been forthcoming are the most recent comparisons for the bus Connex annual figures and that was simply because it was decided that we were not effectively comparing like with like, and that was due largely to the integration of the service. We have been as co-operative with Scrutiny as we possibly can. I really cannot see how it takes over 8 weeks to analyse a 2-page briefing document. I did not ask Scrutiny for a full review of the entire bus service; I simply wanted their advice and their views on a 2-page briefing document. Why it has taken so long, and why so much information is required, I do not know. The department has attempted to assist where it can.

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

It seems when the Minister answered my question he kindly reminded us of what he said on 29th April, but of course that was the reason why I put this whole question, because the Minister appears to have overlooked the fact that I am asking whether he would undertake to inform Members before his decision takes effect whereas on 29th April he advised us that he would advise us after his decision has taken effect. My query is will Members have some indication of which way the

Minister intends to move before that decision is made because after the decision is made it is too late to change anything?

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

I have done my very best, I think, to be as courteous as possible to Deputy Baudains. The blunt fact is the short answer to his question is, no.

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

I will be making some comments and asking questions in relation to the statement that the Minister for Transport and Technical Services is going to be making later during the day. Before that, could the Minister confirm a conversation with his Chief Officer - a timetable for the receipt of the comments from the Scrutiny Panel that the Minister has been working behind the scenes with in confidence - and that deadline was set for yesterday? The panel did meet yesterday. A letter was prepared and is wending its way to the department at this very moment. In fact, it should be there by now. Contrary to the remarks that he is making the Scrutiny Panel has not held up the decision making in any shape or form and would he confirm that?

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

I certainly would not. It is to the knowledge of my department and conveyed to myself that the Scrutiny Panel have been in a state of complete disarray as my department has attempted to establish quite when we were going to get a response to our request for their views. As I said, I have laid down a series of deadlines - the very latest deadline was by the end of the month and I was informed, and we have received information, that we would be getting the final response last week. The fact that it turned up yesterday is news to me because I was in the department until 6.30 p.m. yesterday and I have received nothing from the Environment Scrutiny Panel. Quite frankly, given the series of deadlines the Scrutiny Panel has had, if information has simply turned up today it really is far too late and I cannot be expected to keep hanging around waiting for views when in all seriousness it was out of courtesy that I made the initial contact anyway.

**2.7 The Deputy of St. Martin of the Minister for Health and Social Services regarding breast and prostate cancer screening programmes:**

Will the Minister inform Members of the number of women attending the Health Department's free breast-screening programme and the annual cost and as there is no equivalent yet for men for prostate cancer, although it claims a similar number of lives, what steps, if any, is the Minister taking to address this inequality and what would the cost be to run a similar screening programme for men?

**Senator B.E. Shenton (The Minister for Health and Social Services):**

I thank the Deputy of St. Martin for asking this question: it is obviously important that we raise the issue of prostate cancer whenever we can. Each year in Jersey about 4,000 women participate in the breast screening programme and given our current accounting system, a comprehensive budget for breast screening does not exist. The programme is, in fact, a number of initiatives which include contributions from a range of diagnostic services which all have their own separate budgets and cost centres. A further complicated factor is that patients who are deemed to be high risk or prove positive through the screening process would buy surgical interventions either here in Jersey or on the mainland and the costings for these are all under different headings within the department's overall budgetary structure. There is no recognised model for a screening programme for prostate cancer as there is no evidence that such a programme would save lives. Thus, by definition, it is not possible to cost something that does not exist. Prostate cancer is mostly a disease of older males while breast cancer is the leading cause of death in young females. It is not then correct for the Deputy to state that the 2 cancers claim a similar number of lives. Every year

around 19 Jersey women die of breast cancer, notwithstanding the operation of the screening programme. The number of deaths would increase without the screening programme. Four-fifths of prostate cancer is diagnosed in men of over 65 years of age and because it is a cancer which grows very slowly in that age group the disease itself may not reduce the natural life expectancy. Indeed, the average age of death from prostate cancer is 80 years. Many older males die with rather than of prostate cancer. Having said this I do recognise that the concept of living with a cancer does not sit readily with a person's peace of mind.

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

The Minister knows that I have been at him like a terrier at a bone but, again, some of the answers we have heard today we have heard before but the sad thing is nothing is happening. I am rather disappointed that I have not been able to get an answer for a number of men how much it would cost to have a similar programme for men, even, I think, if that were possible. The Minister will be aware of research in Austria, recently reported in the *British Journal of Neurology*, which showed a 54 per cent reduction in the death rate from prostate cancer in the Tyrol since 1993 where P.S.A. (prostate-specific antigen) screening was introduced for men aged 45 and over. Does the lack of screening in Jersey have any bearing on the fact that the annual death rate in Jersey has shown no downward trend?

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

I have had numerous meetings with the Deputy and it is on the back of these meetings that we are planning to launch an initiative with regard to the information about prostate cancer and how men over a certain age should see their G.P. (General Practitioner) on a regular basis. In terms of lives lost to cancer, the top 3 are lung cancer - which is not suitable for a screening programme; breast cancer; and bowel cancer. Indeed, it is bowel cancer that will be subject to the next screening programme in Jersey. I thank the Deputy for all his hard work. The department is working very hard on this and there may be a future time when there is a screening programme which is worthwhile, but at the moment the funds have to be directed elsewhere. This is a case of spending money and informing people about prostate cancer and getting them to go to their G.P., to talk to their G.P. and perhaps have a P.S.A. test with their G.P.

### **2.8 Deputy S. Power of the Assistant Minister for Home Affairs regarding the appropriateness of comments made by the Deputy Chief of Police at a press conference on 23rd February 2008:**

In view of the forensic opinions as to the nature of the alleged fragment of skull found at Haut de la Garenne, does the Assistant Minister still maintain the view that the comments made by the Deputy Chief of Police at a press conference on 23rd February were appropriate?

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

The Minister has asked the Chief Officer of the States of Jersey Police for a written report which will cover information conveyed to the media. The report has been prepared but as yet not been reviewed and signed-off by the Chief of Police. Once he has done so and I have had the opportunity to consider the report myself and taken any appropriate advice from the Law Officers, I will issue a statement. I acknowledge the need to expedite this matter to report back to the House on or before the next sitting.

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

The Assistant Minister specifically said that the Minister has asked for a report on the information that has been conveyed to the media. Will the report include information that has been provided to the Minister herself and to other States Members?

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

Yes, I will.

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

Would the Assistant Minister tell us, given that he now has oversight, what are the precise checks and balances that exist in order to keep a major investigation on-track?

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

I think what the Deputy is getting at here is accountability of the police and, yes, the police are accountable through normal procedures, through contractual procedures. The senior officers in the States of Jersey Police have contracts of employment which they have to abide by. There is also the Police Complaints Authority as well, and we also have an independent committee of individuals that are taking oversight of the investigation as well, which the Members will be aware of. We also have the A.C.P.O (Association of Chief Police Officers) having oversight of the investigation and they have recently cited the investigation as an excellent demonstration of best practice in policing investigations.

### **2.8.3 Deputy R.G. Le Hérisssier:**

I wonder if the Assistant Minister could outline his precise role in this very impressive array of accountability methods he has just put to the House.

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

The Chief of Police is also accountable to the Minister and in the absence of the Minister in this particular investigation he will be accountable to me.

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

Could I ask the Assistant Minister how frequently does he meet with the Deputy Chief Police Officer to ensure that there is an adequate reporting from the political point of view?

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

I meet both with the Deputy Chief and the Chief Officer on a bi-weekly basis, which is scheduled. Quite often we also meet weekly, depending on the workload at the time, and - if the Deputy is particularly interested - I spent many hours with the Deputy Police Chief yesterday.

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

Could the Assistant Minister inform me if he is aware of any other democratic societies where the politicians responsible for child protection would be attacking and criticising the police investigation into child abuse?

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

I, like the Senator, was disappointed in some of the comments that Senator Shenton has made but I can understand his frustrations and the reason why he may have made them, as have other Members, Sir.

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

What comments have I made, please?

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

It was well reported in the press, I am not going to go into details now. But I would urge all Members...

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

I have not made any public comments apart to apologise to Mr. Harper for a leaked e-mail. I have made no other comments to the press.

**The Deputy of St. John:**

I would urge all Members to refrain making the types of comments that the Senator is alluding to. It does not help the investigation; it does not help the reputation of this Government; and it does not help the reputation of the Island. I would urge Members not to make the sort of comments that the Senator is suggesting.

**2.9 Deputy K.C. Lewis of the Minister for Education, Sport and Culture regarding the provision of nursery care for working mothers:**

Would the Minister inform Members what progress, if any, has been made for the provision of nursery care for working mothers?

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

I presume the Deputy's question relates to all parents and will answer accordingly. It has been States policy since the mid 1980s to increase provision of nursery education and care for children in their early years by developing nursery classes within our provided primary schools. In 2007 an additional 30 places were provided when St. Clement's School Nursery opened and a further 30 places will be added to our capacity when St. Peter's Nursery opens later this year. Both these new provisions have been planned for several years before opening. No further new nursery classes at provided primary schools are planned, pending the adoption by the States of a new policy relating to nursery education and care. It is clear that the provision of places in school nurseries does not meet the policy goal of securing high quality, affordable, sustainable and equitable childcare provision for all our 3 and 4 year-olds. To this end, last year I gained the in-principle support of the Council of Ministers for a partnership scheme with the private sector which would provide for 20 hours free term time nursery education for every 3 and 4 year-old. Unfortunately, the funding required to introduce this scheme from this September was not approved by this Assembly when my amendment to the budget was rejected. My proposal for 20 hours free nursery education and care for all was considered by the Education and Home Affairs Scrutiny Panel recently and gained the panel's support. In light of Scrutiny comments, I will be publishing a consultation document in the coming weeks and announcing the consultation progress to guide the fine-tuning of the proposal which I will bring back to the States for consideration this year. I will be seeking to secure the necessary funding for the proposal in the 2009 budget.

**2.9.1 Deputy S.C. Ferguson:**

Why does the Minister not work within his budget and using the monies which the current free service costs and spread this cost as a subsidy across the sector and charge for the so-called free service? This is both equitable and budget-neutral. Why does the Minister not do that?

**Senator M.E. Vibert:**

If the questioner cares to go back over the many reports I have issued over the past 2 years she would find the arguments against that proposal in great detail, educationally and socially. But it is one of the areas we will be looking at in the new consultation and in the consultation process it will be re-examined again. I do not believe it is the way ahead but it will be re-examined again and looked at and scrutinised again.

**2.9.2 Deputy K.C. Lewis:**

I thank the Minister for his reply. The Minister is quite right; I am referring to all couples. The point I was making is that due to cost it is simply economically unviable for many mothers to return to work in early years. I would also add, is the Minister aware that nursery fees often exceed mortgage payments for some couples?

**Senator M.E. Vibert:**



I am very well aware of the high cost of nursery which is why, for a whole host of reasons but primarily, for me, educational development reasons, that I wish to extend free nursery care and education provision to all 3 to 4 year-olds. Yes, it is very hard for some couples to make ends meet but having said that, we do have a very high proportion of working mothers and I think it would be wrong to say that by providing this extra provision that we are likely to see a massive increase in the percentage because we have such a high percentage already. I think it is a matter of equity and if we really believe in the future of the Island and providing a better future we should take our responsibilities in Early Years education seriously.

### **2.9.3 Deputy D.W. Mezbourian of St. Lawrence:**

Notwithstanding the fact that funding has not been found to deliver provision for all 3 and 4 year-olds, the Minister has alluded to the fact that he intends to undertake consultation with the private sector. During the Scrutiny review of the Early Years' facilities over here we reached the conclusion that the private sector does not have the capacity to deliver the spaces that the Minister would need in order to deliver his vision. I wonder whether he will comment to the House on that; when he thinks there will be enough capacity to deliver.

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

Yes, we will be speaking again with the private sector, as the Deputy said. We were setting-up an ongoing body for consultation with the private sector and to me it was one of the surprising conclusions of the report because previously, from our figures which we checked with the private sector, there appeared to be enough spaces. We will be talking with the private sector about whether, if there are more spaces required, the proposal for giving this provision to all people would enable them to develop those spaces in time for them to be activated for when the scheme would come in.

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

Yes, but how long is this going to take? Does the Minister not realise that my particular method, which is common sense, would cover the gap while he finishes the consultations. How long is he going to take?

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

If the Deputy was listening earlier, I will be coming back later this year with plans for the provision of a nursery provision for all children of the recommended time - and all the research shows 20 hours a week - for the optimum benefit from such provision. I urge the Deputy, who believes that this is common sense, to attend a meeting that is being arranged shortly this month with one of the leading experts in the early years education field who will be explaining to the public, and to States Members who are invited, as to how other European countries are addressing this issue by expanding the provision of free nursery education.

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

But there is no such thing as free nursery education. Does the Minister not realise that there is no such thing as a free lunch and this will have to be paid for in increased taxes?

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

Thank you for that lesson in basic economics. Yes, I fully appreciate that everything that the States provides has to be paid for, be that income support; be that the prison; be that police officers; teachers; schools - of course. But it is something I believe we should be providing for the benefit of everyone in the Island and all Islanders.

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

Given the Minister's logic that we should move to a free system which is, indeed, commendable, does he, therefore, see the demise of the private sector and the State providing all the places.

**Senator M.E. Vibert:**

Anyone who read the reports, who has any knowledge of the proposal I have put forward would know that is arrant and utter nonsense. The proposal is for a partnership with the private sector, which they are enthusiastically in favour of, instead of carrying on with the previous States policy of building a nursery class on every primary school and funding it all ourselves for the staff and so on. We would be working in partnership with the private sector because it is through a combination of the public and private sector that we will be able to offer a service that is suitable and welcomed and suits the needs of all our families. Some people want longer childcare provisions so they could wrap that round the education part of it; some people are quite happy to have just the term time school hours. So it is very much a partnership with the private sector and that is what we have been working on and that is what the private sector enthusiastically embraces as well.

**2.10 Deputy R.G. Le Hérissier of the Minister for Education, Sport and Culture regarding the purchase of amphibious vehicles servicing Elizabeth Castle:**

Does the Minister consider that the agreement to purchase the amphibious vehicles servicing Elizabeth Castle and the compensation paid represent value for money?

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

Sorry if this sounds a bit like déjà vu but I have asked the Jersey Heritage Trust for a full report into the circumstances of the purchase which I will endeavour to make public as soon as possible and will be able to answer the question in more detail once I have that report.

**2.10.1 Deputy R.G. Le Hérissier:**

Can we remain assured that under the arms-length agreements by which the Trust is operating - and the Minister - that he is perfectly happy with an arrangement where when a contractor absents himself or removes himself from the contract it is perfectly reasonable to pay him compensation?

**Senator M.E. Vibert:**

No, you cannot be satisfied, that is why I have asked for a full report. One thing you can be satisfied with is that we will hold all bodies to which we give grants to account, and we can. But as I said earlier, the States set up the Jersey Heritage Trust. There are States Members as trustees. It is an independent body and we can hold them to account. But unless the States tell us to take over these things entirely we cannot run them ourselves, that is why they have been set up independently. When I have the report I may have a view on whether this was the correct way to proceed or not. Until I have that report I am unable to make such a judgment.

**2.10.2 Deputy S. Power:**

Would the Minister be prepared to comment on the fact the Jersey Heritage Trust even considered paying goodwill to Pure Adventure Limited for a service to Elizabeth Castle that in 2007 was regarded as unreliable, inconsistent, unsatisfactory and problematic?

**Senator M.E. Vibert:**

I am waiting for the report to see what the Jersey Heritage Trust have actually done and why they have done it, as part of the accountability process. Until I have that report it would be totally wrong for me to comment on the speculation that the Deputy has just mentioned.

**2.10.3 Deputy K.C. Lewis:**

Would the Minister acknowledge that in order to bring peace of mind both to himself and to the other Members such a report should be written by someone like the Comptroller and Auditor General?

**Senator M.E. Vibert:**

In the first instance, I have asked for a report from the Jersey Heritage Trust, which is the body concerned. If, following that report, I feel that it needs to be more looked into then I will consider how that should be undertaken.

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

Does the Minister not think that this is a case for amending the Public Finances (Administration) (Jersey) Law so that the Comptroller and Auditor General has free rein to examine the operations of people like the Jersey Heritage Trust, the Jersey Arts Trust and so forth? As I understand it, for instance, the Jersey Arts Trust is still working on their 2006 accounts. Is this not symptomatic of a need to give the Comptroller and Auditor General free rein to examine the workings of these bodies?

**Senator M.E. Vibert:**

I would have thought that the body that should bring forward any extension of the Comptroller and Auditor General's powers would be the Public Accounts Committee, of which the Deputy is the chairman. So if she feels it is the right thing to do and her committee feels it is the right thing to do, then they should do it.

**Deputy S.C. Ferguson:**

We shall be.

**2.10.5 Deputy R.G. Le Hérissier:**

Would the Minister acknowledge that by getting the Jersey Heritage Trust to report on themselves he may not get quite the objective report he is looking for.

**Senator M.E. Vibert:**

In the first instance I have asked the Jersey Heritage Trust to give me a report on the circumstances into their purchase of those vehicles, which seems eminently reasonable to me. If I have concerns after that I shall have to consider how I carry it out. Can I remind the Deputy, who seems so concerned about this, to go and look at who the trustees of the Jersey Heritage Trust are, who he seems to be questioning, and if he feels that is the correct thing to do. The Jersey Heritage Trust is a body that I believe is doing a very, very good job for the Island in protecting our heritage and running our ancient monuments and museums. In this area I want to know and I have asked them for a report on one part of their business and I am waiting for that report. I have no reason to doubt that the trustees of the Jersey Heritage Trust will not produce an accurate and factual report for me.

**2.11 The Deputy of St. Martin of the Minister for Home Affairs regarding the establishment of a formal agreement with Disclosure Scotland as part of the Rehabilitation of Offenders (Jersey) Law:**

Following her oral answer on 26th February 2008 when the Minister informed Members that she would present a report on the operation of the Rehabilitation of Offenders (Jersey) Law. Would she also update Members with work being undertaken to establish a formal agreement with Disclosure Scotland explaining what form that agreement will take, how local employers and residents will be informed of its existence and how to access it?

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

The report on the operation of the Rehabilitation of Offenders (Jersey) Law 2001 will take the form of a guidance note to the public. My department has commenced work on this but there is a substantial amount of work involved in making sure that the guidance is both accurate and in a

form which is easily understood. Guidance will cover how to access criminal records. However, it may not be necessary to establish any formal agreement with Disclosure Scotland for that purpose.

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

I welcome the work being done but is the Minister in a position to say exactly when this report will come and why it will not be necessary to involve ourselves with a formal agreement with Disclosure Scotland?

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

This task, of course, is part of our department's ongoing workload which Members may be aware is considerable at present. Being held to a date for completion on the guidance note I do not think, really, is necessary or reasonable. It is being progressed and it is being done as soon as possible. In answer to the second part of the Deputy's question, we may not wish to tie our hands by entering into any formal agreement with Disclosure Scotland, although, clearly, they have been very helpful in helping people here in the Island seeking access to their criminal records. But the States may decide at a later date to adopt the scheme which is similar to the U.K.'s Vetting and Barring Scheme. Then it would be necessary instead to have a formal agreement with the Criminal Records Bureau, which is based in Liverpool, as this is the agency through which the Secretary of State, when interfacing with the new Safeguarding Authority, would act from October 2010. So if access to Disclosure Scotland can continue informally and a satisfactory service is achieved by that means in the interim, then this facility may better suit the Island in the longer term. It is just too soon to be definitive on this point but clearly it is a matter which will be resolved.

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

Could I just press the Minister as to some date? Really, it would be reasonable to expect that some progress will be evident maybe within 2 months time.

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

I cannot give a date, we are, as I said, working on this as part of our workflow. Members must be aware that in Home Affairs our first priority, of course, is reacting to the needs of our frontline emergency services and report writing naturally takes second place. But it is very much on our agenda and it is something that is currently being worked upon and we intend to bring it forward as soon as possible. As I say, we do have some very helpful assistance from Disclosure Scotland in the Island at the moment which is assisting members of the public and also businesses.

### **2.12 Deputy G.C.L. Baudains of the Minister for Economic Development regarding visitor beds available in each of the last 5 years:**

Would the Minister advise of the number of visitor beds available in each of the last 5 years and would he explain whether he considers this sufficient to cater for future increase in tourist numbers?

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

The Deputy, along with all Members, will have this morning in front of them a copy of the *2007 Jersey Tourism Annual Report*. With regard to the exact number of bed spaces available, I would ask the Members and the Deputy to turn to page 20 of the report where he can see the details of the registered establishments and bed spaces going back to 1995. In 2007 Jersey had 159 registered establishments offering 13,000 bed spaces; hotels account for approximately 75 per cent of that total bed stock. The number evolution over the period that the Deputy, I think, is asking is: 2003, 14,300; 2004, 13,700; 2005, 13,400; 2006, 13,000 and 2007, 13,000 as well. Monthly occupancy rates range from a low point of approximately 18 per cent to a high of 82 per cent in the summer period. So there is certainly room for additional business within the current bed stock. However,

the welcome addition of new accommodation in the stock is particularly good with reinvestments being made by some industries to existing stock. I would also circulate to Members, later on during the day, a graph which shows the available bed stock with the actual occupancy through the year which could, I think, further assist the Deputy in his question.

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

I am grateful for the answer but it must come as a concern to some Members here that we hear recently - I think in the last week or so - that yet another 3 hotels are due to close, the Ommaroo, the Normandie and another nearby, the name of which escapes me. It does seem to me that we are not placing ourselves to take advantage of travel that may come our way as a result of rising prices in fuel and thereby prices increasing on travel. I mean it is only a week or so ago, I think, British Airways surcharged their long-haul flight by £218. What exactly is the Minister doing to invigorate tourism to take advantage of the situation which obviously would be of benefit to the Island economically? It does seem that since the demise of our Tourism Committee that the tourism industry has virtually been abandoned. I notice recently there is a reduction in funding proposed for the tourism industry, surely we should be reinvesting. What are the Minister's comments?

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

I do not know where the Deputy has been over the last 2 years but I have to say I completely do not understand his comments about the tourism industry being abandoned. In fact, I do not think over the last 2 years there has been anything like the amount of initiatives in order to re-boost the tourism economy. If I cite just one policy which is yielding - I am delighted to say - significant results, it is the huge investment that we are now making with Jersey Airport in developing the route network. BMI, easyJet, all of the range of new services that we have seen over the last 2 years does not happen by accident and it certainly would not have happened in the old silo days of the Harbours and Airport Committee and the Economic Development Committee working separately. A huge amount has been done. I announced a number of weeks ago the boosting of approximately £250,000-worth of additional funding for advertising at the end of the Easter period. We have invested in the website which is now running after some delays and is performing extremely well. On Friday I visited the apart-hotel over the bus station which has availability of 63 excellent apartments that are self-catering units. Les Ormes is opening. Sir, I have to say that there have been enormous efforts made in the visitor economy. Travel was up last year by 4.2 per cent and for the first time staying leisure visitors were up. The year-to-date figures are looking, in a difficult marketplace, problematic, but there is a structural adjustment going on and we will see a continuation of some hotels leaving the industry and new properties coming on the market with investment.

### **3. Questions to Ministers Without Notice - The Minister for Transport and Technical Services**

#### **The Bailiff:**

That concludes Oral Questions With Notice. We come now to Questions to Ministers Without Notice and the first question period is of the Minister for Transport and Technical Services and I invite further questions.

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

Would the Minister advise the House when he decided to change the policy in relation to the release of documents to the Scrutiny Panels, in order to make it difficult - if not impossible - for scrutiny to do the job properly?

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

I cannot advise on that because I have not changed the policy.

**3.1.1 Deputy R.C. Duhamel:**

In that case would the Minister be able to give comfort to those Members on the Environment Scrutiny Panel as to when the documentation, which makes the schedules in relation to the new proposition for the proposed Energy from Waste, when those proper cost schedules will be made available to the House. The Scrutiny Panel has made repeated requests to the department for this vital information on which a very large decision will be made in this House and we are meeting with extreme difficulties in getting this information to us in the right timeframe. We would, if the Minister could agree, like to have it before the debate rather than after.

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

Unlike the Environment Scrutiny Panel the department has not stood in the way of giving information to Scrutiny whereas we have been requesting now for some time further talks with the Environment Scrutiny Panel's consultants which have been flatly refused by the panel. I have to say, in view of co-operation like that I am not quite sure what the chairman expects.

**3.1.2 Deputy R.C. Duhamel:**

Could the Minister advise the House whether or not these cost schedules in relation to the comparisons between alternatives that provide an alternative route to waste management for the Island, whether or not those schedules have been produced and have been produced by the department's officers or, indeed, whether or not they are going to be produced by the department's consultants?

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

If the Deputy would be kind enough as to provide me with me a comprehensive e-mail with all the details that he wishes I will pass it on to the relevant officers in my department.

**3.1.3 Deputy R.C. Duhamel:**

Can the Minister assure me that if I do send him a comprehensive e-mail, as opposed to speaking to him on several occasions asking for his assistance to release these documents through the department, that, indeed, that will be the thing to tip the balance? If I do do that can the Minister advise the House as to the turnaround for when the Environment Scrutiny Panel will be able to receive these documents so we can perform our function, as mandated to do so by the House?

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

If it is reasonable and appropriate to do so I have no hesitation in assuring the chairman of the Environment Scrutiny Panel that he will have the information he desires. As to the turnaround, given that his panel cannot turn around a 3-page document in 8 weeks, I have no idea what the turnaround is likely to be for the Environment Scrutiny Panel and they may well miss the debate.

**3.2 Deputy R.G. Le Hérissier:**

Would the Minister explain what steps have been taken to remedy the situation at Bel Royal, in terms of emergency service usage?

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

The Assembly will recall that I apologised to the House for a failure by the department to properly consult the emergency services during the design phase of that particular project. Since that time I am pleased to say that the emergency services have not only been fully consulted but I am aware that on at least 2 occasions now both the Ambulance and the Fire Service have driven down, on a practical test basis, around the particular area in question using every conceivable vehicle that they are likely to use, this includes the Fire Service truck towing the inflatable dinghy behind it. The reports coming to me are that some adjustments have been made and, to all intents and purposes, it

is my understanding the emergency services are currently entirely happy with the situation. The only remaining issue is that I want some official confirmation from the appropriate senior officers and it will be my intention to issue a press release to that effect with, indeed, further details about the works because, I regret to say, the idea that this particular section of the project is costing £1 million is entirely erroneous information and that is something I wish to correct.

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

In the Minister's opinion, is the £1 million being spent on the Bel Royal road modifications a priority when compared with investing in our woefully inadequate recycling systems and mechanisms?

