

# STATES OF JERSEY

## OFFICIAL REPORT

TUESDAY, 18th JULY 2006

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

## **QUESTIONS**

### **1. Written Questions**

#### **1.1 SENATOR B.E. SHENTON OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING COMPARATIVE CONTRIBUTIONS MADE BY PARENTS OF STUDENTS ATTENDING UNIVERSITY FROM OTHER JURISDICTIONS:**

##### **Question**

In order to assist in the consultation process on university funding, would the Minister provide members with comparative figures showing the contribution made by parents of Isle of Man, Guernsey, and mainland U.K. students?

##### **Answer**

Although the fees charged by universities for students from Jersey, Guernsey and the Isle of Man are the same, the arrangements for determining the level of parental contribution towards those fees are different in each Island and some of those arrangements can be quite complicated.

##### **Guernsey**

The level of parental income is assessed and then allowances against that income are applied. Elements of parental income, therefore, are disregarded if there are other children in the family; consideration is also given to single parents. After allowances have been taken account of, the residual income is used as a base for determining the contribution.

At the same time, the student need is also assessed according to the cost of tuition, (which varies between courses), the location of study, (there is a London weighting), and the number of weeks of study. In addition a figure of about £5,000 is added as the subsistence element.

The parental residual income is then taken account of in order to determine the level of parental contribution required.

In view of the above it is impossible to give precise details of the actual parental contribution which might be made by a particular family. Generally speaking, however, for 2006/7 a family with an income of £25,000, a sixteen year old at school and a student at university would make no contribution. The same family earning £50,000 would contribute £3,821. If the family income was £75,000, the parental contribution would be £10,071.

##### **The Isle of Man**

The Manx government pays all tuition fees and it supports parents with living and travel costs through a scheme of means-tested grants. A family with an income of £25,000 with a sixteen year old at school and a child at university would contribute £1,804. The same family with an income of £50,000 or above would be expected to pay all living and travel costs, estimated to be in the region of £5,000.

##### **Jersey**

For the same year, a family with an income of £25,000 would make no contribution. A family with an income of £50,000 would contribute £4,708 and a family earning £75,000 would contribute £9,771

The U.K.

There is no formal requirement on U.K. parents to contribute towards their children's higher education costs, in view of the fact that loans are available to students. There is, however, an inferred contribution in that the size of loan available is determined by parental income, the higher the income the smaller the loan available.

## **1.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF TO THE MINISTER FOR SOCIAL SECURITY REGARDING BUDGET STANDARDS FOR HOUSEHOLD TYPES:**

### **Question**

Would the Minister inform members –

- (a) how much was spent in producing the Report on Budget Standards for Jersey by the Centre for Research in Social Policy at Loughborough University, (the 'CRSP Report'), over the years 1997 to the present day?
- (b) whether, as said to be possible in CRSP444 in November 2001, the consensual budgets for all household types in Jersey have been up-rated annually or re-costed every 3 years since and , if not, the reasons why?
- (c) whether the levels of budget standards that were revealed by CRSP in 2001 have been up-rated to 2006/7 figures and, if not, the reasons why? and,
- (d) whether these figures will be applied in establishing the level of Income Support in 2007 and, if not, will he explain the reasons why and give the approximate levels he intends to apply?

### **Answer**

- (a) The Centre for Research in Social Policy at Loughborough University was commissioned to develop modest but adequate Household Budgetary Requirements in Jersey. The research used a consensual methodology where the budgets were not prepared by experts but by the very people that live within the household types. The cost of this budgetary research from 1997 to date is £137,260.72.
- (b) The budgets have not been uprated annually. It is a matter of simple arithmetic to apply the relevant uprating indices to the budgets to produce an up-to-date figure at any particular time. Re-costing the budgets would also be a waste of time and resource until closer to the implementation of Income Support.
- (c) No; for the same reasons given in (b) above. The setting of rates has little relevance at this time but will be more significant closer to the implementation of Income Support.
- (d) The research undertaken by CRSP has proved invaluable in identifying the type and extent of expenditure within various household types. The CRSP research produced different budgets for

the different Household Types investigated. The reasons for the variations and indeed the similarities within the budget standards were explained in the report and presentation. The Department has assimilated this knowledge into the design of the Income Support scheme.

These figures will not be applied directly to establish the level of income support as these only help in determining a basic living component and there will be more components than this in the Income Support scheme. I, and former Employment and Social Security Committees, believe that different rates of the living component would be divisive. For example pensioners would appear to have lower budgetary standards overall, (which includes heating costs), than other household types. I must re-iterate that these budgets were devised by the relevant household type in Jersey, (pensioners, single parents etc.), and not CRSP nor the Department or former Committee.

The Income Support proposals will be based on an adult basic component, a child basic component and a household component, and extra components to assist with the costs of housing, medical needs, and childcare. Further to the publication of the Household Expenditure Survey, additional comparative work and modelling is to be undertaken before the components of Income Support are proposed. As an indication of the approximate level, I have stated that the basic level will be above the current Parish Welfare Rate.

### **1.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING CONSENTS GRANTED UNDER THE 'J' CATEGORY HOUSING POLICY:**

#### **Question**

Would the Minister inform members –

- (a) of the figures in real and percentage terms for the distribution of 'j' category housing consents across the employment sectors he referred to in his answers to oral questions on 4th July 2006?
- (b) whether, as a result of the new 'j' category housing policy, an additional 600 non time-limited consents will be produced and, if so, whether this number is increased by dependants?
- (c) whether any non time-limited 'j' category consents are to be issued in respect of the estimated 500 new 'j'-category jobs arising from the economic growth policy and, if so, what proportion of these consents will be non time-limited? and,
- (d) how the new 'j' category housing policy 'will not affect population one bit' as stated in his answers to oral questions on 4th July 2006?

#### **Answer**

- (a) The total number of 'j' category employees as at 31st December 2005, was 1,185. Of these, 740, or 62%, were in the private sector, (a figure obtained from the 31st December 2005 Manpower Survey), and 445, or 38%, in the public sector, (a figure extrapolated from the 2001 census figures). The Treasury and Resources Department have recently enhanced their six monthly public sector manpower returns so, in future, the public sector figure can be reported on an actual rather than extrapolated basis.



Of the 271 private sector 'j' applications processed and approved in 2005 –

- (i) 74, or 27%, were in the legal-financial sector;
- (ii) 49, or 18%, in banking;
- (iii) 36, or 13%, in services and transport;
- (iv) 32, or 12%, were accountants; and
- (v) the remainder, 80, or 30%, were in a variety of other areas.

- (b) This change does not create essential employment and, therefore, it will not lead to more essential 'j' employees. It will, of course, increase the proportion of unlimited consents from 10% to 60% approximately, and this does equate to 600 existing consents becoming unlimited. It does of course not increase the number of 'j' consents, but merely transfers them from time limited, which in all likelihood would have been replaced by other time limited 'j's.

The average household size for a 'j' employee is 2.8, and therefore, it could be said that each 'j' employee has on average 1.8 'dependents'.

- (c) The Economic Growth Plan makes no reference to "500 new 'j'-category jobs". The Economic Growth Plan rather sets a target of no more than an average 1% growth per annum over the period of the plan in the working population, and which roughly equates to 500 jobs.

The agreed policy is to promote local employment, and all the evidence confirms that this objective is being achieved. New jobs are filled over-whelming with locally qualified individuals; in 2005, 83% of all employees were local, and of the additional jobs created, 96% were for locally qualified persons. Further, it should be noted that non-local employment reduced by 70 positions in 2005.

Essential 'j' employees accounted for 2% of the working population as at 31st December 2005, and 14% of the growth in the working population in 2005.

- (d) As quoted in the report '(j)' Category Housing Consents: 'Contract Policy' – Report(R.54/2006 re-issue) "...there is a continuous movement of employees in and out of the Island in response to the economic environment generally, so the granting of unlimited 'j' consent at the outset does not mean that all will stay and achieve local housing status".

Further, as noted in a written response to question No. 2945 tabled on 4th July 2006, "One could go further and state that 'j' employees are highly mobile, career orientated individuals, who having been prepared to come to the Island for work, are equally prepared to leave..".

Any impact on the population would only occur from those members of the current cohort of 'j' consents who remain and would otherwise not have remained until retirement. It is expected that the net increase in 'j' consents who stay for more than 10 years and, therefore, gain their full entitlement at retirement will at most be minimal. Thus, if there is an impact on the population, it is expected to be very minimal.

Finally, it is important to remember that this change was motivated in many ways by a desire for greater equity; recognising the contribution these employees make to the Island, and the benefits of having a more stable society. As quoted in written response to question No. 2945

*“..so long as the staff member remains essentially employed, contributing significantly to the Island, and they perform this for as long as it takes to obtain residential qualifications, then that is reasonable and equitable and promotes the kind of social inclusion and stability in the Island’s population which is desirable.”*

**1.4 DEPUTY S.C. FERGUSON OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING STANDARDS AND COSTS OF THE STATES OF JERSEY POLICE:**

**Question**

Would the Minister inform members, for each of the last 4 years –

- (a) of the cost of overtime incurred by the Professional Standards Unit?
- (b) of the cost of any additional uniformed officers or civilian staff involved in investigations?
- (c) of the cost of overtime for additional uniformed officers and civilian staff involved in investigations?
- (d) of the cost of covering the absence of uniformed officers and civilian staff on suspension including overtime costs incurred?
- (e) of the cost of secondment of officers from other departments or from the U.K. and of temporary/seconded civilian staff brought in to cover suspensions?
- (f) of the cost of any specialised equipment used by the Professional Standards Unit?
- (g) of the number of applications made for permission to institute a phone tap on officers and civilian staff under investigation?
- (h) of the cost of phone tapping, including legal costs of applications?
- (i) of the percentage of the Deputy Chief Officer’s time attributable to investigations?
- (j) of the number of investigations each year?
- (k) of the number of officers and staff charged, arising from investigations?
- (l) of the number of retirements/resignations arising from investigations?
- (m) of the total number of officers retiring in 2005 at 50 and 55 years of age? and,
- (n) of the total number of officers estimated to retire in 2006 at 50 and 55 years of age?

**Answer**

- (a) The total cost of overtime incurred by the Professional Standards Department in the last four years is as follows -

2003 – £793

2004 – £884

2005 – £1,933

2006 – £505.

These are from an annual overtime budget for the Police of £560,000. The Professional Standards Department is probably the least costly department in the Police in respect of overtime.

- (b) There has been no additional cost other than overtime which is dealt with below. Additional officers were only used on two occasions and as both matters involved serious criminal allegations, the officers were utilised in their normal operational role of investigating crime. As explained in a previous oral answer to the Deputy, duties were re-rostered and other matters re-prioritised, as is usual when serious allegations of crime are made and need to be investigated. One of these two occasions led to lengthy jail sentences at the Royal Court this year for a number of men for drugs importation, as well as other convictions at the Magistrate's Court. The other is being currently considered by H.M. Attorney General.
- (c) This only applies to two particular operations. The first was an operation which resulted in a number of men being given lengthy prison sentences at the Royal Court for importation of drugs, as well as convictions for other men in respect of the fabrication of alibis for guilty persons where they tried to get an innocent person convicted of an assault. This operation lasted three years and cost a total of £37,046 in overtime, but resulted in the jailing of a number of dangerous criminals. This was a Professional Standards Department enquiry, and interestingly is about half the cost of the recent enquiry by Devon and Cornwall into the fatal police crash last year. The second case was a lengthy enquiry into corruption which resulted in an officer being required to resign after pleading guilty to serious discipline charges. The Police were given sanction to proceed with these before the criminal matters were resolved. H.M. Attorney General is now considering the question of a prosecution in this case. The overtime bill for this was £15,855.
- (d) In respect of covering costs for suspended police officers, the answer is the same as that given in the oral answer to Deputy Ferguson on the 20th June 2006. There are no covering costs for police officers. Duties have been re-rostered or tasks re-prioritised. Departments have normally had to absorb the absence of suspended staff in the same manner as those sick or seconded. The one exception was when, in a particular department, the three top civil service staff were suspended for misuse of funds and other assets. That was covered by the temporary promotion of one existing staff member to Head of Department, (since ratified permanently), and the employment of temporary staff for six months. The total cost of this was £26,030 inclusive of the temporary promotion.
- (e) No staff have been brought from the U.K. to fill in for suspended officers or staff. The cost of civilian staff brought in to cover on one occasion only is shown in (d) above.
- (f) The Professional Standards Department does not possess specialised equipment. If required, they use the standard equipment issued to and retained by the Technical Support Unit of the Police.
- (g) and (h)

For legal and operational reasons, the Police cannot either confirm or deny anything in relation to this. The Police's general operational activity in this area is inspected each year by the Surveillance Commissioner who reports to the States.

(i) The Deputy Chief Officer does not take part in investigations; he supervises and directs the most serious, sees all files at completion, and decides on the disposal of cases which are not criminal. The answer, therefore, is nil.

(j) Public Complaints –

2003 – 44

2004 – 38

2005 – 38

2006 – 16.

Internal Complaints –

2003 – 11

2004 – 19

2005 – 12

2006 – 8

It will be noticed that the number of complaints made by the public is falling. Internal complaints have risen in line with increased confidence among staff that matters will be effectively dealt with.

(k) 2003 - one police officer and five civil servants were charged with discipline offences. The police officer and one civil servant later resigned before hearings, three civil servants were sacked at hearings, and one civil servant received a final written warning, but later resigned when he again came under investigation. Additionally, five cases were dealt with by ‘words of advice’.

2004 - two police officers and one civil servant were charged with discipline offences; one of the officers was also charged criminally. The two police officers and the civil servant resigned before a hearing. Seven cases were dealt with by ‘words of advice’.

2005 - one police officer was charged with discipline offences, pleaded guilty, reprimanded and subject to Service Confidence Procedures. Five cases were dealt with by ‘words of advice’.

2006 - two police officers were charged with discipline offences; one was reduced in rank and one was required to resign and is awaiting H.M. Attorney General's decision on criminal charges. Two civil servants were charged with discipline matters and are awaiting hearings. Five matters so far have been dealt with by ‘words of advice’.

(l) 2003 – nil.

2004 - Three police officers and one civil servant resigned whilst under criminal/discipline investigation.

2005 - three police officers and one civil servant resigned whilst under criminal/discipline investigation. One other probationary officer's probation was not confirmed because of the number of similar type assault allegations from the public and other performance issues.

2006 - One police officer was required to resign as an alternative to dismissal after pleading guilty at a hearing; the outcome of criminal investigation is awaited. One police officer resigned after a commercial quantity of drugs was found at the home address shared with a partner and the launch of discipline investigation.

- (m) 2005 - Eight officers retired at the age of 50; two retired who had stayed to 51; one retired at 54; two retired at 55; and one remained to 57. Six of these continued to work within the States, two of them within the States of Jersey Police. Another 11, who could have retired, chose to remain.
- (n) 006 - Two officers have left this year at the age of 50, but both have remained with the Police in other capacities. One will retire in September at the age of 50. Two retired at 55. Another 14 are eligible to retire but have given no indication that they have any wish to do so.

## **2. Oral Questions**

### **2.1 Deputy S.C. Ferguson of St. Brelade of the Minister for Home Affairs regarding the availability of the inspection report by Her Majesty's Inspectorate of Constabulary:**

I would ask the Minister for Home Affairs when is the inspection report by Her Majesty's Inspectorate of Constabulary (HMIC) due to be received by the Minister, and will it be circulated to Members of this Assembly?

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

The report is expected some time in August and will be circulated to Members.

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

In view of the appalling management record and practice, as evidenced in the number of recent disciplinary cases over the last 4 years, will the HMIC report be paying special attention to human resource matters, particularly as these have cost - with yesterday's revelations - about £1 million in direct costs and an unquantified amount in other costs?

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

I completely disagree with the statement of the Deputy in respect of appalling practice. Until I receive the new HMIC report in August, I am happy to rely on the previous one, Sir, which found that the States of Jersey Police were both efficient and effective in all areas. HMIC is indeed drawing attention to matters to do with leadership and matters to do with discipline and so on, and I suggest that we await the outcome of that report, but all indications are at the present time that there is not the concern to be addressed that has been raised by the Deputy. I do sometimes feel that there are some Members of this House who seem to feel that it is quite acceptable for corruption to go unchallenged and unnoticed, and I am afraid to say, Sir, that is not the Jersey way. I am Jersey-born: this is not the Jersey way. It is to be dealt with appropriately, and I suggest that the Deputy, before she makes such inflammatory comments, awaits the outcome of the report in August.

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

I wonder, Sir, if the Minister could tell us despite the very fine situation that apparently prevails there, could she tell us from her own point of view what are the management issues that give her particular concern and what action is she taking?

**Senator W. Kinnard:**

I do not have particular concerns about management issues. I have reported in answer to previous questions in this House that I have absolute confidence in the senior management team of the States of Jersey Police. Indeed, some people have referred I think in some organs of the press to some golden age of the past, and I will remind Members that indeed recorded crime has fallen by 25 per cent in the last 10 years; that, as far as I am concerned, is a very important aspect of my responsibility as Minister for Home Affairs. I am responsible for ensuring that the police force is accountable in terms of its efficiency and effectiveness, and I think that is a very good example of it. Indeed, longer serving Members of this House will also recall that although we have had an excellent inspection report in recent times since I have been both Vice-President and President, and hopefully again as Minister, this has not always been the case, and certainly in the early and mid-1990s there was some very critical HMIC findings. So, I am very happy to be associated, Sir, with the independently verified substantial improvements in both performance and public confidence in the force.

**2.1.3 Deputy S.C. Ferguson:**

The Minister is no doubt aware that under the 1974 Law, the Police Chief is accountable to her for administration, discipline, training and organisation. Now, under the HMIC thematic report - which she kindly brought to my attention - one of the underlying themes was the fact that management procedures and processes in the area of professional standards in the police force are woefully out of date and need to be brought up to date with modern management procedures. Will the Minister not confirm that this is going to be done or looked at, preferably by an outside body?

**Senator W. Kinnard:**

That report to which the Deputy refers I indeed referred her to it. It is an HMIC thematic report about professional standards across the forces throughout the country, and indeed some of that report does draw attention to inadequacies in other forces. I am happy to say, Sir, that I do not believe that the HMIC will find such criticisms to be made of the Jersey force.

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

Yes, the Minister referred just a short session ago on corruption issues. I have not heard anything to indicate that we have any corruption issues. I see it being discussed in the media, but that is not necessarily so. Can the Minister confirm yes or no whether she believes that there are corruption issues, and if so, is the police force dealing with it through the Crown Officers or are there any criminal issues that are outstanding at this moment in time? Thank you, Sir.

**Senator W. Kinnard:**

Most of that information, I believe - if the Deputy wishes to refer to the answer I have given to the written question of Deputy Ferguson - there is quite a full briefing there, Sir, as to which cases are being dealt with by words of advice, which cases are being dealt with by discipline matters, and

indeed it does refer, I believe, to one outstanding case which is with the Crown Officers. So, there remain a range of issues that are the subject of complaints, both by the public and also internally, and I am happy to say, Sir, that the level of public complaints against the force has fallen over recent years. I do believe that some of the internal complaints that we are getting now are because staff are confident that such matters will be dealt with effectively and will not be swept under the carpet, as perhaps on some occasion in the past, Sir, they may have been.

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

Most of the offences, which the Minister refers to in her answer, have in fact been disciplinary offences not corruption in the normally accepted meaning of the word. Surely, the Minister realises that this is a lack of proper management procedures and human resource management, and not a matter to be headlined across the papers as corruption.

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

I would agree that I think many of these matters should not be headlined across the papers, but that is not a matter for me. However, Sir, I do believe that any complaint has to be taken with the utmost seriousness, must be investigated absolutely fully, and the public must have confidence that these matters are dealt with appropriately. There are a range of complaints that are made from time to time, some of which may involve criminal aspects, many of which do not, but I do believe, Sir, that it is not sufficient just to deal with criminal matters through the courts. It is important that disciplinary matters are dealt with and that the public has every confidence that their police force, who is involved in administering the law, is abiding by the law, and abiding by the appropriate and indeed rigorous standards of professional conduct that we expect in the modern day police force in this Island.

#### **2.1.6 Deputy F.J. Hill of St. Martin:**

We all share the concerns of the Minister on the levels of corruption, however I think one of the concerns many people have is the amount of time it takes to investigate the allegations. Again we can only speak from what we read in yesterday's *Evening Post*, but it looks like 18 months to investigate a particular case. Is the Minister concerned about the levels of time it is taking - bearing in mind that justice delayed is justice denied - and what steps will be taken to ensure that we do not get these lengthy levels of investigation, which are also time-consuming and also has an effect on the individuals, particularly if they are found to be not guilty?

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

First of all I would say when we are dealing, of course, with corruption matters we are talking about a small number of people where allegations may be made, and for the vast majority of our police force, Sir, I am very confident in saying that they are excellent, well-trained and a credit frankly to both the Minister of this House and the Island. However, having said that there are on occasions a few bad apples which have to be dealt with. In terms of the time that it may take to deal with disciplinary matters and perhaps criminal matters, I regret that it takes often a lengthy time. These matters are sensitive, they are often complicated, and I have given answers on this matter many times to this House before and I really do not know how many more times I have to give them. Frankly, the important point is that wherever an investigation takes place it is in everyone's interest that it takes place as quickly and as swiftly as possible. Indeed I have asked her

Majesty's Inspectorate to address this as one of the points that he would be looking at in compiling his report. Indeed I have met with the force management team and they are as concerned as anyone that these matters must be dealt with swiftly. But, Sir, justice must take its due process, and that, in my view, is more important than anything else. But clearly whatever can be done to speed-up the process we are looking in fact to do that. So, I can honestly say to the House that I will be looking for some improvements in terms of the swiftness with which these matters are dealt. But having said that, Sir, the important thing is that justice is not only done, but is seen to be done.

## **2.2 Deputy G.C.L. Baudains of St. Clement of the Minister for Home Affairs regarding the functions of the States of Jersey Police for which she has responsibility:**

With regard to the States of Jersey Police, would the Minister inform Members what functions she has responsibility for, and should that not encompass all activities to whom the police are accountable for the remainder?

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

It is my duty to secure the maintenance of an adequate and efficient police force, and this responsibility is clear in the Police Force (Jersey) Law 1974. Accordingly, States of Jersey Police are accountable to myself for the delivery of an effective service to the Island, and this encompasses all their activities. There is no remainder of policing activities for which the force is accountable to someone else.

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

As the Minister informs us this morning she is apparently responsible for nearly all the activities of the States of Jersey Police, apart from operational issues I presume. Could she tell us why the situations that have been developing of recent time have been allowed to do so? Has she, for example, called the Chief Officer into her office for an explanation, or if not, will she be doing so shortly?

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

Perhaps the Deputy would be clear in his question as to what situations he is describing?

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

It would seem the Minister must have a very short memory. We have been talking just a few moments ago about disciplinary issues; there have been allegations of over-reaction; there were inappropriate comments in the media about firearms - I could go on for some length.

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

Firstly, if I may take the firearms issue, perhaps the Deputy would be kind enough to say to this House that he has a conflict of interest in this matter as I believe he took part in a recent shooting activity. But leaving that aside, as to the firearms issue I think that this House is very aware that a very detailed report is being compiled, being led by my Assistant Minister. So, I will not go over that, and again I would ask Members to await the outcome of that report rather than to rely on anecdotal and inappropriate comments by others. In respect of the other matters to which he refers, including the disciplinary matters, I have made it quite clear that I have asked Her Majesty's



Inspectorate of Constabulary to look at this issue because of some concerns that have been raised by Members. I have also to say that I have answered many questions in this House as to the level of oversight that there is in terms of these matters. When complaints are made against the police these are overseen by the independent Complaints Authority. If they had concerns about how these matters were dealt with, I am absolutely certain that they would make those known not just to myself, but indeed to the whole of this House in the regular reports that they give on that matter. I have to say, Sir, the States of Jersey Police Force is probably the most scrutinised organisation in the public sector. There are regular quarterly reports on statistics, crime levels; there are yearly reports; there are independent inspections; there is the oversight of an independent authority; there are indeed many Members of this House who, on a daily basis sometimes, question the Chief and the senior officers of the force on various matters. There is a very great openness in terms of replying to questions from the media and others. We have nothing to fear, I believe, Sir, either myself as Minister or the States of Jersey Police, in terms of transparency and accountability, and I think that that is the way forward. What concerns me is that there are some Members of this House who seem to think that some matters are better left uncovered and swept under the carpet when indeed that is not the way in which we maintain the robust reputation that we have in this Island for a dedicated police force and a well-run, well-regulated Island. Thank you, Sir.

### **2.2.2 Deputy J.J. Huet of St. Helier:**

The Minister would not have been in position at the time, but the Minister did say that we have got a few rotten apples, and I am asking does she think this could possibly be because for a certain period of time when we used to take training officers on, not one of them ever failed their training. On an average all the years previous to that about a quarter used to fail, but there was a period of time that we took everybody no matter what they did. Do you think that could be where a lot of this stems from?

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

I would not like to comment, I really do not know whether that was the case or not, but clearly there were some concerns raised by HMIC in the 1990s about aspects of States of Jersey Police in terms of its efficiency, its leadership and so on, but that is old territory and I do not wish to draw attention to those because I do feel that sometimes people who have perhaps been in this job in the past are encouraged to comment. Perhaps they comment off the cuff and do not always think about what happened under their period of tenure. So, I will not go further into that other than to say there is no point in going over old territory: we are moving forward. I am delighted to be associated with the absolute independently verified improvement in both practice, procedures, efficiency and indeed I think the overall standing of the force, both in terms of its abilities, but also in terms of the public and its view of the force. Over 90 per cent of people are saying that they are satisfied with the service that they receive from States of Jersey Police, and I think that is something of which we should be proud.

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

We have heard a very bullish performance this morning, but I believe a totally misguided one. Clearly the Minister has a view of the States of Jersey Police that is not shared by members of the public, nor indeed members of the States of Jersey Police themselves. I wonder, Sir, if the Minister would consider resigning and making way for somebody that is more proactive.

**Senator W. Kinnard:**

I most certainly will not, and I certainly would not consider resigning in the face of someone who is an avowed critic of the police and has been throughout his period in this House. Several letters going back several years to me demonstrate this to be the case. I think it is outrageous frankly that such inflammatory, unsubstantiated comments can be said about a body of young men and women - for the most part. The new recruits are excellent, are extremely well-trained and have an extremely difficult job to do, and I just wish that some Members would stop for one moment and reflect about who they would call in time of need, and I am sure they would be the first ones on the phone to the States of Jersey Police headquarters.

**2.3 Deputy C.H. Egré of St. Peter of the Minister for Home Affairs regarding the establishment of a Police Authority:**

Would the Minister of Home Affairs agree that in the days of the Committee system that there was a pseudo police authority, which meant she was not on her own in over-viewing what the police were doing, and does she not agree that now we are in Ministerial government we should be looking to produce a Police Authority as soon as possible so we can have a broader overview of the public perception of what goes on within the policing?

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

When we had the Committee system of course there were more people who were in a position of seeing general policy matters and so on. As the Minister, again, I am not alone. There is an independent complaints authority; there is the HMIC; the openness and transparency with the press and so on and so forth. The Members of this House indeed also ask questions. So, I am not alone in this matter. But indeed I have been for some time, as you know - as indeed other Presidents before me - wrestling with the issue of the Police Authority, and indeed may I remind Members that perhaps before they think that they are aware of all the issues that they go back and re-read R.C.35, which was circulated to States Members. At the time I do not think all that many read it because in fact I received only one comment despite letters reminding States Members about this report, which is all about setting up a Police Authority - its pros and its cons - and suggesting an alternative such as the Liaison Committee. Indeed what I might do, Sir, for the benefit of new Members in particular who obviously will not have had that report is I will seek to get that circulated alongside the report of Cameron McPhail, who - contrary to comments in the press - it was not convenient that the gentleman concerned decided that a police authority as originally envisaged was not appropriate for Jersey, it was extremely inconvenient because we thought that at last we had found someone to be Chairman of the Authority, and in fact it became a great shock when he decided that, in his view, although he was doing himself out of a job as it were, it was not appropriate. This is a very highly respected gentleman from the finance sector, so I would say, Sir, that I will re-circulate that report and perhaps then Members may be more considered in the sort of questions that they ask in this House. Thank you, Sir.

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

In respect of that report, the Minister has indicated during the course of her last speech there... But again the person concerned was opposed to the theory, or the whole principle of a police authority, so therefore his report cannot be seen as a balanced report, and really as such I would ask that the

Minister does not waste any money and time or effort re-releasing R.C.35, because it is only a one-sided report. This House made a decision in 1999.

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

A question please, Deputy, it is not a speech ...

**The Deputy of St. Martin:**

So, can I just ask that the Minister does not waste any time and effort in circulating it, because really it is a biased report?

**Senator W. Kinnard:**

I think that is extraordinary. R.C.35 is a report that is a report of Home Affairs - the previous Home Affairs Committee - which sets out the pros and cons. It is not biased one way or the other. It sets out the facts and the arguments as they are, and I think it would be of value for Members to read it. Indeed, this is interesting because I was recently called to a Scrutiny hearing where the issue of a Police Authority was raised by the Deputy as the Chairman of the Social Affairs Scrutiny Panel. Indeed, he agreed with me that although he had brought the original proposition to the House to set up a Police Authority, he actually said - and in fact I copied his words down verbatim, I do not have them with me today, but I can produce them - that he agreed with me that he no longer thought that a Police Authority in the form in which it was originally envisaged in the legislation was appropriate and he therefore agreed with me that what should go into the Strategic Plan of the States was a proposal to set up a liaison or consultative panel.

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

Would the Minister not agree with me that, over the years that I have been in this Assembly at least, the Home Affairs Department and the responsibilities that it oversees has suffered from a lack of support and a lack of funding in most areas that it has to manage its operations. I can name the prison for one; and the current police headquarters, which means that the police themselves have to operate out of 18 different locations. Is it not a fact that the Minister in charge of this remit is dealing with a whole host of situations that she has inherited because of our joint lack of action over the last decade?

**Senator W. Kinnard:**

I am grateful for the support of the Deputy and I would say, yes, with respect to the prison I definitely do feel that there has been a lack of corporate responsibility for that issue, with which I am now wrestling, but I am beginning to feel that I am getting more support than I have done hitherto, but of course we will see whether the money follows the bells as it were. But the issue about funding elsewhere, I am not going to complain too harshly; we are all on strict and strained budgets and I would say that in the other areas we are managing, and we indeed intend to manage. I think that we have got an extremely effective and efficient set of services across the whole of the Home Affairs remit, apart from as I say regretfully, the prison. I think we should be grateful for the fact that we are requiring our men and women in these difficult frontline services to take on more and more within existing resources, and indeed I wish to give my heartfelt thanks and would hope that a few more in this House would also share in giving heartfelt thanks to those men and women who do an excellent job on behalf of the Island in those often extremely dangerous and difficult situations. Thank you, Sir.

## **2.4 Deputy G.P. Southern of St. Helier of the Minister for Treasury and Resources regarding policy for the sale of States investment in utility companies:**

What progress, if any, has the Minister made towards developing a policy, in consultation with the Council of Ministers, if applicable, for the full or partial sale of the States investments in utility companies, such as the Jersey Electricity Company Limited and Jersey New Waterworks Company Limited, and if none, when does the Minister expect to progress this matter?

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

The commitment 6.3.1 of the Strategic Plan indicates an objective to consider the sale of States-owned utility companies, the proceeds of which would be deposited in the Strategic Reserve. The plan also commits to the provision of clear criteria, the protection and efficient provision of services provided by States-owned and States-controlled utility companies. The Council of Ministers has given consideration to this matter and decided it would not consider the sale or partial sale of either the Jersey Electricity Company or the Jersey New Waterworks Company until a robust regulatory framework is in place. The Minister of Economic Development has agreed to progress the development of regulatory framework for water and for electricity to complement that already in place for telecoms.

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

Can I turn to another public utility please, Sir, which I believe... well, I will ask the question; has the Council of Ministers agreed with his proposal to bring to the States in October the principle of the sale of Jersey Telecoms? Could I ask him further what consultation he has already had with the management and directors of the said company and its employees, in particular in the light of the time-scale - which we have read about only in the newspapers - that it is brought by end of October. The 24th October, leaves a 6-week lodging period from 12th September, and according to the paper, 8th September is the final date for consultation. It leaves 4 days to redraft an entire proposition. Has the proposition in fact already been written?

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

We will be coming to this in a later question, I am sure the Minister will no doubt answer nevertheless.

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

I am obliged... and even if I were not obliged I would still want to bring an issue of this nature to the States for the States to make a decision on whether or not we should sell Jersey Telecoms. I confirm that that decision will be taken by the States Assembly after the due period of consultation with members of the public and interested bodies, such as the staff and directors of Jersey Telecoms, who have already engaged in consultation prior to the issue of this document. The document was issued with the full knowledge of the Board of Jersey Telecoms and with that of the Council of Ministers, and I hope that that consultation period will enable any people with interest or concerns to express those to me in order that the ultimate proposition, which has not yet been drafted, can be drafted in the appropriate way.

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

Will they refer to the dates available for consultation, and the date he intends, or the Council of Ministers intends, to bring this proposition to the States?

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

The dates for debate will be obviously ultimately in the hands of States Members. I am anxious that once this sort of proposition sees the light of day it should not drift along unnecessarily and unduly. We have, I suspect, a fairly busy session in the autumn, and when we debate it in the autumn session will be a matter for this House to decide, but I am anxious that the possibility is that the longer we delay this the greater the possibility of a decline in the value of the assets, which would be against the public interest.

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

Would the Minister answer the question in respect of the Council of Ministers, because it certainly was not clear to me; has the Council of Ministers agreed in principle for the sale of Jersey Telecoms to come to the States in October?

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

The Council of Ministers has agreed with the principle that it should come to the States for debate. The Council of Ministers has also agreed that we should issue a consultation document first in order that we have all the information we need to make an informed decision at that time.

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

Does the Minister not agree that such a major decision needs careful scrutiny, and that to hold a relatively short period for consultation over the holiday break essentially, is a fundamental mistake; and will he agree that this item should be deferred until proper scrutiny can take place to ensure that this is absolutely the correct way forward?

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

I omitted to mention earlier in my answer to an earlier question, that among those whom I consulted was also the Chairman of the Corporate Affairs Scrutiny Panel whom I advised of this proposal before it saw the light of day.

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

Nonetheless, does he not agree that in order that such a major decision should take place that some form of detailed scrutiny is absolutely essential before we press ahead with this particular scheme?

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

It is not my duty, Sir, to decide what Scrutiny should or should not decide, or what their terms of reference should or should not be. It is up to every Member of this House to ensure that they are

fully informed before they make that decision, and Scrutiny will be part of that process to the extent they want to get involved, Sir, that is entirely a matter for the Scrutiny Panel concerned.

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

Does the Minister not agree that a date in October renders proper scrutiny of this issue absolutely and completely impossible?

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

No, Sir.

#### **2.5 Deputy G.C.L. Baudains of the Minister for Social Security regarding return of unwanted prescription drugs:**

Are details of unwanted prescription drugs, which are returned to dispensing pharmacies, reported to the Department, and if so, what is the percentage and value of those returns, not including prescriptions returned for disposal after the expiry date?

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

The simple answer to the question is no: details of medicines returned through the pharmacies are not reported to the Department. However pharmacies do notify the Department of medicines returned in exceptional quantities, which in turn helps the Department to emphasise the need when discussing with general practitioners to review medication on a regular basis with their patients. The Department also benefits from the advice of a pharmaceutical advisor who helps G.P.s review their prescribing habits and associated costs. Although wastage is an issue, fortunately Jersey's limit of 30 days supply on prescription helps to control that because we just do not have the same issues that other jurisdictions have.

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

I wonder if the Minister would consider attempting at least to gain some idea of the scale of the issue, because my understanding is that some medicines are heavily subsidised by the taxpayer when they are paid for at the normal prescription rate, and if there was any significant amount of return of drugs that could conceivably be used again, surely there could be considerable savings for the taxpayer. Would the Minister consider attempting to get some view as to the volume and monetary value involved?