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

Yes, it is a priority and it is a priority because in this particular case Victoria Avenue has not been properly resurfaced for 40 years. It is our experience as we are carrying out the work that the original work was not carried out to the sort of specifications that one would expect. Recycling is, of course, also important but it is one of the other priorities of the department services. We do have to put things into perspective and the fact of the matter is that Jersey's roads infrastructure has been allowed to deteriorate over decades by previous authorities and it is well past the time that we seek to redress the balance.

### **3.4 Deputy S. Power:**

The Minister will be aware of a recent incident at West Park whereby one of the new ferries ended up straddling the wall of West Park Pool. The Assistant Minister with responsibility for Harbours has asked his department to investigate the vehicles and the incident. Has his D.V.S (Driver and Vehicle Standards) Department considered an investigation of that?

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

As I am sure the Deputy will be aware, it is the responsibility of Driver and Vehicle Standards to licence vehicles and these particularly unusual vehicles were licensed by Driver and Vehicle Standards. However, I need to make the very relevant point that the Transport and Technical Services Department, and D.V.S. as its subsidiary, only licenses those vehicles for their roadworthiness. Consequently, the test undertaken between West Park and Elizabeth Castle involving the vehicles in question was undertaken at low tide. Anything to do with seaworthiness is not in the remit of the Transport and Technical Services Department but comes entirely under Harbours. I would add, though, that the vehicles are currently classified as P30s and, therefore, liable to annual inspection so they will, in due course, come in, I assume, for either their first or second annual inspection and clearly if they fail that they will be failed.

#### **3.4.1 Deputy S. Power:**

Is the Minister aware of the fact that there are some reports that the air brakes on these vehicles are not fit for purpose and that they may need investigating?

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

I am aware of that because it was the Deputy himself who informed me that the air brakes may be defective. It is currently a matter for the maintenance of whoever is providing maintenance provision for that particular vehicle to ensure that it is in proper working order and, as I have said, if at such time the vehicle is presented to Driver and Vehicle Standards for its annual licence and it fails to come to the expected standards, it will not get a new licence.

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

In answering the previous questions the Minister failed to answer what I had asked. To remind him, I asked whether or not the cost schedules that should really be accompanying P.72 have been completed and work has been undertaken by the consultants to the department; whether or not this

work has been done in-house or whether or not this work is intended to be done, and if so what date will it be finished by?

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

I really do think I have expended some time in responding to the chairman of the Scrutiny Panel, I reiterate, if he cares to e-mail me with the details of what he wants I will take it from there.

**3.6 Deputy D.W. Mezbourian:**

Some months ago I contacted a senior officer at T.T.S. (Transport and Technical Services) regarding a traffic issue that we have on the La Grande Route de St. Laurant and I was told that all resources had been diverted to organising the traffic flow for the master plan on the Esplanade development. Is the Minister able to advise me whether, as the elected representative for St. Lawrence, if I contact that officer again he will be able to help me with my request?

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

It is with great regret I have to inform the Deputy from St. Lawrence that now we have completed our works on the master plan the relevant officer is going to be working for me in order to complete my Integrated Travel and Transport Strategy, and I also further need to inform the Deputy we simply do not have budgets available at the moment in the current annual round to sustain any small road works. But I will be happy to entertain the Deputy if she would care to discuss with me outside the Chamber what her issue is and I will see what we can do.

**Deputy D.W. Mezbourian:**

May I thank the Minister for his response.

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

Is the Minister made aware of all the consultants appointed, either by himself or officers, during 2007 and is the record of all fees paid to these persons noted?

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

It is difficult to answer that because if there is a consultant of whom I am not aware then I am not aware. But, to all intents and purposes, I believe I am aware of all the consultants that the department has used. I am not aware of the fees paid but that, of course, is a matter that will be recorded appropriately in the accounts.

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

I regret to say I was having technical difficulties with my light and was thinking the Minister of Technical Services could help me with that.

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

I was wondering if the Minister would be very kind and share with the Assembly his opinion of the provision for taxi services in the Island with specific attention to the quality of service provided at Jersey Airport where a regular feature is long queues that occur when people arrive in the Island. Clearly, it is not a very satisfactory situation; I would be interested in his views on that matter. Also, provisions that are made for parking for taxi drivers when the ranks are full because I believe a number of them end up down at the harbour, I would be interested in his views on that matter.

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

I am afraid I have to inform the Assistant Minister that I suspect it is the quality of the coffee that is affecting the availability of taxis up at the Airport. I understand that the rank drivers are boycotting the coffee being served on the premises and that may not be quite such a popular destination for them to go to for business. However, I have to point out to Members that the taxi industry is divided into 2 sections. There are the rank drivers and the ranks are at the airport, the harbour and



down at the Weighbridge outside La Cala during the evening; and then, of course, the radio-operated cab business over which I have absolutely no control whatsoever. I have no reason to believe that the service available to the airport is any different now than it has been over the last few years and every time we investigate this matter in any level of detail it appears that the stories one hears reported about a dearth of taxis are relatively rare and one-off events. I would also point out to the Assistant Minister that the matter of parking up at the airport and the harbour is a matter for him and not for me. I understand that both the Airport Commandant and the Harbour Master have almost dictatorial powers about how those arrangements are carried out and I would refer him to them.

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

I thank the Minister for his answer. Just one point, the coffee and the price of coffee at the airport may well have deteriorated in recent times; nevertheless, the problem with provision of taxis at the airport has remained a problem over the last few years. It is a problem that is significant and certainly we will be providing some more evidence in that regard and I wondered if the Minister would undertake to take the review seriously.

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

I would be very happy to take part in any review that the Assistant Minister is carrying out. My understanding is that the Jersey Taxi Drivers Association do regularly maintain one of their members up at the airport on, effectively, a stand-by watch and that whenever there is a shortage of taxis up at the airport then the rank drivers as a whole are notified immediately by radio. Any delays are simply the fact that taxis are probably on their way. I know there are issues with occasional conflicts the cab operators and there are issues about parking up at the airport which I am aware of and consequently I will be...

### **The Bailiff:**

I am sorry; the time allowed has expired for questions to you.

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

I hope you will not regard that as filibustering, Sir.

## **4. Questions to Ministers Without Notice - The Minister for Economic Development**

### **The Bailiff:**

We come now to the second question period which is of the Minister for Economic Development.

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

Would the Minister comment how his department is supporting local fishermen in the light of activities of fishermen in France and the effect it is having on the local economies?

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

Last week I received a call from representatives from the Fishermen's Association and I spent some 2 hours with fishermen last night. To put into context, this industry is worth about £5.9 million, according to last year's prices; the majority of exports, some 408 tonnes, are lobster. Fishermen are being squeezed at both ends. They are suffering higher oil prices, higher commodity prices - things like ropes - and, unfortunately, an historic low price in lobster, particularly. Fishermen are feeling the squeeze and we want to do what we can to help them. We are looking at a number of initiatives including looking at harbour dues charges, looking at the way that Customs interact with France in order to be able to get fishermen to land their fish directly in France, looking at ways of reducing costs by putting in place, for example, energy saving equipment on boats. We are looking at eco-labelling to try and boost the revenue from local fishermen and trying to find new markets,

particularly the local market which is an important market, and my encouragement to Islanders would be to support local fishermen by buying some of our excellent local bass, whelks, oysters, crabs and lobsters because that is good for a fisherman.

#### **4.2 Deputy R.G. Le Hérisier:**

Would the Minister outline apropos his earlier answer re tourism - his highly optimistic answer - what steps he has in place to extend the self-catering industry and does he work in concert with the Planning Department?

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

The relationship with the Minister for Planning and Economic Development is excellent and we enjoy a very good dialogue in relation to giving advice to the Planning Department on issues such as self-catering. I mentioned earlier the apart-hotel over the bus station: I know that my tourism officials and the industry is very interested in selling that space but there are strict controls on that accommodation, that accommodation has to be available in some proportion for the tourist market. I am excited by the development at the Les Ormes initiatives for high-class, self-catering units and the Deputy will also be aware that there has been interest in a leading U.K. supplier of self-catering in order to boost this particular area of the market. I think it does have a potential and we are working with Planning and operators to provide the maximum supply for that to support our expanding route network.

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

I hope that the Minister is aware that in the Education Scrutiny Panel's Early Years report a recommendation was made that the Minister for Education, Sport and Culture should work with the Minister for Economic Development to undertake a cross-departmental economic assessment of the case for investing in sustainable childcare. I ask the Minister whether he is aware of that and whether, indeed, there will be such an assessment undertaken between the departments?

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

I was very pleased to be able to give the Deputy and her panel evidence in relation to her review and, of course, that I am aware of the important recommendation that she gives with that. I think that it is important in order to give working mothers - and working fathers - the opportunity of providing work if they wish to and that means that we need to be able to provide childcare and childcare arrangements. There is also unequivocal evidence all across the world that investment in young people at a very early age helps in their formation and helps in their development, *et cetera*. So, yes, I am aware of the recommendation and I share her panel's view and enthusiasm in order to find a solution to that and, of course, we will be working with the Minister for Education, Sport and Culture to try and meet that recommendation.

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

Several months ago I did ask the Minister whether in consultation with the Minister for Home Affairs he could look into the sale of alcohol to juniors and what penalties could be increased to avoid this. Will the Minister update Members, please?

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

The whole issue of alcohol sales is the subject of a statement that I am going to be making in a few minutes in relation to the whole licensing review. It is very clear that the licensing review - and the Deputy of St. Martin has been one of those key promoters of the streamlining of the licensing review - does need to take account of other issues in terms of alcohol sales, public order issues, and there has been some very strong representations from Health. My short answer is the issue of the sale to young people is being dealt with generally in relation to the licensing review, which is the subject of the statement I am going to make shortly.

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

Will the Minister state to Members when he will be in a position to bring forward a detailed business plan on his proposal to spend additional money on direct marketing for Jersey Finance as laid down in his provisional business plan?

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

As the Deputy will be aware, having given evidence to his panel on the overall Economic Development business plan, the Assembly gives each department an overall cash limit from which we deflect money according to industry requirements, according to the performance of the different sectors. I can advise Members that yesterday I received a final draft of a request from Jersey Finance to boost the investment in a number of growth markets. The Deputy and other Members will be aware that the global sand-shifts of economic power are changing; we are seeing decreased business in the United Kingdom and the United States and we are seeing the global economy shifting its attention to Asia Pacific. Frankly, I hope the Deputy will support the initiatives required to match or exceed the competition. Jersey needs to take a place in the Indian, Chinese and other growing markets and I will be shortly signing-off, in the next few days - based within the existing business plan that Economic Development have - a further increase in the funding initiatives for that and it is absolutely vital that we do so. We are seeing a credit crunch and I want to insulate the Island's economy to as greater extent as we can do by boosting activities in the growing areas of the world.

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

Would the Minister acknowledge that his desire that the Tourism Information Office move was not done for reasons of tourism, it was done at the behest of W.E.B. and, therefore, has not been a success?

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

I have to say to the Deputy I was not responsible for the move of the Tourism Office. That was an issue that I inherited from the previous Economic Development Committee and I would remind the Deputy that it was the subject of a States debate at which this Assembly made the final decision. What I can say is that the move to the Tourism Building has worked extremely well, staff are happy in the new building. It is a far better fit for purpose for the work of the Tourism Department. We have moved in as well - we are on the third floor - and I am absolutely delighted with the information that is given to our tourists. We have some excellent staff in relation to advising tourists and I monitor generally the numbers going into the Tourism Office and it is becoming very much a feature of tourists' arrival and getting information. I think they are doing extremely well.

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

Notwithstanding the fact that everybody there seems to be very happy, could the Minister acknowledge; are the numbers of tourists visiting similar or comparable to the numbers who visited the previous office?

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

I am advised that they are slightly down and we have been making efforts in order to signpost that. We have put much more vigorous signposting in relation to Liberation Square. As the Minister... yes he does get involved in issues concerning signposting and I have directed the department to increase the signposting. They have done that but, of course, as we enter now the peak months of tourism arrivals I am sure that we are going to see activities there. I would also tell the Deputy that the website is extremely important in relation to providing visitor information and the new Jersey dotcom website provides a rich content of information, both in terms of events, of holiday opportunities, bookings, *et cetera*, and if he has not already looked at it can I direct him to look at the excellent new website.

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

I wonder if the Minister could answer this: with the removal of the benefit of duty-free fuel to the leisure boaters in the U.K. will the Minister be looking at any initiatives to highlight the issue of the availability of cheaper fuel in Jersey, as I believe Guernsey already does?

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

I have to say that the Harbours Department are to be warmly congratulated in their initiative to put on the first Jersey Boat Show. Some 12,000 Islanders visited the Boat Show and, yes, there is now very pro-active working going on with Jersey Harbours to effectively promote Jersey's marine development opportunities. I am also advised that there has been an increased number of berths available to visitors and there is a whole new world of opportunity in relation to East of Albert for developing the marine industry. I have to say that there is a debate to be had and there has been a debate on the Council of Ministers on the issue of marine fuel but that is, of course, a matter for the budget later on this year.

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

Is the Minister aware of all the consultants appointed by his department during 2007 and is a record kept of all the fees paid, noted and available?

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

Certainly I, along with other Ministers, I think, enjoy a very close working relationship with my department. I meet with departmental officers, including the Chief Officer, on a weekly formalised basis with meetings and certainly I am aware of all the major consultancy issues which are done on political strategy. I may not be aware of all the individual consultants that are brought in, for example, in relation to the tourism spend. Tourism spends, for example, £2.2 million on advertising spend and I might not be immediately alert to that sort of consultancy. But certainly, as far as political consultancies are concerned, I am aware of most of them and, of course, the Chief Officer is required, under the new finance law, as accounting officer for value for money and there is a strict code of directions in relation to tendering of all consultants. If the Constable would like more information on that I am happy to have the department brief him on that.

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

Further to the horrendous worldwide hike in both fuel and food prices, will the Minister be seeking to encourage local farmers and growers to produce more and, indeed, local supermarkets and vendors to stock more local products?

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

I refer the Deputy to the comments that I made some moments ago in relation to the fishing industry. That is absolutely a way that we can support our local fishing industry and, of course, the same remarks relate to the growing industry too. We need to support growing industries, we need to support issues like Genuine Jersey which is undergoing a current reform at the moment, there is an investment going in from Economic Development in that and I also have to say that I take great comfort from discussions that we have had with the 2 leading supermarket operators that they will be making a bigger focus in local food produce. There has already been a successful initiative by Sandpiper in Guernsey. There certainly has been the facilitation of discussion between some suppliers and supermarkets about exactly what their requirements are; they need year round supply and certainty. The days when you could simply turn up with an amount of vegetables or something to a supermarket have gone. There needs to be structured arrangements, structured supply and we are doing everything we can within Jersey Enterprise to raise the game of local producers in order to put local food into local mouths.

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

What lessons has the Minister learned from a gentleman whose application for both advice and possible funding for a new enterprise appeared to have very seriously gone off the rails at an early stage?

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

I am not going to comment on an individual application. I know that a number of States Members have commented. I have to say that I have reviewed very carefully the whole circumstances around that and I have been very conscious not to get involved in the individual determinations of applications for Jersey Enterprise. I think the Minister's job is to concentrate on policy. We have got expert departmental officials within a proper appeals process to deal with applications. I will say nothing more than this that some applicants offer more challenges than others and the best way is to go through the proper formal routes and I am satisfied that the department has dealt with this individual absolutely properly so I have to say that there were no lessons to be learned

**4.11 Senator J.L. Perchard:**

Will the Minister join me in congratulating the Jersey Cricket Board, the I.C.C. (International Cricket Council), his and other States departments in organising and facilitating what was a very wonderful and prestigious World Division 5 cricket tournament where Jersey held and promoted its name globally with over a million hits on the I.C.C. website from people looking to get an update on scores and information on Jersey? Will he continue to support such prestigious events?

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

The Senator will be aware that my Assistant Minister bowls better balls than I do and he was the one that was welcoming the officials. I warmly congratulate all the organisers in relation to the competition. I think it has provided an excellent event for locals and I think it has provided excellent opportunities for marketing Jersey outside the Island. That underlines, if anything, my determination to invest in events and to have a fun-packed event-led tourism calendar which I am delighted to see now also includes the cricket event, which has been an absolute marvellous hit. I had an e-mail yesterday telling me about hundreds of thousands of e-mail hits on the cricket... over a million hits on the website which is absolutely delightful and I echo the congratulations that he made. I also understand there are some good pitches in the Island too. **[Approbation]**

**The Bailiff:**

That concludes the second question period of the Minister for Economic Development. We come now to statements. I have no notice of any personal statements.

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

**5. Statement by the Minister for Economic Development regarding a review of the Licensing (Jersey) Law 1974**

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

Members will be aware that I commissioned an inter-departmental review of the Licensing Law earlier this year. The review is being steered by a political panel comprising representatives of Economic Development, Health, Home Affairs, Transport and Technical Services, and the Parish of St. Helier. The Licensing Law has been reviewed a number of times but division and competing interests in the past have prevented substantial progress. This licensing review is different. In order to provide a balanced opportunity for the most interested parties to influence the drafting of the Green Paper, discussions have been held with numerous stakeholders, including the various different parts of the industry, their trade organisations and other States departments. The result is a far greater depth of knowledge regarding not only the need for change in this Island but an understanding of what has gone right and what has gone wrong in other jurisdictions. A complete

consensus between all of these groups is, I am afraid, an impossible task, but there are broad areas of agreement, not least of all that a new law should be simpler and less bureaucratic. In order to assure myself that these views are fully considered within the Green Paper and not merely as a consequence of it, I considered it best in the circumstances that publication of this Green Paper be delayed until the end of June in order for the proposals to receive structured consideration. To offset this delay I am considering a slightly reduced period of consultation and the response to the Green Paper of 6 weeks. This reduction should not impact on the ability of the public to respond as the process has already received wide publication in the media and I fully expect it to receive a far higher than normal level of interest and participation. These responses will be considered over the summer period and a White Paper will be published in the early autumn. A final decision on the way forward can then be made after the elections when the proposals will be taken to the new Council of Ministers for endorsement before being taken to the States in early 2009.

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

I concur with what the Minister is saying and I also am not surprised that this review is taking considerable time. I thought he was really being optimistic in thinking it was going to come forward by July or September this year. But, in respect of the Green Paper, could I ask that the Minister will ensure that the Green Paper is circulated to States Members, particularly those who have an interest in the subject so we are able to partake in some of the consultation process?

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

I am happy to give the Deputy that assurance. He says the deadlines are optimistic. Deadlines are also issues that crystallise minds and I have to say it is the looming deadline of the draft paper that made sure that there was a vigorous discussion with all the competing interests, which are of course there in number. I am happy to confirm to the Deputy that I will circulate in the earliest possible time the draft to ensure that there is appropriate consultation with States Members.

## **6. Statement by the Minister for Social Security regarding Income Support**

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

I am today making available to Members a progress report on the first months of income support, and also announcing some enhancements to the income support system, and the extension of protected benefit payments. As a result of careful planning and a highly committed staff team, income support was introduced in January 2008 with the minimum of disruption to benefit claimants. Over 8,000 households received their first payment on Monday, 28th January with subsequent payments being spread-out over the payment cycle. The Parishes continue to provide a valuable service to their parishioners by offering advice and cash payments to those people who prefer to have local access to their income support. On 1st May appropriate income support components were increased to ensure that low income families were not disadvantaged by the introduction of G.S.T. (Goods and Services Tax) on 6th May. Income support payments increased from £120,000 per day to approximately £125,000 a day as a result. All claimants received their additional benefits before the introduction of G.S.T. As well as regular weekly payments, in the first 4 months the department has dealt with 175 special payments, 85 emergency payments, 113 personal care and medical assessments, 5 applications for discretionary payments, and over 2,200 went to fuel allowance payments per month. Income support has introduced a comprehensive appeals process for claimants to ensure that anyone dissatisfied with a decision can appeal to an independent tribunal. The new job-seeking service was introduced a few weeks ago. So far 60 people have been asked to attend an interview, 36 have signed a job-seekers agreement and, of those, 8 have already found work. A review of the first 3 months of operation has included collating evidence of issues arising from the introduction of income support from staff and claimants. I have led feedback sessions for representatives of local voluntary organisations and other stakeholders. I attended a meeting organised by the Senior Citizens Association to discuss

income support. The Social Security Advisory Council has provided feedback to the department. The department has extracted data from the social security business system to analyse and the detailed circumstances of benefit claimants, and to provide forecasts for ongoing costs, both for benefits and the transition protected payments. The analysis required reviewing approximately half a million separate pieces of information and assessing the impact of more than 100 variables within the system. Overall, the main message from these inquiries has been that income support is working well but as known from the outset there are a small number of adjustments that could be made in certain areas. The main concern regarding the delivery of income support has been that it is very different from the previous benefits and many claimants do not fully understand the new system, and this has led to some worry. The department will be devoting additional resources to communication over the next few months working directly with claimants as well as stakeholder groups and other States departments to ensure that claimants understand the new system. I will be asking the Social Security Advisory Council to assist us in this work. As anticipated, following the implementation of income support, the information that we now have enables us to make adjustments to ensure that benefits are targeted to their maximum effect. The department will continue to monitor costs and identify potential improvements to the scheme on an ongoing basis. The detailed report that I am circulating today includes statistics on the impact of income support on different types of households. Over 3,000 households received additional benefit from the beginning of income support. These households are among the poorest families within our society and the introduction of a consistent financial safety net is something that we should rightly be proud of. In addition, over 700 individuals received benefits while in residential care. Benefits for these people are being maintained. I would like to remind Members that there is a major piece of work being undertaken at the present time with the regard to residential care for the elderly. This work should be concluded within the next 9 months and, in the meantime, the introduction of income support has continued the accessibility and level of financial support available under the old system. Those households that do not see an immediate benefit from the introduction of income support have been receiving protected payments to ensure that their previous level of benefit has been maintained and partially reduced over a number of years, only once advocate notice has been given. The funding for these protected payments is additional to the main income support budget. In September 2007 a paper describing the transition process and the calculation of protected payments was circulated to all Members. At that time it was explained that it was impossible to provide accurate costings of the transition process until the number and makeup of claimants eligible for transition was settled, shortly after the introduction of income support. Accurate costings for transition have now been completed. Together with my department, my Assistant Minister and I have considered these costings and I am announcing today that within the existing budget provided by the Treasury and Resources Minister we will extend the 100 per cent protection for all claimants from this October until 27th January 2009, which will be a full year since the introduction of income support. During August the department will be writing to households to give them guidance on the partial reduction in protected payment that they can expect to receive from January 2009. I can confirm that 28th January 2009 will be the first time any protected payments will be partially reduced. Of course if at any time a claimant's circumstances change, a new assessment will be undertaken. In particular, should the financial circumstances of a household worsen, the household will be eligible to receive income support as appropriate to their circumstances. There were 3 benefits - Attendance Allowance, Child Disablement Allowance and Adult Disablement Allowance - that were previously available to households with an income of up to £55,498 per annum. In the case of a child receiving Attendance Allowance, to a child with an income of up to £55,498 per annum regardless of their parent's income. The majority of families previously receiving these disability benefits are now receiving an enhanced benefit from the introduction of income support. There are also families with their own incomes which would not normally be supported through the income support system who have been accustomed to receiving a benefit in respect of their disability. While these families would not be considered to be in need of financial support in income support terms, some of them rely on the value of the disability

benefit to assist with the cost of existing financial commitments. Households that include someone with a disability have become accustomed to the level of benefit under the previous system and may find it more difficult than other households to adapt to new benefits. I believe that we should continue to support and protect people with disabilities for a longer period. Due to the gradual build-up of income support claims during 2008 it is possible to transfer additional funds to the funding of protected payments to allow households previously receiving Attendance Allowance, Adult Disablement Allowance or Child Disability Allowance to continue to receive full protection. I am announcing today that this protection will be for a further 2 years up until October 2010. Only then will the first partial reduction in protected benefit occur. While I recognise that the States have on several occasions debated and approved the tightening-up on the availability of benefits to those with higher incomes, my Assistant Minister and I also listened to the views of those who represent children with severe disabilities and their families. I believe a special case can be made to provide financial assistance to families that care for a child with a severe disability. I will be lodging a proposition to amend the Income Support Regulations to enable children with severe disabilities in families that would not otherwise qualify for income support to access the high level personal care component. I also want to take this opportunity to remind families who care for people with disabilities that the Invalid Care Allowance still exists, and that we also have a new Carer's Allowance that has been introduced within income support. The take-up of this allowance is quite low at present and we will be writing to carers and the Jersey Carers' Association to ensure that everyone entitled to the new benefit is receiving it. I recognise that Members will want to be confident that people with disabilities are supported appropriately and I would like to reassure the public that this package of measures has enhanced for many the support that they receive and for others maintained the support they receive. I am also announcing today steps to provide automatic qualification to the first level of personal care component for those with 100 per cent Long Term Incapacity Allowance awards. If someone has an accident or serious chronic illness during their working life they are normally supported financially through the Long Term Incapacity Allowance. This benefit is paid on a percentage scale depending on the level of incapacity. If the person had very high personal care needs they would also have qualified for Attendance Allowance, however many people with moderate personal care needs received no additional help with the cost of their disability. Those in receipt of L.T.I.A. (Long Term Incapacity Allowance) could not access Adult Disablement Allowance. Under income support 2 additional levels of support accessible to those on L.T.I.A. have been introduced. There will be a significant proportion of individuals with 100 per cent L.T.I.A. awards who are already eligible for one of these additional personal care components. As this is a new benefit the take-up is quite low at present, and we will be lodging Regulations to provide an automatic entitlement to the personal care component level one without the need for further application or assessment. Of course, if someone considered that they should have a higher care component they could make an application for a higher rate component. With regard to the treatment of lone parents who have a child remaining in education from the age of 16 to 18 the current definition of lone parent in the Income Support Law leads to a reduction in the level of benefit when the child of a lone parent finishes compulsory schooling and remains in education. I have today lodged a proposition that addresses this issue and will create a financial incentive for the child to remain in education. While this statement focuses on enhancements to the scheme and extended protected benefits, it should not be forgotten that there are a significant number of the poorest households within our community who have received an immediate benefit increase since last January. In conclusion, Sir, I would like to thank all those who have fed back information and for the support they have given to enable my Assistant Minister and I to make these announcements today. In brief, they are extended, protected benefits until 27th January 2009 for everyone; extended protected benefits until October 2010 for people who previously received Attendance Allowance, Adult Disablement Allowance or Child Disablement Allowance; a new entitlement for households for children with severe disabilities to claim the high level personal care component without regard to the parent's income; a new automatic entitlement for Long Term Incapacity Allowance claimants with 100 per cent awards to the first level personal care



component; and a new incentive for children of lone parents to remain in further education. The report placed in Members' pigeon holes later today sets out a detailed analysis of income support households and their financial position in October this year. I do hope these initiatives find favour with Members. [Approbation]

**The Bailiff:**

Before I call for questions for the Minister on that statement I notice in the public gallery a number of students from St. Michael's School and I am sure that Members would wish to welcome them to this ... [Approbation]

**6.1.1 Deputy G.P. Southern:**

May I first of all congratulate the Minister on recognising the major problem that he has come across with Attendance Allowance, Child Disablement Allowance and Adult Disablement Allowance, and congratulate him on providing additional funds to cover further some hundreds of families who will be affected to the tune of thousands of pounds per annum; and ask him when he recognised that this problem was going to happen; or did he realise when he brought the income support proposals to the House that the intention was to reduce the cap - the means testing - on this particular allowance and that he was going to affect these families, and when he explained that to the House when he brought this to the House in the first place?

**Senator P.F. Routier:**

I think the Deputy seems to have the impression that there are hundreds of families who are in this group and it was going to affect thousands of pounds. There are 69 families with 75 children who were previously receiving Attendance Allowance and they were in a position whereby they were being supported by the previous benefits. The majority of them are better off under income support regardless of us making this change, by far. There are a small number of parents who have significant incomes of their own who the States had repeatedly asked us to tighten-up on, ensuring that benefits went to those people who were in financial need. That was what the States had asked us to do on several occasions - 3 or 4 times - and repeated that request. I have today announced that I will be bringing today back to the States a proposition which will reverse that because I recognise that it is important that we do support people with disabilities, children with disabilities and that is what I intend to do.

**6.1.2 Deputy G.P. Southern:**

Supplementary, Sir? Will the Minister answer the question? When did he first recognise that he was going to have this impact on Attendance Allowance and, in particular, when did he point out to the States that this action in reducing the availability of benefit did not just apply to the Rent Rebate and Abatement Scheme or to D.T.A. (Disability Transport Allowance) but to these particular people with disabled children?

**Senator P.F. Routier:**

I would imagine probably at the same time as the Deputy when he scrutinised the legislation. The Scrutiny Panel scrutinised the legislation as well as myself bringing it forward. It has been a requirement of this Assembly to means test all of the benefits, and that has been happening for a number of years. Now we have it in place I recognise, and I accept that is a decision we need to reverse, and that is what we are going to do.

**6.1.3 Deputy G.P. Southern:**

Final supplementary. Is it not the case that the Minister recognised that this was the case and he recognised it in July of last year?

**Senator P.F. Routier:**

I cannot recall that, no.

#### **6.1.4 Deputy S. Pitman of St. Helier:**

I have had several people complain to me that they are worse off under I.S. (Income Support) than they were on H.I.E. (Health Insurance Exception) and most of these people are on the lowest income. How many complaints has the department had on this matter and will the department be monitoring this? Also, Sir, could the Minister inform Members when his leaflet on special payments to recipients will be published?

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

I am not quite sure of the exact question, the early part about the complaints. Could you just repeat that again please?

#### **Deputy S. Pitman:**

I asked if his department has received complaints from recipients of I.S. that they were better off under I.S. than H.I.E., and also will his department be monitoring this?

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

Certainly when H.I.E. was first subsumed within income support there were some concerns and that is why we brought back amendments to the income support system. I think the Deputy may recall that we increased the amount of visits that people were able to have on income support so it replicated what was available to those people who were previously on H.I.E. We have addressed that issue. With regard to special payments and literature, that is one of the things in my statement I said that now that things are bedding-down: communication is one of the big issues for us and we will be ensuring that information will be given to claimants and to the general public as a whole to ensure that they are aware of what they can claim for.

#### **6.1.5 Connétable S.A. Yates of St. Martin:**

In light of my close interest to this matter I would like to thank the Minister for his statement today. I would like to ask him to explain or describe the new entitlement for households with children with severe disabilities to claim the higher level of personal care component without regard to parent income. I would like to say also that, with my thanks for his statement, I will also tell him that I shall still be taking a very personal interest in his future work in Social Security, Sir.

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

The proposal with regard to enabling children in their own right to be able to claim the personal care component without regard to their parent's income has replicated what used to happen with Attendance Allowance, and it will be possible for... I think I have explained that, that it will be possible for a child in their own right, without regard to their parent's income, to make an application for the personal care component level 3.

#### **6.1.6 The Connétable of Grouville:**

I too, Sir, would like to thank the Minister for his statement today and I would also like to include in that the Scrutiny Committee, who with one of my parishioners were very kind, very courteous and took the matter forward on his behalf with the Minister, and I am very grateful for Scrutiny and the Minister for what has happened today. Thank you.

#### **6.1.7 Deputy I.J. Gorst of St. Clement:**

I too, would like to join the chorus of thanks to the Minister. He has shown that he has been prepared to listen to families who have members with disability and I thank him for that. However, he has extended the protected benefits until 2010: I would just like him to confirm - I know that he, as an individual cannot, but perhaps he can on behalf of his department - that his department will continue to listen because I suspect that these issues might just rear their heads again in 2010, and I ask that his department will continue to consider that they could be extended even further.

**Senator P.F. Routier:**

I thank the Deputy for those kind comments. Certainly, the issue... I have done a 2-stage approach of protecting those existing people who were in the system until 2010, but if there was somebody new coming into the system they are going to benefit from the ability for any child who has a severe disability to make a claim in their own circumstances. So, they will have a very similar effect beyond 2010. I believe that will be the case.

**6.1.8 Deputy S. Pitman:**

The Minister did not answer my questions earlier. He said that his department were doing something about people who are better off under income support; can he tell us exactly what his department has done? Also when his department will be sending out the special payments leaflets to recipients?

**Senator P.F. Routier:**

The H.I.E. replacement, we recognise that there was a need to increase the visits that people were able to claim under the old system, within income support. So increase the availability of doctors visits they used to go to under H.I.E. With regard to the leaflet regarding special payments, all the communication, all the issues regarding income support are being dealt with in the next few weeks.

**7. Statement by the Minister for the Transport and Technical Services regarding the extension of the Connex contract**

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

In answer to previous questions, I have assured the House that as soon as I had made a decision regarding the Connex bus contract I would advise Members in the first instance. Yesterday I signed a Ministerial Decision agreeing to extend both the contracts currently held by Connex for the scheduled and the schools' leisure services as allowed for in the original contracts. I have made this decision for a number of reasons. Firstly, the extension of the contract provides a positive financial return to the States and tangible benefit to the travelling public. Secondly, extending the contracts will allow further time to assess the impact of integrating the network and defining the detail of the service to be re-tendered for 2012. Thirdly, the savings accruing will be reinvested in the bus service or utilised to provide contractual and technical support in preparation for the contract award in 2012. Fourthly, Sir, Connex' track record speaks for itself. Passengers numbers have increased by 19 per cent since the first year of the contract. Connex carried just short of 3 million passengers in their last - fifth - year of operation. Fare revenue has increased 30 per cent over the contract period so far and Connex won the Jersey Enterprise Award for business of the year in 2007 as well as winning the 'Large Business' category. The agreement specifically provides the following: a £300,000 reduction on the contract price over the 3-year extension period; the scheduling of the shadow timetable, which refers to the relief buses currently running at peak times. This will have the effect of adding to the number of timetabled services and will encourage ridership; an additional service on the eastern commuter route during both morning and afternoon peak periods; further use of empty school buses returning to town to enhance commuter services. Continuing investment in new vehicles to upgrade the current fleet ahead of time and to provide increased capacity, and a commitment to examine use of hybrid vehicles and also the use of double-deckers on appropriate routes. I firmly believe that this decision is the right one for the Island and especially for the public: both those travelling now and those that wish to take advantage of the progressively improving bus transport system. In addition to extending the contract, I have also agreed a settlement to the outstanding shift allowance issue. This dispute dates back to 2002 when the then Committee paid Connex a sum of £186,000 to cover increased costs following the previous operators decision to introduce a shift allowance to its staff. The subsequent Committee of Inquiry requested the then Committee to "take immediate action" to determine whether the £186,000

payment in respect of the shift allowance can be recovered either from Connex or from any other person. Following legal advice T.T.S. and Connex agreed to progress negotiations to reach a settlement in this regard thus avoiding the potentially high legal costs involved in the litigation route. Connex have now agreed to pay T.T.S. £200,000 in full and final settlement of this claim. In conclusion, I would remind Members that the original contract allowed for a maximum 3 year extension and that a new contract for the complete integrated public leisure and schools network will be tendered in order to be operational in 2012. I will extend the scope of the contract so that this larger public transport package will have the potential benefit of being able to attract a wider group of local, national and international companies to the tender process which can only be in the best interest of the Island in respect of securing the best deal for the future.

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

In the letter that was agreed yesterday and sent to the Minister, the Environment Scrutiny Panel was unable to come to the same conclusion as the Minister has come to today to extend the contract before the original date has expired. It is true to say, Sir, that the original period was for 7 years and the extension of the contract was by way of a clause that could be invoked if the benefit to the Island could be proven. That is obviously at the expiry of the original period. The Minister has chosen to invoke the extension clause a year before he is formally required to do so and in reviewing some of the documentation that I was given by his department the panel came to the conclusion that we were not in a position to agree with the Minister that the reasons to extend the contract prior to the expiry date had been made.

#### **The Bailiff:**

Deputy, you must come to a question.

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

I am, Sir, I am coming to the question. Therefore I would like to ask the Minister to explain to the House why he is in a position of invoking this extension clause one year before he was duty bound to do so?

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

I would have thought it would have been fairly obvious to most Members that when you are running a bus network operation that operates on a seasonal basis with summer timetables and winter timetables, and you are dealing with a sophisticated service operator, you simply cannot take these people by surprise on the actual renewal of contract date. There are obviously ongoing negotiations that go forward and I simply ask Members to note the number of quite significant benefits that will occur to the bus travelling public out of the agreement that has been reached.

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

I note the statement contains a number of initiatives, including double-deckers, but there is an absence of any mass transportation initiatives including trams. Why are these initiatives not in there and does the Minister think that these have the remotest possibility of coming to fruition?

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

The subject of light railways and various other initiatives of that nature will, in fact, be dealt with in a frankly quite short paragraph in the Integrated Travel and Transport Plan, when it is released shortly. But I need to remind Members of the Steer Davies Gleaves report, which I am struggling to find at the moment, but I did bring with me this morning. That quite clearly indicates that the concept of mass transit is really of no relevance to the Island at all. The estimates... I think it would cost £18 million to set up, with running costs of about £500,000 a year. It might impact by an order of 2 per cent on reducing the number of commuters coming to town from the west - that you could only possibly work in the west of the Island - and I could go on at very great length about

all the various issues that would compound to make this type of proposal entirely relevant and inoperable in a small Island like Jersey.

### **7.1.3 Deputy J.G. Reed of St. Ouen:**

I wonder if the Minister could clarify the statement that a £300,000 reduction on the contract price over the 3-year extension period. Does this mean that there is a £300,000 reduction per annum for each of the 3 years or is this the total figure?

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

I am happy to clarify that. It will be a £100,000 reduction per year. The legal settlement of £200,000 of course is a separate matter, and I would suggest it a good news story that the matter has now been settled finally. I would also indicate in respect of new rolling stock that we are expecting a minimum of 6 new vehicles to join the fleet which will go towards very significantly enhancing current services.

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

The Environment Scrutiny Panel asked to be provided with statistical documentation in order to assess the improvements in the service. The department provided the Scrutiny Panel with the year 4 figures but have informed the department of accounting irregularities in year 5 and are unable to release figures for year 6 because the year 6 figures will only be available after the completion of year 6, which is in the autumn. When will these figures be available to those Members of the House who are interested in the assessment of the company's track record in providing the Island with the bus service that it needs so that Members can be in a position to judge the efficiencies as to whether or not they have been made, as are being stated by the Minister?

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

It is important to emphasise that when I approached the Environment Scrutiny Panel with the briefing document that had been given to the Council of Ministers I was not asking for a full and comprehensive review of the bus service and its operations. I was merely - and made this quite clear - seeking an opinion primarily on the legal settlement and also the outcomes in terms of enhancement of the service by extending the contract. The reason that the figures for year 5 have not been provided is simply that year 5 does not correspond to years 4, 3, 2 or one. That is because it is in year 5 that the entire system moves to an integrated one therefore it is, without enormous difficulty, not possible to compare year 5 accounting figures - passenger figures - with the previous 4 years. They are out of step. One of the reasons for extending the contract is so that the department can get a better understanding of how the integrated service is running. This is only the second year of the integrated service and at the moment, until we reach the end of the year, we will not have full year-on-year figures to make a comparison. I frankly need more information than that in order to satisfactorily re-tender the contract and that is one of the salient reasons why the extensions have been agreed.

### **7.1.5 Deputy I.J. Gorst:**

I note that the agreement specifically includes, it says at point 3: "Additional services on the eastern commuter route, both during the morning and afternoon peak periods." Can the Minister confirm that it also might include additional buses at the same time because I have a constant complaint from parishioners that they are waiting for the bus in town, the bus arrives, it is full and they have to wait for the next half an hour or 20 minutes? I wonder if he can confirm that is part of the package/

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

Wherever possible and emendations take place every time a new timetable is issued; we strive to ensure that buses do not arrive at the same time. It is the famous story of London Metropolitan bus travel that you wait for a bus for ages and then 3 turn up at once. No, that is not our intention. If I

can just very swiftly explain; at the moment where it is established that buses are full relief services are sent, and this can be confusing for bus travellers. In future the change is going to be that those relief services which we know already are in demand will become part of the scheduled service, and their times of arrival will be entirely clear to future passengers in the timetables.

## **8. Statement by the Chairman of the Economic Affairs Scrutiny Panel regarding the Panel's review of employment and training opportunities in Jersey for young people**

### **8.1 Deputy G.P. Southern (Chairman, Economic Affairs Scrutiny Panel):**

Following expressions of interest from the public, the Economic Affairs Scrutiny Panel has decided to undertake a review into youth employment as part of a larger planned review into employment and training opportunities in Jersey. The panel feels that this topic is a topic of pressing public concern as it not only affects the economic competitiveness of Jersey in the present and future but it also has a significant impact on the lives of local people. The panel will be holding public hearings from late June into July to interview a list of witnesses soon to be finalised. The terms of reference are as follows: in respect of labour market entry at the pre and post-16, 18 and 21 year-old levels; to evaluate the implementation of Ministerial skills initiatives in respect of the aims outlined in the Strategic Plan of 2005; to determine the availability of an appropriately qualified local workforce by selected economic sectors; to analyse current and planned government training operations to determine if these developed skills reflect the needs of the Island. The panel intends to report back to the Assembly during or before the week beginning 8th September 2008.

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

For my part I welcome the review and we will be doing our best to assist the panel in their deliberations. Could the panel chairman answer 2 questions? Firstly, when will he finish his previous review and publish it in relation to Jersey Finance? Secondly, in order that under the code of conduct that exists between Scrutiny Panels there is to be some certainty and some planning in relation to Scrutiny reviews, is this the final review that his panel will be taking between now and the end of this term?

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

I thank the Minister for his question. The report on Jersey Finance will be out before the end of the week. This is likely to be the last review I shall be doing this side of the elections.

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

Will the chairman and his panel be working in concert with other panels who have a similar, if not a concurrent interest, in youth unemployment?

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

That is somewhat difficult because we cannot at present co-opt people on to a panel. We had to form a sub-panel. I discussed the possibility of forming a sub-panel with the relevant other panels and we decided in this case not to for the present. I believe we will be bringing an amendment to the Regulations which will allow us in future to co-opt people and therefore make inter-disciplinary co-operation much more and much easier.

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

Just a point of clarification from the chairman. I am well aware there a number of individuals suffering certain disabilities that are educated at Mont à l'Abbé School who are struggling to find further employment, and included in certain training programmes. Will these individuals be included in this review?

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

I thank the Member for his question. It may well be that within the short timescale that we have set ourselves to do this operation, I believe we are unlikely to take in, in particular, those with a disability at this initial stage. But we would want, at some stage, to examine the wider aspects and they would be included further on down the line.

#### **8.1.4 Deputy I.J. Gorst:**

I thank the Deputy for that answer. Would he not, however, agree that there is a growing problem in that particular sector and that is fairly critical to... it should form a fundamental part of his report?

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

I thank the Member for his comments, and I will take that on board and examine if we cannot possibly examine those aspects at this particular time.

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

Two questions: given the vagueness as to the number of young people unemployed because of the voluntary signing-up system of social security, will the panel be doing some kind of survey to assess the real level of youth unemployment? Secondly, Sir, will their study embrace the role of Highlands College?

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

The second question first; we will certainly embrace the role of Highlands College. In terms of the definitive numbers of who is unemployed and who is not, that is probably, again- with this particular aspect - not something that we shall go into in great depth initially.

### **9. Statement by the Chief Minister regarding the historic child abuse investigation**

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

Members will be aware that 3 people have now been arrested and charged in connection with the ongoing police investigation into historic child abuse. I am sure Members will understand that it is of the utmost importance that these prosecutions, and any others that may follow, should proceed smoothly with all the support we can offer and without any speculation or unwise comment which could jeopardise the judicial process, seriously let down the alleged victims, or prejudice the fair trial of those against whom complaints have been made. In keeping with what I said in February, it is essential that nothing should undermine the fairness of the judicial process in the interests of both the complainants and those charged. For that reason, regardless of any concerns individuals may have, it is vitally important to the outcome of the judicial process that all States Members remain silent on and refrain from interfering in the police investigation. In circumstances such as these there is a clear and obvious need for thorough and exhaustive investigation which we, as the Island's political representatives, have a duty to support. We also have a duty to support all those who may have been victims of abuse and to ensure fair trials. Ultimately, when the judicial process has run its course, the Committee of Inquiry, which has already been announced, will investigate all aspects of the management of the investigation and all other related matters.

### **10. Statement by the Chief Minister regarding the establishment of a Charities Commission**

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

Following the acceptance of Deputy Gorst's proposition on 12th February 2008 it was agreed that I was to report back to the States within 3 months, and that proposition was on the establishment of a Charities Commission. A group is to be established under my chairmanship to begin a feasibility study into the establishment of a Charities Commission for the Island. Unfortunately, I have to

inform the House that I am now unable to return this study within the 3 month period. However, a group has been established under the chairmanship of Connétable Vibert of St. Ouen and this work is progressing.

**10.1.1 Deputy I.J. Gorst:**

Could the Chief Minister perhaps tell us why there has been a delay in this particular piece of work and when he expects to receive it?

**Senator F.H. Walker:**

There has been a delay due to pressure of work, not just on my office but also other individuals in the private sector who we wish to be involved in this investigation or the study, and it has been impossible to progress it, sadly, according to the timetable promised. I would hope to be in a position to return to the States very soon after the summer break.

**PUBLIC BUSINESS**

**11. Drainage Law: service of notices on owners (P.57/2008)**

**The Bailiff:**

That completes the matters under Statements, and we come now to Public Business. The first item of Public Business is Projet 57 - Drainage Law: service of notices on owners - in the name of Senator Shenton. I invite the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to request the Minister for Transport and Technical Services to rescind his Ministerial Decision made on 27th November 2007 in which he agreed to vary the policy on the service of notices under the Drainage (Jersey) Law 2005 and agree that he would, from the date of the Ministerial Decision, consider serving a notice on third party landowners for the benefit of private developers to enable those developers to lay sewers across the third party land if there was a demonstrable public gain, namely where a developer was able and willing to fund the connection of other surrounding properties to the public sewer network.

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

Before the debate starts, as a builder/developer, Sir, I think I possibly could be affected by this at some point in the future so can I leave the Chamber, Sir, for this debate?

**The Bailiff:**

Very well. Deputy Troy declares an interest and that will be noted.

**11.1 Senator B.E. Shenton (The Minister for Health and Social Services):**

It is strange that normally when I bring a proposition to the House I normally get another Member of the House approach me before the debate - normally a female Member - saying: "Whatever you do, do not personalise it." So this happened with this proposition as well. I have been in the Chamber for 2 and a half years and I think it is very good advice, but I was reflecting how the chair and the Assembly allows criticism of political parties when we are debating issues and the J.D.A. (Jersey Democratic Alliance), in particular, has taken quite a bashing over the last 2 and a half years in the Chamber. So, I was thinking we all sit here as 53 independents so when I refer to another politician like Deputy de Faye or any other politician, I am referring to them as an independent political party. So this should get over any chance of upsetting anyone. This actual case started off around about 12 months ago very much as a planning issue. I am sure as States Members we have all been called upon to take up individual planning cases among numerous other interests of the public. It is our role as politicians. But it has moved into so many areas since this time that I now quite unexpectedly find myself bringing this proposition to the House. This



particular case, which we are debating today, covers a number of facets apart from the planning issue itself. These include the use of Ministerial Decisions, something that I am now familiar with having been on the Executive, and one that, when I was not on the Executive, I perhaps did not monitor as closely as I should have done. It brings into question the appeal processes that are available to the general public when they wish to appeal a Ministerial Decision. It brings into question the use of the Drainage Law itself as a vehicle to solve planning matters, something which I am sure when the Drainage Law was brought in was never envisaged. It also brings into question the possible breach of human rights legislation in respect of the rights of the property holder. I should say to the Deputy of St. Martin, I will be supporting his proposition that is coming to the House, but when we bring a proposition we have to make certain human rights declarations which is not something we have to do when we pass a Ministerial Decision. It also brings into question basic errors at the Planning Department, which does raise questions, or does not bode particularly well when we move to the Esplanade Square debate, and it also brings into question the use of the court processes in Jersey to achieve justice. I have a number of cases that I am currently working on where the pursuit of justice for individuals has, in one case, almost bankrupted the family concerned. It is all right to have channels of appeal open to yourself but as those channels of appeal are going to cost thousands and thousands of pounds you have to question whether that truly is justice. Turning first of all to the planning process, I will not dwell on the planning process because I think it would be very unfair because this is not what this is all about. Senator Cohen is not in the Chamber and because this is relating to an active case he will be abstaining from the vote, but when I first got involved we went to a hearing. It is quite a large development this particular property, and the Planning Department had recommended for it to be passed. Even though it was quite a large development on the headland, no model had been made of the property in line with planning requirements and I am sure some members of Scrutiny will remember the scrutiny process dealing with a property called - which I cannot pronounce - Lezardrieux, or something, in St. Clement. This was a property on the hill at St. Clement where Scrutiny did quite a detailed report and highlighted a number of omissions in which Planning did not carry out... and the importance of when you are passing planning permission for a property in a highly visible area that the minimum standard should be at least to erect a scaffolding profile before any planning permission is recommended. Unfortunately no model was prepared and no profile was done. Now how likely is it that a planning officer who has recommended the passing of a property would then turn round and say after the model was done, and the scaffolding erected: "Oh no, you are right, it does look hideous, I have got it wrong." It just would not happen. All objectivity has been lost. To give the Minister for Planning and Environment his due, he was quite dissatisfied with the department that they had not prepared a model and they had not insisted on a scaffolding structure being put in place. This particular proposition is brought to reverse a Ministerial Decision that is wrong in many, many ways. It also asks questions with regard to what information is available to the public with regard to Ministerial Decisions. Much of the information that this proposition is based upon was only available to me as an elected States Member. The actual amount of information available to the public was very limited indeed. The backup papers were marked "Confidential" and it was only with the permission of the Minister for Transport and Technical Services that I was allowed to publish them, albeit, I had to remove the name of the developer otherwise they could have been withheld. This vote will be, largely, on whether private property developers should have the principles of the Drainage Law extended to their own benefit and a fundamental issue of this is whether it can be said to be for the public benefit for the Minister to exercise his powers under the Drainage Law in circumstances where the neighbouring landowners are perfectly happy with their current drainage arrangements, and those drainage arrangements are perfectly adequate for the current properties. Furthermore, we bring into question the cost of maintenance and the States liability to pay compensation following any legal claims under the Drainage Law which is a distinct possibility. As I said before, the papers supporting the Ministerial Decision were marked "Confidential" and, therefore, not for public view. The Minister acceded to the removal of the confidentiality clause on the provision that reference to the identity of the developer was removed.