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

Firstly, I am amazed at the suggestion that prescription drugs which have been prescribed for an individual could be considered to be re-issued to somebody else. There is no knowing of how those drugs have been stored or used and it would be totally inappropriate to consider to re-issue those drugs to another patient. In fact my understanding from the Minister of Health is that if a pharmacist was to attempt to do that he would be struck-off. So, I do not think it would be appropriate to take that line of action. With regard to the value of drugs which may not be used, the Rotary Club run a 'Dump' campaign quite regularly and I think at the last time they carried that out

it was estimated that about 10 per cent of drugs for the Island are probably not used, and a value to that would be about £1 million. So, there is wastage, there is no doubt about it, but ethically and sensibly and reasonably it is not appropriate to re-issue drugs to other people.

### **2.5.2 Deputy A.D. Lewis of St. John:**

The Minister just mentioned the ‘Dump’ campaign, that is what my supplementary was going to be about. Would the Minister consider that in conjunction with the Health Department a campaign could be set up to dispense safely unused and expired products? I believe the last national campaign was back in the 1980s, and of course this resulted in quite a large decline of incidents of the likes of children inadvertently accessing prescription drugs. Would the Minister consider some kind of campaign to encourage people to dispose of their excess drugs?

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

Yes, certainly, I believe from ‘Dump’ campaigns that when it has been carried out before in previous years it has been very successful. What I would encourage people to do when they are prescribed drugs is firstly to use them in the way they are prescribed, because there is not even confidence that people take the drugs at the right time and there is national information being gathered which does indicate that if people do not use the drugs in the way that they are prescribed them, it could even be that the drugs are not being effective, so there is even more wastage. So, there is that side of it, but with regard to ‘Dump’ I would certainly recommend that a similar campaign is carried out and encourage the population to dispose of their drugs very carefully.

### **2.5.3 Deputy J.A. Martin of St. Helier:**

The Minister has already stated that nobody reports... pharmacies do not report the return of drugs. He has also stated we over-prescribe, and under the ‘Dump’ issue about £1 million of drugs a year are disposed of. Now, that is quite a lot of money. Who polices this? The Minister, Sir, also mentioned that if a pharmacist was doing this he would be struck-off immediately, but as far as I can ascertain from the answers so far, nobody knows and there seems to be a lot of money and a lot of drugs involved in this question. Thank you, Sir.

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

It is quite a wide-ranging question, but certainly the mechanism for people receiving drugs from the pharmacies is fairly straight-forward and we have to be sure and encourage people to use their drugs wisely. There are people... and we know, personally, you probably get prescribed an amount of drugs for a particular month’s series, or 30 days, and do not use them all. That is quite possible. It is possible that you feel better within the 30 days, so there is an amount of drugs that does get wasted, and as far as monitoring what the pharmacists do if they were to re-issue them, the pharmacists are licensed pharmacists who have a strict code of conduct which they have to abide by, and we have to rely on their professionalism to ensure that they do maintain high standards.

### **2.5.4 Deputy J.A. Martin:**

So, can I take the answer is no one is policing this, Sir? Thank you.

**Senator P.F. Routier:**

You can, yes, but their licences ensure that they have to continue in a proper manner.

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

Yes, clearly there are circumstances where a pharmacy might find it inappropriate to re-use drugs that had been returned because they did not know about the condition of them, so the Minister gave us a couple of reasons why they could not be re-used. Could he tell me, for example, medicines which have not even left the pharmacy premises - why they should not be reused? He also stated that of course one could not be sure of how they had been stored. Can he guarantee that between the manufacture of the drug and the actual receipt of it by the pharmacy that it has been properly stored all the way?

**Senator P.F. Routier:**

I am sorry, I have forgotten the first part of the question. Can you repeat the first part?

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

Drugs that had not left the pharmacy.

**Senator P.F. Routier:**

Yes, sorry. Certainly if a drug has not been prescribed to somebody, if it has not left the pharmacy it would not have been prescribed out, so the conditions that they had been stored in would be correct and in a correct manner.

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

I think perhaps if I could assist the Minister he may have misunderstood me, if I could perhaps give a very quick example? Were I to be prescribed a drug and I go to the pharmacy to collect it, and I receive the packet of drug, I look at the thing and say: "No, I do not want to take those" and give them back, they are immediately thrown in the dustbin. Surely that is not a wise use of taxpayers money.

**Senator P.F. Routier:**

I am sorry, Sir, but that is quite a wild example, which I think the Deputy has... If somebody has been prescribed a drug I would hope that they would recognise that was a drug that their G.P. recommended for them and that they would take the drug. The decision not to take that drug would have been perhaps better made when the G.P. was prescribing them in the surgery.

**2.6 Connétable A.S. Crowcroft of St. Helier of the Minister for Education, Sport and Culture regarding confidence in the Board of the Jersey Opera House:**

Before asking the question could I say for the record that I have recently joined the Jersey Arts Trust, although I do not believe this bars me from asking a question about the opera house? I am a friend of both the theatre director and the chair of the Jersey Opera House Board, both gentlemen are parishioners of mine. However, I have no financial interest in the opera house, unless of course



they are planning to put on one of my plays and have not told me about it. **[Laughter]** Does the Minister have confidence in the Board of the Jersey Opera House and that it is discharging its responsibilities in a proper manner?

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

My Assistant Minister, with responsibility for culture, the Deputy of Grouville, will act as rapporteur in this matter.

**Deputy C.F. Labey of Grouville (Assistant Minister for Education, Sport and Culture - rapporteur):**

In common with many Islanders, Education, Sport and Culture is saddened and concerned with the unfortunate events that have troubled the Opera House in recent years. For this reason we do monitor the situation and have been kept informed generally of the changing situation. For legal reasons, and to be fair to the individuals, it would not be appropriate to discuss the details in public. However, given the legal obligations and duties borne by the Members of the Board of the Jersey Opera House Limited, I can say that Education, Sport and Culture is satisfied that the Board has legitimate reasons to be concerned. In any event, the Jersey Arts Trust is the sole shareholder of Jersey Opera House Limited, and Education, Sport and Culture has been assured that the Arts Trust has, and I quote from the Chairman: "Total confidence in the Board." The Constable of St. Helier is, as he has already said, a member of the Jersey Arts Trust and would therefore have been aware of their total support, especially if he had attended their recent meeting at which this issue had been fully discussed.

**2.6.1 Deputy S.C. Ferguson:**

In view of the allegations of financial regularities, will the assistant Minister explain why she does not feel that it has been necessary to insist on a police investigation, or even is it not time for a truly independent review?

**The Deputy of Grouville:**

I believe a police investigation was discussed at the Board level, however they felt it was more appropriate for the individuals concerned to go to the Jersey Employment Tribunal.

**2.6.2 Senator B.E. Shenton:**

The Opera House saga has been mishandled for years. Is it not the case that the Minister and the Board are more interested in finding a scapegoat than sorting out this debacle once and for all for the benefit of the Islanders?

**The Deputy of Grouville:**

We have been troubled, as I said initially, with what has been going on at the Opera House, both last year with the overspends, lack of budget or whatever; that situation seemed to be resolving itself. We now unfortunately have to see the staffing issues of that theatre carried out in the media, which I would say is unfortunate, but nobody is looking for a scapegoat and, quite contrary, the theatre director's contract was coming to an end in October anyway, and if the Board had not acted

as they are doing, having been alerted by their auditors of these financial irregularities, given that they have been given a States grant, I think we would have more reason to be concerned.

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

Would the Assistant Minister confirm that the Education Sports and Culture Department has complete faith in the Jersey Arts Trust? Secondly, Sir, would she suggest any reforms that might be required in terms of the relationship between the Department and ultimately the Opera House?

#### **The Deputy of Grouville:**

Education, Sport and Culture has a partnership agreement with the Board of the Jersey Opera House. For the first time we have established a partnership agreement directly with them and not their sole shareholder, the Jersey Arts Trust. As far as we are concerned, because this is a situation of “damned if you do, damned if you don’t”, and I do remember Deputy La Hérissier during the cultural strategy debate criticising politicians for interfering and intervening with the Arts. We were accused of having... we were told that politicians have no place in the Arts world, which we take on Board. These structures have been set up in a certain way whereby we are at arm’s length from the Arts world. We have set up a partnership agreement with each of the cultural organisations. We give the Opera House Limited a grant and for that grant they have to open the doors of the theatre with a variety of entertainment for the public. As far as we are concerned that is exactly what they are doing, and indeed this might be an appropriate time to acknowledge the hard work of the outgoing director in putting on the shows that are currently being performed now.

#### **Deputy R.G. Le Hérissier:**

I wonder if I could get an answer, does the Education Department have complete faith in the Jersey Arts Trust, yes or no?

#### **The Deputy of Grouville:**

We have no reason not to have faith in them. **[Laughter]**

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

Earlier on in her answer, the Assistant Minister mentioned the fact that there is a monitoring of the situation. Can the Assistant Minister inform the House how often does she meet with the Board, and what monitoring system or mechanism is in place.

#### **The Deputy of Grouville:**

I have met with the Board on several occasions this year. They inform me generally what is going on and if they have any concerns with the organisation - not the running of the theatre - with the organisation - the property itself - so on. We have, I have to admit, discussed with them different ways of operating, for example, the Jersey Arts Trust, we would far prefer to see concentration on grass roots artists and culture and the Opera House. What we would dearly love to see is the Opera House get on and run the theatre.

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

Could I just get clarification from the answer because I want to know what monitoring mechanism is in place. You do not have, or there is no monthly meeting with the board as far as you are concerned, or bi-monthly meeting. That is the sort of question I was asking.

#### **The Deputy of Grouville:**

We are establishing partnership agreements with each of the cultural organisations and we will also have service level agreements, business plans and so on. I am not entirely sure what he expects us to do: wade in and tell the Board how to run their theatre?

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

To make it nice and easy, what I was asking is do you have bi-monthly meetings? That is basically it and the answer must be no.

### **2.6.6 Deputy J.A. Martin:**

Could the Assistant Minister confirm or deny that the current Board has already stated that they wish to disband by Christmas, and if this is the case, would not she agree that it is not that they have lost confidence in the Board, but the Board has lost confidence in the Education Minister and department itself.

#### **The Deputy of Grouville:**

I have not heard that rumour. [Laughter]

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

Does the Assistant Minister consider that the Board of the Opera House would be somewhat churlish and defective by sacking the Opera House Manager when he had already tendered his resignation?

#### **The Deputy of Grouville:**

As I have already said, when the auditors of the company pointed out financial irregularities, they had to take action and we believe the action that they have taken has been appropriate given the auditor's findings. If they did nothing - and they are receiving taxpayers' money - we would have been criticised and they certainly would have been criticised for taking no action. It would have been the easiest thing in the world to sit there and do nothing while he left.

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

Does the Assistant Minister have confidence in the process for selecting the new director of the Jersey Opera House and should an appointment be made in light of current events bringing disrepute to the Board?

#### **The Deputy of Grouville:**

The appointment panel, I believe, is made up from a U.K. independent person who has a great knowledge of running theatres in the cultural world, the Opera House Chairman and the Arts Trust Director. We have no business... or we are not informed of this process: they go through the proper procedure.

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

It is not a surprise to this Ministry to reply to a question with a snide remark and could I say for the record that I have attended all of the meetings of the Arts Trust that I have been invited to. **[Aside]** Would the Assistant Minister, given that no investigation of an independent type has been carried out but merely an audit by the Board's own accountants - who have given the accounts a clean bill of health on every other occasion they have looked at the accounts - think that the Theatre Director has been treated very shabbily and was he not entitled to an independent investigation before his life, his family and his career were taken through the mire by the Opera House Board?

### **The Deputy of Grouville:**

I am not sure who went to the media first, but quite clearly this whole staffing issue and the irregularities have been played out by the media and I would say the outgoing Theatre Director has played quite a large part in that. The correct procedure is to go to the Jersey Employment Tribunal which I believe is taking place and then it will be up to the individuals concerned if they want to take the matter further.

### **2.7 Senator B.E. Shenton of the Chief Minister regarding the possibility of the sale of Jersey Telecom:**

I apologise to the Minister for asking him to repeat himself. Has the Council of Ministers discussed the possible sale of Jersey Telecom and, if so, has any offer for the company been received or agreed in principle and will the Chief Minister on behalf of the Council of Ministers give an assurance that the matter will be brought to the States for a full debate before any sale is agreed?

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

Senator Shenton alluded to... this has been largely covered by the Treasury and Resources Minister in response to an earlier question - but to answer the question, the Council of Ministers discussed the matter on 15th June and agreed that consideration should be given to the possible sale of Jersey Telecom. It was also agreed that this proposal should be the subject of a consultation paper and this paper has now been issued. States Members and the public have been invited to submit comments by 8th September. No offer for the company has been received or agreed in principle and I can give an assurance that the matter will be brought to the States for a full debate before any sale is agreed.

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

Could the Chief Minister give his definition of the word "consultation"?

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

Well, yes Sir, as agreed by the States previously, the Council of Ministers has agreed on a series of consultative papers and, indeed, a paper has been issued which is available of course to States Members or be sent to States Members, if it has not already, and is available to the general public and all interested organisations. So, anyone in the Island who has an interest in the subject is invited to record that interest and to submit their opinions on the proposed sale however they may feel about it.

### **2.7.1 Connétable D.J.M. Murphy of Grouville:**

Given that there are 450 staff and their families who are dependent on their jobs here, can the Minister give them some comfort about their future employment?

**Senator F.H. Walker:**

Yes, Sir, I believe they have already had assurances from the Board of Jersey Telecoms and the continuing security of the staff will, without doubt, be a question that the Council of Ministers will be addressing and I am sure without doubt will be a question that the States would wish to address should the question of its sale ever go that far.

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

Does the Chief Minister share his Treasury Minister's high opinion of Scrutiny in that he believes we could produce a proper in-depth report on this measure in the period 7 weeks and does he share this high opinion that Scrutiny can do this or walk on water?

**Senator F.H. Walker:**

I doubt that Scrutiny can walk on water, although some Members might like to think they can. **[Laughter]** This is an important issue and there is no doubt that it is the type of issue that Scrutiny should play a full part in and I have no qualms or reservations about that at all. What we need to do is work together here - not in opposition - work together to ensure that we come up with a result which is in the best interests of the taxpayer, best value to the taxpayer and of maximum benefit to the consumers of telephone and services in Jersey and I do believe that the time-scale allows. It is short, but I think working together it can be achieved. What we have got to remember here is that this is a highly commercial situation and if we are to maximise the value to the taxpayer and the benefit to the consumer, we do have to move quickly. I would look to the Scrutiny Panels here for their full and total co-operation in enabling us to do so.

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

Would the Chief Minister say whether a serious option was the so called J.E.C. option when this particular decision was being made:

**Senator F.H. Walker:**

No final option has been agreed upon. The only position that the Council of Ministers has agreed to is that we should basically explore the possibility of selling Jersey Telecom. As the consultation document makes clear, Jersey Telecom is now one of very, very few telecoms companies still in public ownership. There are reasons for that and there have been tremendous benefits to both taxpayers and consumers in other countries through the privatisation of hitherto state owned assets. But no options have yet been fully explored, no decisions have been taken. This is an exploratory exercise at this point.

### **2.7.4 The Connétable of Grouville:**

If I could refer the Minister to page 4 of the discussion paper issued by him. At the bottom, the last paragraph: "The company has maintained a strong balance sheet which places it in a sound position to fund investment in the next generation network and 3G mobile network roll out." How does that justify the sale or even the thought of the sale of Telecom?

**Senator F.H. Walker:**

Telecoms in Jersey, like everywhere else in the world, is moving into a highly competitive environment. There are 3 other possible players entering the market and Jersey Telecom thankfully is in a strong position and thank goodness it is because whatever the decision taken we need to ensure that we have a robust telecommunications, a world-class telecommunication structure infrastructure in Jersey. Now, we are going to have the opportunity of investigating whether it remains in the best interests of the public to continue owning Jersey Telecoms, or whether it is in the best interests of the public - because ultimately it is only the public that matters - to pursue a sale and is purely an investigation at this point. The strength of Jersey Telecom should a sale proceed should enable that the public will earn a very considerable sum of money from any such sale.

**2.7.5 Deputy G.P. Southern:**

In a spirit of working together - entirely I could not agree more with him - is the Minister aware that I had been seeking the background papers on this item which was B7 due to debate for a full debate on the 8th June by the Council of Ministers. I finally got them on Wednesday, 12th July and I read in the paper the day after that the decision had already been made on Thursday, 13th July. Is he satisfied that yet again Members receiving information through the news and not through this House is a satisfactory way to ensure co-operation?

**Senator F.H. Walker:**

The Deputy has just said he received it the day before it went to the media and proper procedures were adhered to. We have a duty, obviously, to inform Members in the right way and the Council of Ministers has gone to great lengths in recent months to ensure that Members are informed before the media. But clearly we also have a duty to keep the public informed and striking a balance is what we always strive to do.

**2.7.6 Deputy A. Breckon of St. Saviour:**

Could I remind the Chief Minister of something he said in this House on 22nd June in reference to this during the Strategic Plan: "Sir, could I just I think clarify the position of the Council of Ministers. We are not in any way hell-bent on privatisation as has been suggested. We are hell-bent on working in the best interests of both consumers and the taxpayer. That is all we are saying. If any decision is recommended at any point which changes in any way the current ownership of any of the utilities, then we are perhaps thinking here the most likely, of course, would be Telecoms where we have a world-class service at very competitive rates we have to have or else the economy in the Island, never mind anything else, falls away. If there is any such proposal it can go nowhere without the full approval of the States. So, I do not know what Members are worried about at this point. There is no such proposal on the table and if any such proposal is ever put on the table it will come to the States and it will only happen if a majority of Members approve it." The question of the Chief Minister, Sir, is would he care to reflect on this statement and advise the House if he thinks it was inaccurate and misleading in the circumstances, bearing in mind he had earlier said that the Council of Ministers discussed it one week earlier on 15th June.

**Senator F.H. Walker:**

I do not think it was in any way inaccurate or misleading. I think it was totally clear and I reiterated that the fact is that any such proposal will come to the States for a States decision: only a States decision. That was totally clear, totally accurate and I stand by it.

**Deputy G.P. Southern:**

A point of clarification, Sir, please.

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

Well, very briefly then.

**2.7.7 Deputy G.P. Southern:**

The Minister has just said that it was perfectly clear. Is it the case then that no decision was made on the 15th to bring to this House a motion to privatise Telecoms in the time-scale which included October?

**Senator F.H. Walker:**

No such definite decision was made. The decision was clear. The decision was, and I have quoted this in my answer: "We agreed on 15th June that consideration should be given to the possible sale of Jersey Telecom." We went on to say that we gave an assurance that the matter will be brought to the States for a full debate before any sale is agreed. That remains the position, totally straightforward.