However, it should be borne in mind that this Ministerial Decision was passed specifically to aid this particular property developer. The current procedures for the public to proceed against the Ministerial Decision are not clear and, in my opinion, this Ministerial Decision was a heavy-handed abuse of Government power. Furthermore, the Drainage Law in itself, when you read it - and it is not particularly exciting reading - was always put in place so that the public sector would be able to access and install mains drains where necessary. As far as I can see, there is no statutory appeal mechanism against the serving of a drainage notice under Article 10 of the Drainage Law, however, the landowner can claim compensation from the Minister under Article 38 if a person has an interest in that land that is reduced in value as a consequence of the exercise by the Minister. So, here we have a property developer building a property, no doubt to make money out of, and if there are successful appeals against the use of the Drainage Law to facilitate this development, it is the taxpayer who will pay the damages. The private property developer will not have to pay anything. Also, the Law clearly states that the powers of the Minister or an authorised person under this Law shall not be exercised in respect of any Crown land unless the Lieutenant Governor consents or they are exercised in case of emergency. So, it seems that we have a Law here designed to the detriment of only private property owners and, as a private property owner myself, I always consider that my land is my land. No doubt anyone upset by the passing of the Drainage Law could ask for a judicial review but, again, this is a long and laborious process. The other alternative is the proposition we see here today which is for me to bring a proposition to ask the Minister to rescind the Ministerial Decision. If you have a look at the Ministerial Decision, it states: "The Minister recently considered a Ministerial report recommending that the department maintain a long-standing policy whereby the Minister will not serve a notice for the laying of public sewers under the Drainage Law on third-party owners for the benefit of developers." The Minister rejected the recommendation of the original report. So, I ask Transport and Technical Services if they could let me have a copy of the original recommendation to the Minister and I am sure the Minister will speak and when he speaks I would like him to tell us why, out of all the Ministerial Decisions that go through his desk, this one jumped out at him as one that should be opposed, whether he was familiar with the development, and what made him decide that his department had got it wrong. But the original recommendation states the following: "Apart from enabling the developer to lay a sewer across another individual's land, the serving of a notice under the Law by the department would designate the sewer as public, with the department then becoming responsible for its maintenance." To avoid the department becoming embroiled in these private issues and to avoid adding to the significant length a public sewer it already maintains there is a departmental policy in place that the department will not use its legal powers under the Drainage Law 2005 to serve notice on third parties on behalf of developers or private individuals for the laying of a sewer to serve a new development. It is believed that this policy was first introduced by the old Resources Recovery Board but the policy has been continued by subsequent Public Services Committees. I notice that the Minister was quoted in the *Jersey Evening Post* as saying, and again if this statement is wrong he can correct it: "Sometimes as a Minister you have to make decisions like this. Sometimes my predecessors got things wrong and I have no doubt that they did get this wrong." Now, this is a policy that goes back all the way down to the R.R.B. (Resources Recovery Board). So, there are a lot of people getting it wrong. The conclusion of the report that was rejected by the Minister states: "Previous Committees upheld a policy whereby the department will not serve a legal notice on third-party landowners under the Drainage Law on behalf of private developers which will allow private developers to lay sewers across third party's land. This policy has been applied to a development [gives the name of the development] where the developer cannot obtain permission to adjacent landowners to lay a main across their land. The developer's agents have made a specific request to refer this issue to the Minister for consideration." The developers have made a specific request to refer this issue to the Minister for consideration. "The Minister is recommended to reconfirm the current policy of not using its powers under the Drainage Law to serve notice on third party landowners for the benefit of developers or private individuals. Reasons for decision. To serve notice in this way would lead to a significant number of similar requests that

would result in the department becoming embroiled in private disputes and would also lead to the department having to adopt significant lengths of additional sewer that would otherwise remain private.” Again, I look forward to the Minister’s explanation of why he decided to reverse the recommendation of his department. While all this was going on, they have had feedback from the residents of the relevant development saying that they were not interested in connecting. There was, perhaps, one or 2 that may connect if it is a *fait accompli* and I should add that there is nothing wrong with the existing drainage arrangements. The drains themselves would only be taken down the road. They would not be connected to the individual properties. So, if they did decide to connect, there would be considerable cost for the individuals and it would be wrong to say that it would be at no cost. We go back to the point where I stated that I am a landowner myself and I cannot even pretend to be an expert on the Human Rights Law but I have taken advice from a lawyer, and maybe the Solicitor General will be able to provide some input here. There is a basic principle in the Human Rights Law called “proportionality” which, basically, means you can only interfere with someone’s rights if to do so is proportional in the circumstances. Paragraph 2 of Article 8 contains exceptions to the obligation not to interfere with the right to respect private and family life in certain circumstances; national security, public safety, health, *et cetera*. What I believe is, the Minister, by undertaking this Ministerial Decision, is misusing the powers that he has been given because it was never intended that he would be able to force landowners to accept the passing of drains through their properties solely for the benefit of a private developer. This draconian power should only be used in the interests of public safety, protection of health, *et cetera*, and there is no evidence to suggest that it is necessary in this case that the power be exercised. Article 8 is the right to respect both private and family life: “Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by the public authority with the exercise of this right except as such as in accordance with the Law and as is necessary in the democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.” Absolutely no reason whatsoever does the Minister have for breaching the basic human rights of the people that own the drains. There are 2 private drains up at this development that would have to be connected to it. I have letters from owners of both drains and just to read one of them: “Please note that I will challenge any attempt by you [this is a letter to Deputy de Faye] to take my private drains into public ownership or, indeed, bring drains over any part of my land without my permission as this has the effect of driving coach and horses through my basic human rights of ownership and will take away my liberty and freedom of choice.” The developer does not have to worry, does he, because it is the taxpayer that will pay any compensation under the Drainage Law? I have an absolute mountain of papers to do with this particular case, and the handling by States departments not something to hold up with any great pride. The Ministerial Decision was largely passed on the basis of information received from the architect of the property developer. The drains at the estate are currently functioning correctly and, certainly, at public health there are no concerns. The majority of the residents of the estate are against this abuse of Ministerial power. I have had numerous phone calls and letters to also state they are also against this fundamental abuse. What I am asking today is for the States to turn around and ask the Minister to reverse this Ministerial Decision, to go back to the policy that was prevalent for so many years by the Resources Recovery Board and its predecessors, and to explain to us why he decided to go against his department, against the public’s will in favour of a property developer. I put forward my proposition.

**The Bailiff:**

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

**Senator F.E. Cohen:**

As the matter relates to a specific planning application, I will not participate in the debate and I will abstain in the voting.

## **The Bailiff:**

Thank you, Minister. Deputy de Faye?

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

I think it is about time to put matters into context and to pass some of the facts on to what so far has been an extremely muddled debate. First of all, Members will note that the appendix to the proposition contains the Drainage Law and the Drainage Law was approved by probably some 2-thirds of Members sitting in the Chamber now. So, if there are any issues with the Drainage Law then perhaps we should revisit the Drainage Law. But under all circumstances, I have been acting entirely within States policy and one of the reasons that I was not prepared to be bound by guidelines that go as far back as the Resources Recovery Board was because those guidelines were developed under the old Sewage Law and the States have now passed the 2005 Drainage Law. I would ask Members if they would not mind turning to the rear of the proposition and look at page 28. Section 10, Public Sewers on Other Land, and I think the wording is very clear: "The Minister may construct and maintain a public sewer or public outfall." Then, if we look across to section 12, again, another area: "The Minister may, by agreement with the owner of any sewer, sewage works or outfall, or by making a declaration in accordance with the Article, adopt a sewer as a public sewer, adopt a sewage disposal works" *et cetera*. Turn to Section 14: "Obligation to connect to public sewer [this is on page 30] if (a) it appears to the Minister on reasonable grounds that in the interest of public health or the environment or for reasons of amenity the discharge of sewage from any land should be affected by means of a connection to a public sewer and it is reasonably practical to connect, the Minister may require the owner of the land to connect." Now, in broad terms, I think Members need to understand that it is not my fault that the States have adopted a Drainage Law that does, in itself, contain some fairly draconian powers. But these powers, I would point out to Members, are almost entirely the same as powers accorded to our local utility companies such as the electricity company, the water works and so on. It is fair to say that I have consulted a number of those companies. The electricity company says they very rarely, if at all, use their powers but the water works company say they certainly do. I put it to Members that simply because Transport and Technical Services happens to be a States department, in respect of how it operates the infrastructure of the drains, the department is very broadly in line with a utility company. Now, if Members would then turn to the comments paper I presented. Again, it is important that we understand the context within which decisions are being made. Very early on, on page 2, under Comments: "Planning policy with respect to the disposal of foul sewage on the Island is covered under various sections of the Island Plan", which at one point states: "New development proposals that rely on septic tanks, soakaways, or private sewage treatment plants as a means of waste disposal, will not normally be permitted." Now, why is that? The general view on this matter is that it is clearly being decided potentially by some of ourselves and, certainly, by predecessors in the Assembly, that it is no longer considered acceptable to continue to use soakaway systems as a means of disposing of foul waste. It is quite clear in the planning directions that when new developments are considered, the developers are being guided quite specifically away from the continuing use of soakaways. I will just briefly describe what soakaways do because I was rather astounded when contacted by one of the members of the media that they did not know what a soakaway was. But for the avoidance of doubt, by contrast to flushing toilet waste water into a mains drain system which is just simply running through pipes, a household or property with a soakaway system first flushes into what is called a septic tank where elements of sedimentation occurs and is also a level of biological process and the liquids that emanate therefrom go through a further pipe into a large hole dug in the ground normally filled with rock and rubble and covered over, called the soakaway, and the liquid soaks away into the ground. In these modern times it has been determined that this particular route for the disposal of bio-chemical effluent is no longer necessarily best practice and I think we do not have to delve too far back in history to understand that the introduction of mains drains, for example, in St. Helier, saved huge numbers of towns people from the ravages of unpleasant diseases like cholera which were

previously prevalent in the Island. So, mains drains is a good thing. Soakaways: old fashioned and now being phased out. And I have to say it comes as something as a surprise to me to find the Minister for Health and Social Services supporting the case for soakaways and rejecting arguments in favour of mains drains. When I say “muddle” as ascribed to this proposition, I think there is an element of muddle that should be ascribed to the Minister for Health and Social Services. We also need to bear in mind, again to put this in context, that the laying of mains drains has recently ended due to budget constraints. Therefore, the imposition of requirements under the Planning Law have become considerably more onerous. It might have been reasonably fair some years ago to say that when a new development takes place you should make every effort to join to a main drain but when mains drains are no longer being extended throughout the Island, this is proving progressively difficult and Members who have read my comments notes will have understood and gleaned from that that more and more householders and property owners in Jersey are being obliged when, for quite ordinary reasons... there may be an addition to the family, a requirement to build an extra bedroom over the garage adjoining the house, they find themselves caught by the new planning requirement which says you either go on to mains drains or you must install what is called a tight tank system. Now, a tight tank system is all very well but, realistically, it is not a satisfactory long-term solution for any household because the tank fills up over time. Sometimes quickly, if you are using a lot of water, and that tank requires emptying by the Transport and Technical Services sewage tankering system. That is an operation that comes at a charge. The service is offered with 2 free tanker emptyings a year. Thereafter, the charges become progressively more expensive. I do need to tell Members, again, this is putting the matters of my decision into context; that I have had numerous e-mails, I have had householders and ladies, understandably, virtually in tears to me over the phone asking if there is something that can be done about tankering costs. Families who have moved into new homes not understanding the burden of tight tank charges, and Members will note that we see the average costs for those people dependant on the sewage tankering services are around £2,000 per year. That is the average. Within that, there are, of course, quite a number of households that are able to rely on entirely properly functioning soakaway systems and can get away with the 2 free tankering services a year. So, this means that there are also households out in the Island paying considerably more than £2,000 a year. I hear from those people and often they have moved into a home because the family has extended and they stretch themselves to afford the mortgage and then they discover thousands of extra pounds being required in order to keep their sewage system operational. So, the background we have to any decision that the Minister is going to look at in respect of drainage is; (1) the States have made it clear they have a mindset in respect of policy to favour mains drains and to presume against the continuing use of soakaways; (2) the States have withdrawn adequate funding to continue serious extension of mains drains; (3) people who are obliged to use tight tanks are facing increasing difficulty and find it onerous and (4) there are, obviously, issues relating to people who use soakaway systems that, from time to time, simply fail. Now, the situation, I think, I should also clarify because there has been a quite stunning amount of misinformation circulated. First of all, I have not changed the Law. The Law is exactly as it is written. What I have changed by Ministerial Decision is a guideline and when the officer’s report was first put to me, I read it through and, thankfully, my response was: “What is the point of being the Minister in charge of the Drainage Law if the department is recommending to me that I do not exercise my powers under the Drainage Law?” Because that is in effect what the officers were telling me. So, I asked for a review of the position and I also asked for further details about the particular property in question because the details as originally presented were somewhat vague. Although it is clear at one point in the initial officer’s report that the architect here indicates that provision to be connected up to a number of properties could be provided. So, what I had at a time when I asked for a review of the position was the knowledge that a particular site was in question. That was the catalyst for me to make the consideration of reviewing the guideline. It was one of the reasons why I made no attempt at that point to consult any of the residents on the matter or, indeed, did I consult the architect or the developer for their opinions on the subject because at that point I was entirely reviewing the policy guideline. It was my decision, and I think Members

can see clearly that I felt that under the Drainage Law it should be open to a Minister to exercise the powers contained in the Drainage Law rather than follow the previous guideline of opting out and, if I may say so with greatest respect for all of those who work within the department, there was an element of my consideration that I felt that one of the reasons - I forget the precise phrase, but I think: "To serve notice in this way would lead to a significant number of similar requests that would result in the department becoming embroiled in private disputes." Well, in some respect, that officer's judgment was absolutely right because I now find myself, and the department, embroiled in a private dispute led by Senator Shenton on behalf of a small group of local residents. However, and I say with respect to all those officers in the department, I did sense there was a feeling here of: "Well, this is extra work that we would rather avoid." And I would have to say - and I said: "With respect," and I have to say that I think that if there are matters of public concern to be considered, they should be considered. I am quite happy and I have made my position completely clear on this and that is as far as I have gone. I have not made a decision on this issue but I have said: "I am prepared to consider it under the Drainage Law." Therefore, the Law has not changed and I have not made a final decision. The fact of the matter is that, having said that I will consider it has, to a very large extent, galvanised people's thinking. What sort of thinking is that? It has been something of a revelation to me to see the extraordinary variations in attitude and approach taken by the people living on this particular estate, and I deliberately avoid naming locations and naming names because at this point I want to take up the issue of confidentiality. So, I have to say I am rather disappointed at the approach taken by the Minister for Health and Social Services and also the implications that appear to be made. If Members would turn to page 12 of the proposition, they will read... 3 paragraphs from the bottom, it says the following: "The papers supporting the Ministerial Decision were marked 'Confidential' and were, therefore, not for public view. The Minister kindly acceded to the removal of the confidentiality clause on the provision that reference to the identity of the developer and location of the property was removed. I [that is Senator Shenton] agreed to this request with some reservations given that the Ministerial Decision [and now we move to italics] was passed according to the supporting papers [in bold] to specifically aid this particular property developer." First of all, I need to tell Members that nowhere in the supporting papers does it say that the decision was made specifically to aid this particular property developer, but I think that Members will see that there is a certain slant being placed on the information here as being represented. So, I would like to just inform Members of the actual e-mail exchange that took place with reference to the Greffier of the States, Senator Shenton and myself. Senator Shenton writes to the Greffier and, in response... this is about asking for release of the exempt document under the Ministerial Decision and the Greffier replies: "There are 2 issues we need to think about. Firstly, Standing Orders say the name of a person who is not a Member of the States should not be used unless it is unavoidable and relevant to the business being conducted. I am not sure if the use of [and the developer's name is written there] is unavoidable or if he could be Mr. X." Senator Shenton responds: "I think publication of the report attached to the M.D. (Ministerial Decision) is important, albeit, I am happy for the developer's name to be removed from the document." I respond: "Dear Senator [I was more familiar than that] in order to progress matters and in a spirit of co-operation and goodwill, I am prepared to accede to your request to publish part B of the report under the condition that you have offered, which is to remove the names. As that measure in respect to preserving confidentiality of all the parties involved becomes rather a pointless exercise if the addresses and locations of properties involved are revealed, I believe that I must insist that removal of names also includes any references that may identify the location of the estate." I suggest to Members that what you understand from the e-mail trail is substantially different from the impression you may have gleaned from reading that paragraph in the proposition. Regrettably, I think it is now probably common knowledge to most people in the Island where this estate is and who the parties are and if I have any sadness at all it has been the inability from a number of people to be able to separate personalities involved from the principles that are at issue. But I will turn now specifically to my role in relation to the issue at hand. Again...

## **LUNCHEON ADJOURNMENT PROPOSED**

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

I am sorry to interrupt the Minister, I am just looking at the clock. I was wondering how long the Minister is going to continue defending the indefensible and whether, perhaps, we should adjourn until after lunch?

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

I have to advise the Senator that if I glean from what he says that he believes I am defending the indefensible, it is clear I am going to have to go on at some length. I did warn the Assembly very early in the day and I am afraid if Members are having issue with coming to grips with the information I have given them previously, then so be it. But I am going to continue for a considerable while longer.

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

I propose the adjournment if the Minister is happy to continue after lunch.

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

I am happy to take a break at this point, and resume after lunch.

### **The Bailiff:**

Very well. If Members agree, we adjourn until 2.15 p.m.

## **LUNCHEON ADJOURNMENT**

### **PUBLIC BUSINESS (continued)**

#### **The Bailiff:**

Deputy de Faye, you have the floor.

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

I think Members will not be aware of the context and the background to which I then made a judgment on what the appropriate guidelines should be for the current Drainage Law 2005 and for the avoidance of doubt, it is that in circumstances where a developer and only a developer would stand to gain from the application of Ministerial powers under the Drainage Law, that application would not be considered. The only type of consideration that will be made is in circumstances where persons, households or properties other than the developer can be perceived as standing to gain and that gain must also be determined to be in the public interest. The context, of course, is that it was being put to me by the developer that would the Minister care to consider exercising powers under the Drainage Law in the circumstances where on this estate the developer would install a mains drainage connection for all those properties on the estate that were not currently connected. This to be done at the developer's expense and at no cost to the taxpayer. I emphasise that because the issues of compensation have been brought up. Compensation can be payable but, in general circumstances, it has been deemed in the past, and there is a precedent for this power - it was used formally by a previous Public Services Committee. The compensation element was decided that a property value is enhanced by joining to the mains drains and that, of itself, is sufficient compensation although circumstances would undoubtedly be considered in a different way if, for example, someone had a very rare and prized rose bush that happened to be in the front garden and was damaged in some way. Different compensation would be thought of. I then asked officers to proceed on the basis of (1) we would try and determine the most satisfactory engineering solution to the mains drain issue and (2) that all residents would be consulted. They now have,

letters have been sent and we have received already sufficient replied to indicate that 3 persons, at least, on the estate would be keen to join and establish a mains drain connection. So, I was teasing Senator Norman, to some extent. I do not intend to go on at any great length because I think the matter is, in fact, a relatively simple one and that is, should the Minister consider a situation where a developer... and on this I agree with Senator Shenton, there will be an element of benefit to the developer because the developer will have the opportunity to connect to mains drains, but in circumstances where, in this case, perhaps 6 or 7 properties could be connected to the mains drains at no cost - the cost is borne by the developer and not by the taxpayer - is that something that the Minister should consider? I happen to believe that it is something I should consider. I am considering it. I have made no determining decision but I do need to emphasize that whatever decision I make is entirely unconnected with the planning application process and I think Members need to be quite clear about this. It would be a serious mistake to conflict what I am considering under the Drainage Law with what may or may not be decisions made by the Minister for Planning and Environment and the Planning Department. Indeed, it is my understanding that this matter does not hinge, necessarily, around the mains drains connection because my engineering officers advise me it is feasible for the developer to approach this development with a tight tank. Whether the Minister for Planning and Environment puts some sort of constraint on that, I do not know. That will be a matter for him but any constraint he may wish to make would have to be a reasonable one otherwise it would be open to challenge. So, that is, in a nutshell, the position with really only the additional comment to make and that is, at some stage in the future, this particular private estate is almost certainly going to have to be joined-up to mains drains because over time... while the budget is not available at the moment, there are a series of mains drains extension projects in the pipeline waiting for the States to be funded. Here, in effect, is an opportunity to bring the advantages of mains drains services to an estate well ahead of when the States might do it anyway. I think that is an important consideration because while there may be some residents on that estate who are, for a variety of reasons, entirely resistant to what is being suggested, there is also the likelihood that some of these properties may change hands in the future under which circumstances, as they are all quite large homes, they might suddenly find themselves as family properties and not necessarily the homes of either a couple or a single person in which case much more significant demands will be placed upon the current drainage systems. I have no doubt in my mind that under those circumstances, any future owner properties on that estate would be very well served indeed to know that either they were connected to mains drains or that they have an opportunity to do so. In that context, I emphasise that there is no compulsion to connect to the mains drains system and, indeed, I am very pleased to say that the current engineering solution being looked at by the department does not cut across gardens. It will be dealt with by running down the central roadway that services the estate and could be linked, in fact, to an existing mains drains connection and would, therefore, pass simply through one property. So, that is the apparently controversial guideline that I have made a determination on. I think it is reasonable under the Drainage Law for the Minister to be able to consider a third-party position where the developer clearly will get a benefit but where one or more other households or properties stand to benefit as well. I do not believe that is an unreasonable position and I would ask the Assembly to reject the Senator's proposition.

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

May I seek a point of clarification from the Minister before he sits down, or just after he has sat down? He appeared to distance himself from the planning decisions and, yet, what happens in a case where a planning application will only be dealt with if a connection to mains drains is obtained? Does that not then go back to the Minister for T.T.S. to determine that?

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

I would be very surprised if I was put in that position because I do not think it would be reasonable of the Minister for Planning and Environment to insist that a planning application should be



determined solely on the grounds that a mains drains connection could be established. I think the Minister for Planning and Environment would find himself in difficulty under those circumstances because, clearly, under policy NR2 of the Island Plan, it does indicate that while septic tanks, soakaways and private sewage plants may not normally be permitted, it seems fairly clear that a tight tank solution is an alternative to mains drains.

**The Connétable of St. Ouen:**

I would point out to the Minister that occurrence has happened in the past.

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

I think it is important, prior to speaking on this proposition, that I would like to inform the House that the property through which the drain is proposed to pass belongs to a person with whom I work closely but, however, whose integrity can be considered as paramount and one of the residents in the affected area is an uncle of my wife and a previous, well-respected Member of this House. I make these declarations in view of the fact that I am in receipt of correspondence from agents of the developer, Mr. X, intimating that I am conflicted in the matter and, thus, should not involve myself in matters pertaining to developments in this area. This is not an approach which I can accept and, with your leave, will propose to comment on this proposition and, more particularly, on the comment from the Minister.

**The Bailiff:**

May I just say something from the Chair, Connétable, which may assist you, I do not know, and I hope it may assist other Members, too. As I read the proposition, and as it has been put to the Assembly by the proposer and replied to by the Minister, it is clear that what this debate is about is a question of principle, in other words, the variation of the Minister's policy. It is not a debate about a particular set of circumstances involving a particular set of landowners and I make that point now because I want to warn Members that I shall rule them out of order if they speak explicitly to a particular set of circumstances. It is the principle which is before the Assembly today. Should this Ministerial Decision which gives the Minister certain authority be rescinded should they send a request in to rescind it? That is the issue before the Assembly.

**The Connétable of St. Brelade:**

I clearly do not intend to speak on the planning issue, as you have quite rightly guided. But I can understand the Minister's philosophy in that there could be a long-term advantage to some property owners in the area. However, I cannot understand what possessed him to go against his officer's advice last year in their first report and opened what can only be described as a can of worms. He risks insinuations of impropriety and I have no doubt that he is well equipped to handle that. Nevertheless, Members must consider the effect of suggestions of impropriety on his officers in his department, most of whom are highly regarded and professionals who have professional reputations to maintain. I urge Members not to overlook public perception of this matter. The present properties not connected to the mains drains, the Minister alluded to 3 wishing to connect. This is clearly untrue. I am quite clearly given to understand by property owners in the area that of those 7 who are not connected, one is very keen, 2 others would connect if the drain was put there. Now, that is different from someone saying they wish to connect. So, I think Members need to be well aware of that. The owner of the property through which the private drain at present passes is keen to support his neighbours in their quest to preserve this quiet, tranquil corner of St. Brelade and to ensure that it does not become part of the development spin which seems to be all pervading in our Island. The Minister alluded to an alternative of taking a drain through the single carriageway access road with accompanying disruption. I would contend that another declaration under Article 12 will be necessary to go down this route because this belongs to someone else, a different landowner. So, the Minister accuses property owners of being against development and using the draining issue as a means to granting of planning permission. I suggest the opposite view and that the developer is manipulating the Drainage Laws as a means of obtaining planning permission. We

have no evidence of cholera outbreaks in the area under discussion. I think tight tanks are a bit of a red herring. In 20 years' time, we may have moved to alternate systems such as put forward by the comment in the Scrutiny Panel report just received. In conclusion, I would question the demonstrable public gain and urge the Minister to back-off and respect the perception that the public will have of his department and officers and would ask Members to support this proposition.

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

In common with Senator Shenton and my Connétable, I will not dwell on the details of the case. As they both stated, this is a proposition about using the Law to impose a government department's wishes on a majority of people who democratically do not agree. It is principle. The House should understand that the area is a private road, all the drains are privately-owned and the majority of the residents do not want the changes. Perhaps I can comment on the Minister's comments to the projet? It is implied in the comments that this building will go ahead with a tight tank or a mains connection, it does not matter which. It is my understanding that this is not the case. The mains alternative was sought because the tight tank was inappropriate for the requirements of an over-large property with numerous bathrooms and a swimming pool occupying most of the site.

### **The Bailiff:**

Deputy, you have...

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

Yes, I have gone off that. I was just setting the scene but it was in the comments, though. There is a lot of mention in the comments about the public interest. Sadly, the comments have not compared and contrasted the new and old policies. Under the old policy, there was a requirement to consider the views of the neighbours. Under the new policy, there is no such requirement. Is it really equitable that private citizens should be forced to comply with the Law when most of them do not want to because of somebody else's scheme? Furthermore, should the Minister for T.T.S. really have become involved in this? Should T.T.S. have gone into the crossfire of planning application? The comments go on to say that this case is similar to the adjoining property. No such thing. The adjacent property has sufficient turning room to accommodate lorries. "The tight tank was currently not being considered." The original plan stipulated a tight tank and: "Discussions with landowners are still ongoing." How on earth can you have a discussion with people who keep just saying: "No." "The landowners are using the drains as a means to score planning permission." This really was a bit sweeping. What is the evidence? I think this is not a fair comment to make and it could just have easily - as my Connétable has also said - been said that the Drainage Law is being manipulated and so on. I do wonder whether T.T.S. should, perhaps, encourage investigation of alternatives to tight tanks, but what I find particularly worrying is the precedent which may be set. This is, I feel, effectively a developer's charter. They have run rings around us in the past. There is a development to the west of St. Helier where the promised community hall and playground are not yet built but the developer has been given permission to build a further 14 houses and now he wants to run the main access road through the estate already built. Does the Minister intend to use these powers for every development? This is, really, just the thin end of the wedge. It may have been done with the most altruistic of motives but every developer on the island will be watching. Is it really right for T.T.S. to use these over-weening tactics to compel people to do something they really do not want to and they do not need to do. Is this change in policy really human rights compliant? Should the States trample on the rights of individuals this way? Is the public interest really served by treating the public this way? After all, who is the public? Surely it is the taxpayers living in their modest retreat who do not wish to be pushed around against their will. I appeal to the Minister at what appears to a hasty decision so that there can be a better review of the collateral damage that such a decision may cause throughout the Island. However, if he will not, I call upon Members to support the proposition.

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

First of all, obviously there must be a technical reason, but I am not quite sure why the proposition requests the Minister for Transport and Technical Services to rescind his Ministerial Decision. Why does it not ask if the States wish to rescind the Ministerial Decision? I wonder if perhaps the proposer could address that in his summing-up. Now, Sir, it does seem to me that the Minister for Transport and Technical Services painted a rather curious scenario during his speech where he lauded the benefit to landowners of having drains running through their property. It does seem to me, as I believe the Minister was encouraging me to believe, that residents would surely welcome such a benefit to their property by virtue of having free drains connections which they did not enjoy before; but I cannot for the life of me understand why a Ministerial Decision would be required in such circumstances. Surely the only scenario where a Ministerial Decision would be required is where the landowners refuse. I cannot see the purpose otherwise. People would welcome it. There would not be a problem. In that case, Sir, if it is that the landowners do not wish to have drains running through their property, surely a Ministerial Decision decreeing that drains will run through that property removes peoples' rights and really, to me, smacks of a dictatorship.

**The Bailiff:**

Deputy, I am sorry to interrupt you but that is not what I understood the Minister to be saying and it is not what the proposition is all about. This proposition is not about compelling individual landowners to have drains running through their land. This proposition is about giving the Minister power to consider whether, in the public interest, such notices should be served. Maybe this sounds too legalistic but there is a very important distinction.

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

I am sorry, Sir; I hear what you say but I am struggling to see the difference. It does seem to me that if the Minister says that the developer can have the right to run drains through your property and if you do not agree, then you are having drains run through your property against your will. I cannot understand it any other way, Sir, because the thing that occurs to me is what happened to negotiation? Previously, Sir, it seems to me that in such a situation, if a developer and a landowner would negotiate as to which way the drains would run and if it was in the public interest that drains should run through private property and the proper owner was not accommodating ... the previous situation was it was the Planning Department who would then - and I believe it was only they who had the authority to do so - seek the compulsory purchase of the area that required the drains. It does seem to me, Sir, that such a process does have the checks and balances that the Ministerial Decision seems to lack. I mean, no one really wants to wake up in the morning to find a JCB digging a trench across your patch of lawn and there is not a damn thing you can do about it. This does seem to me to be unsatisfactory, Sir, and I do believe I shall be supporting the proposition as a consequence.

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

Well, Sir, our poor Minister; he seems to be damned if he does and he is damned if he does not and I will give you a small example which will prove that. Sir, if we go back in time, I think it was car salesmen that were the sort of people... what was the saying: "Would you buy a car off this man?" Then it became estate agents. [Laughter] Well, I was not going to mention the lawyers, Sir; and the latest one is developers. Unfortunately, our poor Planning always seem to be caught on the hop because with the best will in the world they have sort of said: "Right, we will go along with the developers as long as the public gain something out of it." That sounds really reasonable: "As long as the public gain something from this, we can live with it", and we say: "Yes, that is very reasonable." But I have to say, what do we appear to have gained so far, since this has been in? I have to say, I do not think we have gained very much. We have, which Deputy Ferguson has mentioned, one estate at the top of Tower Hill that 2 years later is still waiting for their community hall and their playground and their walls and their parking spaces. They do not have it but the same developer is now proceeding to develop up the road, but he has not fulfilled the first lot of gains that we were supposed to have. But the one that I feel sorry for, that I think my Minister has drawn

the short straw, is because we have another one like this and the developer has gone. He is finished. Opposite the crematorium, Sir, in case you are not aware, Westmount Road, we have a group of houses there. All of them, except the end person, were on cesspits. Now, I have to say, Sir, I believe I can talk with some experience about cesspits as I have lived in 4 places in my life; one was on main drains, one was on private sewers, one was on States' sewers and the one I live now, at the moment, is in St. Helier on cesspit. So I do know a little bit about each one of them. I have to say in 27 years I have only had my cesspit emptied 3 times. It was obviously very well built. The case I am going to go back to, these houses that are opposite the crematorium, one would not believe but Westmount Road is not on main drains. There were 5 houses along there. The third house, which was a large house, a bit rambly, came up for sale. A developer bought it, put into Planning to put 3 townhouses there, and showed that he would be connecting to the main drains that would drop over to the back of the Aberfeldy which the last gentleman was connected to. Now, I do not know how Planning go about this but Planning believed the developer; so they passed the houses. Well, the gentleman who has got the drains said: "You are not coming over my land. Why should I let you come over my land?" But by then the houses were well built, so back pops the developer to Planning and shows a tanker on the 2 little roads either side of these houses that is owned by the last gentleman and Planning think: "Oh, well, that is fine. We will let them have a tight tank. So, fine, go ahead; put a tight tank in." Well, in goes the tight tanks and these are 4-bedroom, 4-bathroom, nice townhouses. So the developer then puts them up for sale, sells 2 of them and the third one, a young policeman was going to buy it. He came up home to me and said: "Jac, do you really think I should buy this one because I do not really know much about tight tanks?" So I said: "How many bathrooms? How many bedrooms? How many children?" I said: "It is going to cost you." I said: "If you buy that you need to knock £100,000 off it because that is what it is going to cost you over the next 20 years for your tight tank." I then went to see the 2 owners that had bought the other 2 houses and they said to me: "We cannot even sell our house now. Nobody will buy it because the owner of the lane says: 'You have the right to go over my land but you do not have the right to park on my land'." So, now, do not forget the developer has gone completely. You have got 3 people now ... the third house did get sold. The policeman did not buy it, somebody else did and the lawyers obviously did not pick it up. I am not having any go at lawyers, Sir. The lawyers did not pick it up. So then down comes the first tanker to pick up the load, big tanker: "You cannot park on my land." So you have got to try and pull in to the owner's land. Now, you can get a tanker in there; a little one. So what happens? Instead of one load, you now have to have 2 loads because you cannot get a big tanker down there into this entrance way. Now, this is what I am trying to say. My Minister is damned if he is or damned if he is not because I then went running up to Technical Services and said: "Well, I thought we had a right that we could insist that we could put the sewers through and I have now got 3 houses that are in a ridiculous situation, they cannot get a large tanker in. I have got 2 next door who want cesspits and these 3 are on tight tanks. Can we not insist that we go through this other gentleman's land and tie up these 3?" Well, the officers - and I think they were very fair - point out: "If we did that, we are literally opening up a developer's dream." I do not know if we can say to Planning: "Before you pass anything you are going to have to send your officers round to make sure that everybody is agreeable to it and that you can tie-up for the sewers", because that is what it would come down to. So you could see that. As I said, the developer is gone while I have got 3 people left on tight tanks. Now, what do you do? Do you say: "You have got to go through this"? But, then again, like most Jersey people, I would object to that. But then which way are you going to go because there is no easy way. I do not want somebody having the right to go over my land - I have to say that, being a stubborn Jersey person - but, again, I think we have gone wrong because, as I say, I now have got these poor little souls on tight tanks that have got no chance of getting on to the sewers. So I do not think I am going to vote in this one, Sir, and I think for once in my life I am abstaining because I have sympathy for both sides. But, as I say, I do believe, again, that we have been taken to the cleaners each time by developers because I do not think we ever seem to gain anything out of this. I believe that there is about 18 per cent of our drains are not on sewers; so that makes, say, 20/80.

A lot of them must be the same as myself, on cesspits that work fine, that have no problems, so how much pollution are we talking to the land? Is it a great amount? Because of that 20 per cent that are not connected there must be at least, I would have said, taking the law of averages, 15 per cent of those cesspits work okay. So you are down to 5 per cent that do not work. Is that good enough reason to give somebody the right to just go through? You know, Sir, we keep saying about developers must put their 2-pence-worth in and we are now on to shared equity. Well, do we really believe that developers are going to pay for that shared equity because I do not, not for one moment. I believe that when the land is valued at £50,000 as agricultural and it gets planning permission and becomes worth £6 million, I personally think £3 million of that should go to the Treasury. That is your gain on it. That is what you would do. That is what you would do with the money, is make that money a tax on land. It should not be allowed left to the developers because I do not think you are ever going to get anything from the developers and I still believe it should be a tax, Sir. Thank you very much, Sir.

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

These propositions you can vote one way or you can vote the other way. **[Laughter]** There is a logic in there. The logic that is coming up is that you would be right in both ways or wrong in both ways. In this particular proposition that Senator Shenton has brought forward, he is representing a group of people that quite rightly are looking to where they live and how it affects them. The answer that has come back from T.T.S. is rightly looking at what the law says and what was passed by the States in the Drainage Law, *et cetera*, and also the Minister of Planning, who is not able to participate in this debate because his officers are going to have to make a decision - or you may make the decision, Minister, correct. He is not allowed to say anything but I am. I am very pleased to be able to say something because I was on Planning for 3 years and I was on the planning sub-committee for 3 years and during that period of time... and also for the fact that I was a policeman for 27½ years, is that you get used to looking at... a law is made for the benefit of the community and it has to have the inbuilt safeguards and that is what the Drainage Law is there for. But laws can be described as being an ass or they can be described as providing a useful safeguard against abuse and various other things or they can try to be interpreted in various different ways to suit whatever purpose that you deemed would be useful for your particular cause. In this particular case, the planning process does not have any consideration at all for anyone having their view spoiled. So if an opportunity comes up, I would suggest to you, and there is another way of preventing a proposal going forward that would stop your view being spoiled, you will look for it. That is quite reasonable and quite respectable. On the other hand, we have had examples that there are not enough resources at this moment in time to continue, for the public purse to support all these small extensions, and when somebody comes on and offers not only to put a mains drainage system down to their property and to include paying for nearby properties in the process, it seems very attractive. Billy Butlin, if you remember, did that down Noirmont Road and increased the size of the facilities to facilitate an upgrading of a holiday camp there. But nobody complained because he was not affecting anybody else's view or any other arguments that could have been brought forward and, therefore, it went through relatively simply. In this case we have people that have a human right and I think a human right is very important. They have said no and they have asked for help from a Senator. I will be honest with you, I can see T.T.S.'s argument that the States have made a law and the Minister is entitled to sign off a Ministerial Decision but I also keep hearing this alternative, that Planning have maybe a different viewpoint and they can put tight tanks in or they can put cesspits or whatever. I would have much preferred to have seen... as when we talk about other issues such as our constitution and everything, that we do everything all at once instead of doing things piecemeal. This one is piecemeal. A decision is yet to be made but there has been a lot of concern and a lot of worry by residents, rightly; there is a concern, on the other side of the coin, by a developer; and in between there is T.T.S. and there are also the planning issues. Personally, I am in favour of supporting this amendment because I think a human right is very precious and I think that the parties concerned should go back to the drawing board and talk to each

other, a bit like a jury does. They sit round a table until they can find a common way forward and then come out and at this moment in time, I do not think that we have got to the stage that there cannot be a resolution to this problem which respects a person's human right and at the same time respects that the laws are put in there to provide safeguards but they are not there to ride roughshod over individuals. They are there to provide common sense ways forward but sometimes you have to take a step back before you can step a way forward. I will be voting for this proposition but I do not perceive that this should be used as a criteria for every other potential development in the Island, and I think that should be looked at on individual cases is in the round as opposed to: "Well, that was that was decision in the States on 3rd June 2008." Thank you, Sir.

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

I am sure you will be relieved to know that I do not intend to refer to any particular individual development but to the proposition and the policy concerned, because that is what the proposition is about. It is about the policy. What we have here is that a Minister has varied a policy, and the question is, do we agree with that variance? At present, my answer is no, because I am concerned there are not enough safeguards once that policy has been varied. I think this House - certainly not only since I have been in it but since I was reporting on it and watching the States - has always been very, very wary of riding roughshod over individual's rights, and particularly their property rights. It has always been extremely difficult to get any compulsory purchase powers approved in this House and I believe quite rightly so. I do not believe that an individual's property rights should be able to be overridden at a Minister's discretion or decision without appeal. Which is, as I understand it, would be the current situation if this policy was not varied and under the current Drainage Law, any appeal would be too late. That is my concern. I believe the existing guideline, or the previous guideline, which was overridden and varied by the Minister was there for a very good reason. It was there to prevent the Law being used to allow the developer to circumvent the objections of other landowners. I am concerned that varying that guideline will allow developers to try to use the Drainage Law to achieve planning permission that otherwise would be denied, and in doing so ride roughshod over the rights of others. I do not believe that it should be a Ministerial Decision or discretion that would take those rights away. I believe there should be some appeal to it and if the Drainage Law needs to be relooked at, to build in that appeal, that should be done before the policy is varied. I can see reasons in the Law to have a policy which would allow the public good to prevail. I do not see that there should be no appeal against such a policy. So, I will listen to the rest of the debates and the discussions, but I really want to know, and I did not hear in the Minister's speech, I am afraid, why he went against this policy that stood the test of time? It had been there for a long time that protected individual's rights, to change it for a decision he can make, and my understanding is there is no appeal against until after they are a fact. So, I will need a lot of convincing that this is in the best interests of the Island and individuals. I take no pleasure in speaking against a fellow Minister, but I think it is very important in this case that the policy and the issue of how we treat other people's rights over their property is given proper consideration and proper standing in this House. Thank you, Sir.

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

I am one of those people who has his own borehole, soakaway, and septic tank, so I do know what the problem is for those people who are similarly placed. I also know other people who have problems with tight tanks because it can be very, very expensive. But I would also like to remind Members that I did bring a proposition to the States some years ago whereby we would have a sustainable drainage programme, whereby we would continue on with some programme. Unfortunately that was lost and we now have ourselves in a situation whereby there is no drainage programme and, indeed, we now find ourselves in a position where we have got people who have been given an opportunity to have some drains, albeit, I think, not tackling it the right way. I think we should be grateful to Senator Shenton for bringing this proposition to the House today because what it has done is highlight a problem when common sense and diplomacy goes out of the

window. I was surprised to learn of the Minister's powers and I was also surprised to learn, as indeed Senator Vibert just alluded to and other Members have alluded to, that there is no right of appeal under Article 10 of the Drainage Law. How this ever got a statement of compatibility when it came to the House in 2005 I do not know, but again that may be a bit of ammunition for what I am proposing in a month's time. What I am saying is that if the Minister is able to vary a policy without any consideration to people's human rights - in other words ride roughshod over their property - then I want no part of that piece of policy and what I would ask Members to do is support what Senator Shenton is asking because, quite clearly, that policy which used to exist will not be varied. So I would ask Members to support it and, in closing, I would urge the Minister again: look at Article 10 of the Drainage Law to ensure that there is a right of appeal for members of the public. Thank you, Sir.

#### **11.1.9 The Very Reverend R.F. Key, B.A., The Dean of Jersey:**

I never thought I would rise to make a speech that had anything whatever to do with cesspits and I am not going to speak about cesspits now and I am going to be extremely brief. I do want to have a moment or 2 on the thought of community because what I am hearing in the debate is a stand-off between individual rights and the rights of the community. We have a right, I think, in the Deanery, to a water supply. However, because of those works being done in the neighbouring, but of course totally unconnected, road from David Place and Val Plaisant, from time to time our water supply is interrupted while all sorts of wonderful things go on in Val Plaisant. My individual rights are overridden by community rights and that is part of the give and take of living in a community. It seems to me that it is one of these occasions, Sir, when we need to rearrange those 3 very important words "thinking", "up" and "joined"; because the truth is, as I go to meetings, whether it is planning meetings... if you want to fill the Town Hall in St. Helier and for a Parish Assembly, put something about planning on the agenda or field number something or other and people will turn up in their droves. We have not yet, it seems to me, as an Island community... and I feel so much for Senator Le Main as Housing Minister and other Ministers involved in this field. We do not yet have a joined-up, community-owned policy of what size of community we want, how many houses and flats we need to accommodate that size of community, where those places will be built and, therefore, all the ongoing individual downturns that give that community benefit. Until we get that sorted out, it seems to me, Sir, we will have these sorts of debates because the drainage issue is simply a symptom of the fact that we have not yet got community ownership of that bigger picture thinking. My plea, Sir, would be that whichever way Members vote on this particular thing, we realise that today is just dealing with a symptom and it is the bigger issue of the community and the housing issues and what sort of society we want for the next 100 years that we need to solve. When we have done that, the drainage may well take care of itself.

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

I have got a lot of sympathy for the Minister for Transport and Technical Services in this one because we, the States, passed a Law not so long ago amending our policies on drainage and we have brought in what now seems generally accepted to be an imperfect Law. It is imperfect because it does not have adequate powers of appeal. But, working within that Law, the Minister has had to try to establish some sort of policy guidelines and that, I think, is what he did in this decision on 1st November. It was not a blanket: "I will ride roughshod over everyone's rights." It is: "I will consider applications when I believe that the rights - picking up what the Dean has just said - of a number of people may override the rights of a different person and there has to be a sense of balance." But this decision is not a prescriptive one; it is one which calls him to exercise judgment in every instance. Now, that decision is fine as far as it goes but I think where it is lacking is that, having exercised that judgment - which is inevitably a subjective judgment - no one has any right of appeal. There are grounds for compensation but that may not be the right remedy to the problem. So I think it would be remiss of us today simply to accept Senator Shenton's proposals and give the Minister for Transport and Technical Services a black eye, as it were, and

think we have solved the problem because we will not have done. What we need to do is to think more constructively and say just how can we improve on the principles behind what the Transport Minister is trying to get at while still managing to safeguard the rights of the individuals? We have not got it right at the moment but I think the Minister for Transport and Technical Services, to his credit, did at least try to indicate the way in which policy would generally be applied and that was a common sense way of backing what the States directed when they passed the last Drainage Law. If anything, what it may indicate to us is that we should not pass laws lightly without reviewing the consequences of that. Perhaps that is a lesson we can learn from today as much as the lesson that this is only part of the solution.

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

Just on a point of information, because this has come up in a number of speeches, it is true to say there is no statutory appeal contained within the Law but, as with so much of our legislation, it is possible to have a judicial review and that would decide on whether the Minister had acted reasonably or unreasonably and ultimately you can take the matter to the Royal Court, Sir. So there is a form of appeal but it is not contained within the Law as a statutory appeal.

**Senator M.E. Vibert:**

Could you confirm that would be after the fact?

**The Bailiff:**

Well, you obviously cannot review a decision which has not been taken. So, yes, if the Minister were to decide to exercise his powers to issue a notice, as the Minister has said, there would be a right to seek judicial review of that decision on the grounds that it was illegal or improper or completely unreasonable.

**Deputy I.J. Gorst:**

Could I just thank the Minister for his interjection there about judicial review. Perhaps he could tell us how much he thinks it might cost?

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

As you know, I am no lawyer.

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

I do get a sense of the way that this debate is going and I do want to also say some remarks in support of some of what the Minister for Transport and Technical Services is trying to achieve. You have said that this debate is not about a planning application and that is absolutely right. I have got no idea where this particular property, in relation to the underlying issue of this proposition, is so I can be completely neutral in this regard. I can say and remind Members that I was responsible for bringing the Drainage Law to this Assembly and, certainly from my own perspective and having reviewed the notes of explanation to Members, I thought that the debate was absolutely clear about what we were doing. I would also want to say to Members that, as far as I was advised, this was bringing the drainage utility system on to a level playing field with other utility companies. That is an important issue because as far as I am aware... and I will not spring this particular question on the Solicitor General in a direct sense, but I think it is something for Members to bear in mind and if Members are going to send a signal to the Minister for Transport and Technical Services that Members are not happy in relation to this particular issue with drainage, then frankly we are going to have to look at the issue concerning all utilities. I am pretty sure that this power exists for the J.E.C. (Jersey Electricity Company). I am reasonably sure that there is some sort of power in relation to putting a pole... I see Deputy Baudains shaking his head but the J.E.C. does have power in relation to the installation of poles, *et cetera*, on people's land. There are certainly also powers in relation to telecommunications, in relation to extending the utility network there. As far as the debate was concerned, it was in view to ensure that the drainage



utility was put on to a similar footing to other utilities. I have to say that there was clearly a difference of opinion with Members, and certainly I vary very significantly from the views of Senator Shenton, and I am surprised that he says that there is somehow an acceptable solution in continuing to pour sewage into the ground. Now, Members may say that that is slightly better than pumping it out to sea, as some other places do, but nevertheless, in my view, there should be quite a legitimate aim of this Assembly and this Island to connect all properties to the public sewer network. That is the environmentally correct solution. I know that there is some discussion about new technology but as far as the latest research that was available when we passed the Law, and indeed the situation today, it is the preferred solution to ensure that we put our sewage through a sewage system and effectively then clean it and then dump it out to sea. That should be the objective and that was the underlying objective of the Drainage Law. There have been hundreds of properties connected to the public sewer network in Jersey but that funding has dried-up and there are particular issues. The former Deputy of St. John, of course, argued very strongly that there should be an extension of the sewer network and he also said that there should be alternative ways of finding ways of connecting to the public sewer network. There have been thousands of pounds of public money spent on digging-up roads to connect people's property to the main sewer where, in reality, there was a much cheaper and more effective solution in order to connect those property and there is a value-for-money issue in relation to that. Now, of course, without a compulsory direction, that requires the agreement of landowners but, as I say, the issue of other utilities was certainly considered at the time and the issue of putting other utilities through land was putting the drainage system on the same footing as others. In relation to an appeal; well, of course, Members are right in saying that there is not an absolute statutory appeal within the Law. If that is a lacuna, if that is something that needs to be changed, then we should do so; but, nevertheless, there is an appeal. There are various, different ways to appeal. There is appeal within this Assembly. This is what is happening in relation to the matter this afternoon. I think the name has been changed but there is a complaints procedure available to Members, which any Minister will, of course, stay a decision for the final execution of putting a utility through a piece of land. So there is an administrative review and, quite apart from that, there is a judicial review arrangement. I sense, with regret, that this Assembly is about to send a worrying message to the Minister for Transport and Technical Services and that message is he should not be attempting to expand the sewer network in the same way that exists in other places and exists for other utilities. If that is not the message for Members, then that is a good thing. Clearly, I think that we should be aiming to connect all properties in the Island to the public sewer network and we should do it in a manner which is consistent with value for money. There is, of course, a trade-off, as the Dean explained, between the public interest and the individual interest. If we need to have a debate about that, then let us have a debate about that in the general sense of the utilities but I, for one, differ from Senator Shenton in 2 respects. First of all, he is wrong in saying that we should not be connecting properties up to the sewage system. Effectively, the properties in relation to this underlying issue may well have functioning sewers today but that is not environmentally friendly and they may not work tomorrow and this is the only way that we can connect them. I have to say that I have got some sympathy with what the Minister for Transport and Technical Services is doing to try and extend that sewer network. I am sorry that he is getting such a hard time. There is an issue about communication which I think he needs to take on board. I certainly will be voting against Senator Shenton's proposition because, as the Chair, Sir, you have rightly said, we are dealing with the policy of the issue and it is for the Minister to consider the policy and, if he needs to change the Law in respect of putting better compensation or appeal mechanisms, then let him do so but let us not send a message to say: "No more drainage connections through the value-for-money efficient way."

#### **11.1.12 The Deputy of St. Mary:**

This is an extremely difficult debate, Sir, because, of course, the need for mains drains in lots of areas of the Island is well documented. We have all got experience of people who cannot connect

to the drains, who are limited in some way. The things that I take for granted, like doing a load of laundry when I want to, not everybody can do that. Some people have to think: "Well, I cannot put it in my tight tank. I will have to go to mum's or to the laundrette." The issue is not about whether we should connect up or not; we have to connect up as soon as we can, but we have to do it in a measured way. The difficulty here... and I take on board what the Dean said about the sense of community; if there are small areas of the community where someone is having a particular problem with their drains - and I know this has happened - quite often they will come to an arrangement with their neighbours and the community spirit will prevail and someone will let them go through a field or whatever. We are not talking about that. I am sure the particular word in this decision that is the difficult word is the word "developer". It is where you see the perception, rightly or wrongly, that someone is making a lot of money out of this deal and it is not me and yet it is my land they are going to be digging on. That is the difficulty here. I think there has to be another way of looking at this. This is quite literally: "I do not want this in my backyard." I have had this described to me as a form of legalised trespass. If you think about it that way it is different. If I look at it the other way and think: "This is my house and my drains are not working and my septic tank has packed up; can I get a right to go over my neighbour's land?" then I feel a little bit differently about it. But I think that is really up to me, as a private person, to negotiate and to have an arrangement with them. What is missing from the Law, in my opinion, Sir, it is not necessarily that the Law is wrong; it is that there is not a form of arbitration really, first of all, that can be used before any decision is made. But the point I would like to make, and I do not know how I can make this relevant because I am here addressing something that is to do with the Minister for Transport and Technical Services only looking to a reply from Senator Shenton, but from my point of view there are things in life that are essential and there are things in life that are really nice to have as add-ons. Art, to me, is a valuable thing, it is a great thing as an add-on. Drains, to me, are essential. Why, oh, why have we got a percentage for art and not a percentage for drains?

#### **The Bailiff:**

I call upon Senator Shenton to reply.

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

I will try not to be too long in my reply. Deputy de Faye spoke first and I should point out that before I lodged this proposition I did meet up with Deputy de Faye and did ask him to withdraw it so that I would not have to trouble the House with the proposition. He mentions how important it is to lay mains drains and the fact that the laying of mains drains has stopped due to project constraints. I should point out to the Minister that he is in charge of the budget at Transport and Technical Services and maybe some of the schemes that he does undertake within his department, the money could be used for the extension of the sewer network around the Island. He is quite right, the Law has not changed. He passed a Ministerial Decision changing the policy on something that had been set in stone for many years. He says that the drains will be laid at no cost to the taxpayer but, of course, his department have already spent a considerable amount of time looking at this issue and the drains themselves will just go up the middle of the road. There will be considerable cost to the individual houses that do want to connect, if they do decide to connect in due course. He also mentions that the policy is unconnected with the planning application process but it is my understanding that if the plans are not passed for this particular property then no drains will be laid. So it is very much connected with the planning application process. In fact, the whole thing hinges on the planning application process and you can almost look at it as... I was going to say buying planning permission but that is a little bit unfair. But it is looking like one of these planning gains that Planning are now so keen on. The people around them, as a result of this, get mains drains whether they like it or not. I think this whole policy needs to be tightened-up slightly. I was quite vocal about a restaurant in St. Aubin where they paid cash for redevelopment of St. Aubin and I am pretty sure that nothing has happened yet with the money. But we would not like to send out a signal as an Assembly that if you are wealthy enough you can gain planning

permission wherever you want. The Constable of St. Brelade's spoke and said: "Do not overlook public perception" and I think this is very important. Certainly from my point of view, I have had nothing but support from the public for my proposition. Certainly the letters page of the *Evening Post* would indicate nothing but support and I have had a number of people phone me just to say: "Make sure you get this through because I think it is appalling the way it would impact on my human rights as a landowner." I think the Constable also used the sentence: "It is manipulating the Drainage Law to get planning permission." Unfortunately that is what it is and it is something that I think we should move away from. Deputy Ferguson spoke about the heavy-handed Government processes which move against the wishes of the people and certainly this policy does not take into account the views of neighbours or people that live nearby. She asked whether T.T.S. should have got involved at all and whether this was just opening-up a developer's charter and I think these could be seen as wide words. Deputy Baudains pointed out that a Ministerial Decision is only required because the surrounding landowners are against letting their land be used for this purpose and questioned what has happened to negotiation; whether we will get to the point where negotiation will go out the window and we will just inflict laws on anyone as and when we wish. Deputy Huet's speech confused me slightly because I was sitting there thinking: "She is going to vote for", and then the next minute I was thinking: "No, she is going to vote against", and then for and against. Deputy Huet is right; it is very difficult because we do know of circumstances where people are in difficulty because of the lack of mains drains. Perhaps as an Assembly, especially given that we have had added surpluses coming forward, we should revisit the issue of prioritising infrastructure investment on the Island. We have got to get our head around the fact of what is the difference between cash in the bank and cash held in an asset. Deputy Fox pointed out that you can vote one way or the other and even managed to get in the fact that he was a policeman in a previous life, which was quite a feat considering we were talking about the drainage issue. Again, he mentioned quite strongly about the whole process of human rights and the human rights of a property owner to enjoy their land. Senator Vibert spoke. I have been in the Chamber for 2½ years and I was naturally, for some reason, expecting Senator Vibert to speak against my proposition as he has done in almost every other instance. But he agreed and said that we were riding roughshod over the rights of property owners, and I believe that we are. There is no set appeal process and the guidelines in place before were in place for a very good reason. The Deputy of St. Martin highlighted, quite rightly, the problem with the powers of the Ministerial Decision and we are all now just coming to terms with Ministerial government. Again, we have to reflect on what powers we have given to the Ministers and whether the appeals processes are in place. Again, I look forward to the Deputy's proposition with regard to the human rights issue because certainly, as I said in my opening speech, it is an anomaly that when you put a proposition to this House you have to make sure it is human rights compliant but you have no such checks when you are putting a Ministerial Decision forward. Senator Le Sueur had sympathy for the Minister for Transport and Technical Services and described it as an imperfect Law because of the lack of powers for appeal and I think we would all agree that without proper powers we have problems with the whole process of democracy. I think we do need to revisit the Drainage Law and maybe review it to make sure we get it right for the future. The problem with a judicial review, in my opinion, is it is quite a lengthy process that is normally after the fact and I believe it can be quite costly. These can be people that, through no fault of their own, have had something imposed on them and I do not see why they should effectively have to try and bankrupt themselves to stop something that they do not want. Senator Ozouf spoke in support of Deputy de Faye and mentioned that the Drainage Law was similar to the laws extended to the other utilities. Now, on this particular instance what we would be looking to do is take private drains into public ownership. Now, I am unaware of anyone having private electricity pylons or anything similar so it is not the same at all. These people, they have private drains running through their properties and they are quite happy to have them as private drains and maintain them as private drains and I do not see why the public should take over responsibility for the maintenance of those drains. Deputy of St. Mary spoke and said we have to look at this in a measured way and I think we do. There is a problem with this Ministerial Decision

in my mind and there is a problem with the Drainage Law if the Ministerial Decision were to go through. So I would ask Members to support my proposition. Deputy Baudains did ask me, I think, why I was asking the States or not the Minister to withdraw and I think that was on the back of advice I had received from the States Greffe. Sir, I will sum-up with a short paragraph and these are not my words, these are the words of the T.T.S. Department, which on the original decision said: "To serve notice in this way would lead to a significant number of similar requests that would result in the department becoming embroiled in private disputes and would also lead to the department having to adopt significant lengths of additional sewer that otherwise would remain private." I believe the department should maintain the existing policy and I think, as an Assembly, we need to look at the whole mains drains issue and perhaps try and make sure that we take it off hold and start moving it forward. I put forward my proposition.