**2.8 Deputy G.P. Southern of the Chief Minister regarding the provision of legal advice to both the Executive and non-executive arms of Government:**

What consideration, if any, has been given to reviewing the position on the provision of legal advice to both the Executive and non-executive arms of Government?

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

As a Member of the Chairmen's Committee, the Deputy will be aware that detailed consideration has been given to this subject by both the Executive and non-executive arms of Government. In particular, consideration has been given to the issue of whether copies of legal advice given to the Executive by the Law Officers Department may be shared with the Scrutiny function. A meeting of the Council of Ministers, the Scrutiny Chairmen's Committee and the Attorney General to discuss this issue is scheduled for Friday, 21st July - this Friday - and it is hoped that the discussion on this matter will soon be brought to a conclusion.

**2.8.1 Deputy G.P. Southern:**

In the spirit of working together, it says in P.122, talking about the Policy, Privileges and Procedures Committee: "The Committee's proposals will not detract from the power of the States Assembly and the function of the Assembly as the Island seat of Government will remain paramount." Is he aware that the arguments still currently going on between Scrutiny and Ministers on the one hand, and the Attorney General on the other, make that position about the paramount nature of the States contained in P.122 unviable?

**Senator F.H. Walker:**

Absolutely not, that is totally wrong. There is no doubting the supremacy of the States and that is not the issue. The issue that has been debated is complicated, it has strong legal connotations to it and what I suggest the Deputy should do is make sure he attends the meeting on the 21st where the Attorney General will be present together with Ministers to discuss this matter and to seek to find the best way forward.

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

Unfortunately I am committed to a Corporate Services public hearing on that day and will be unable to attend, however, I will be sending my Vice-Chairman and I shall make sure that he is fully briefed on the issues. Nonetheless, the position remains, I believe, that unless Scrutiny can have access to legal advice given to Ministers, it cannot fully participate in sharing the policy in formulation required to ensure the co-operation that both the Minister and myself wish to see. Surely, we need a resolution to this which enables Scrutiny to fully participate in the decision making process of Government.

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

We do need a solution which enables Scrutiny to fully participate in the machinery of Government and the process of Government. What the best solution to that may be is yet to be decided and that is the purpose of the meeting on the 21st, and should I say, that is not the first meeting on this subject, it is probably the fourth, fifth or even sixth meeting on the same subject. It is a very complex, difficult issue and in the best interests of this Assembly and Jersey we need to ensure we come up with the right answer.

### **2.9 Deputy R.G. Le Hérissier of the Minister for Economic Development regarding funding for 2006 summer international football event:**

Has funding been withdrawn from this year's this summer's international football event and if so would the Minister explain the reasons why?

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

The former Economic Development Committee in March 2005 decided to reduce the funding for events from £356,000 to £238,000. A decision was made to only fund those events that delivered identifiable business tourism to the Island. A number of events were identified which, although popular, were not perceived as adding to the visitor economy and did not particularly deliver new business to the Island. The international football festival was one such event. A number of events that were affected by this policy have, I am pleased to say, found alternative funding. I believe that this whole issue of events funding must be reviewed. I have already reviewed it in the context of the Battle of Flowers and I will do so in close co-operation with the Minister for Education, Sport and Culture and particularly the Assistant Minister for Culture, but I would also say that I do not believe that the cancellation of the event was entirely due to the funding being withdrawn.

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

Would the Minister, Sir, identify how business tourism is a factor in the funding of the Battle of Flowers and why it is not a factor in the funding of this particular event?

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

I scarcely can believe the question. Is it not evident to the Deputy that the Battle of Flowers is Jersey's premier event at the height of our tourism calendar and over the years has brought tens of thousands, if not hundreds of thousands, if not indeed more than that, visitors to the Island? My initiative to re-engage with the Battle of Flowers Association, to modernise and change and to assist the Battle of Flowers in putting it back on the map as Jersey's premier summer event is part of that, to secure not only a great cultural event for the Island, but a great opportunity for visitors to play with it.



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

I use the phrase “business tourism” and I think that is where the Minister went off on a tangent, Sir, and he may wish to return it to later - not the tangent, hopefully the question. I wonder, Sir, if I can continue with the international football event. It has been an enormous community event. It has shown enormous entrepreneurial spirit on the part of a few individuals. It has been well supported. I have gazed upon the Constable of St. Peter in the V.I.P. box on occasion. Would he not accept, Sir, he has taken the skids from under an event that was growing, that was putting Jersey on the map, and as well as contributing to tourism, was having a marvellous effect upon community relations which he espouses at such great length?

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

I have already said that I am prepared and am reviewing the whole issue of events funding. I would tell the Deputy that in 2003 this event got £10,000 worth of tourism money, in 2004 £7,000, in 2005 £5,000. I am prepared to accept the perpetual responsibility of decision-making, but it was the former Committee that made this decision and that was clearly communicated to this event and a number of others. Others events have found alternative sponsorship. The fantastic - I know he is in this Assembly - but, for example, the Howard Davis Farm Film Festival has gone out and found private sector funding. This is not only just simply about tourism finding money for events. It is a partnership and I wish to re-engage with these individuals, but I do not think it is fair to say that it is simply a factor that this event was cancelled due to funding, and just how many young people in 2003, 2004 and 2005 were part of the football tournament.

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

Does not the current situation make a complete mockery of the flags flying on the Esplanade at the moment saying. “Jersey Island of Festivals”?

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

The Island of Festivals is something I am very proud of and certainly the flags along Victoria Avenue are an example of using existing resources and just getting them out there a bit earlier, and is it not fantastic that visitors to the Island can see that we celebrate festivals? There was ‘Jazz in the Park’ 2 weeks ago. We are looking forward to ‘Jersey Live’ going forward. There was a fantastic event at Havre des Pas. Is that not an Island of fantastic events supported by my Department? I do not know where the Deputy has been living. **[Laughter]**

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

I would like to start my question by applauding the efforts of the Minister to put out more flags and to say that I welcome his work on festivals. I would like him to commit to when this review of events funding will take place because with the Chief Minister and the Assistant Chief Minister last night I was privileged to attend the Beating of the Retreat by the Band of the Island of Jersey which has had their budget cut, but what a superb job they do for Jersey and how many tourists were in Howard Davis Park last night to see that and to take back the message home that Jersey is a good place to visit. So, I would like him to say when this review of funding for events will take place?

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

The review of event funding is under way at the moment and I have made some early decisions in respect of the Battle of Flowers and I am hopeful that there is going to be some good announcements about the securing of the long-term future of the Battle of Britain. I am willing to engage with everybody, particularly the Parish - they have got some money, I hope, to invest in

matters too. Education, Sport and Culture. These are not only just tourism events, they are cultural events and it is difficult to say whether they are one or the other. I think events matter. I think they matter for the community and I think they also matter for the tourist economy and I am happy to engage with anybody - but particularly the Minister for Education, Sport and Culture - in putting this Island on an event-led tourism map with great things to do at every opportunity and I am certainly willing to use some tourism money to achieve that.

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

If I may just correct a slight slip by the Minister. The Jersey Film Festival will take place in Howard Davis Park, not Howard Davis Farm, thank you. **[Laughter]**

**2.9.5 Deputy G.P. Southern:**

Perhaps he was thinking of Animal Farm. I am glad to reassure the Minister that I do live in Jersey and not as he appears to do on cloud cuckoo land. However, I must put to him that surely it is his job to co-ordinate funding with the publicity surrounding such festivals and does he accept that he has failed to do so on this occasion?

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

I absolutely do not accept that. A previous Committee cut event funding. I have reversed some of that. I was only made aware of the international football tournament difficulties I think a couple of days before the issue was put into the public domain. I immediately engaged with my friends in sport to explain to me some of the background of it. If I would have been told about this issue and of cancellation, I may have been able to do something in earlier course. I was not told of the issue that there were other events that we are assisting. I am meeting on a regular basis event organisers to do exciting things in Jersey and I am determined to ensure a partnership between Education, Sport and Culture and Tourism to put events on the Jersey map for Islanders and for our tourists.

**2.10 Deputy R.G. Le Hérissier of the Chairman of the Comité des Connétables regarding electoral registration:**

Have the causes for the low return of electoral registration forms this year been identified and, if so, what are they?

**Connétable K.P. Vibert of St. Ouen (Chairman of the Comité des Connétables):**

Basically the answer is no, but the Connétables have the matter on their agenda for next Monday's meeting. Nevertheless, I would point out that the pattern is the same as has been in the past and the Connétables are now bound by law to send reminders to households who have failed to make a return. The low return is, as I have said, similar to the pattern in previous years. For example, in 2002 forms were sent to approximately 40,000 units of accommodation, but reminders had to be sent to approximately half these addresses, and as no forms had been returned, again, 10,000 had to be sent on the third occasion. The cause can therefore be attributed to people not bothering to fill forms in when requested to do so. The campaign last summer prior to the Autumn 2005 elections means, I believe, that many people believe their name is included on the register and are not aware that a new 3-year rolling register is being compiled. Connétables have made every attempt to bring this to the attention of the public through press releases and reminders and it is intended that when the next round of reminders goes out that a note to this effect will be contained in that circulation. Although the law places a duty upon every person who meets the criteria for registration to register as an elector, there is no penalty under the Public Elections (Jersey) Law 2000 for failing to do so. Whilst we would hope to get replies from all addresses, even if only to advise that no one at the address qualifies to register as an elector or even does not wish to qualify as an elector, this is

unlikely to happen. As there are no Island elections expected in 2008 many may feel that no urgency to register is required. However, registration means that electors are also able to vote at Parish assemblies and take part in any referendum.

**2.10.1 Deputy R.G. Le Hérissier:**

I thank the Connétable for that information. Would the Connétable not admit that the concept of the rolling registration has not come across and further, Sir, would he not admit - and this was a continuing issue which has never been entirely resolved - the advertising needs considerable improvement?

**The Connétable of St. Ouen:**

Yes, Sir, I would certainly admit that that is part of the reason, although it must be realised that the same is happening this time as in the past. But as I have said, it is the intention of the Connétables to add-in with the next round of registration forms a note to the effect that this is a new rolling register and that people need to register.

**2.10.2 Senator B.E. Shenton:**

Is it not the case that the form reminds people that the Connétables are still in the States and this may account for the fact they do not return the forms? [Laughter]

**The Connétable of St. Ouen:**

I think it reminds people that the Connétables are in the States and they have to elect them, Sir.

**2.10.3 Deputy G.P. Southern:**

The Connétable mentions the absence of any fine or whatever applicable to people who do not return their forms. Does he believe that any such measure should be introduced in the near future, or if failing that, should that level of fine be transferred up a level on to the Constable to make sure that he produces an accurate register?

**The Connétable of St. Ouen:**

I think basically the answer to that question is no and no, Sir.

**2.10.4 Deputy R.G. Le Hérissier:**

Other than the obvious urban/rural divide we get in terms of high and low registration, has the Constable noticed or has his Comité noticed any significant disparity as between Parishes in terms of registration and if so what are the explanations?

**The Connétable of St. Ouen:**

Those figures will be available to the Comité next Monday, but from the first look at them they are no different to what they have been in the past.

**2.11 The Connétable of St. Helier of the Minister for Transport and Technical Services regarding business and residential parking scheme at Cheapside and Kensington Place, St. Helier:**

Would the Minister confirm whether he has determined the Parish of St. Helier's application to implement the business and residential parking scheme in the Cheapside and Kensington Place areas of the Parish and, if not, explain the reason why?

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

The Connétable is well aware that my Department has advised him only recently that no further business and residential parking zones will be considered until the St. Helier Regeneration Strategy report has been finalised. This work will incorporate a parking strategy for the town area which will consider the needs of residents, businesses, commuters and visitors alike and it would be premature to implement a scheme which may be at odds with the strategy's recommendations. The scheme the Parish is putting forward is very comprehensive and I acknowledge the work and research that has been undertaken. However, it needs a full assessment from my Department to ensure there are no adverse traffic implications. As an example, the current proposal incorporates parking on the Ring Road which I consider should be a clear way and all parking legal and otherwise should be prohibited and firmly policed. I am aware that the Connétable has received advice from the transport consultants engaged on the St. Helier regeneration project suggesting that his scheme could go ahead prior to the strategy being developed and published. I fundamentally disagree with this piecemeal approach to parking strategy and I remind the Connétable that it is the taxpayers who are funding this major review to improve and enhance the town for everybody.

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

Would the Minister not confirm that it is an existing States policy that residents parking should be introduced and that until that policy is reversed or otherwise altered we should be sticking to it? Is he further aware that not only has a great deal of work been undertaken by the Parish on the new scheme following agreement with his Department, but that residents of the area have been consulted and have formed a residents working group and they are waiting to begin the process that was so successfully carried out in the Stopford Road and St. Mark's Road area and it is not fair to them to tell them that their plans are going to be put on hold for probably about a year?

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

I am well aware of all those detailed facts that the Connétable has pointed out. I am also well aware that it is indeed the States policy to introduce business and residents parking zones. However, the timetable is separate from the question of whether they should be introduced or not and currently the timetable is not appropriate to introducing those types of zone before the St. Helier Regeneration Strategy report has been finalised.

**2.11.2 Deputy G.P. Southern:**

Is the Minister aware that his reputation as the Minister for Initiatives is likely to be replaced by the title Minister for Inaction if he continues his present stance?

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

No, I am not aware of that and I think the suggestion is utterly preposterous. **[Laughter]**

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

The Minister was good enough to refer to the fact that the transport consultants engaged by the States to carry out the parking strategy have written to me to say: "We see no reason why the Parish should not continue to work on the schemes you mention." Is the Minister not prepared to concede that given there is a States policy requiring these schemes, given the enormous success and difference in quality of life that the Stopford Road scheme has made for residents, that it is in fact inappropriate of him to block the introduction of further schemes and would he further reveal how long he feels the delay will take if he is not prepared to concede this?

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

I am not aware at this stage when the St. Helier Regeneration Strategy report will be finalised, so I cannot give any indication to the Connétable as to how long that may or may not take place. However, what I can advise both the Connétable and Members is that I have personal experience while residing in London of living not only alongside a residents parking zone but also within one. The features of that are substantially different from the current effects being generated by the experimental zones that are being introduced in Stopford Road and that the Connétable was hoping to introduce in other areas. Numbers of experimental zones, while they are clearly of benefit to the residents who live in one, simply shunt the parking problem along to neighbouring areas. Therefore you get extremely different results from looking at an analysis of individual experimental zones compared to a comprehensive resident zone. It is because of that I think it is only responsible to wait until the parking strategy within the St. Helier Regeneration Strategy has been looked at in some considerable detail.

**2.11.4 Deputy G.P. Southern:**

Is the Minister going to account to the residents in my district in St. Helier No. 2 as to why no further progress is being made on residents parking?

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

No, Sir, I would expect the Deputy to undertake that in the light of replies I have already given.  
[Laughter]

**2.12 Deputy J. Gallichan of St. Mary of the Chief Minister regarding the establishment of a Citizens Panel:**

Following the States decision on 14th March 2006 to approve P.16 2006 brought by Deputy Baudains, would the Chief Minister advise whether he and the Council of Ministers still intend to establish a Citizens Panel and, if so, advise Members what progress, if any, has been made in defining its terms of reference and operating methods and when these are likely to be brought to the States for approval?

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

The Council of Ministers is still considering the establishment of a Citizens Panel and this has been done as part of a general review of the way in which the States consults with the public. As part of this review, I am pleased to announce that the Council of Ministers and Members of Scrutiny will be jointly organising a workshop for all States Members during the autumn which will address the issue of how the Government should engage with the public. This workshop will be led by Sir Robert Phillis, Chief Executive of the Guardian Media Group and chairman of an independent review of U.K. Government communications. Further details of the workshop, including the date, will be circulated as soon as these have been agreed. The workshop will consider a range of

methods for consultation, including the proposal for the establishment of a Citizens Panel. States Members will therefore have a further opportunity to discuss this proposal in a more informal setting and the Council will then be in a position to consider the way forward in the light of the comments received. If the Council decides that it would like to establish a Citizens Panel, it is planned that a proposition setting out the Panel's terms of reference and operating methods will be brought to the States before the end of the year.

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

That is excellent news and I would like to congratulate the Minister. But would the Minister, Sir, not acknowledge that the issue of engagement is much more than an issue of consultation and much more - perhaps it was a slip of the tongue - than an issue of communication and would he not acknowledge that there is a serious malaise in Jersey political life at the moment which is going to take a long time to wrestle with and will probably require quite radical solutions?

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

I do acknowledge there has been an issue for many, many years, but I do genuinely believe that the situation is improving if only slightly and we do all need I think to work together and work together hard to improve the engagement with the public. Of that I think there is no doubt at all.

#### **2.12.2 Deputy A. Breckon:**

Could I just ask the Chief Minister if there is a budget set aside for this and if so how much?

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

For the review, I am not aware of the budget, but we are not talking considerable sums of money. It will be funded from within existing communications unit budgets.

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

Very well, that concludes the period of questions with notice. We now come to questions without notice. I would remind Members that the Bailiff announced at the last meeting from the chair that any Member asking a question during this period would be permitted to ask one supplementary follow-up question and therefore the first period is to the Minister for Health and Social Services and I invite questions.

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

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

In light of reports that England is in a grip of the worst outbreak of measles in the last 20 years, what steps, if any, is the Minister taking to increase the awareness and uptake of the measles, mumps and rubella injections, especially now that the link between the M.M.R. (Measles Mumps Rubella) jab and autism have been disproved?

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

That is an extremely untimely question. As Members will be aware, there has been a recent publicity campaign and drive initiated and pushed forward by the Medical Officer of Health to

encourage parents to ensure that their children are vaccinated. There is an increased level of not only measles but whooping cough and other illnesses in the United Kingdom which is believed to flow from the fact that parents declined to take up the M.M.R. vaccination in the wake of the scare concerning autism, but we are concerned at the levels at the moment. We are not satisfied with the rates of vaccination in Jersey and this is why we are doing all we can to encourage people to take up this vaccination. I think we may have gotten a little complacent in connection with these illnesses in recent decades because they have become fairly rare, but the fact is these illnesses can cause very serious harm and even brain damage to children, so children do need protection from these illnesses.

### **3.2 Deputy P.J.D. Ryan of St. Helier:**

What is the Minister's view on the advantages and disadvantages of private health provision through insurance?