**The Bailiff:**

Very well. I ask any Member in the precinct who wishes to vote to return to his or her seat and I ask the Greffier to open the voting, which is for or against the proposition of Senator Shenton.

<b>POUR: 40</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 2</b>
Senator S. Syvret		Senator T.A. Le Sueur		Senator F.E. Cohen
Senator L. Norman		Senator P.F.C. Ozouf		Deputy J.J. Huet (H)
Senator F.H. Walker		Senator T.J. Le Main		
Senator W. Kinnard		Deputy R.C. Duhamel (S)		
Senator P.F. Routier		Deputy G.W.J. de Faye (H)		
Senator M.E. Vibert				
Senator B.E. Shenton				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				

Deputy I.J. Gorst (C)				
Deputy of St. Mary				

## **12. Draft Regulation of Investigatory Powers (British Broadcasting Corporation) (Jersey) Regulations 200- (P.59/2008)**

### **The Bailiff:**

We come now to Projet 59 - the Draft Regulation of Investigatory Powers (British Broadcasting Corporation) (Jersey) Regulations - lodged by the Minister for Home Affairs. I ask the Greffier to read the citation of the draft.

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

Draft Regulation of Investigatory Powers (British Broadcasting Corporation) (Jersey) Regulations. The States, in pursuance of Article 42 of the Regulation of Investigatory Powers (Jersey) Law 2005, have made the following Regulations.

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

My Assistant Minister is going to deal with this one.

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

These Regulations will bring the use of devices for detection of television receivers within the regulatory framework of part 3 of the Regulation of Investigatory Powers (Jersey) Law 2005. Similar provisions have been made in the United Kingdom and Guernsey already, Sir. Under Article 325(5) of the 2005 Law, activity using television detector apparatus is not currently deemed to be a direct or intrusive surveillance. However, Article 42 of the 2005 Law provides a power to extend or modify the provisions by regulation so that authorisations will be needed for detection of television receivers. The rationale for bringing the detection of television receivers within the ambit of the 2005 Law is that such activity might interfere with the rights and be protected by Article 8 of the European Convention on Human Rights. However, such interference could be justified in terms of Article 8; for example, for the prevention of crime, as licence evasion is a criminal offence. Furthermore, Article 8 also requires an activity to be in accordance with the Law. Passing these Regulations would fulfil that requirement. Authorisations would only be granted by persons holding senior positions in the BBC Licensing Fee Unit. In so doing they must be satisfied that an authorisation is necessary for preventing or detecting offences under the Communications Act 2003 as extended to Jersey, and that the surveillance authorised is proportionate to what is sought to be achieved by carrying it out. Authorised surveillance will only be carried out from outside the premises concerned and authorisation may only last for a maximum of 8 weeks. There are 2 safeguards in the 2005 Law which serve to control the use of these powers. First is the oversight provided by the Investigatory Powers Commissioner and, second, anyone affected by an authorisation has a right to seek redress before the Investigatory Powers Tribunal under Article 46 of the 2005 Law. Sir, in summary, the Regulations would extend the ambit of the 2005 Law so that this form of surveillance will be subject to the same sort of legal authorisation process as other types of surveillance. There will be no significant financial or manpower implications for the States in the enactment of these Regulations, though there will be a small increase in the area of responsibility for the Interception Commissioner. The cost of obtaining an interception will be borne by the BBC. Sir, I therefore propose the Regulations. Thank you, Sir.

### **The Bailiff:**

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

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

Is the proposer suggesting that in order to determine if anyone has a television without a licence it could well take up to 8 weeks to establish that fact?

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

Members may recall I did have concern about this particular piece of legislation that came through the House some years ago and in fact it took a number of years before it did reach the House. It was known as R.I.P.A. (Regulation Investigatory Powers Act), Members may recall. One of the reasons it took a long time to come through the States was because there were concerns about the human rights issues, whether someone did have the right to carry out surveillance on someone else's property without any consent and quite clearly people should know that someone is carrying out surveillance, if indeed they are carrying out something which was really unlawful. So one can understand getting the balance right and I thought what the present Law was, it got the balance right. However, it appears that it was not right and what we are doing here... not what we are doing, what Home Affairs is doing here, is trying to rectify an omission which really was not there in the first place. It seems quite inconceivable that the BBC can have a surveillance vehicle going around without any consent which would normally be expected of other people like the police. So if I am getting it wrong... I saw the Minister of Home Affairs shaking her head. But what I understand here, really we are rectifying an omission. In paragraph 2 on page 3 it says: "Similar provision has been made in the United Kingdom and in Guernsey under the equivalent legislation." What I would like to know is, when was this legislation given place in the U.K. and how far behind are we? I welcome the piece of legislation and I would ask that Members obviously give their support. Thank you, Sir.

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

I am hoping the Assistant Minister can clarify for me exactly what this amendment seeks to achieve because I am not quite sure whether it widens powers, Sir, or seeks to control them. I presume it is the latter. If it does seek to control the BBC, Sir, I am all for it and I will come back to why in a moment. But I have to ask the Assistant Minister what is defective with the Broadcasting and Communications (Jersey) Law 2004? Because under Article 366, I think it is, a warrant is required from the Bailiff before premises may be entered or examined and, furthermore, Sir, a police officer is required to accompany the BBC official. As for external surveillance, Sir, it seems to me that all the BBC do is merely send round a bunch of heavies to any address that does not have a licence on the assumption that everybody has a television, which is where I return to those comments, Sir, because, while I can handle those aggressive goons that keep threatening me, I am not sure that everybody else can, Sir. I have had, over the years now, several communications from the BBC about television licensing, quite threatening letters: "You are hereby notified that officers from our enforcement division have now been authorised to visit your home", and such things like that. I used to read them and keep them as a bit of a laugh. I now send them back: "Return to sender." I have dozens of them, Sir. I wonder if the Assistant Minister is aware of the BBC's attitude because I do believe some of these letters might constitute demanding money with menaces. I am not really bothered about these silly letters any more but my question to the Minister is: does his proposition address this sort of thuggery, because while I am perfectly able to deal with it, there are other people who cannot. I remember reading the *J.E.P. (Jersey Evening Post)* not terribly long ago; a poor lady who bought another television licence even though she already had one because she kept being threatened by the BBC. This sort of thing should not go on, Sir. If this proposition does address this sort of disgraceful behaviour then I am all for it because... another thing, Sir, is a lack of truthfulness by this organisation because it says: "If you have any difficulty, telephone us or write to us." Well, I have given up doing that, Sir. I have telephoned several times, I have written, and then they insult me by writing back and saying I have not responded to their previous letter. They really are a bunch of goons, Sir, and I hope the Assistant Minister can assuage my fears.

#### **12.1.4 Senator W. Kinnard:**

Maybe I can help with one or 2 of those matters. Indeed, Sir, this proposition is intended to increase, if you like, the regulatory framework. The Regulation of Investigative Powers Law, which I remember all too well bringing to this House, was indeed to ensure that intrusive surveillance was put within a proper regulatory framework and indeed, Sir, today these Regulations are an extension of that in the sense that now, indeed, BBC detector vans will have to have the same sorts of authorisation processes as other types of surveillance, all within a human rights framework. As to the questions and concerns that have been raised by the Deputy in terms of the activities of the BBC or, indeed, the details of the Broadcasting Law. That is not a matter, in fact, for Home Affairs to deal with. I believe the broadcasting legislation is under Economic Development so I am afraid we probably will not be able to help him on that. Our area is to ensure that whatever investigation is undertaken is undertaken, as I say, within the proper framework of law and regulation and in accordance with human rights.

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

I am in the same camp as Deputy Baudains. I do not own a television set but that has not prevented the Television Licensing Authority from sending me numerous threatening letters and, indeed, on one evening my front door bell rang and there was a bespectacled young gentleman, who I was not familiar with, holding a clipboard, who announced that he was from the BBC Licensing Authority. He very politely asked whether he could come in to inspect my premises and, indeed, politely pointed out that I was in a position to refuse as he was not accompanied by an Honorary Police Officer. Nevertheless, I did allow him in. He fortunately passed no comment as to my décor [Laughter] but on the way out, he said this: “You do not have a television.” [Laughter] I said: “Yes, that is what I told you on my front door step” and he said to me: “You know, it is a funny thing in Jersey, when people say they do not have a television, they do not have one.” [Laughter] He did offer a respite and he said: “Thanks to my visit, we will not be contacting you again for 3 months.” [Laughter] Nevertheless, the threatening letters have once again returned and I am expecting a further ring on the doorbell or knock on the door at any time. Now, though, it seems I should also be looking out for a van parked on the other side of the road and while I have struggled for a moment to determine whether the powers occlude around the detective van or whether they have been broadened, I need to advise both the Minister and the Assistant Minister for Home Affairs, with no disrespect to them, but primarily because of the constant interference I get from the Licensing Authority and also, very significantly, because the Island does not get the same service as everybody else who pays the same licence fee [Approbation], I will be voting against this on principle.

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

If it is any help, we are not responsible for anything to do with the licensing fee and I have had the same letters.

#### **The Bailiff:**

I call upon the Assistant Minister to respond.

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

I shall try and follow Deputy de Faye’s very amusing anecdotes there. Deputy Le Hérissier, I am sorry but would you mind just repeating what your question was. I did not quite understand what you were getting at.

#### **Deputy R.G. Le Hérissier:**

Why is there a maximum right of 8 weeks to exercise surveillance over a person if, like Deputy de Faye, they suspect them of owning a television set?

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

My understanding is that 8 weeks are permitted to undertake surveillance if it is deemed necessary. I do not think they would necessarily do that but within the Law, they can. Deputy Hill was referring to other places in the U.K. that do this slightly differently. I can assure him that, in fact, exactly the same process is followed in the U.K. as here. It will be no different. Deputy Baudains, Sir, makes a number of allegations against the BBC. As my Minister suggested, Sir, that is not a matter for our department. We are simply here enacting some legislation which makes it legally possible for the BBC to undertake surveillance if, indeed, it is necessary for them to do so. Am I led to believe, though, Sir, that the Deputy does not have a television or does not have a television licence? I would be quite interested to know because maybe he is avoiding the issue and maybe he should not be, I do not know. I thank Senator Kinnard for outlining the R.I.P.L. (Regulation of Investigatory Powers Law) Law which was a complex piece of legislation that went through this House some time ago and all this does is bring this type of activity into line with that specific piece of legislation. As far as Deputy de Faye's comments are concerned, I am sorry he has had so many letters from the BBC and visits from them as well and I hope they did not make too many disparaging remarks about his décor. Maybe one of his ways around this would be to buy a television set, Sir, and perhaps he could then keep in touch with his electorate and public opinion in a better way. Unless there are any other questions that I have not answered, I hope that the report outlines quite clearly the reasons for this legislation, Sir, to bring it into line with the rest of the R.I.P.L. legislation and I would like to go forward and propose the rest of the Regulations, Sir.

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

If I might press the Assistant Minister, he thinks he has answered all the questions. He did not answer any of mine, one of which is does this legislation improve the sort of problems that I was outlining because while he makes a mockery of it, it is, in fact, a serious problem to some members of the society. As I said, I can handle these idiots but there are other people who cannot.

**The Deputy of St. John:**

I am as concerned as other Members may be that some of the members of our community may be intimidated by the BBC. I think that is rather disappointing. It is not only the people, of course. Even our Chief Minister has been intimidated by the BBC in recent times. That is not a matter, though, for Home Affairs and I think that is something which maybe we should look at and I will talk to the Economic Development Department and see if they wish to take this issue up with the BBC. As far as I am concerned, it is not a matter for Home Affairs but it is a legitimate point that the Deputy raises and if it is something which we can do something about, I will be happy to look into it, Sir.

**The Deputy of St. Martin:**

If I could just remind the Assistant Minister what my question was. I drew his attention to paragraph 2 on page 3 which really says that the legislation that has come into the House today mirrors really what is already happening in the U.K. and Guernsey and I was asking, when was that legislation in Guernsey and the U.K. passed? For how long has the U.K. legislation been in power prior to Jersey coming into force?

**The Deputy of St. John:**

I do not have the answer to that question. I am happy to look into it but it does mirror the U.K., as I suggested in my opening piece, Sir, but if the Deputy would like to know exactly when it was initiated, I will find out for him, Sir.

**The Bailiff:**

Very well, I put the principles of the Regulations. Those Members in favour of adopting them, kindly show? Any Member who wishes to vote on the principles of the Regulations should return to his or her seat. I ask the Greffier to open the voting which is for or against the principles of the Regulations.



<b>POUR: 32</b>		<b>CONTRE: 9</b>		<b>ABSTAIN: 0</b>
Senator F.H. Walker		Senator T.J. Le Main		
Senator W. Kinnard		Connétable of St. Mary		
Senator T.A. Le Sueur		Connétable of St. Lawrence		
Senator P.F. Routier		Connétable of Grouville		
Senator P.F.C. Ozouf		Deputy G.C.L. Baudains (C)		
Senator B.E. Shenton		Deputy R.G. Le Hérisssier (S)		
Senator F.E. Cohen		Deputy J.B. Fox (H)		
Senator J.L. Perchard		Deputy S.C. Ferguson (B)		
Connétable of St. Ouen		Deputy G.W.J. de Faye (H)		
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

**The Bailiff:**

Deputy Mezbourian, does the Education and Home Affairs Scrutiny Panel wish to scrutinise the Regulations?

**Deputy D.W. Mezbourian (Chairman, Education and Home Affairs Scrutiny Panel):**

No, thank you, Sir.

**The Bailiff:**

Very well. I call upon the Assistant Minister to propose the Regulations in Second Reading. Do you wish to propose them *en bloc*?

**The Deputy of St. John:**

Can I propose them *en bloc*, Sir?

**The Bailiff:**

Are you going to speak to them or not?

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

Does any Member require any further explanation other than what I have already given, Sir?

**The Bailiff:**

We will see. The Regulations are proposed and seconded? **[Seconded]** Does any Member wish to speak on the Regulations in Second Reading?

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

I would just like to echo what I did say earlier. I do think that the Minister is going to bring forward a proposition and makes reference to a law in the U.K. I do think this should be part of the report stating what legislation it was and when the legislation came into being so I would ask that the Assistant Minister lets me know in person at some time in the future.

**12.2.2 Senator W. Kinnard:**

I presume it might have been under the U.K. R.I.P.A. Law, the Regulation Investigatory Powers Act of the U.K., but I am sure the Assistant Minister will be able to assist us in confirming that or not during the afternoon.

**The Bailiff:**

I call upon the Assistant Minister to respond in case he wishes to do so to the Deputy of St. Martin.

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

As I have already said to the Deputy, I am more than happy to look into when that piece of the legislation in the U.K. was enacted but as the Minister has already suggested, it is part of the R.I.P.L. laws which came into the U.K. some time ago and I will come back to the Deputy confirming the date, Sir.

**The Bailiff:**

Very well. I put the Regulations 1 to 4. Those Members in favour of adopting them, kindly show? Those against? The Regulations are adopted in Second Reading. Do you move the Regulations in Third Reading?

**The Deputy of St. John:**

Yes, Sir. **[Seconded]**

**The Bailiff:**

Does any Member wish to speak on the Regulations in Third Reading? I put the Regulations. Those Members in favour of adopting them, kindly show? Those against? The Regulations are adopted in Third Reading.

### **13. Esplanade Quarter, St. Helier: Masterplan (P.60/2008)**

**The Bailiff:**

Now to Projet 60 - Esplanade Quarter, St. Helier: Master Plan. Paragraph (1) of the proposition is taken as read and I therefore call upon the Minister to propose it.

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

May I just do a general introduction before the Minister for Planning acts as rapporteur for Part (1). This is a general introduction to the overall proposition.

**The Bailiff:**

I think the Assembly must be clear who is proposing the motion, Chief Minister, and I think that the proposer of the motion is obviously the person who has the right to reply on these particular

paragraphs of the proposition so that if you open the debate, you will be called upon to reply to the debate on paragraphs 1(a) to (e).

**Senator F.H. Walker:**

Sorry, Sir, I have been under a misapprehension then. The proposition is lodged in the name of the Council of Ministers. I thought I would do a general introduction which does not propose Part (1) but then hand over to the Minister for Planning and Environment who would.

**The Bailiff:**

Well, Chief Minister, it is certainly in the name of the Council of Ministers and as it is in the name of the Council of Ministers, it is open to you to mandate any Minister you wish to propose the proposition or ...

**Senator F.H. Walker:**

Very well, Sir, I will stand down and call upon Senator Cohen to propose Part (1).

**The Bailiff:**

I think procedurally that will be the right thing and I will certainly look to you at an early stage in debate if you wish and you can then speak to it, so I call upon the Minister for Planning and Environment to propose paragraph 1(a) to (e).

### **13.1 Senator F.E. Cohen (The Minister for Planning and Environment - rapporteur):**

My election manifesto concentrated on delivering better buildings for Jersey. My appointment as Minister came at possibly the low point in Islanders' confidence in the quality of our new-built environment. Islanders focus on the Waterfront cinema complex, the swimming pool, and, latterly, the hotel. They felt what they saw was of poor quality and did not fit well in Jersey. They were not proud of their Waterfront. The then proposed developments for the Waterfront seemed drawn from an Orwellian nightmare, tall monolithic towers of 12 to 25 storeys obliterating views of our castle and dominating our polite town. Wind screaming through the cavern created by these towering monstrosities and, to cap it all, a 6-lane motorway complete with a central raised barrier driven through the core. Shortly after my appointment as Minister, I commissioned Mr. Chris Shepley, C.B.E., the former President of the Royal Institute of Town Planners and one of the leading planners in the U.K. Mr. Shepley's task was to identify what Islanders wanted on their Waterfront and to refine this into a supplementary planning guidance note. The Shepley process began with a period of extensive public consultation and a workshop attended by many Islanders from wide-ranging backgrounds from the "go-for-growth-at-no-cost" school to the "no-change" school. The public consultation process concluded that there was little confidence in the then proposed schemes and that a new approach, based on great architecture appropriate to Jersey, was required. Most importantly - and it proved to be the key - Mr. Shepley recommended that I appoint an architectural adviser of international renown. I interviewed Lord Foster, Sir Richard McCormack, Sir Michael Hopkins and Lord Rogers' practice. Between them, these architects have been responsible for crafting many of the great buildings of the world over the last few decades. I was struck by one very common thread that each of these architectural supremos expressed virtually immediately they saw the then proposed plans. That was that, in each of their opinions, the Waterfront would never - and I stress never - be a success while the multi-lane highway separated the new Waterfront from the historic town. I appointed Sir Michael Hopkins as my architectural adviser and began the process of reviewing the proposals. Jim Greaves, Hopkins' senior director, led the team and he quickly began to consider mechanisms to remove the barrier of the multi-lane highway by lowering it below the new scheme. The Hopkins team claimed that by doing this, not only would we ensure a better scheme by delivering connectivity, but the States could also make more money. Remember that despite all the tall towers of the old schemes and the overbearing influence the structures would have had on our historic town, the then total schemes were expected to deliver only just over £20 million to the States in 2004. After much analysis, the Hopkins' team theory was proved to be

right and the new Hopkins Master Plan under the deal negotiated by W.E.B. is proposed to deliver £50 million guaranteed, another £25 million based on overage and a lowered road paid for by the developer at no risk to the States, in total a return over 4 times that envisaged in 2004. I want to make it absolutely clear that, in my view, the road must be lowered. The key to a great Waterfront is this essential piece of the jigsaw, and success rests entirely upon it. A recent independent space syntax survey has confirmed the imperative of lowering the road and creating connectivity. Furthermore, the old scheme would have required underground car parking at 2 levels to meet the developer and Planning Department criteria. The existing road would therefore have ended up being propped up at its side while the car parking area was excavated. It is hardly a Herculean move to extend the proposals to lowering the road itself at the same time and the opportunity certainly will not arise again. The scheme presently proposed, as I hope you will have seen, is quite simply an architectural delight and it delivers a new standard of architecture, quality of materials and quality of construction for Jersey. The proposals combine local relevance evidenced by the ground level emphasis on granite combined with the very best of 21st century Hopkins architecture but to cap it all, Hopkins are now supported by the appointment of the internationally-renowned landscape architect, Robert Townshend, at the suggestion of the Waterfront Design Group. It is not hard to imagine the scheme completed. The old sea wall on the south side of the Esplanade will be dug out and exposed. The moat created will be filled with water and entry to the scheme will be via granite streets spanning the moat. Much of what you see at ground level is granite, large blocks of hewn masonry, not stick-on flimsy granite appliqué glued-on to concrete. The public squares are granite, the walkway and the streets are granite and much of the lower level facades are granite. This represents a step change in quality for our Island. Fortunately, we have a taste of the quality we will be expecting. I am sure you will have seen the wonderful granite paving being laid in the Weighbridge, strong, beautifully detailed, and very Jersey. You will have noticed the subtle references such as the cobbled streets laid in the form drawn from our many slipways. This is the sort of detail we expect from Sir Michael Hopkins and his team. The new Master Plan includes 3 large and wonderful public squares. Entering the scheme from the east, we will first arrive at a water theme square. This visual delight, through a recent design change, will now be glimpsed from Castle Street. Walking further along a paved street, we enter a colonnaded-square the size of the Royal Square, surrounded on 4 sides by granite masonry arches in a sunken undercroft. Continuing west, we enter the Winter Garden. This building is potentially of international status, glass walls on 2 sides, stretching the height of 3 residential floors providing an unbroken view of St. Aubin's Bay and the Fort. The glass roof is drawn from one of Hopkins signature successes, the glass roof of Portcullis House in Westminster with one difference. Ours will be twice the size and more than one and a half times the size of the Royal Square. A new boulevard will be created on the south side of the scheme. Wide and tree-lined, it will provide an opportunity for street life reminiscent of many streets in Europe. Look at photos of the Esplanade in times gone by. That is the way we used to do it. This really is an opportunity for Jersey to regain pride in our architecture and in our town, to cast aside mediocrity and to bathe in the glory of magnificent architecture to be admired by Islanders and visitors alike. This is truly the opportunity of an architectural renaissance, a once in many centuries opportunity to master plan a new and uplifting quarter of St. Helier. This scheme will provide nearly 400 much needed high-quality apartments, 620,000 square feet of state-of-the-art environmentally efficient offices, self-catering and hotel accommodation and the key public spaces I have just described. These, of course, will be augmented by a multitude of mini piazzettas, smaller public spaces shaded from inclement conditions by colonnaded-walkways, for every building will be colonnaded on the ground floor. The quantum of the proposed development contained in the Master Plan have been set by States departments in consultation with W.E.B. W.E.B.'s latest view confirms the analysis of 2007 as set out in paragraph 2.5 of the report attached to this proposition. This is that there is sufficient demand to take up the anticipated office space within the projected development period of 7 to 10 years. Similarly, there is adequate demand for the residential apartments and the relatively modest quantum of retail and restaurant space. The public squares alone are 3 and a half times the size of the Royal Square. While the

quality of the buildings proposed is something that has rarely been achieved in Jersey in recent decades, there is much more. All the buildings will be built to the very highest environmental standards and I am now looking at developing our own environmental standard that the developers will be required to rigorously implement. We will be setting challenging recycling rates, both for the material dug out to create the scheme and for the waste generated by the occupants once the scheme is completed. District heating systems will be used, water saving and recycling mechanisms will be utilised and solar warming will be harnessed. Waste recycling will be at the highest level and cycle parks, shower and locker facilities will be incorporated into every area. There will be clean roofs with no equipment littering the skyline. Many roofs, in fact, will be covered with plants. Many will hang over the facades of buildings. The tall towers are gone and the average height of the buildings is now 5 or 6 floors. The task has been significant and the skill of transforming the Jersey vernacular into the 21st century modern office and residential architecture has required inspirational creativity. The credit for this work must go to the Waterfront Design Group. I set up this group last year and invited a number of Islanders who have demonstrated their commitment over many decades to our built environment. It has a wide range of members, including Marcus Binney, André Ferrari, Mike Waddington, Francis Corbet, John Carter and Chick Anthony. They have and continue to work with the Hopkins team to ensure the buildings and spaces are locally relevant with a brief to ensure that they are not imposing inappropriate alien structures on Jersey. They meet on a regular basis. Hopkins present proposals and these are debated, modified and honed. The Waterfront Design Group work in auditing Hopkins' work and ensuring local relevance has been the key to success. It is they who have driven Hopkins to create a new 21st century architecture especially for this scheme. While it is new, it is immediately and obviously relevant to Jersey because it is drawn from the proportions, materials and colours of our vernacular architecture. I am extremely grateful to the members of the Waterfront Design Group. They serve in an honorary capacity, spend an enormous amount of time on the project, and such is the vibrancy of their deliberations that one member even regularly returns from New York especially for the meetings. It is they as much as the professional team who are responsible for the architectural progress. They are developing design codes that will drive the architecture above ground floor level. While still under development, this will be purposely light in form and while 21st century, it is intentionally for light rather than demonstrably imposing. It is not designed to shout at you, rather comfort you, because it is so obviously of the very highest quality and so obviously of Jersey. In the same way that we find Gorey and St. Aubin uplifting and quintessentially drawn from our vernacular, the new Esplanade Quarter is being designed to deliver the same inspiration. This proposal will, of course, have a significant effect on the rest of town. Our town needs protecting and the first strand is ensuring connectivity, enabling Islanders and visitors to seamlessly pass from the old to the new and back again. We do not want to fall into the trap of so many other places and allow the heart of our retail shopping to be shifted. It is essential that King Street and Queen Street remain the retail heart of St. Helier. This was further strengthened by the reduction as a result of the recent consultation of retail and restaurant space in the proposals by 50 per cent. The £75 million W.E.B. estimates which will come out of the Esplanade Quarter must be invested in the rest of the town and, to achieve this, we propose setting up a regeneration taskforce to ensure this money delivers our objectives. There are many areas of the town that would benefit from regeneration and the town itself must be the focus of our attention. More than 80 per cent of the space developed under the Hopkins Master Plan is expected to be occupied by businesses already operating from the town and by their staff already working in the town. The space they will vacate represents an enormous opportunity to provide additional housing in the town. There is even the probability of delivering shared equity type affordable housing, subject to the approval of the principle by the States. While clearly not all the space vacated will initially be suitable for conversion into high-quality new homes, a large proportion of the vacated space will be suitable for conversion or redevelopment. Delivering this change will require new planning policies and greater flexibility. The work, in fact, has already begun and I have launched a St. Helier development incentive package which will focus developers' attention

on the delivery of residential units in the town rather than in the countryside. We have already begun the process of encouraging the consolidation of the elegant houses in the town that had previously been split into poor quality apartments. We are proposing more flexible planning, site-specific assessment of amenity space and a sensible approach to parking. The focus must be on high-quality well-designed new homes. Very clearly, Islanders do not wish to see significant green field development in the countryside. However, we face a significant problem in meeting our obligations to house our population. We have what I have termed an aspirational mismatch in that Islanders grow up wanting to live in the countryside in a house with a garden but however much we may want to deliver this, it is simply not realistically achievable for everyone. The answer partially rests with the Waterfront, for it is out of the Esplanade Quarter that the catalyst funds will come to generate improvements in the town that will, in turn, ensure the town once again becomes a first choice place to live. We need to promote high-quality apartment town living and the Esplanade Quarter will provide 24/7 modern stimulating urban living and the space vacated in the rest of the town the opportunity for large numbers of high-quality homes. It is not hard to see how even relatively small amounts of money can make a significant difference to the status of an area. Just look at the improvements in Charing Cross and Broad Street championed by my predecessor, Senator Ozouf. These areas have vastly improved as a direct result of the investment in improving the streetscape. It is not hard to imagine how much £75 million seed investment can change our town. We have a beautiful town with many attractive 18th and 19th century buildings. Funding beautification with £75 million can very quickly restore and regenerate the town as a residential destination of first choice. Whether we like it or not, we are virtually dependent on the financial services industry. This is a highly competitive industry where jurisdictions compete for business. Luxembourg, for example, is spearheading the provision of office and technology infrastructures specially designed to attract new business. We must remain at the forefront of the offshore centres and it is no longer enough to rely just on a robust regulatory regime. We also need to provide the type of space and infrastructure users will need. The most environmentally sensitive office space is essential as already businesses are testing the environmental credentials of the space they occupy. Large corporations will test not just the fiscal standards of jurisdictions in which they do business but their environmental standards as well. Setting up a new business district to these high standards will satisfy our business partners that we are serious about our environmental obligations. Providing the best large floor plan size environmentally responsible space in a new financial district is simply essential if we are to remain a leader of the offshore financial services industry. There seems to be a sense in some quarters that we can continue to deliberate and procrastinate over the future of the Esplanade Quarter. That is not the case. This is the last chance to deliver a fabulous Waterfront. If, for any reason, this Master Plan proposal fails, I have no doubt that the developers will immediately revert to the Planning Department-approved 2004 development brief. This will mean that the Island may have lost the opportunity to insist on exceptional architecture, exceptional environmental standards, exceptional public spaces and exceptional connectivity. The tall buildings will be back. The irrelevant depressing architecture will be back and the motorway separating the town from the Waterfront will remain. There have been concerns that the scheme would in some way not benefit local firms. That is not the case either. W.E.B. will require that local architects are involved in the individual design of buildings, albeit probably with Hopkins retaining control of the standard of architecture and construction through the use of a design coach process. W.E.B. have already begun the process with the Jersey Construction Council and Economic Development of requiring that local contractors and subcontractors have the right to tender for work on a level playing field basis. We are all conscious of the multiplier effect of awarding contracts to local companies and W.E.B. and E.D. (Economic Development) will be working very hard to ensure that this happens. T.T.S. have worked enormously hard to solve the traffic issues. It is through their efforts that we have now solved the issues of the underground roundabout and have the support of the emergency services, that we are satisfied that the area is protected from flooding and that we have a satisfactory workable transport solution that is future-briefed and that quite simply just works. This task, in itself, has been enormous and 3 consultant

professional teams have been working to check and verify every aspect of the traffic scheme. Not only have T.T.S. had to resolve the issues relating to the completed scheme but they have had the complex task of assessing proposals for the temporary traffic solution while the scheme is being constructed. To put it simply, the conclusion is that other than for short periods of time while routes are being moved around, the traffic will flow smoothly during the construction period, initially using the existing road and as the scheme progresses, through a temporary road. The process of developing this new Master Plan has involved a great deal of consultation. Most recently, we engaged in a further public consultation exercise on the draft of the latest version being debated today. Many changes have been incorporated and the scheme has benefited from constructive input from many quarters. I would like to specially thank the Environment Scrutiny Panel for their input. Instead of storing all their ideas and claiming credit at the end, they have constructively critiqued the scheme from day one. Many of the key ideas have, in fact, come from the Environment Scrutiny Panel members. Examples are the colonnaded lowered square suggested by Deputy Le Claire, the water-filled moat suggested by the Constable of St. Helier and the numerous environmental improvements suggested by Deputy Duhamel. As another example, the Environment Scrutiny Panel suggested that there be greater emphasis on cycling. In response, I will now be requiring the provision of cycle parking, lockers and adequate shower facilities throughout the total scheme to encourage cycling. The challenging recycling rates we will be setting, both for the material extracted during the construction and the day to day waste created by the occupants of the scheme, have been influenced by the issues raised by the Environment Scrutiny Panel. It is important to clarify a number of misapprehensions. While the Master Plan proposes more developed space than the old schemes, the old schemes were themselves very large. On the old Esplanade Square site alone, approximately 500,000 square feet was proposed and the proposals for the tall towers of the Les Jardins site were in addition to this. The old schemes included significant above ground car parking, the absolute no-no of good urban planning and while they included open space, much was inaccessible to the public or unusable during inclement weather. Therefore your consideration of the proposals should not be testing them against no development but testing them against what was previously proposed as it is to these the developers will revert if the Master Plan does not proceed. In my view, there is absolutely no doubt that the new proposals are immeasurably better than the old in every way. I also need to clarify the position with regard with the housing categorisation of the residential element. The Minister for Housing, with whom I worked very closely, is free to designate the residential units as he wishes. My view is that the vast majority of the units should be categorised (a) to (h) and that the tourism accommodation should be for tourists and protected from being used by non-qualified permanent residents. The Minister for Housing has confirmed that it is his intention to apply these principles. The matter of the cost of maintaining the underground road needs finalising. While this will be low for the first few years, the annual cost is not precisely known but the upper estimate is £500,000 per year. The current suggestion is that this be paid out of the increased public rate. Equally, the underground road could be paid for by investing £8 million to £10 million of the proceeds and using the income from this purpose while retaining the capital sum intact. Similarly, the cost could be borne by a specific service charge imposed over the commercial elements of the scheme. Details such as this will be finalised at a later stage. It is essential to remember that we are only debating a Master Plan at this stage and final details such as this would be ascertained as a development application emerges and a development obligation agreement is developed. This information will, of course, be made available to Members at that stage. I need to clarify what happens next. If the Master Plan presented today is supported by the States, I will formally adopt it as an agreed development framework for the scheme. This will mean that any development application will be expected to comply with the Master Plan. When a development application is received, this will be subject to Jersey's first public inquiry. This will take around 2 months and the findings of the inquiry will form the framework within which the Minister for Planning will determine the application. Assuming that consent is given, then it is reasonable to expect that the lowering of the road and the creation of the underground car park will be completed in around 2 to

2½ years. At the same time, the first 4 buildings at the eastern end of the site could be constructed as well as the first public square. The balance of the scheme could then be constructed over the next 5 to 7 years. Giving a precise completion date is difficult as we will not allow construction of individual buildings to take place until reasonable evidence of demand is demonstrated for each. However, a reasonable estimate is that the total scheme should be completed in 7 to 10 years. The key is to ensure that whatever the phasing of the scheme, that the scheme, and particularly the public spaces, are delivered to the design and quality we expect. I will therefore be ensuring that any planning consent and accompanying planning obligation agreement absolutely covers these important matters. The 2 parts of the proposition are debated separately as though they were 2 separate propositions and the vote is taken on part (1) to be followed by the debate on part (2). I need to make clear the separation in the proposition. As Minister for Planning and Environment, I am responsible only for the delivery of the Master Plan. I am not in any way responsible for negotiating a deal with the developer. I have not seen the deal with the developer and I doubt that I know anything about the arrangements between the developer and the Waterfront Enterprise Board that is not in the public domain. Issues relating to the granting of the lease or the deal should be dealt with in the second part of this proposition for which I will not be rapporteur. It is important that a clear separation is maintained. It is my job to develop master plans, whether it be the Master Plan for the Esplanade Quarter or a new Island Plan. It is then my job to test resultant applications against that Master Plan but it is not my job to deal with the financial aspects of delivery. As Minister for Planning and Environment, I could have signed off this Master Plan without taking it to the States but I have chosen to do so because it is such an important matter. It is for this reason that the States are asked to endorse my intention to sign-off the Master Plan rather than to approve the Master Plan directly. Consequently, if Members have issues relating to the Master Plan, such as the proposed designs or issues relating to traffic solutions, then they can be answered by me during this part of the debate. However, if Members wish to raise issues relating to the lease or financial arrangements, then I would be unable to answer such questions and I respectfully request that these be held for part (2) of the debate. To be clear, if Members support part (1), this will trigger my adoption of the Master Plan, effectively as a development brief. A planning application could be made but it would not be implementable. Therefore, Members' approval of part (2) is essential to deliver the physical development. As this debate relates to master planning rather than a planning application, members of the Planning Applications Panel are free to participate in the debate and to vote. It falls to me also to propose the purchase of the small area of grass in front of the cinema complex. This is presently owned by AXA PPP and is essential to deliver the scheme. The preference is to acquire it by negotiation but if this proves impossible, States Members are asked to approve its acquisition by compulsory purchase. I have not looked at the images of the old proposals for the Waterfront for around a year and I saw them again last week. It was only at that stage that I realised just how much progress we have made over the last 2 years. I have put these images in the Members' room and Members may wish to take a look at them. The old proposals were frankly awful and I rejoice in the fact that if Members endorse the new Master Plan today, we will have together saved the Island from these depressing proposals. In conclusion, I believe this is a wonderful opportunity for our Island so let us celebrate the architecture, let us celebrate the opportunity and let us get on with delivering a Waterfront from which all Islanders can derive pride and inspiration. We have put together one of the best architectural and landscaping teams on the planet and they are poised to deliver an architectural renaissance for our Island. I urge you to support this Master Plan for the Esplanade Quarter. **[Approbation]**

**The Bailiff:**

Is paragraph (1) seconded? **[Seconded]** Now, we proceed with the amendments firstly of the Connétable of St. Helier. As I understand it, paragraph (2) of the amendment of the Connétable is to be withdrawn or will not be proposed and if you agree, Connétable, I will ask the Greffier to read paragraphs (1) and (3).

**The Deputy Greffier of the States:**



On page 2 at the end of paragraph (1)(a), add the following: “Subject to the following conditions: (i) that the guaranteed payment to the States by the developer of £50 million and up to £25 million overage payments will be ring-fenced with the regeneration of St. Helier; (iii) that the roads bordering the Esplanade Quarter have high levels of service for pedestrians and cyclists and the levels of service for pedestrians and cyclists in locations affected by the proposals, such as West Park and Green Street roundabout, are not decreased in the interests of increased vehicular capacity.”

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

As both of these amendments are themselves subject to amendments by the Council of Ministers which I have accepted, albeit with certain caveats, I do not propose to speak at length about these because I think the debate, as I said in my letter to Members this morning, needs to focus on the broad financial and planning principles of the proposals. There is very little discussion, I think, to be had about the ring-fencing of these monies for urban regeneration. I had to scratch my head to think exactly what the Council of Ministers were going to achieve with their amendment because there is not a lot of adjacent urban land around St. Helier that is not St. Helier. I suppose if one goes east or north-east, one can find a little bit but, clearly, there is a need that this money that the Minister, throughout his campaign for this scheme, has pledged will be delivered for regeneration is indeed delivered for regeneration because, of course, the Minister, for whatever reason, may no longer be Minister for Planning and Environment when that money has to be paid and, of course, I may no longer be Connétable and it is important the States agrees that that money is set aside for this purpose because without that money there is a very real risk that the older parts of St. Helier will not be protected from the extraction of business and social and economic activity to the new Esplanade Quarter. The third amendment deals with the very important issues around what the Minister calls a seamless experience of getting to the Esplanade Quarter. Members will have detected from my letter this morning that while I am accepting the amendment to my amendment, I do not think much of it. It is very clear that the Minister for Planning and Environment has been motivated throughout his work, as he said in his speech, by the need to get people to and from the Esplanade in a seamless manner and there is no question that if one has to cross additional barriers to the new Quarter, that his proposal has failed. I note that Transport and Technical Services compute that the activity on the Esplanade is going to rise to 1,100 vehicles an hour as a result of this scheme and what is that if not a barrier to the Esplanade Quarter and that is the purpose of my amendment, to ensure that pedestrian facilities and cycling facilities and access are not decreased as a result of this scheme. I would have thought that that amendment was perfectly approvable without amendment by T.T.S. but we know that is not the case. Connectivity is very important. The States have signed-up to it again and again but again and again one has to come back to this House, as I did in 2006, because the Minister of Transport and Technical Services would not allow a crossing for the library in Burrard Street. I do not know if Members have seen it in operation. It is working extremely well but T.T.S. thought that that was perhaps too seamless and too connected to be permitted. I do not want that to happen with this new scheme and that is why I have put that amendment to it. I move the amendment, Sir.

### **The Bailiff:**

Are the amendments of the Connétable seconded? **[Seconded]**

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

Could I ask a point of information through you, probably from the Minister for Treasury and Resources. Is it possible for the States of Jersey under the Public Finances Law to hypothecate monies to ring-fence because I understood that it is not possible? Certainly in the past when we have asked that monies be hypothecated, we have been told - I think - that it is not possible to do so.

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

I think whereas in certain cases the Deputy may be right, in this case with the intervention of W.E.B. or J.E.B. (Jersey Enterprise Board), as the case may be, the funds can be held by a third party without contravening the Public Finances Law. Even were that not to be the case, I am sure we could find a way around it because I am sure that the principle is one which all Members would want to adopt.

**The Bailiff:**

There is an amendment to the amendment of the Connétable in the name of the Council of Ministers and I would ask the Greffier to read that amendment.

**The Greffier of the States:**

In paragraph (1) of the proposed conditions, after the words “regeneration of St. Helier”, insert the words: “and adjacent urban areas.”

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

I do not believe there is any need for lengthy debate on this amendment to the amendment or, indeed, the amendment itself, because there is full agreement that the funding from the Waterfront should be used for the regeneration of the existing urban area. The only difference between the Constable’s amendment and that of the Council of Ministers is to extend that regeneration or the capability of spending the money on regenerating urban areas adjacent to St. Helier in the Parishes of St. Clement and St. Saviour in particular, and I am delighted that the Constable has accepted that amendment. It was always the intention that the money from the Waterfront should be used for this proposal and never any question that the Waterfront would pose a threat to the existing town, rather create an opportunity, which is exactly what the amendment secures and what, indeed, the Council of Ministers’ amendment to that amendment secures. So, Sir, I make the amendment. I am delighted the Constable has accepted it.

**The Bailiff:**

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

**13.3.1 Deputy J.B. Fox:**

The future of St. Helier very much depends on the wisdom of the people who are going to be in the States at the time. Obviously we are talking about some years hence but in the meantime, there is an awful lot of work that is being done in the EDAW report and others in looking at regeneration.

**The Bailiff:**

Deputy, I am sorry to interrupt you. Can I just make it clear that we are addressing at the moment the Council of Ministers’ amendment to the amendment.

**Deputy J.B. Fox:**

I am coming to that, Sir.

**The Bailiff:**

Well, it is a very narrow point, whether the words “and adjacent urban areas” should be added.

**Deputy J.B. Fox:**

I can sit down, Sir, and cover it later if you wish. It is not a problem.

**The Bailiff:**

You are not going to address the amendment to the amendment?

**Deputy J.B. Fox:**

I am addressing the amendment to the amendment, because the amendment to the amendment quite rightly includes other Parishes other than St. Helier and St. Helier is expanding rapidly and if we

talk about St. Saviour's Road, we are in another Parish there and that is what I was going to talk about but I can talk about it later. It is not a problem, Sir. **[Laughter]**

**The Bailiff:**

Well, may I put the amendment to the amendment. Those Members in favour of adopting it, kindly show. Those against. The amendment to the amendment is adopted. There is a further amendment to the amendment in the name of the Minister for Transport and Technical Services and I ask the Greffier to read that amendment.

**The Greffier of the States:**

In paragraph (3) of the proposed conditions, for the words: "such as West Park and Green Street roundabout are not decreased in the interests of increased vehicular capacity", substitute the words: "including West Park and Green Street roundabout are maintained or improved to optimise both pedestrian crossing facilities and vehicular capacity."

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

I do realise that Members - and probably the Constable, in particular - thinks this is a rather nit-picking amendment but it is, in fact, quite important. A strict interpretation of the original wording could have given us difficulties in terms of optimising the traffic flow using what the Constable so quaintly described as the "new-fangled computer system" and, quite clearly, there is no point in having a new-fangled computer system if there are issues about how it functions along its route of operation. I do want to reassure Members, though - and it was a subject the Constable touched on in respect of connectivity - that there are a very significant number of pedestrian and cyclist enhancements that are going to be included in the Master Plan at a whole series of places, most specifically on the Esplanade and all the other various junctions. While I take the Constable's point about the current wording as a little ambiguous, it is important in a sense that it is, because we must ensure that the traffic flows are maintained, particularly at peak time. He referred to a figure of 1,100 cars. That is a peak time figure. Traffic flows will be much more reasonable at other times of the day and I do think that his connectivity concerns will be addressed by the arrangements that are going to be put in place.

**The Bailiff:**

Is the Minister's amendment seconded? **[Seconded]**

**13.4.1 The Connétable of St. Helier:**

Just a few brief words, Sir, if may, on the amendment by T.T.S. Why am I not comforted by the assurances of the Minister? Without getting into matters zoological, I do not see how the removal of a zebra or the replacement of a zebra with a pelican can be seen as an improvement in pedestrian facilities. One provides crossing on demand and the other does not. I have, as I say, said in my letter to Members this morning - and I will repeat it for the benefit of those listening to the debate: "The Roads Committee of St. Helier has made it absolutely clear that they are not prepared to see the loss of the zebra crossing at the Green Street roundabout to the east and that they will fight that tooth and nail." My reading of the Minister's amendment is that it is ambiguous. Who knows what he means by "optimise and improve." I thought that would make it easier to cross the road but the Minister thinks that will make it more difficult. Never mind. The words of the proposition are sufficiently ambiguous for me to accept his amendment and to look forward to further negotiations with him or his successor when these matters come to be put into place.

**The Bailiff:**

In light of the Constable's speech, may I put the amendment of the Minister for Transport and Technical Services. Those Members in favour of adopting it, kindly show? Those against? The amendment is adopted. We return now to the amendment of the Connétable of St. Helier amended by those 2 amendments. Is this the moment for you, Deputy Fox?

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

My concern is that we are talking about a considerable sum of money, up to £75 million, and what I wanted to ensure at this stage is that when we are looking at the urban area, we are looking at an area that is expanding all the time and especially with the argument of saving our green countryside areas, green zones, green areas, countryside areas, *et cetera*. There will be more and more pressure put on to expanding the urban area and including within the existing area a great deal more density than that that exists at this time. My concern is that with a nice little separate pot - which I agree with - I support this amendment, I agree with it, it should be ring-fenced, as it has come from the development in that quarter to ensure that there is proper regeneration within St. Helier and surrounding area. But my concern is that we collectively and especially in the future say: "Well, we got that money so we can use that money" and we do not actually look at... that that money is only partly there to support. It is not the whole package. Society has a responsibility for designing-out crime which is an area that I am very familiar with, which you know, but it is also to ensure that there is proper amenity space and facilities for the community and £75 million is in no way going to be able to provide all that is required. I just wanted to put it on record at this particular moment in time that we must not look on this in isolation for providing all the wishes and the wants for our future community. The bit that concerns me is that as money gets tighter, things get left off: "Oh, we will do that at a later stage." It does not happen and what happens at a later stage is that you end up by having a community that does not have quality of life that should be there and you get a deterioration in law and order. You get a deterioration in health. You get a deterioration in the willingness to live in such an area and you get the jealousies that come into that, that I live in an area that is run down and why can I not go and live in a nice 3-bedroom house in green field sites, *et cetera*. What I would like to see is that this money be used very wisely to ensure that the regeneration does what it says that it does and that it regenerates. Everybody should be proud of the area in which they live and work and that is really why I felt it was important to speak on this particular occasion.

#### **13.5.1 Deputy J.A. Hilton of St. Hilton:**

Just very briefly, I support these amendments wholeheartedly. One of the points that I would like to make to the Minister is in light of the money that is going to be used for regeneration of St. Helier, that he increases the grants that are available, the historic building grants. At the moment, it is a very, very paltry sum of money. I am aware of a lot of private homeowners in St. Helier who occupy B.L.I.s (Buildings of Local Interest) and S.S.I.s (Sites of Special Interest). There is a massive cost to maintaining these homes so I would just ask him to put a substantial increase to the historic buildings grant to enable those owners to maintain those homes to the standard that we would all like to see. I could not possibly let this moment pass without mentioning that I also welcome this because I realise that this may be a pot of money that the Millennium Town Park Implementation Group will be able to dip into to deliver the Town Park to Islanders as a whole.

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

Just very briefly, to echo the words of the last speaker, an appeal really to the future Ministers in regard to the provision of playground facilities and play areas for children in St. Helier which, at the moment, are very inadequate to say the least. I see in a number of areas in the town in which I live and areas that I visit in my district where there are children playing with footballs on street corners. That is something that you would expect to see in a more familiar setting in somewhere like Manchester or something like that, which I think is inadequate and inappropriate for Jersey, and I think we have to do a lot more for the children than we are doing at the moment.

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

Just following on from Deputy Hilton's remarks there where she said this might be a pot towards the Millennium Town Park, my understanding is that the Millennium Town Park funding has been done and dusted according to the Minister for Treasury and Resources and it has all been allocated

for 2010 so that we can get a Millennium Park by 2011. There is no need to dip into any such extra funding in order to achieve that and I am seeing some nods. It would be nice to hear some words that confirm that because I have yet to see them in black and white. More germanely, perhaps, I am worried about the whole idea of this £75 million 'free money' that is coming our way. I am reminded of a saying of my father when he said: "If people offer you money, take it and ask questions later." He was, of course, completely wrong. There is no such thing as a free lunch and I wonder why. Maybe I have been here too long and I am getting cynical but this pot of money seems awfully like some sort of bribe. Why are we being offered this apparently overwhelmingly generous pot of money? My issue around it - and I will return to that perhaps later on in the main debate - an issue around this in this particular aspect of this particular amendment is that we have been told continually that the biggest enemy in the Island at the moment, as it has been for quite some time, is inflation and one of the ways that we can control inflation, one of the few ways we have in our armoury, is to control public spending. Now, to my mind, it says, right, so if we control public spending and we stick some money in stabilisation funds or rainy day funds, until we cannot fit any more in, what is the difference between money that goes there from taxation and money that arrives as a windfall from developers. The inflationary impact of spending that money, whether it is on regeneration or other, is identical and yet here we are, we are being encouraged not to spend, to cut-off spending, if you like, down to the bone, to put any excess in special funds except this money. What is special about this money? Is it magic money? We can spend this without stacking-up inflation? Is it a different type of money? It seems to me there is a logical inconsistency running all the way through this particular proposition which says that the joined-up collective aim of controlling inflation can be happily ignored because we are getting something for nothing. My father was wrong. You never get something for nothing and if we spend this money, wherever it is spent, beware. It will have an inflationary impact and I am worried that that is, in fact, what we will be doing. I will link that to further comments about the whole nature of the scheme when we return to the main debate.

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

I will be very brief but I have to say I find it unbelievable that a Deputy of St. Helier is opposing the investment of very sizeable sums of money into the Parish he represents. I just find that unbelievable. Of course, he is completely mistaken about the issue about the money. He calls it "free money". It is not free money, it represents the value of the land that the public own which is the subject of - or will be, if the States approve it - the subject of a lease to the developers. It is not free money. It is the value of the land that we own. It is completely misunderstood what lies behind the proposition. As I say, Sir, I find it incredible that any Deputy of St. Helier could look this one-off opportunity in the face and seek to reject it. I wonder how that will fly with his parishioners.

#### **The Bailiff:**

I call upon the Connétable to reply.