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

I fully support people's right to take up private health insurance. Many people in Jersey are at a higher level certainly than the national average who have private health insurance. Some people avail themselves of that insurance in Jersey or indeed in other jurisdictions. It is certainly true to say that Health and Social Services makes a profit from some of the private sector work that is currently carried out on Health and Social Services premises and their Health and Social Services staff and long may it continue.

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

Does he believe that private health insurance should be encouraged fiscally, or does he believe it right that private health insurance when provided effectively tax-free by businesses as part of a blanket remuneration package, should be included in the 'Benefits in Kind' register. There is currently an anomaly between these proposals?

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

The Deputy is quite right. This is an important issue and the whole future evolution of our taxation policies in respect of health care issues is important not only in respect of tax relief in the light of 20 means 20 and the general 'Zero/10' proposals, but also in respect of the G.S.T. (Goods and Services Tax) as the Deputy will be well aware. There are a number of issues that need to be resolved here. Certainly, I think it is good that people choose to take out private health insurance and I personally would prefer to see that encouraged. Where the appropriate ceiling should come on the cost of such insurance and the amount that is allowable against tax, I think is open to debate. Whether there should effectively be an infinite sum I think is doubtful and there should be some kind of ceiling on the tax relief benefit of the amount you spend on these kind of policies.

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

Could the Minister confirm to this Assembly that an appraisal or a review is going on within his Department to move long-term care residents of Overdale to either The Limes or Sandybrook and that residents of The Limes and Sandybrook may then be moved to the private sector?

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

No, Sir, I am not aware of that. As I have informed the Assembly on many occasions in the recent past a review has taken place in respect of the long-term and continuing care facilities at Overdale. It is being concluded in consultation with the clients and their families themselves that those facilities are not satisfactory and therefore we are looking to move those clients out into high quality private sector facilities. There was no question of people being moved out to the other nursing homes if that is where they are established.

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

The Minister will be aware that before the land at Bel Royal known as Goose Green was rezoned for housing purposes his Department failed to submit comment during the feasibility consultation process. He will also be aware that subsequently his officers have advised the Planning Department that they believed the area to be unsuitable for housing purposes. Bearing in mind the public controversy over the proposed development, does the Minister consider that his Department has made sufficient representation both to the Planning Department and to the Minister that this site is considered by his health protection unit to be unsuitable for housing purposes?

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

The Deputy is certainly correct. There was I think an initial error in the early stages of the development and that the appropriate representations were not made by the Health Protection Department in a timely manner. This is a mistake that will not be repeated: the lesson has been learnt. In respect of subsequent representations, yes, representations have been made very clearly to the Planning Department by Health Protection concerning the likely issues arising from noise on the site given the proximity of the Jersey steelworks to the housing estate. It is likely to lead to complaints from residents, but there is unlikely that anything will be able to be done about it within the bounds of the Statutory Nuisances Law because as long as the Jersey Steel Company is following best available practice, there will be very little that can be done about it, so it is an issue.

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

Will the Minister give the House his opinion as to whether had his Department made known their concerns about the unsuitability of this site for housing during the consultation process, this House would have agreed to rezone that land for housing purposes?

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

I am not sure I can answer that question, Sir. It is hypothetical. It would have depended upon the planning authorities of the day and ultimately the views of this Assembly. I can certainly say that of numerous other occasions I am aware of when the views of the Health Protection Unit have been made known to planning officers, those views have been ignored - completely ignored and set aside utterly. So, do I have a lot of confidence that the views would have been taken on board? I am afraid I do not. Although I have to say in fairness things have improved dramatically in terms of communication between the Departments in recent years.

### **3.7 Deputy R.G. Hérissier:**

On 25th April the Minister informed me that the cost of a 'Job Families Agreement' to that point was £840,000. In answer to a further question on 16th May I was not given the remaining funds which would be required for its full implementation. We were told in December of last year that that agreement had in some respects fallen apart. Firstly, Sir, what is the total cost going to be of



the 'Job Families Agreement', which sounds utterly vast for what is essentially an agreement to end all working practices; and secondly, Sir, what are the positive outcomes going to be, given the massive re-thinking that had to occur as a result of last December's event?

**Senator S. Syvret:**

I do not have the precise costs up-to-date at hand but I will discover that and let the Deputy have the precise figure later this morning. I do not accept for one moment his assertion this was simply a means of removing old working practices. It was a carefully structured and agreed process by which the way nursing resources were deployed throughout Health and Social Services would be re-engineered and in particular that continuing professional development opportunities would be fully furnished for all of the nursing staff in order to develop their skills and for them to be remunerated accordingly with those skills. So, it certainly is not true that it was just a way of buying out old working practices. Neither is it true to say that the 'Job Families Agreement' fell apart. There was a dispute that hinged around principally the appeals mechanism over which there was some disagreement. That issue has now been resolved. It was resolved many months ago and on that basis the roll out of the provision is continuing.

### **3.8 Deputy R.G. Hérissier:**

How did the Minister, Sir, or his senior staff then come to the conclusion, as a result of what happened, that given the sums involved - and it is quite likely I would have thought to be well over £1 million - there was value for money in this process?

**Senator S. Syvret:**

I think we are absolutely satisfied there was value for money in this process. The 'Job Families Agreement' and the modernisation of how nursing resources are used will lead to a better and more efficient nursing service and a nursing career that is better for the nursing staff themselves; and a happy staff are an effective staff. There is no question other than this is a good investment that does represent value for money. It will bring about meaningful and real improvements in the already high standards of nursing care in the Island.

### **3.9 The Connétable of Grouville:**

Is the Minister concerned at the large amount of private patients who are now seeking surgery outside the Island because of cost? I am thinking about France, for instance, where I am told that a hip replacement operation now can be carried out for about £5,000 compared to £10,000 in Jersey?

**Senator S. Syvret:**

It is of concern, Sir. As I mentioned earlier in answer to a question from Deputy Ryan, the whole issue of health care costs in the Island and how that fits in with our economy and with fiscal structures is a very important topic. I do not think Jersey though realistically could ever aspire to competing with France on a cost basis. The health service in France is internationally acknowledged as being very good, but the people of France pay for it. A very, very substantial amount of money goes into the health service in France including both a private contribution and a statutory health insurance contribution, therefore there is a lot of money and a lot of subsidisation of the health service in France. It is not realistic I think to expect small Island jurisdiction with the consequent diseconomies of scale that exist here to compete with France on a cost basis.

### **3.10 Deputy A. Breckon:**

My question is about smoking or non-smoking and how effective does the Minister think existing schemes are and whether they are proactive in targeting groups especially teenagers?

**Senator S. Syvret:**

I think it is fair to say that in the past schemes have not been as good and as effective as we would have wanted. All that is in the process of changing now. Health and Social Services in co-operation with other stakeholders in the healthcare field such as G.P.s are going to roll out a comprehensive smoking cessation strategy. We have to do this. This is the other part of the bargain effectively that we made with this Assembly and with the public in respect of the ban on smoking in exposed work places. The ban is absolutely correct, it is the right way to go, but the *quid pro quo* of that is that we have a responsibility and a duty to do all we can to assist people in giving up smoking. So, there is going to be a much greater drive towards assisting people's smoking cessation and I do think things have improved in respect of stopping young people from smoking as far as that is ever possible by the recent raising of the age at which people can purchase tobacco from 16 to 18.

### **3.11 Deputy A. Breckon:**

In view of what the Minister has just said, would he also consider then giving free nicotine patches to those who are trying to quit?

**Senator S. Syvret:**

Yes, Sir, that is one of the factors that is going to be considered as part of the smoking cessation drive.

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

The draft sexual health strategy was published and circulated last week by sheer coincidence the day after a sexual offence was provoked. Will the Minister inform the House who the strategy has been circulated to and will he give consideration to the closing time - or the ending time - of the consultation being extended which I gather is due to end at the end of this month which is going to be a 2-week consultation period?

**Senator S. Syvret:**

The document has been issued to all of the relevant stakeholders. It has been developed in co-operation with organisations such as Brook, Acet and a variety of other stakeholders within the sexual health sphere. It has now been put into a publishable form and it is now out for public consultation. If there is not sufficient time for people to consult on it, then I am more than happy to extend the consultation period.

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

The Minister said it has gone out to interested stakeholders, would he consider circulating it to all States Members or can all States Members have a copy now they are aware of it?

**Senator S. Syvret:**

Yes, Sir, by all means.

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

Very well, that brings the 15 minutes question time to the Minister for Health and Social Services to an end and now I invite questions to the Minister for Transport and Technical Services. Does anyone wish to ask a question? Deputy Le Hérissier.

**4. Questions without notice - The Minister for Transport and Technical Services**

**4.1 Deputy R.G. Le Hérissier:**

Last year as I understand it the Minister or his predecessor made a statement that an ongoing and irritant unequal treatment would be rectified, namely that males get bus passes at 65 and females at 60. As I recall, Sir, a promise was made that this would be immediately rectified. Why has nothing occurred in this regard?

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

I do not know, Sir.

**Deputy R.G. Le Hérissier:**

Given that a promise was publicly made in this Assembly, can the Minister promise that he will now go away and ensure that this promise is implemented forthwith?

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

I am not sure I will be able to undertake to do it forthwith, Sir, but I certainly undertake to look into the matter. I think it is probably something I may need to discuss with one or 2 other Ministers - Social Security springs to mind - and I would be very happy to have continuing discussions with the Deputy on this subject.

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

I am not entitled to ask a question, but may I ask the Minister if what they are doing now is still contrary to human rights, the issuing of a bus pass for a person at 60 and refusing one for a gentleman the same age?

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

I wonder if the Minister would care to declare an interest in this matter or not? **[Laughter]**

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

I wonder if the question could be answered?

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

I would like to congratulate the Minister, Sir. He is one of my regular customers, although it is hard to call him a customer when he does not pay. **[Laughter]** I have to say that I am not in a

position as I would need to refer probably to the Attorney General on this matter to say one way or the other as to whether we are in breach of human rights legislation on this issue and I will certainly look into it. What would be helpful I think is whether Members would like to indicate to me whether I should be reducing the age at which a bus pass is required or raising the age. That would certainly help my deliberations.

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

The current road works in and around the Ring Road has again caused disruption to the traders and the residents of the Cheapside area. I have been waiting for a long time - it seems like 5 years now - to try and get vibrant villages sorted out and have parking arrangements for Cheapside sorted out from a blanket ban of a mass of cones. I wonder if the Minister could give me some reassurance that he will resurrect the various proposals - not only just my proposals - into a higher degree up the priority list in order that we can solve some of the issues that have been pending for such a long period of time in this particular area?

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

I am very sorry to hear that Deputy Fox's vibrant villages are oscillating at a very slow rate. However, I can assure him that in terms of the temporary restrictions around the Cheapside area this relates directly to the major resurfacing work going up Queen's Road all the way to the Union Inn which is an 11-week project in total. The first phase involving Queen's Road and its immediate environment is only 3 weeks or so. I anticipate and very much hope that the current pressures on Cheapside will be relieved in due course. I regret to say that in terms of road resurfacing works you cannot make an omelette without breaking eggs. I am afraid that this is just something will have to be endured for a short while. Thereafter, and doubtless subject to the findings of the St. Helier Regeneration Strategy, I hope that the Deputy's villages will start vibrating a little more than they are at the moment.

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

By price-fixing taxi fares and artificially restricting the number of licensed taxis, is the Minister not encouraging anti-competitive practices which is not in the best interest of the travelling public?

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

The short answer is no. If I might correct the Senator, regulating fares is not quite the same thing as price-fixing although it does indeed fix a fair price. I think the implication of price-fixing is somewhat different. Due to an abuse of licence plates by a limited number of taxi drivers who did not live in the Island any more, there has been a modest restriction in the number of licence plates in circulation. However, that is a matter that in fact may well benefit the industry because we do have a problem of a diminishing taxi market. Therefore, if there is a slightly smaller number of taxis, as it were, trying to share out the taxi cake then that is some benefit to hardworking taxi drivers. This is an ongoing issue. I should make it quite clear that the Minister only regulates the rank taxis. All the cab operators are free to choose, currently, what fares they charge and generally speaking they charge higher fares than rank taxis. In that respect, I think that the regulation of prices is in fact in the public interest and not against it as the Senator was implying.

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

If the taxis were able to compete on price, might that not generate more business rather than the less business that, according to the Minister, they are now getting because of the lack of competition in the marketplace and the price-fixing by the States?

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

I do accede to the Senator's great wisdom in this area. His undeniable achievements in the area of ferries and competition, I think, is well known to many. However, I should point out quite clearly that the taxi cab industry may not respond, in the way that people might predict, to the unleashing of pure market forces. The Senator is quite right in implying that there could be a tendency to drive prices down. However, there would also be a tendency for the entire industry to, first, initially fragment, facing customers with numerous lists of telephone numbers of competing operations to try and phone-up, not knowing quite whether they were operating 24 hours or not. Then there would be a subsequent tendency for the entire business to move into a monopolistic situation. I do not think either of those are particularly what we want to see.

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

Will the Minister inform the Assembly when he intends to bring his Sustainable Travel and Transport Plan to the States for debate?

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

I intend to bring it to States' debate as soon as I am satisfied with it. I anticipate that will be in the next few weeks and certainly, I imagine, by the next session.

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

Does the Minister believe that local residents living in the vicinity of major road resurfacing projects should be individually notified in writing beforehand?

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

That is an exercise that my department specifically undertook. Whether there have been any individual failures of notification I am not aware. If the Deputy would care to point any out, I will look into the matter.

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

In answer to questions recently in the House, the Minister stated that one way perhaps of resolving the traffic issues concerning the Beaumont and Bel Royal areas would be to construct a new road across the beach into St. Helier. Following that comment, would the Minister confirm whether consideration is indeed being given by his department to such construction?

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

I believe the Deputy is doing me something of a disservice. I believe I was much more fulsome in my explanations of possible engineering solutions to the Beaumont/Bel Royal problem which not only included building a substantial road along the seafront but also the possibility of constructing a tunnel and indeed a potential flyover, all of which would be hideously expensive and utterly unworkable, I would imagine, as far as States' Members are concerned. No, I can assure both the Deputy and all States Members that I have no immediate plans to construct or ever put in the planning application for consideration for either a new motorway, along the seafront at Bel Royal, or a flyover or a tunnel.

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

The Minister may be aware that at the Prison we currently have a very successful horticultural department which acts as a rehabilitation for prisoners too. We provide a huge number of plants and shrubs and so on which are then sold to the commercial sector. At the moment though, however, Transport and Technical Services and States' departments generally do not purchase from the Prison any of these items. Would the Minister consider this might be a good practice to support that particular initiative by purchasing some of their required shrubbery from the Prison? Thank you, Sir.

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

I should be most interested to see the full range of plants that may be grown in the prison. I am sure there may be some very interesting specimens [**Laughter**].

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

Will the Minister's new Travel and Transport Strategy differ significantly from the last one, which he had to withdraw from the States, of which he was also very proud?

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

Indeed I was and I shall be even prouder of the next strategy which I can assure the Senator will be even thicker than the last one, possibly glossier and packed full of interesting information.

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

Reverting to the flowers at the Prison, which perhaps the Minister has no artistic soul and does not appreciate horticulture. However, they do have a very good range of plants. Will the Minister give assurances that he will in fact look at using them as a supplier for parks and gardens and so forth where T.T.S. (Transport and Technical Services) is involved?

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

I can give an assurance to the Deputy I will be asking my department to request a brochure from the Prison forthwith.

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

Will the Minister advise whether in his glossy new strategy he comes up with a solution to the traffic problems that we experience between Beaumont, Bel Royal and St. Helier?

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

There will be a number of solutions put forward. Whether they will work at solving the traffic congestion problem between Bel Royal and Beaumont remains to be seen. I can, for example, point to the recent introduction - and may I add, highly successful introduction - of the new peak time airport express route which is already accounting for new passengers and, by implication, reducing the potential number of motorists using that particular section. That is something I intend to build on. But I have to say to Members that a lot of these solutions lie in the hands of the public. If everybody insists on wanting to own a car and use it at peak times and go down a particular route then I regret to say we are always going to have a certain level of difficulty.

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

As a journalist in a previous life, the Minister must be aware of Lord Reith's maxim that the B.B.C. should inform, entertain, educate. Whilst I am very entertained by some of his replies, will the Minister in future concentrate on the other 2 of the triumvirate to inform and educate us about answers? Will he take answers seriously, please?

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

I have always disagreed with Lord Reith on this matter [**Laughter**]. I have always felt it of vital importance to entertain first [**Laughter**] then to inform and, if you are really lucky, you might educate at the end of the day. I should inform the Deputy: (1) to lighten up; and (2) that if you do not entertain then you do not have people's attention and then you have very little chance of either informing or educating. I intend to continue in my own style if the Deputy does not mind.

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

That concludes the 15 minute period to the Minister. There are no personal statements.

### **STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

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

Under statements on matters of official responsibility there is an additional statement being made and perhaps it is convenient that one is made first by the Chairman of the Public Accounts Committee concerning the sale of land at Howard Davis Farm.

#### **5.1 Deputy S.C. Ferguson (Chairman of the Public Accounts Committee) regarding the sale of land at Howard Davis Farm:**

P.68 of 2006 was lodged on 6th of June 2006 and referred to the Public Accounts Committee for a report. The Public Accounts Committee (P.A.C.) intended that the report would have been made available to States' Members prior to today - 18th July 2006 - in time for the proposed debate. However, this has not been possible within the time-scale allowed. The draft report has only recently been sent to Property Holdings for their comment. P.A.C. wishes to ensure that there are no errors of fact or interpretation and that these must be addressed prior to publication. The P.A.C. has also recently forwarded the report to the Comptroller and Auditor General seeking his views on the subject. It may be of assistance to the Assembly to note that Property Holdings have indicated that there is an error in the penultimate paragraph of the report on P.68 of 2006. The report states that the purchase is: "At a fair but fully commercial open market value." However, it has been suggested that this should read: "At a fair and proper price." I should emphasise that the P.A.C. supports the dairy industry and recognises that it is essential to Jersey's cultural heritage. It also recognises the need for the dairy to become more efficient and that significant efficiencies have already been made in the industry. The P.A.C. considers that if additional assistance needs to be provided to the dairy industry, it should be in a regulated transparent format. It should not be in the form of what could be construed as preferential site provision. The P.A.C. apologises to the Assembly for this delay and asks for its forbearance in order that this report will be of real assistance to Members in the forthcoming debate. Thank you, Sir.