#### **13.5.5 The Connétable of St. Helier:**

I am not going to deal with Deputy Southern's comments because I think they refer to the main proposition and not to the amendment which merely deals with the ring-fencing of the £75 million. The other 3 Deputies who spoke from St. Helier, I could see the level in the account dropping as each one of them spoke. Clearly, I value their support for this but the mechanism and how this money is to be spent on the urban area is a matter for another day. I maintain the amendments as amended.

#### **The Bailiff:**

I put the amendments of the Connétable. Those Members in favour of adopting them, kindly show? Those against? The amendments are adopted and the debate returns to the proposition of the Council of Ministers, paragraph (1).

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

We do not have much time left in this session today so I would like to be one of the people who is remembered for a short contribution but an enthusiastic and supportive one. I feel, for once, in a remarkably airy breath-of-fresh-air type of space within the States Assembly that I rarely occupy and that is a space where we are looking at the proposition that has been well consulted upon, well worked through and the consultation has been listened to and adapted and brought forward. There are a number of issues within this proposal that if one Member was to try to address them all, it would be a bit like singing through: "There's a hole in my bucket, dear Liza, dear Liza" which would go on and on and on and get us back to the beginning. The reality is that a few years ago, I stood in this Assembly and looked at some dire irrelevant depressing architectural proposals and I opposed them as much as I possibly could because I could see that what was being proposed was what we would end up with and it is only now, years later, that people are coming around to admitting that what was proposed then and that what has been developed is extremely disappointing. We were sold on the fun bag the first time round, the 10-screen cinemas, the extra McDonalds, the Kentucky Fried Chicken, the slides, the wonderful new swimming pool, the money to the taxpayer and none of it at the time convinced me. I looked into the issue in some quite considerable depth, even into the accounts of the proposals of the people who subsequently sold on to AXA PPP and none of the proposals were what I thought the people of St. Helier wanted, the Island wanted, or the people of my district. This is in District No. 1. It was, in my view, an unfortunate step forwards that delivered very little in respect of what we were really after and it did not give us back the view of the castle which we have all longed for since it disappeared. Now, conversely, here we have Senator Cohen delivering what I thought was an excellent speech. I was surprised if not embarrassed by his kind remarks. I am not used to getting credit when it is my idea **[Laughter]** so thank you very much but, no, Sir, Senator Cohen is a man who has conducted a Herculean task in putting this together and his efforts, I am sure most Members will agree with me, have been extraordinary in putting this together. There may well be issues that we all have about the traffic and there may well be issues we all have about the money and the deal and what else there could be and the towers and on and on and on, there is a hole in my bucket. Nevertheless, we must look at this for what it is. It is a significant scheme. At a time when everywhere else in the world people are faced with enormous challenges, we have an opportunity to be looking towards what will be a wonderful vision for St. Helier if it is completed. Unlike the past, where it was enthusiastically supported by people who had not really bothered to go into it, that was a simple thing to deliver because it was, at the end of the day, in my view, Sir, something that was not very much at all. In order for us to deliver this scheme to the people of Jersey in the way that has been envisioned by Hopkins Architects and by Senator Cohen is going to require all of our efforts in an ongoing way in a vein that the Constable of St. Helier put across today in accepting the Minister for Transport and Technical Services' advice. The Minister for Transport and Technical Services and his team have done a great job on the traffic. We all see that they are working together but I do not think that the work is going to finish here today and if we give up on it and just say: "Right, we have agreed, that is it, let them get on with it" then I am afraid we are not going to be able to achieve the end result that has been presented to us today. There has been good work from the Waterfront Design Group. There has been good work from the Environment Scrutiny Panel but, more importantly, there has been good listening from Jim Greaves and the Senator and his Assistant Minister in everything that we have looked at. We have looked at it in depth. We have not looked at the financial arguments. That was a subject of a separate review, Members will recall, but I think for once we are going to get back the view of our beautiful castle. I think for once there is a deal on the table that has had true consultation and I think for once this really is going to change the Waterfront for the better and it is going to give us some money which will hopefully help deliver some of the things we need in town. There are going to be some issues about traffic and there are going to be some issues about occupancy. We have heard that the issues about occupancy are going to be safeguarded by the Minister for Housing and I really do hope, Sir, that we do not have too many more speeches which focus on the negativity of this because it is a

very, very large project and I think, for once, the work has been done. I have had countless meetings with the Minister and his officers and the architects with the other members of the Scrutiny Panel. The work behind the scenes in setting-up these important meetings by our Chairman, Deputy Duhamel, and the work that the Constable of St. Helier has done, has been colossal. I have nearly managed to keep up with the Constable of St. Mary in my attendance, but not quite. He has been there like a stalwart. I think if you ask any Member of the Environment Scrutiny Panel, we have been immersed in this and I would just like to finish by saying this is a wonderful opportunity. It will provide, if delivered, the opportunity of having the Waterfront from what it is at the moment which, in my view, was what I said it would be, a disappointing waterfront. We have an opportunity to change that. If we are going to develop anything, let us develop this because the towers and the previous designs of 2004 will just be more of what we are looking at today.

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

I think, Sir, without repeating too much of what the previous speakers have said, what strikes me in this exercise is that it is the ability that master planning has in order to bring people together. We heard from the Dean this morning about the importance sometimes of not wanting to cut-across individual rights of the people when there are higher ideals which would serve the interests and needs of others. With the planning process and, indeed, the people who have been in the mix, not least of whom has been the enlightened approach from the Minister for Planning and Environment, I think we have found a topic that, for once, hopefully, if we endorse this proposition first part - and I hope that we will - we have found ourselves a topic that can maybe be used to show that there is a united way of working and that the States can, when the chips are down, perceive the long-term vision and work together and put aside our differences in order to work for what is not only best for ourselves now but for the future of our children and our children's children. I think it is a good scheme. It is not the only way of planning the area but I think there is an element of uniqueness within the planning proposals that do contain a huge element of merit. I look forward to working with all of those on the proposals and the problems that are likely to remain in order to bring it to fruition but I would like to warmly commend the planning proposition to all Members of the House and urge everybody to show a united front.

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

In the immortal words of the football manager, it is déjà vu all over again. Here we go again, another ozymandian scheme on St. Helier's Waterfront, same people supporting this one broadly as supported all of the others. The same people, certainly in my case, who will be opposing this who opposed all of the others. So what, then, do we learn from looking at things like West of Albert 1, West of Albert 2, the underpass, the swimming pool - the ludicrous deal that was struck with it, the cinema- the only cinema on earth with prime-site sea views. The hotel which is such a grotesque expression that even that aesthetic journal, *The Financial Times*, condemned it. The point is that every single one of these items was debated in this Assembly. The general public view was against each of them. Some of us opposed them. The States did not agree and they carried through all of these things and all of them have ended up being appalling mistakes, even to the point whereby people such as Senator Walker, Senator Le Sueur and Senator Ozouf speaking the other year at a Chamber of Commerce function admitted that the Waterfront was a mess. I read those comments as reported in the *Jersey Evening Post* and I could not help but think to myself, yes, and did the people of Jersey tell you so? We told you so. We said these things were going to be disastrous and so it has proven to be. The fact is the public were right in opposing these gross over-development schemes entirely out of scale and out of character for a small place like Jersey and this Assembly so frequently described by ordinary people in this Island as "that place down by the Royal Square surrounded by common sense", did not agree and went ahead with them and the mess, the utter mess, the chaos and the shambles that we have made of the Waterfront is down there for everyone to see. This is going to be another such project. We are being asked to agree the principle of this

today, notwithstanding the fact that as the Minister proposing it himself has said that he is not party to the fine detail of the financial arrangements, I mean, sorry, have we not been around this particular circuit before? Is this not why we have the disaster with the swimming pool on our hands? We are being asked today to agree to the scheme without knowing what the deal is. For example, there can be no escaping - it must be obvious to Members - that the excavation and the burying of the road is a dramatic and major and challenging civil engineering project. Senator Cohen shakes his head and says: "No, it is not." Well, let us have a look at it. There are very substantial wide major surface water and sewage disposal pipes under the ground at the Gloucester Street end down by the Esplanade. How much is it going to cost to re-route and reposition those? The proposed cut and fill-in crosses the old sea wall which is currently contained within the land reclamation site. Again, that is going to be, I would have thought, a substantial issue. The whole area is sea-porous. It is affected by tide. Water soaks in and out of that area. What do we do with what will be thousands - and I know because I have checked this with the Health Protection Department - the thousands of lorry loads of in-fill that will have to be dug out? What about the pollution that is going to cause? Where are the resources in terms of the construction industry going to come from to deal with this in conjunction with all the other things that are going on in the Island? Where is all this vast quantity of excavated in-fill going to go? What detailed protocols and methodology have been put in place to deal with the fact that a substantial amount of the in-fill being dug out is contaminated with things like the incinerator ash and asbestos? I know it has been traced also down on the site, down on the Waterfront recently in the Castle Quays development. There must be air monitoring. Where are all the probably thousands of tons of contaminated in-fill going to go? Is it imagined that they are just going to be slung into the current La Collette land reclamation site? If so, I think people imagining that are in for a rude awakening because today's environmental standards fortunately are a good deal tougher than they used to be. Again, we are being asked to agree this today without these rudimentary basic issues having been properly addressed. We do not know the financial deal. Senator Walker says that we...

**Senator F.H. Walker:**

Would the Senator give way, Sir? We do, of course, know the financial deal. That is the purpose of part (2) of the proposition.

**Senator S. Syvret:**

Well, I find that a fascinating contrast with the speech made by the Minister for Planning and Environment earlier who said that he was not party to the detail of the financial arrangements. All he knew was what is in front of us now or what has been otherwise been put in the public domain. The real meat, the real detail of the deal is not, in fact, before us. It is not, in fact, known to us. So what happens halfway through this project, if, as I suspect, it proves to be immensely complex, time-consuming, very, very expensive and it falls through as a commercial venture? What then? We are left with half a buried road with the tide washing in and out of it, seeping through the land reclamation site. Traffic diverted. What happens? Do we know what the guarantees are? Do we know what precisely has been agreed with insurance companies, underwriters? Do we know if there are other firms who would step in in the event of this kind of disaster? We just do not have this kind of detail in front of us. Do we want another swimming pool fiasco as we have at the moment? Do we want another Waterfront cinema complex? Do we want further disasters like the Waterfront Hotel? As I have said already, the public opposed these things and, as is now plain, the public were right and this Assembly, in its wisdom - if it could be called that - felt otherwise. But there is another fundamental reason for opposing this scheme. It is essentially with its focus on the major civil engineering project of burying the road to build over it. It is still essentially a car accommodation project. Now, with oil having recently peaked in value at over \$135 a barrel, with very authoritative people suggesting that the price of oil will go up to \$200 a barrel, \$250 I have even recently read, \$300 a barrel within 2 years being predicted, we are, I think it plain, on the cusp of the end of cheap mass motoring. Quite easily within 10 years, if, indeed, not a good deal sooner



than that, only the very very wealthy will be able to afford to drive cars. So why, then, should we invest in this massive grotesque civil engineering project to accommodate yet more traffic, yet more motoring, on a tiny island like Jersey? It simply does not make any sense. Setting aside those practical objections to a car accommodation policy, even if one did support this project, one has to ask what about the broader impacts of it, what impact will it have on the Island's population levels? Where are all the hundreds, possibly thousands of workers required to carry all this out going to come from? All the staff to occupy the buildings? Make no mistake, if Members vote for the scheme today, they are voting for a further dramatic increase in the Island's population. That is one of the clear and inescapable consequences of this project. It will not happen unless you bring in hundreds, thousands or even more people. So do not any Member in this Assembly say: "Nobody told me" when those consequences happen. The scheme is focused primarily - perhaps inevitably with a commercial-based development - on the wealthy. It does not seem to me to offer a great deal to the ordinary people in the pits of town of St. Helier. All these issues have not been addressed. The detail is not before us. We are being asked to agree to a scheme which some people might think is nice. Others like me do not think it is nice but I would suggest to Members that even if they do support the scheme, the burying of the road and thus all the development land that becomes available and created above it, even if Members support that scheme, surely we cannot vote for it yet without having all the full detail, the information in front of us, the real meat of the financial issues, the guarantees, a proper analysis of the civil engineering risks and problems. Even if Members support this scheme, there is simply not enough information before us today to enable us to make a competent and informed decision to go ahead with it. The information simply is not there. In summary, I fear that the Assembly is about to make yet another disastrous blunder with St. Helier's Waterfront unless Members have the good sense to reject this proposal.

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

I would like to discuss further detailed economics with Senator Syvret but I do not think we have time for that this afternoon. I am sorry about his gloom and doom. It would have been helpful, I think, if he had given us his alternatives to this scheme. As the Minister knows, I am a tyro on architecture. I have, in fact, received an amendment in my e-mails the other day which suggested that if the development was put on stilts, we would not need to sink the road and we would also be prepared for any rise in the height of the sea level but I throw that in. I would perhaps, though, like clarification. Here we are, in effect, in part (1), really discussing what is just slightly more than an in principle design model. We are discussing the architecture and the layout and the financial side presumably will come in part (2) because, yes, I have a few questions on that but the first part is the architecture. As I understand it, is the proportion of offices to residential set in stone at this point in time? These are questions I would appreciate if the Minister could address in his summing-up.

### **13.6.4 The Connétable of St. Helier:**

Six months ago, I was pretty much opposed to the Hopkins Master Plan and I told the Minister as much and I indicated publicly my reservations about it, and certainly I still do have some reservations which I am going to spell out this evening. But it has to be said that the Minister has moved a great deal from the initial scheme that he was promoting last year, not least in his reduction of the large amount of retail on the site which was of significant concern to St. Helier's retailers and I think that, along with the other adjustments he has made, the placing of more housing on the site and, of course, most significantly, the addition of the Winter Garden on the site, have certainly given me a lot to think about in terms of whether to oppose the scheme or not. My initial and major concern about the scheme has been to do with traffic, which is why I put the amendments that I did to the scheme and I have been concerned for a long time about the impact, not so much on St. Helier residents from the sinking of the road, but on everyone who currently drives from east to west along Route de la Liberation. Although we may not like the underpass, it seems to do a fairly good job and even when it is rush hour and there is a lot of traffic about, one sits there and gets the occasional ray of sunshine and the odd glimpse of the castle. I have had real

concerns and I have been contacted by hauliers, taxi drivers and other people who make this trip many, many times a day and they have said: "Why should we have to go underground and around a roundabout in heavy traffic every time we make that trip?" I must say I do not share the confidence of the Minister when he spoke of the work done by the Transport and Technical Services Department. I am not knocking them for trying but how can the Minister claim - and I quote - that: "We have solved the issues of the underground roundabout and we have future-proof of the traffic system." I think that is nonsense and if anyone looks back in the last 20 years of the development of the urban area in particular in Jersey, how many times have we had politicians saying: "We have now got to the maximum number of vehicles that the Island's traffic system can stand." How many times have we been told that the ring road cannot cope with the traffic on it and how many times have we failed to grapple with the problem of traffic and the impact it has on our society, not just health impacts but all kinds of other impacts as well? Senator Syvret is absolutely right when he says that we still are suffering from car accommodation thinking in our transport planning and I think it is very sad that is the case. But the question I have to ask myself is is the disbenefit of sinking the road, the enormous disruption that it is going to create - and I think Deputy de Faye said a while back in an unguarded moment: "I do not come to St. Helier for the next 3 years" - it is going to create enormous disruption and if we are going to accept this scheme, let us go into it with our eyes open. I agree with Deputy Le Claire in many respects but he painted a rather rose-tinted view of what is happening. Now, what is happening may not be as bad as the distopia that Senator Syvret has presented. Maybe it lies somewhere in between but certainly it is not going to be easy to create the Hopkins Master Plan when we have a Department of Transport that is committed to increasing vehicular capacity through the scheme. Why do we not just accept that, as an island, we have to start to control the amount of car use we indulge ourselves in, otherwise it is going to be impossible to enjoy the seamless experience that the Minister has been talking about. The Minister also talked about the motorway. He mentioned twice the 6-lane motorway. Let us not kid ourselves. There will be a 6-lane motorway. In fact, it will be wider after this scheme at the Grand Hotel because they are going to add an extra lane into it. We are going to have a 7-lane motorway for most of this part of St. Helier except where it goes underground and under the scheme. So the traffic is going to get worse and I think Members have to be very aware of that when they come to vote. This is why, as I say, I put these amendments to make sure that the most vulnerable road users are able to access the Esplanade Quarter because if they cannot, then we have rather defeated the object, have we not? The Minister did, however, mention several good things that are going to come out of the scheme, and let us not forget 400 units of affordable housing. Senator Syvret says there is nothing in this for ordinary people. Well, I would suggest that providing lots of housing on the Esplanade Quarter is going to help. It is going to bring flats further within reach of the community. Now, not everybody likes the idea of living in flats and we could, I am sure, have a debate about whether that is appropriate, whether children can live in flats and so on but the fact is that we do need the units and if we do not provide them in town, they will have to be provided in the countryside and I think that the housing on the site, of course, will also help to provide that very important glue that holds these kinds of places together. People will be living there as well as working there. It will not be like the city of London which, after dark, is very much, in certain areas at least, a wilderness. It is also going to provide architecture. Now, we know that architecture is very important to the Minister. He always talks about it. Some of us get a bit tired about the idea of it on the headland, Portelet and so on and Plémont but I must admit, if people come to St. Helier to see the architecture, if that is another reason people come to St. Helier, I will be very glad and I actually believe the Minister when he says he is going to make sure that we have quality architecture that will, over time, begin to mask the effect of the less good architecture we have on the Waterfront and perhaps, in due course, those buildings themselves will be replaced by better ones. Now, we are also going to get a new finance district and when I was in Funchal recently talking to them about twinning, and I told them about the new proposals and how I was opposed because of the tunnel and so on, they looked at me as if I was a bit mad. Of course, Funchal is perforated, Madeira is perforated by tunnels. They are everywhere and they tried to

suggest to me that perhaps driving underground does not have to be awful if it is properly planned. But they also looked at me in surprise when I was opposing a new finance district because they would very much like one in Funchal. I was also influenced, at this stage, when I spoke to... because I know not all of the financial industry representatives approve of this plan but we had a recently a briefing proposed by Economic Development and M.B.A. (Master of Business Administration) students from the London Business School were talking about the future of the Island's finance industry and I asked the question. It was not well attended but lots of questions about the regulatory environment and I asked the question: "What about the physical environment that we provide the finance industry? Is it a good thing that we create a new financial quarter?" "Of course it is," they said. "That will help you attract new business to Jersey" and like it or loathe it, we know that we depend on the finance industry continuing to be attracted to Jersey as a place to do business. So I think the scheme certainly ticks quite a lot of boxes. It provides housing, it provides good architecture, it provides a Winter Garden and, as I said, I think in my public comments about the Winter Garden, the Minister has assured me that the Winter Garden is going to be designed so that it works and that there is going to be enough light in it and so on. So we get a lot of benefits and I think what Members have to do today is to balance the undoubted disbenefits. Let us not kid ourselves. There are going to be disbenefits but is the gain going to be worth it at the end of the day? I must say, unless I hear arguments that suggest that the benefits I have listed are completely overshadowed by the disbenefits of the scheme, I am minded to support the proposition as amended.

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

I have to confess that I find the overall vision of the Esplanade Waterfront to be bland, lacking imagination and boring and therefore, I have absolutely no doubt that it will receive overwhelming support. **[Laughter]** Sir, it lacks innovation, it lacks novelty, it lacks excitement and I think I know why. It is probably because anything novel, anything exciting, anything different, anything that makes our futuristic statement or even a futuristic comment causes such furore that the Minister and the States will almost be forced to reject it. Now, Senator Syvret made some criticisms of the buildings and indeed, that was echoed by the Constable of St. Helier as buildings which are currently on the Waterfront and, of course, they are absolutely right. I think about the last building that was opened down there and I think to myself if it were 27, 35 storeys high, if it were tapered at both ends and had a big hole in the middle and it was covered with different coloured neon lights which went on automatically at dusk, there is no doubt that half the population would hate it but the other half of the population would absolutely love it. But because we have something that is bland, lacking in imagination and boring, everybody hates it and we do not learn from these things. We carry on being bland, lacking in imagination and boring. You can perhaps gather from this, Sir, that I am not excited about what is on offer from the Esplanade Master Plan but my experience over the last many years has convinced me that it is probably the best that we are likely to get and therefore I think I would be being churlish if I did not support it. **[Approbation]**

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

Could I ask a point of order, Sir? At the beginning of the speech, the Minister suggested that we were not to refer to the financial or economic situation in relation to this overall proposition because he was only dealing with the first part and he could not answer anything about that because he did not know anything more than anybody else. What is the Chair feeling about referring to that because I am torn? I believe we have to discuss the financial situation in order to understand the whole package. Are we able to do so or are we, strictly speaking, about the ...

#### **The Bailiff:**

The Assembly is debating at the moment paragraph (1) of the proposition which is essentially the overall architectural scheme, the sinking of the road and matters of that kind. If Members have to refer to the financial implications of the scheme in the context of paragraph (1), they are at liberty to do so but it is in paragraph (2) when the Assembly comes to debate the merits of the proposed

arrangement whereby £75 million or £50 million plus another £25 million is paid over. You ask for the ruling. You took that in? Does that help? Do you now wish to speak? Well, you may lose your opportunity because I am about to call upon the Minister to reply if nobody else wishes to speak.

**13.6.6 Deputy R.G. Le Hérisssier:**

I only have a few minutes and, of course, it will depend upon you and the Minister. It might be better, Sir, when he is refreshed by a good breakfast if he were to make a resounding speech in the morning because I am intending to carry on to 5.30 p.m. I think it would be better, a cleaner end to the afternoon.

**The Bailiff:**

I am sure many Members have understood you, Deputy, but I am afraid I am not one of those who did.

**Deputy R.G. Le Hérisssier:**

I will filibuster on to 5.30 p.m. [Laughter]

**The Bailiff:**

I am sure Members would not want you to speak unless you have something to say. [Laughter]

**Deputy R.G. Le Hérisssier:**

Yes, indeed I do, Sir. What I would like first of all to say, Sir, is how much I do respect the Minister for Planning and Environment and his Assistant and all who sail with her. [Laughter] I think there is a danger, Sir, that we are in our rightful enthusiasm, and I do, indeed, respect the Minister for Planning and Environment. I think his enthusiasm, his application, his drive, has indeed been a wonder to behold but I do get very worried about debates, and it is almost like Senator Syvret's group-think appearing here. I get very worried by debates, Sir, where the agreement appears very early in the debate when we are discussing perhaps one of the most significant items that we could debate. It strikes me as rather sad, Sir, that we are stumbling towards a consensus. For example, when it was cited that the Scrutiny Panel had agreed and Senator Cohen read a list of items by which they had agreed, although they were very interesting issues to do with colonnades and so forth, they were not what I would call major conceptual issues of agreement. I did not get the feeling that there had been a really energetic discussion about different approaches to the situation, a really good ding-dong and out of that there had emerged a good agreement. I got the feeling instead, Sir, that agreement had been reached. Let us move to closure very quickly in case disagreement starts re-emerging which it often does in this establishment and that worried me enormously. I was also a bit worried as this has proceeded. Again, Sir, and I really hope because I know the Minister, Sir, feels in a sense he is in the Last Chance Saloon and that this is it, so to speak and it was rather unfortunate that, rightly or wrongly, his words were interpreted as throwing the toy out of the pram at the weekend. I rather think it is a bit unfortunate that people are trying to bring closure so quickly and that is why I feel that there are issues still to be debated. I would like, for example, Sir, the Minister's views on the single developer, whether he thinks that this was the right way forward. It may not be germane to this part but in a way, Sir, it is very difficult to disentangle the different issues as Deputy Southern has just indicated with the economic issues, very difficult. I would like the Minister's views, Sir, as was cited by the British-Franco group of architects whom he addressed. There were views expressed there. Some of them were, I understand, unhappy with the grid pattern, for example, and I would be interested in his views on that. I would be interested in his views, as has already been instanced in this debate, on how people seem to have reached the conclusion that there will be neutral population movement as a result of this. There will not. I would really like to hear more of the thinking because as people have said earlier, this is so counter - and I think Senator Syvret made a point of this - this is so counter to what the experience has been of people despite promise after

promise after promise. I would like his views, Sir, although we do trespass into economic territory here. I would like his views on the sudden and dramatic cutback in retail space and the tilt towards residential space. That must have involved some economic considerations and I do not think I have ever seen the reasoning that led to that particular decision other than the fact, as the Constable of St. Helier has cited, the shopkeepers in town were obviously getting very worried. It is unfortunate that they were because it was not only a zero sum game where add more retail space in one area you therefore attack or bring about the decline of retail space in another area. It need not have worked like that but that seems to have been the approach that the Minister has taken. So those, Sir, are the kinds of questions I would hope that this debate would bring forth. I really do not want it, Sir, to come to a premature end where we all go home, we all clap, we all say: "Is it not wonderful that we have all agreed to the extent that we have." It is a pity, Sir, that Senator Norman did not push his point through, entertainingly as it was presented, because I think there is that danger that if in doubt always go to the medium, always go to the norm. But I say that, Sir, against the backdrop that I have admired the drive and energy that the Minister has brought to this. I think it has been fantastic but I do not think, Sir, he should be let off the hook with some of the major issues that still surround this project.

### **ADJOURNMENT PROPOSED**

**Senator S. Syvret:**

I propose the adjournment, Sir.

**The Bailiff:**

Yes, but before I put that to the Assembly, may I just say that there have been 3 propositions lodged this afternoon, Historic Child Abuse Inquiry Funding, lodged by the Minister for Treasury and Resources; Brompton Villa and Other Properties Deed of Arrangement lodged by the same Minister and another proposed deed or arrangement for a boundary in Grouville again lodged by the Minister for Treasury and Resources and an Order has been made by the Minister for Health entitled the Misuse of Drugs (Amendment of Schedule 2 to Law) (Jersey) Order 2008.

**Deputy G.P. Southern:**

We were promised a document - a report - by the Minister for Social Security and I notice he is not here at the moment by the end of the day. I see nothing on my desk. Is the Assistant Minister, who is also not here, able to tell us where this report is because I am keen to read it?

**The Bailiff:**

Could you remind me what the report is that you are looking for?

**Deputy G.P. Southern:**

The report is on income support and how far it has gone badly wrong.

**Deputy I.J. Gorst:**

Perhaps I can help because I did press the Minister on this earlier this afternoon. It is, as far as I am aware, being prepared but I cannot vouch for exactly the timescale that it will be with Members, but the department are most certainly working on it, probably as we speak, Sir.

**The Bailiff:**

Well, hopefully that will be available for Members at some stage tomorrow. If Members agree, we will adjourn until 9.30 a.m. tomorrow morning.

**ADJOURNMENT**