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

Do questions arise from the statement? If not, we will move to the second statement in the name of The Chairman of the Economic Affairs Scrutiny Panel.

**5.2 Deputy G.P. Southern (Chairman of Economic Affairs Panel) regarding the relocation of Jersey Dairy to Howard Davis Farm:**

I make no apologies to the Assembly that this statement contains no entertainment and no jokes. Nonetheless, do bear with me. The Economic Affairs Scrutiny Panel has studied the preliminary conclusions of the P.A.C. report into the relocation of Jersey Dairy to Howard Davis Farm and considered the concerns that have been raised. As a result, it has decided to form a multidisciplinary sub-panel involving members of the Economic Affairs Panel, the P.A.C. and other Scrutiny Panels to investigate the requirements for and structure of support for the dairy industry. This will involve examination of the progress that has been towards the financial viability of the dairy industry since the publication of the McQueen Report in 2003. Further, examination of the terms of and background to the sale of land at Howard Davis Farm, consideration of the provision of subsidy for welfare and school milk, and review the composition and levels of support provided for the dairy industry in the Rural Economy Strategy. The sub-panel will be chaired by Deputy Alan Breckon, the Vice-Chairman of Economic Affairs Scrutiny Panel, and its membership has yet to be decided. The panel intends to report back to the States by 24th of October 2006 in order that undue delay is not caused to the debate of P.56 of 2006, Draft Howard Davis Farm Removal of Covenant (Jersey) Law 200- and P.68 of 2006, Howard Davis Farm Trinity, Part of Fields 562, 827 and 828, Sale of Land. Thank you.

**5.2.1 Senator F.H. Walker:**



First of all, just to establish the reason I am asking the question is that, for a variety of reasons, the Ministerial responsibility for the future of the dairy industry, currently, has passed to my hands. I have become very aware in discussions recently with producers and others - I always was but it has enhanced my view - just how vitally important the dairy industry is to the Island both in environmental and economic terms **[Interruption]** and not least to the consumers. I will get to the question, Sir. There is a complex situation also relating to imports and exports. As a result of that, a further review has been agreed to be held, further to the McQueen Report in 2003. That has been agreed with the board of the Milk Marketing Board and, through them, the producers. My question, therefore, Sir, to the Deputy is; will Scrutiny and the Public Accounts Committee work together with me and with producers and all other interested parties to develop over the next few months the best way forward for the dairy industry? Because there is some real urgency here?

**Deputy G.P. Southern:**

Absolutely, Sir. It is my firm intention, and I am sure it will be shared by Deputy Breckon, that we will attempt to co-operate as fully as possible in the best interest of the dairy industry on the Island because that is our concern as well.

**Deputy J.A. Martin:**

Just a point of clarification for the Chief Minister. When he says this has been passed to him, does he mean his department? Why has it gone from the Economic Minister?

**Senator F.H. Walker:**

Two reasons, Sir. First, the Economic Development Minister is conflicted because of family involvement in the dairy industry. Secondly, it is appropriate that it should come to me because there are some very significant and very complex international issues affecting the future of the dairy herd.

**Deputy J.B. Fox:**

Can I just ask a point of clarification please, Sir?

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

You can ask a question to the Chairman of the Scrutiny Panel. We cannot have a further debate or questions.

**Deputy J.B. Fox:**

I do not want a debate, Sir. I just want a point of clarification, if I may, just on will this review look at the alternatives that have been suggested, i.e. that there are multiple farm use of producing products directly to the public etc., that sort of thing? That is what I am looking for.

**Deputy G.P. Southern:**

Our terms of reference will be published later in the week and I ask the Member to attend on those.

**5.2.2 Senator F.H. Walker:**

Will he ensure that the terms of reference are discussed with me before they are finalised because, clearly, the last thing we want here is to have 2 different inquiries or 2 different reviews going on at the same time, possibly at a cost to the tax payer? What we need to ensure is that we have a co-ordinated approach to this whole topic.

**Deputy G.P. Southern:**

May I answer please? I thought you might answer for me. In answer to the Chief Minister's question, absolutely we will co-operate fully. However, I must reserve the position that it is for the Scrutiny Panel, and the Scrutiny Panel alone, to set up its terms of references. Certainly, we are perfectly willing to talk so that we do not end up 2 groups of people doing the same thing. We will carefully delineate where we are going. I suspect we are going to a slightly different area to you already.

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

Just a point of information. Standing Orders require that Members must declare an interest in matters. I am not sure what the issue is in relation to a statement being issued but the Chief Minister has indicated kindly - I am sorry I was out of the Assembly - that all of the Ministerial powers concerning the dairy industry have indeed been passed to the Chief Minister. The Assistant Minister for Economic Development, Constable Fisher, deals with dairy matters but there are some issues of reserve powers but I just would like Members, in the avoidance of doubt, to register the fact that while I do not have a direct interest - that my father being a dairy farmer has an interest in the dairy - and, therefore, I shall take no part in any matters concerning the future of the J.M.M.B. (Jersey Milk Marketing Board) et cetera.

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

Thank you, Minister. That, therefore, concludes statements.

**PUBLIC BUSINESS**

**6. Island Plan 2002, Policy H2: Field 91 St. Clement (P.70/2006)**

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

We come to public business. The first item of public business is the Island Plan 2002 Policy H2: Field 91, St. Clement. I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to refer to their Act, dated 11th July 2002, in which they approve the revised draft Island Plan as the development plan under Article 3 of the Island Planning (Jersey) Law 1964 as amended and to request the Minister for Planning and Environment to amend the Island Plan (Jersey) 2002 to provide that Field 91, La Grande de la Côte, St. Clement be designated as an important open space in accordance with Policy BE8 of the said plan.

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

Just before calling Deputy Gorst, I understand the Minister wishes to make a brief remark.

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

I will not speak in this debate but I will listen very carefully. Both the Planning Applications Panel and I, as Minister, will be abstaining in the vote on this proposition as we must not in any way prejudge the application. The application will be determined by the Planning Applications Panel. I feel that I must advise the House that the Planning Applications Panel has already achieved a significant reduction from the original scheme of 20 houses to the current proposals for, I believe, 12 houses with more space about. Clearly, the Panel will be seeking to apply all the principles of our new design policies including space about, local relevance and design, and appropriate garaging. This applies, of course, to all applications. The Panel has a duty to consider the application in accordance with the zoning of the site at the time of the application. Notwithstanding this, I have asked the Panel not to determine the application until after this debate. I do hope that Members will understand the position of the Panel and of me as Minister.

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

Thank you, Minister. I call on Deputy Gorst to make the proposition.

### **6.2 Deputy I.J. Gorst of St. Clement (Assistant Minister, Chief Minister's Department):**

May I start by taking you on a journey of nostalgia? I take you back in time to the 1920s and to a description of the Parish which now seems unrecognisable. The Bailiff's late predecessor, in his recent memoirs, writes: "St. Clement was a small Parish and really very rural." During my election campaign I met parishioners who remember lanes like Samares when they were horse tracks. I move members forward in time now to the year 1968. In January of that year an application was submitted to the Planning Department, as it is now, to build 16 houses on Field 91. Not surprisingly this application was rejected. However, by late February of that year, permission had been granted to construct 4 houses on part of the field. This permission was subsequently changed and eventually 2 houses were built on the south side of the field, bordering the road. Onwards to 1976 when further applications were submitted to develop the rest of the field with various numbers of houses, however, these were refused permission by the department. Members might be interested to note that the reasons given for all the refusals were that it was not acceptable to build in a green field surrounded by other agricultural land. I will return to the relevance of these episodes in due course. Sir, it is incomprehensible that Members would allow the destruction of either the Island's coastline or of its beaches. Yet, it seems that we have sat by and watched the development of green spaces with only a few small voices of dissent. Today, Members have the opportunity, by supporting this amendment, to send a message to the Planning Department and to the general public that they are not prepared to let it continue. After all, our agricultural landscape is part of what makes Jersey unique. Members will be aware, from reading my report, why I believe that this field is an important open space. It is the only field on the coast road from Greve d'Azette to Green Island. It is the only significant open space that exists from St. Clement's boundary with St. Saviour to the southern junction of Rue de Samares. It is important. It is an oasis; a green lung among surrounding over-development. St. Clement has more than played its part in alleviating the supply problem of both 'Category A' and social housing. This site is not zoned for either of those categories of homes. In the recent past, to the east of Field 91, a large family home was demolished and replaced with 65 sheltered apartments plus a warden's flat. To the north and east, 34 3-bedroom 'Category A' dwellings were completed in 2002 and 73 newly-constructed States' rental homes are almost ready for occupation. Members will note from the site maps on their desks that this development is not shown. However, it covers Fields 89, 89a, 92a, 93 and the unnumbered field to the north of Field 91 which is Field 90. Over 20 units at Le Marais Low Rise are also now being occupied by first-time buyers who were previously States' tenants. In

total, around 200 units. This is not to mention all the small garden development in the area and the permission granted for 23 houses around the corner in Field 40. Why an important open space? I refer Members back to my report and to Policy BE8. Paragraph 6.53 says: "Across the Island there are areas of open space of varying size, form and quality that are considered important in terms of their role in the character and quality of the built environment." Point 54 says: "Within the urban areas, open spaces help to soften and complement the surrounding built form and frame the setting of important buildings. Open spaces also have an important environmental role as lungs within a densely built-up area." Point 55 says: "On the edges of town, green spaces can help to form a barrier between 2 or more built-up areas bringing countryside to the urban doorstep. In this context, urban space may be agricultural land without public access but it still performs an important visual and environmental function." There is no doubt in my mind that Field 91 fulfils these criteria. Indeed, the above 3 paragraphs could have been written with Field 91 specifically in mind. Sir, I was most disappointed that the Council of Ministers felt the need to issue comments which recommend Members to reject my proposition. Indeed, I began to understand how the Connétable of St. Helier must feel. At first, Sir, I thought there had been a printing error because when I read the comments it was as if I was re-reading those issued by the Treasury and Resources Minister about P.48 where he states he notes the comments of the Minister for Planning and Environment that there is a likelihood that legal costs will be awarded against the department. I ask Members to compare that with the Council's comments on this proposition which says *inter alia*: "A decision to support this proposition is likely to result in the States becoming susceptible to legal action with the prospects of costs being awarded in favour of the developer." A now well-recycled argument. It is my understanding that no case testing this supposition has ever reached the Royal Court. In fact, a recent article by a former politician suggested that it was now time at long last to test this argument. That, of course, is a decision for the Planning Minister. Members will, however, be aware that this proposition only makes a request to the Planning Minister which he is entirely free to act upon or not as he sees fit, a point I will return to. I ask Members of the Council of Ministers to reconsider their comments and support this proposition, not for my benefit but for the benefit of my parishioners who have become angry, frustrated and disillusioned and feel that their concerns regarding over-development have gone unheard for far too long. Sir, I turn now to the comments from the Planning and Environment Department. I thank the Minister for his comments and the department for all the help they have provided over the previous months. However, there are so many issues upon which I find myself in disagreement that it is difficult to know where to start. I, therefore, make the following observations. First, the report insinuates that I fall back on the old arguments of St. Clement being over-developed. That is correct and I make no apologies for doing so. It is a fact that St. Clement has accommodated more than its share of new development. There seems to be a universal agreement that St. Clement was dealt a bad hand in the Island Plan (Jersey) 2002. This is an opportunity for Members to recognise that and to start to make amends. Secondly, the Minister confirms that planning advice was given to the applicant prior to the formal submission of the application. He states that the advice took the lead given by the Island Plan and suggested that the development of the land was acceptable in principle. This begs the question, did the department offer a number to the applicant? This advice may have created a legal presumption but, I would argue, a rebuttable presumption and, indeed, this proposition does just that. It is worth reminding Members that at the time that Senator Norman lodged his initial amendment, calling into doubt the zoning of this field, that no application was in place. Therefore, there must have been uncertainty in the mind of the applicant from the start. Thirdly, the report also notes that any view expressed today by the States will not be a material planning consideration. That, Sir, can be argued in 2 ways. Members may, therefore, feel free to offer support to the Parish, as that support will not be considered as a material consideration. Alternatively, it might not be material but it will nonetheless be taken as a consideration and that, after all, is what I am limited to doing by bringing this proposition, as mentioned previously. Members might also be interested to note that in the officer's report compiled in advance of the Minister's public hearing yesterday about the Goose Green Marsh development it states that the

weight of local opposition to the application is not in itself a material ground for refusing planning permission. In layman's terms, not a material consideration. Fourthly, the report goes on to say that the Applications Panel's deliberations have to date resulted in a reduction in the numbers of the proposed development. Unfortunately, to my mind, that statement says more about the total unacceptability of the initial numbers rather than anything about the acceptability of the current proposed numbers. The report notes that the currently negotiated scheme is designed to respond to and recognise representations received from adjoining residents. I can confirm to Members that the current scheme is not acceptable to those adjoining residents, let alone to the Parish at large. Fifthly, the report also states that the Panel has addressed various matters. Let us look at a few of these. Traffic. It is worth remembering that this site will access La Grande Route de la Côte on a bend in the road right alongside the entrance to Avalon Park - that is, the 65-unit accommodation for older members of society. The residents already struggle using their entrance. This danger can only be exacerbated by the proposed development. La Grande Route de la Côte does, after all, hold the dubious record for the highest number of hit-and-run accidents in the Island in 2005. On a more positive note, I find I am able to agree with the department that the field is on a good bus route. However, is that really grounds for approving a development? The report also states that it has schools in close proximity which it does. However, I would question the capacity, certainly of the primary provision in the Parish. Members will recall the recent capacity figures issued by the Department for Education, Sport and Culture. That report noted that the capacity at Samares is 37 and at St. Clement is 4. All well and good until you realise that there is an expected combined primary age yield of 49 from the Le Marais Low Rise and Hodge 2. This is before any garden development in Samares Lane is taken into account or Field 40. As for community facilities close by, I can only assume they mean the Eastern Good Companions Club which does an excellent work. However, I am not sure that it is directed towards families. The report also states that the field is fallow. I am unsure of the relevance as are some fields in L'etacq but that does not make them suitable for building on. Sixthly, the Minister states that he is not prepared to support anything other than a scheme which respects the concerns of those most likely to be affected by the development. I am not aware of any of the elderly residents of Avalon Park who are happy about this development. But do not think this is just the elderly bemoaning change to the Island. I recently spoke to a boy aged about 9 and he was very concerned about his future and about the rate at which we seem to be developing our green spaces. Indeed, he asked me to relay his concerns and asked that you support this proposition today. Seventhly, there are no comments in the report on the social implications of developing this last open space. I hope Members will see that to date, therefore, it has not been possible to address parishioners concerns regarding this site. A site which I firmly believe should be retained as a green oasis. Sir, in the interests of brevity and with your indulgence, bearing in mind that many of these arguments were rehearsed at the last sitting, I thought I might at this stage try and second-guess some Members' questions and concerns, thereby reducing the number of speeches to be made. Some Members will accuse me and my parishioners of being NIMBYs (Not In My Back Yard). However, I believe that any such accusation is totally unfounded, as can be seen from the current new development which surrounds this very site. The truth is that St. Clement's backyard has already been built in. Some Members will no doubt say that I am being political. However, I refute that claim and say that what I am doing today is not only representing the concerns of St. Clement but, I believe, of a large proportion of Islanders both old and new who recognise that once a field has been built on, it will not miraculously revert to green space again in the future. Other Members may think that bringing a proposition to the States is not the correct procedure for planning issues. This is not the first port of call. It has been the last resort. Residents have already gained over 300 names on a petition against development in this field. Parish Hall meetings have been held. The Planning Minister kindly met with a handful of residents earlier this year. We have also held a demonstration. But I bring this proposition today in the hope that Members will send a signal to the Minister that they share the residents' concerns. However, I must say I am looking forward to any comments from the Minister for Transport and Technical Services, as you may remember, at the last sitting he refused to give way to me and

promised that he would be coming to me today. I return now to where I started. The applications in the 60s and 70s were rejected because the field was surrounded by other fields. We are now told that this field is good for development because it is the last remaining field and is, therefore, infill. I find that logic somewhat incomprehensible. Surely, now that it is the last remaining field, how much more important that it should be preserved than when it was just one among many. Sir, I could go on. Lack of community amenities, not only in this proposed development but also in the now built surround estates, infrastructure overload, drainage problems. But my wife, on proofreading this speech, already thinks that it is too long. This is an important open space and I ask Members to support this request to the Planning Minister to retain it as such. Thank you.

### **Deputy Bailiff:**

Is the proposition seconded?

### **6.3 The Connétable of St. Clement:**

**[Seconded]** Yes, Sir, but I also say that I fully support Deputy Gorst because it gives me the opportunity to highlight the fact that St. Clement is already a Parish with the second highest population density in the Island and, really, we do not want to extend it even further. I think some of the arguments might also be that the field cannot be seen from the main road. That is true. It cannot easily be seen from the main road. But to the north of this field is the new development, Le Benefice, which the Housing Minister very kindly showed some Members around last Thursday. Although there are plenty of spaces in Le Benefice there are not many that are green. This is an opportunity to present Le Benefice with a nice green, open space. I hope that when you are considering voting on this that you will consider that prospect as well. The Minister also said, in his opening statement, that they have reduced the number of houses. They have reduced it from 20 to 12 possibly. That is true. They have reduced the number from 20 to 12 but I point out it was 20 2-bedroom houses and it is now 12 3-bedroom houses, just 4 bedrooms have been reduced on the site. I do not intend to make a long speech because I am sure there is a lot of business to get underway in this session and I think we will be meeting more than one day this week. But I think it is a time to really look at what is happening in St. Clement, to look at the fact that they are continually trying to jam more and more houses into all of the spaces, whether they are green or whether they are large gardens. We are getting it in all the roads. Soon there will be very few open spaces left for the residents to enjoy. I have to ask Members to support this proposition. Thank you, Sir.

### **6.4 Deputy J.J. Huet:**

It is just really an observation more than anything else. I obviously live in the highest population of the Parishes which is St. Helier so we know exactly where the Deputy and the Constable are coming from. We have exactly the same problems. But the point I really wanted to ask and I think this is right but I just really would like somebody that maybe knows a bit more about it than I do to confirm it. This is a field, privately-owned, surrounded by other buildings and it is not right on the main road. If I remember the law correctly, the owner could put up a 6 foot fence all the way around that field and not be breaking any laws. I am not saying the owner would. What I am trying to put it into proportion that the owner could put up a 6 foot fence all the way around. To keep on about that this is an open green space. It is maybe at the moment but there is nothing

legally, as far as I know, that you could continue saying it is an open green space. That is what I am saying. You are arguing about something that is not particularly an open green space. It is open because the owner has not put a 6 foot fence all the way around it. I am putting the argument on its head. That is basically all I have to say, Sir, thank you.

### **6.5 Deputy J.A. Martin:**

I wanted to speak early because I am like the other Deputy who has just spoken. I am not quite sure which way I am going to go. Normally, as I did in the last debate, I said I would not support developments or reducing developments in other areas in town. We have been told by the Deputy of St. Clement that St. Clement is the second-largest parish to be developed. In fact, the figure is 115 in 2005 developments and in St. Helier 574. Well, to say second, there is still over 400 units. I would like him to walk from La Colomberie down Bath Street or anywhere and find me a small green lung in that part of St. Helier. My problem, Sir, with this actual development is I can understand the argument that it is the last open space. It is a green lung. But I, like the Constable of St. Clement, was invited from the Housing Department to visit Le Benefice last Wednesday evening. I have been there on a few other occasions. In about 4 or 5 weeks, minimum, there will be at least 200 children moving on to this site, Le Benefice, 3 and 4-bedroom houses, social rented. They are totally hemmed in on 3 sides. They have only one entrance and exit through Le Marais Estate. If Field 91 is not developed - this is what I am told - this will be the *status quo*. Now talk about creating social problems, children on that estate need to go to Le Rocquier School. The first thing is to jump over the fence at the end and they will do it on the left and they will do it on the right. This is where this green open space is. I have heard no mention, Sir, from the Constable or the Deputy that they intend for this space to be used for the families living in this area. In fact, I perceive it is the objection of the families living in this area, walking through this development if it is developed as 'B Category' housing. As I say, I do understand St. Clement feel that they have had their fair share but, when again I do weigh-up and I have probably weighed since I have even listened to myself speaking and I have convinced myself, the Deputy does make a case. He says it is not NIMBY. He says it is not political, Sir, but then we all look at what happened at the last St. Clement Deputy who did not bring these sorts of propositions to the States. I am not being facetious, Sir. I am just stating plain facts. I understand exactly where the Deputy is coming from politically. I do not really understand the Deputy. If this is not built, there is not a track from the Le Benefice down to the beach; he and his parishioners will have more social problems than they have ever, ever considered. I would ask every Member in this House to take this on board before you feel sorry for the residents and the elderly in Avalon Park. As I say, if this is not approved there will be more problems than if it is approved. Thank you, Sir.

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

There was a former Member of this Assembly who used to commence his speeches by saying that the mover of a proposition was a very good chap and what a good individual States' Member he was. I have to say that I have the greatest of respect individually for Deputy Gorst. He speaks eloquently and he speaks persuasively. He also has an obligation to represent the interests as the other representatives of St. Clement to represent their electors. I understand the strength of feeling of representatives of St. Clement. I understand past, present and future strength of feeling in relation to difficult issues. Deputy Martin is absolutely right to point out the fact that a former Deputy of St. Clement probably did lose his seat from this assembly because of the decisions that he was linked to in respect of planning. Deputy Gorst and I do not think Deputy Baudains, and with respect to the Constable, I do not believe that they have ever sat on a Planning Committee and

that they have understood some of the legal issues and some of the matters that a Planning Panel, a Planning Minister or formal Planning Committee has to have regard to. This Assembly, I have said in a speech last week, will never be a very good Planning Committee or a very good Planning Panel. That is very clear from the emotional debate that always happens and, indeed, the pulling of the heartstrings that Deputy Gorst has almost perhaps successfully led us down to. When we do act as a Planning Committee of a State, when we are forced to do so, we must take decisions on not only individual constituency and electoral issues. We must, if we are doing our job properly, take Island issues and Island allocation issues to the heart of our decision-making. We must also - and here is where I was extremely disappointed in some of the remarks of Deputy Gorst - we must take account of the legal position. Some moment in the next few moments I will be asking the Attorney General to address the Assembly on the issue of precisely the legal issue because Deputy Gorst has said to us that that is not something he thinks we should worry about. Indeed, I do not know which former States' Member that he was speaking about, but he used in evidence apparently some remarks from the *JEP* that a former member thought that it was okay to take a decision of the States and, in fact, it had never been challenged in the Royal Court. I remind the Assembly, with the greatest of respect for Deputy Gorst, he has not served on a Planning Committee. He has not had the benefit of legal advice and proper officer advice, in respect to planning matters. I know that other Members of this Assembly will have done so. It is up to this Assembly to have regard to both of those Island allocation issues when we are acting as a Planning Committee. Of course, we are not really acting as a Planning Committee at all because Deputy Gorst has been quite right to say what is the actual status of this decision today. Some Members will say that this is a debate that should not be happening. The States, I have said, is not a very good Planning Committee. I just want to rehearse with some Members and, perhaps, particularly to Deputy Gorst what the States' role in planning decisions is. This Assembly passes an Island Plan. That is an Island Plan under the new Planning Law that must be stuck to. Indeed, it has been given proper legal recognition. We then - this Assembly - delegate responsibility to an individual now and a Panel to make planning decisions having regard to this Island Plan. If we do not have faith in the individual discharging those responsibilities then we change it when we change that individual. This Assembly has, on many occasions, and indeed I was the recipient of votes of no confidence on various issues on planning matters. But we have a Plan - a Plan that has been approved. I am going to go on to say in a minute, a Plan that was almost re-approved only very recently. Apparently the Prime Minister of the United Kingdom said that he could only go forward and not back. Indeed, from a planning orderly process point of view and from a legal position, that is the case in planning decisions. You can go forward but it is very difficult to go back. I do not know whether or not I would at this stage invite the Attorney General to address the Assembly on the issue of the legal conundrum that has been put before us that the States has approved an Island Plan with this parcel of land as designated as White Zone, therefore, capable of being developed and what the status of an application is in respect of an application which has been clearly going through the process on the basis of a rezoning. Members must be in absolutely no doubt whatsoever of the legal consequences of a decision should, of course, the Minister wish to bring forward a rezoning proposition and, indeed, to address the issue of compensation. I do not know if it is unfair.

### **The Deputy Bailiff:**

I think it might be preferable, Senator, if you continue with your speech and complete your submissions and then, no doubt, the Attorney General intervene at that time.

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



Happy to do so, Sir. I look forward to that. What I want to also tell Members and certainly remind new Members of this Assembly is that there has been, and was indeed, huge criticism of the 2002 Island Plan. One of the concerns of the Island Plan was this whole issue of the re-drawing of the built-up area boundary. In addition, whether or not there should be additional spaces allocated as important open space. My Committee did a review of the lines of the built-up area. My Committee also reviewed, on an Island-wide complete basis, the issue of important open space. Members will be aware that it was formerly the Environment and Public Services Committee but now it is only the Minister that can bring forward a proposal to amend the Island Plan. Effectively, what we did last year was we constructed a process which allowed Members to come forward with amendments to the Island Plan. The previous Assembly was given the opportunity of designating or changing areas that had been formerly designated as something else into important open space. Not only has this Assembly considered the Island Plan in 2002 and obviously this Assembly knows what it is doing because it designated this as White Zone - as built-up area - but then this Assembly reconsidered that matter a number of months ago and had the opportunity of doing so. I will stand corrected by Senator Norman but I believe that the Senator Norman proposition was effectively in that basket of opportunity to change it. For my part, I gave an absolute assurance to the Assembly at the time regarding any amendments to the proposition to re-designate important open space which we came forward with - I think, I cannot remember whether it was 8 or 10 parcels of land - that were worthy of change. But then I would put the proposition as amended to the States. So, I need to take and remind those new Members of the Assembly, and those existing Members that were here, that this Assembly has not once, but twice, considered the issue of field 91. In its last decision it rejected the arguments in favour of designating this as an important open space. I say that in the context with understanding that matters change, and Assemblies change, but decisions of planning have to go forward and it is very difficult for them to go back. But we did have an opportunity of going back and this Assembly upheld the original decision. The Attorney General will say what he will, but certainly, from my experience of planning, I have absolutely no doubt, whatsoever, that in the event of this parcel of land being designated as important open space, irrespective of the arguments, that a compensation claim would be successful, based upon the advice. I have absolutely no doubt at all about that, whatsoever. Members in determining that, in determining how they should vote on that, must be aware of that and no doubt the Attorney General will address us on that issue. In other words, quite apart from the issues of important open space, this Assembly has a responsibility to understand the issues of compensation. They are real reasons to take account in coming forward with a decision, quite apart from the issues of whether or not it should be important open space. Now, has the Deputy made a persuasive case to designate this entire parcel of land as important open space? Has he made a case? Well, I am not sure that any new information on this matter has been given. We have heard issues of density, of the amount of accommodation in St. Clement. We have heard about related developments in the area. But, have we heard a killing argument - an absolutely persuasive argument - to designate the whole of this field as important open space? I do not believe that we have. We delegate responsibility for planning decisions to the Planning Minister and his Panel. It is, of course, up to the Planning Minister how much development he will allow or he may permit on White Zone. I know that he has a view on density in some areas. It could be that in fact he favours, and has indicated in his remarks in his statement that he favours a lower development, a lower density, with in fact open space - perhaps houses around a green or something such as that. So, I think we have delegated responsibility for planning matters to the Planning Minister and his Panel. I personally have faith in them in making a decision, which is right for the context of this area of the Parish. With respect to Deputy Gorst, and to the other representatives of St. Clement, if this Assembly is being a responsible Assembly, if it understands the planning process, if it understands the legal consequences of decisions, we cannot support this proposition today. This Assembly cannot do the job of the Planning Committee. We have in place processes to review the Island Plan. Matters of St. Clement and reallocation of land and resistance against further development will be a matter for future, but decisions have been taken. Decisions with consequences have been taken and this

Assembly cannot support, with great regret, the arguments that have been put forward by Deputy Gorst.

**The Deputy Bailiff:**

Attorney General do you wish to respond to the request made by Senator Ozouf at this stage?

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

I am not entirely sure what question precisely is being put to me, Sir. [Laughter]

**The Deputy Bailiff:**

Would you like to put your question again, Senator?

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

Deputy Gorst indicated that indeed we did not need to worry about the issue of compensation. He seemed to suggest that the Assembly did not need worry at all about the fact that we could re-zone a parcel of land. Here we are talking about re-zoning a parcel of land, or indeed, just requesting the Minister to consider re-zoning a parcel of land from White Zone to important open space. White Zone means you can build on some of it. The question: important open space means that you cannot. An application has been submitted on the basis of White Zone and therefore would the Attorney General comment on the legal implications, and the legal status, of an applicant who has submitted an application on White Zone but then finds that this Assembly, at a later date, has outwith the processing of his application, decided that it should be important open space and no building should be built up on it?

**6.7 H.M. Attorney General:**

I think the question raises really very similar considerations to those I addressed in the Assembly in relation to Goose Green Marsh a couple of weeks ago. An application is pending and the applicant is entitled to have a decision. The decision-taker - I am not sure in this case whether it is the Minister or the Panel - must take that decision against the background of all material planning considerations. If the Minister, or the Panel, refuses the application there is a right of appeal to the Royal Court which will consider the statutory ground of appeal: has the Minister, or the Panel, acted unreasonably, having regard to all the circumstances of the case? All the circumstances of the case in that context, means all material planning considerations in particular. These appeals are heavily fact-based, having regard to the material planning considerations of the site which is under consideration. It is right to say that the views of Members are not material planning considerations. It is right to say that the views of the people who may live nearby are not generally speaking material planning considerations. Of course, in both cases, those views may be based upon facts, which are material planning considerations. So that if, for example, Members were of the view that this ought to be supported because there was no drainage - I am trying to find something which is

not I think in issue - if that were true, that there was no drainage for the site, that would be a material planning consideration and therefore the Court would have regard to that. But the issue is the issue of drainage, not what Members think. Zoning is provided for by Articles 3 and 4 of the Planning and Building (Jersey) Law 2002: the Island Plan is the proposal of the Minister as to the purposes for which he thinks land should be used. The States, by Article 4, are invited to approve those Plans. The result of that is that the zoning contained in the Plan is a material planning consideration, which you would expect the Minister to take into account. If the Minister, or the Panel, has to take a decision at the moment against the current Plan, then the present zoning would be a factor, which would be taken into account. In my view, the Minister and the Panel are not only entitled but required to have regard to that consideration. If the Minister refuses, or the Panel refuses, an application then the applicant has the right to go to the Court and the Court can - if it allows the appeal - make such order as it thinks fit. If the Court agrees that the Minister ought to have given a permission - and the Minister is therefore placed in the position of being directed to give a permission - it remains open to him under the legislation to revoke that permission subsequently. In those circumstances, compensation is payable under the terms of Article 27 of the legislation. That compensation should not include the loss of profit, which the applicant might have made by virtue of the development. But, it is always slightly unclear as to the full effect of that provision because it may depend on whether somebody has paid an enhanced value for the land, on the basis that planning permission would be forthcoming. The long and short of the advice I think which I would want to give to the Assembly this morning is the 2 bullet points: I certainly cannot say that there will inevitably be a compensation payment made if the Assembly were to pass this resolution. There are numbers of reasons for that; they include the reason that - as the proposer has said - the proposition is only that the Minister, I think, considers requesting the Minister to amend the Island Plan. I think in that context, it means bring an amended Island Plan back to the Assembly for consideration. So, it does seem to me that at that level it is unlikely that the passage of this proposition would cause a claim in compensation. However, the second bullet point is that Members should not be under any illusions that development sites of this nature, whether it is or is not a development site, are very valuable; undoubtedly, the lawyers acting for the frustrated applicants - if that is what they become - will be turning over every stone to see what claims can be brought against the Minister. It seems to me to be inevitable that there is fertile ground, if not for building, for a claim against the Minister for compensation. I think I would rather not in this Assembly say that such a claim would be bound to be successful, but I will certainly give Members the warning that legal proceedings would not be hopeless. One can anticipate that legal proceedings might well follow - if not immediately then subsequently - on a refusal by a Minister of an application, given that this application is pending. So, slightly unhelpfully, no direct claim for damages if this proposition is passed. On the other hand, be under no illusions that if the proposition is passed and if it results in the Minister bringing back to the States an amendment to the Plan, and in the interval a consent being refused and then being appealed to the Royal Court, there is a serious risk of not only expenses but compensation.

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

May I just follow up? This may be something that the Attorney General may only wish to answer in camera. But can I just press the Attorney General on the fact that, an indication has been given that 12 units will be acceptable on this parcel of land under the current proposals. I would invite him to comment - and maybe if it can only be done in camera - on this specific issue of an indication, in principle, by the Minister that 12 has been acceptable on a re-zoning proposition?

**Deputy I.J. Gorst:**

Sorry, Sir, could I interrupt as well? I am not aware that an indication that 12 would be acceptable has been given. I am not aware that they have given a number.

### **The Deputy Bailiff:**

Can I suggest you come back on that later, Deputy? Let us assume for the moment that it has been and the Attorney can give his advice. If of course it turns out it has not been then the advice will be different.

### **H.M. Attorney General:**

On the assumption that the applicants have been given an indication that 12 units would be acceptable on the site, it does place the Minister, or the Panel, in an obviously very difficult position justifying to the Royal Court subsequently a refusal because they would be presumably searching round for a justification which would be reasonable and difficult for a Planning Authority, or a Panel, to stand on its head once it said that development of 12 units is in order. That would make it more likely that the Court would find such a decision, i.e. to refuse consent, unreasonable and therefore set it aside.

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

I would have difficulty in supporting Deputy Gorst's proposition here. As far as I am concerned, and many others, when you look at the map which has been going round here, this area is perfect infill, as is described by the Planning Minister's comments. Perhaps I could draw your attention to those comments too in that he says, on page 3, that: "It is privately owned and presently offers no public access. It has no distinguishing tree cover or variation in typography which gives it visual substance or character." The Panel also claims to have addressed such matters as it is over-looking, prejudices traffic and security. I cannot see any reason why this area should not be developed. However, it should also be noted that St. Clement, like it or not, is a conurbation of the urban area of St. Helier. That is a fact. That is often the fact of other towns and other places too. I think it is important that we keep development in those so-called urban areas. Because if we do not rest assured that this development, or others like it, will be coming to a backyard near you soon in other Parishes. That is a fact. We do need housing and it is best if we can keep it in the urban areas. This is infill in a relatively urban area and we should be very, very mindful of that and keep such developments in such areas so that we do not develop other parcels of land in the countryside. If we do decide to re-zone this land, rest assured a similar development will be in your backyard soon. Thank you, Sir.

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

For his own safety I think it would be wise if the Deputy of St. John did not enter the boundaries of St. Clement in the near future following those comments. **[Laughter]** Sir, the only part of Deputy Gorst's speech I did not agree with was when he said he was not being political. Sir, he is being political and he is right to be political. He is being political because the residents of St. Clement are upset, distressed and becoming very, very angry. The sort of comments we heard from the Deputy of St. John just now will make them angrier still. They are angry not simply at the amount of

development that is taking place in this Parish, but because of the amount of totally inappropriate development, which is being allowed in what remains despite the views of the Deputy of St. John, a Parish which is culturally - and for the most part physically - still a rural community. Sir, I remind the Deputy of St. John, and others, that St. Clement is by far the smallest Parish in Jersey. Even St. Mary, which some consider to be the smallest, has a 50 per cent larger land area than St. Clement. But, on the other hand - and excepting St. Helier - the Island's smallest Parish, St. Clement, has got the densest population. Just look at the table on page 3 of Deputy Gorst's report and proposition. No other Parish has come anywhere close to providing homes for the people of Jersey than St. Clement. It may be the third time, and may be the third time we will get it right, the time has come to listen to the people who live there and to resist anymore significant development and, in particular, anymore inappropriate development. That is why, in this context, field 91 is extremely important and extremely significant. In its own right it is important. As Deputy Gorst reminded us, it is the only remaining field on the Coast Road from Greve d'Azette to Green Island and, even more importantly, is the only open space that exists from the boundary with St. Saviour at the Dicq to the southern junction with Rue de Samares. Senator Ozouf criticised Deputy Gorst's comments that he had made no overwhelming case why this field should not be developed. Why should he? Surely the boot is on the other foot and it should be up to the planning authorities to give overwhelming reasons why a field like this should be developed. We hear it is infill. Why is it infill? Just look at the map that was on our desks this morning. A few months ago it was not infill. It is the old devious process of developing one field after another until there is absolutely nothing left. If this field is developed Samares will have nothing left. As Deputy Gorst said, the back garden will be filled. The point really is there is no need to develop this field. There has been no overwhelming case, made by Planning, to develop this field. It is not zoned for 'Category A' housing and therefore will not directly benefit first-time buyers, or those in need of social accommodation. If the development did go ahead it would be a windfall development for planning and not one that was expected, anticipated, or planned for. This is unquestionably a green lung, an oasis in the middle of another over-developed part of Jersey's smallest Parish. We have heard, and we always get this scare-mongering tactic, do we not, when we have development debates: there might be compensation to be paid. I was pleased the Attorney General made it absolutely clear there is no compensation for loss of profits. Quite rightly, there should be compensation for costs incurred so far if a developer has been led down a particular route, although there are 2 things to say. As far as I am aware, no indication has been given that ....**[Interruption]**... We have heard that there has been application for 20 which was rejected; there has been application for 18 which has been rejected; application for 15 which has been rejected. In fact, the potential developer does not even own the land yet and he will not buy it until permission is given. So, what is going to happen to the land if this amendment is successful and the Planning Minister goes along with it? Well, most important, the field will not be developed and the steamroller of urbanisation of this rural Parish will at least be stalled. As I said in the debate last year, what I would like to see happen is the field acquired by the Parish for parishioners to enjoy as an informal park land, not dissimilar to that created in St. Saviour near the Parish Hall in Patier Lane. That way everyone can benefit because the pedestrian link from the coast roads for the residents of Le Marais, Clos de l'Abri and the new developments could be created without cramming in another estate. The residents of this part of Samares and, indeed, the whole of St. Clement, would have the comfort of knowing that the States are listening and do care, at least a little, about their quality of life.

**Senator S. Syvret:**

I propose the adjournment, Sir.

**The Deputy Bailiff:**

The adjournment is proposed and therefore we will reconvene at 2.15 p.m.

**LUNCHTIME ADJOURNMENT**

**The Deputy Bailiff:**

Does any other Member wish to speak?

**6.10 Senator J.L. Perchard:**

Could I ask for clarification from the Attorney General? I evidently misunderstood something he said and Senator Norman picked up on it. It was about the possibility of compensation for a developer and the opportunity to claim a loss of profits. Senator Norman claimed that the developer would not have an opportunity to claim loss of profits. I thought I understood something differently.

**H.M. Attorney General:**

What I think I said to the Assembly was that there would be circumstances where I think a developer could have a claim for loss of profits. The provision in Article 27(6)(a) of Planning and Building Ordinance, this was an amendment passed by the States last year: "The loss or damage mentioned in paragraph (6)(a) does not include the loss of any profit a person might have made by virtue of the planning permission had it been revoked or modified." What that means, to my mind, is that one has to show that the loss of profit flowed from the planning permission having been revoked or modified. But, one can contemplate that there might be circumstances where it would be said that the loss of profit came from a different circumstance, namely, that perhaps you had bought the field on one basis and it turned out that that basis was changed, or you had bought the shares in a company. There are arguments one can see around that provision. But that is not to say necessarily that I would say they were good arguments. Certainly, if I am representing the States or the Minister on a challenge in the Court one could expect that I will run all the arguments the other way that ought to be run. The summary of the advice is that: whereas the rule passed by the States may be applied in many cases, I cannot say that it would always apply. So, there are circumstances in which a loss of profit might be claimed.

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

I fully understand the reasons, I should say from the start, why someone would want to keep - and especially people that live in and around this particular field - why they would want to keep a green space, having visited the new adjoining state of social rented housing next door and witnessed the developments at Les Marais and the nearby Le Squez. But, on the other hand, having been on the Planning Environment Committee and the Sub-Committee at the time of the Island Plan, this area is a built-up area and was part of full discussions in relation at that time to: "Does everything have to be built on in a built-up area?" Of course Town Mills was an example - along with other examples - where it does not. The problem that we have at the moment is that I do not perceive this particular field to be an important open space, or a green lung for that matter, because it is surrounded by

dwelling already; it is not as though you can drive past along the coast road, or any other road for that matter, and it gives you the impression - which is what an important open space or a green lung does - you are still in the countryside even if there is quite a bit of built-up dwelling in the neighbourhood. So, from that point of view and by reading the proposition, I do not think I can support it *per se*. However, having looked at the area and the surrounding area, the field does provide a very important open space inasmuch as that there is an urgent need for an access footpath to the shops, and other amenities, for the other developments that have surrounded this particular field. I think that if I were still on the Planning Committee - and I recognise that I am not and the world has moved on since then - and also going back to my previous life of designing-out crime and improving the quality of life for the residents in and around this particular field, I would have loved to have seen it as a little kick-around grass area for balls for youngsters and teenagers especially, with the amount of building that has been going on. The problem at the present time for that scenario is that it is already subject to planning application, which is live and therefore has to be processed. Therefore, it is very unlikely that it is likely to happen. On the other hand we are told that the officers - at least I do not know if the Sub-Committee has been involved - that there is an in-principle suggestion that 12 'Category B' houses could be acceptable on this site. I would imagine if it was like the time when I was on Planning that it probably would have the officers' word "without prejudice" included in any such statement. But, as we are not on the Committee we do not know the exact circumstances. I would, however, suggest that it is open to the Minister and, indeed, the Sub-Committee for seeking a planning gain. The planning gain would be that it must include a proper footpath to an appropriate standard that provides crime prevention through environmental design. In other words that it is safe; so that young people or old people, or anyone else for that matter, can use it; that it will not become a rat-run for any miscreants, or whatever; that it is designed properly. But, it sounds as though that field is big enough to be able to take such a facility. It is a pity that I have not heard of any such proposal when I believe that that will be - if it already has not been - requested by the Minister of Housing in light of the recent developments, which I say, have been going on since the 2002/2003 period. So, I think that would be useful. It is a place of safety. You do not have to travel along a busy road. You do not have to get your car out. You can get to amenities and more to the point is it is not just from the estates that are controlled by Housing, there are also the other residents of the area - the private residents - that also could use the footpath for obtaining access to amenities. The problem, like all applications such as this, is that inevitably a developer will be looking to maximise the amount of return that they can get on their investment, and you cannot blame them for that. I think that a States such as this has a wider responsibility and certainly the Deputies and the Senators of the area, i.e. in this case St. Clement, also have a responsibility. I do not think that this particular proposition is going to get through. But I think that the proposition itself is worthy of being brought forward. Because it will open up a debate that it is not just houses that we are looking for in this island, whether it be 12 'Category B' houses or first-time buyer houses or social rental, it is the fact that a house is a home and a home has people that live in them; that has a quality of life. You often start off with a housing estate that has small children. Within about 10 years those children become teenagers. Teenagers need amenities and facilities. The trouble is that we forget to put those in at the beginning of a housing development and often we see: "Oh, we could fit another couple of units in there." There goes the kiddies' playing field. We have had experience of this in other housing estates and it might very well be - and I am not suggesting that it is in this particular case - that there might be a need for consideration of further amenity space elsewhere in the immediate area. But, what I would suggest to you - the Deputies, the Senators or anybody else - you should be looking at that now before it becomes a planning application. I forgot the Constables. I apologise Constables. It is especially you, being the fathers of your Parish to bring these things forward for the attention of the States. Yes, Senator Ozouf referred to the re-zoning of land as a result of a previous States debate on a certain amount - I think it was 8 or 10 pieces of land that had been brought forward. But if it is being suggested that there are other pieces of land that should fall into this category, then I would suggest that these should be thought about now and fully discussed. Certainly, where we are

expecting the increase in density of an area to continue to increase, then I think that both the planning authorities and the housing authorities need to get together - more so than they are at the moment, although I am fully aware that they are working very well together - to ensure that proper amenity space, both for the residents and for the local neighbourhood or indeed the Parish neighbourhood, should be one of the top priorities; not just the building of the home; not just the size of the rooms or garage, or whatever. They are an integral part but they are not the only part. So, excepting that this is live and subject to a current Plan that has gone a considerable way down the road, because the particular field 91 is surrounded as a built-up area, I do not think that this will go through. What I will say - and again from previous experience - is bearing in mind that if you put ordinary residential houses in this domain inevitably the occupants will have children. The children will become teenagers. They will have motorcycles, they will have cars, they will have boats and all sorts of other things and, as it is in close proximity to Avalon, next door, I would suggest to you that it probably would have been better if the current owners of the land had taken the advice or the request of the Parish Constable, at the time, who suggested that it would be more suitable for sheltered housing or for the over-50s, and we could still have a safe footpath running down the side. It lends itself very well for this. I am not going to repeat what everybody else has said but I **[Interruption]**..There is not much left? Oh, believe you me there is **[Laughter]** but we will leave it for another occasion, I am quite sure, when you need a reminder Constable. Thank you, Sir.

#### **6.12 Deputy C.J. Scott-Warren:**

Well, this debate has taken place before. It is in fact, effectively, a re-run. The previous debate, in my opinion, gave the then Planning Committee the go-ahead from the then States Members to consider applications for a reasonable number of houses on field 91. I therefore believe that the Minister, and the Planning Applications Panel, would need a strong reason - such as previously disregarded important considerations - in order to feel sufficiently confident to refuse planning consent for this application. For that reason, I do not feel able to support this proposition. Having said that, this is an unsatisfactory process we are in today with a re-run of a previous debate and I do feel that if the third party right of appeal was up and running now it would be a generally much better process. Thank you.

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

I said that I was not going to speak but I do feel I have to clarify the position, in terms of what the Panel have or have not said. The Panel have not, to date, given an actual commitment in relation to the specific number of units that they would accept on the site. The latest drawings received at the Planning Department suggest a scheme of 12 units, but the Panel have not considered these drawings. However, it is fair to say that taking into account all the criteria set out within the Island Plan, relating to the issues the department will take into account within Policy H8 - Housing Development Within the Built-up Area - and the normal residential standards set out by the department within their Planning Policy Note 5 - Residential Density Standards - the developer may have a reasonable expectation that the site would produce 10 to 12 units. The developer has addressed the issues of garaging provision required by the Planning Applications Panel and the space about issues also raised by the panel. Bearing in mind the previous deliberations of the Panel, and the subsequent feedback to the applicant and the fact that I understand that the current drawings have largely addressed the Panel's previous concern that the applicant may have a reasonable expectation of gaining consent for at least 10 units. The officers are also of the opinion that a development of 10 to 12 units could be regarded as a relatively low-density development,



given the context of the site when considered under the present zoning. I felt that I had a duty to explain the position to the House. Thank you.

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

I do not believe, Deputy Gorst or his parishioners are NIMBYs, Sir; nor are they bananas - Build Absolutely Nothing Near Anyone. I think it is quite reasonable of the Deputy to have concerns about the development in the Parish which he represents. I think the Deputy is a PATIP -Please Amend The Island Plan. There are many PATIPs in this House. Come to think of it, I am probably a bit of a PATIP. I do believe it is time to re-visit the Island Plan. However, we are bound by the existing document: we must recognise the integrity of the existing Island Plan and work within the terms of conditions of it. It would clearly be irresponsible - especially given the views we have heard from the Attorney General and the very valid points made by Deputy Scott-Warren - it would be irresponsible of this House to do anything else. Sir, finally, I think it would be terribly unfair of this House to support the Deputy's amendment; unfair on the Planning Sub-Panel. It would put them in a terribly difficult position because they are bound to act within the terms of the Island Plan and they will have had a piecemeal directive from this House and I think that is unfair and we should reject the proposition.

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

Just 2 points: my memory could well be going **[Laughter]** but I thought when Deputy Fox **[Interruption]**...-- Not at all. I thought when Deputy Fox was on the Planning Committee they rejected a proposal put forward by Housing to run a path through that particular field. I do not know if that was an issue. Certainly the issue...

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

Point of order: on phase one. It was our greatest mistake ever made.

#### **Deputy R.G. Le Hérisier:**

Okay. Thank you for that. The second point I would like to make, Sir... which I again have struggled with these but I am finding it very hard to uphold, partly because even though it might be difficult for some of us to encompass, I think developers do have rights. If somebody is, under the law of the land, encouraged to proceed along a certain path and then we, so to speak, pull the rug from under them, I think we have to really question the whole notion of the rule of law and the legality of what we are doing. That really worries me. The other thing, though, Sir, I think that comes out of it - and I can see why the good people of St. Clement are losing their hair at a rapid rate - is the absence of an Area Plan. In other words, we do not look at the whole area that surrounds it. Little fields get gobbled up. Infilling of gardens goes on which, as we know, is the current mode of operation. All these things go on, Sir, and before you know it an almost unforgivable case has been put forward for developing the last field. In a sense that is what has happened in this situation. But if there were an Area Plan, Sir, where there was proper credence given to leisure facilities, to the role of the schools in that community, and so forth, then all the

kind of things that the Deputy is desperately trying to shoehorn in, and I think at this very late stage and probably legally impossible stage of the process, could have been dealt with. It is this creepage, Sir, that we see all the time, where little bits and pieces get built. All of a sudden we say: "Eureka, you know the whole thing is virtually built over so let us give the last shove to the process" so to speak. I can see why people feel so frustrated. Had there been a proper designation of leisure, open space, transport facilities, schools, we would have had a much more coherent place for a much more bigger area to deal with. Thank you, Sir.

#### **6.16 Connétable M.J. Jackson of St. Brelade:**

It is quite clear that that area of St. Clement has changed enormously in the past few months. We have the creation of Le Benefice development down there. Those who were privileged to visit it the other day with the Housing Minister will be well aware of the size of it. Now, I think this on its own has created a changed zone. I would like to think that the Planning Minister - or the Sub-Panel - will take account of this. I think this lends credence to the proposition of Deputy Gorst in that this area should be kept as an open space for usage, or as an amenity value for those people living in the area. I have to object, Sir, to having had a pistol held to my head. This is not the first time this has happened in this House: we had it with the Sexual Offences Law. I think the method with which this is done; the Council of Ministers says: "Oh, you must vote for it because otherwise there will be legal implications", does not do the House any favours and I think the whole process of the way this is arranged should perhaps be reconsidered. I stood on an election platform on the basis of not building on green fields, principally because I feel that with the state of agriculture in the Island at present fields need protection more than ever before. They are at their lowest value from an agricultural point of view but of course at their highest value from the point of view of development. So, this leaves me to feel, Sir, that I have no doubt in my mind that I shall be supporting the Deputy's proposition. Thank you, Sir.

#### **6.17 Deputy S. Power:**

I think those Members of this Assembly that have brought private propositions to the States... last week we heard the Constable of St. Lawrence, ably assisted by the 2 Deputies of St. Lawrence. Today we are listening to Deputy Gorst and I have my own proposition coming up in September. It is not as if we want to do this; it is not as if we want to interfere with the Minister for Planning or try and cause complications at South Hill. It is because we have a responsibility. I have a responsibility in St. Brelade; the Constable of St. Lawrence has a responsibility in St. Lawrence as have the Deputies, ably demonstrated recently. It is our political responsibility, as much as our almost ethical responsibility - moral responsibility - to represent these parishioners. It is not a case of NIMBYism. Deputy de Faye referred to the fact that: "We do not want it in our backyard" in his remarks 2 weeks ago. It is not a case of that, at all. All of us are, specifically in St. Brelade... and in St. Brelade we are opposing what we regard as inappropriate development on these fields. If I have learnt anything in the last 5/6 months in this Assembly, it is that the 2002 Island Plan - which, as Senator Ozouf correctly stated was re-visited last year - needs to be looked at again. It is causing in some areas enormous profits in the construction industry and in the people who sell these fields, but in other areas it is causing absolute misery for people who are looking at these developments, proposed and otherwise, in fields that are regarded as inappropriate. Sitting patiently up in the gallery this morning were residents of St. Brelade, together with residents of St. Clement, who have concerns about these developments. I will be supporting Deputy Gorst because I feel he has a legitimate right to represent the parishioners of St. Clement. I do not think his motives can be questioned. If there is anything on this Island that links the emotions of residents in St. Clement,

St. Lawrence, St. Brelade, St. Peter, it is these issues of inappropriate development. The Planning Minister himself has said that we must raise the level of design on the Island; we must improve the way we design homes for Jersey residents and for Islanders; we must improve the external appearance; we must improve the internal appearance and we must improve the context into which these houses are put. That is the job of work that the Planning Minister will undertake and I have absolute 100 per cent confidence in that Planning Minister. But we have a problem out there and the problem is that precedents have been set which the Planning Minister has to deal with. Some of the design briefs that have been published in the last 2 years and some of the indications that have been given to developers in the last 2 years, in my personal opinion, are appalling. What the Minister has to do is deal with the fallout on this. So, he has my support because we have to raise the level and quality of design on the Island for units of accommodation. I am talking about family homes with gardens. I am talking about social rented housing and I am talking about high-density development of flats and otherwise within the St. Helier area. We have got to raise the benchmark. Yesterday I sat in the public hearing to do with the Goose Green Marsh development. I listened to Deputy Mezbourian, and Deputy Le Fondré and the Constable of St. Lawrence, argue and try and take apart some of the major issues that were to do with that site and at one stage there was a suggestion from the developer that roller doors would be put on the Jersey Steel Company building - who have been there 50 years and have another 60 years to run on their lease - to quieten the noise. Now, what is the link between this and St. Clement or St. Brelade? Well, the link is that it is fine to silence what is going on in the building. How do you silence what is going on in the yard where a forklift truck is unloading flat bed trucks full of steel and then you have a developer suggesting that he would build an acoustic wall, or do some other thing, to try and silence a company that has been there 50 years and then this company has the risk of residents complaining about a forklift truck...

**The Deputy Bailiff:**

Deputy, we are dealing with St. Clement.

**Deputy S. Power:**

I am coming back to St. Clement, Sir, because I believe that St. Lawrence... **[Interruption]** I am trying to show that what has been proposed on some or all of St. Lawrence is inappropriate. I am suggesting that the linkage between St. Clement and St. Lawrence is that I think the infill on this site is inappropriate and it should be kept, as Deputy Gorst is suggesting. Finally, Sir, I am in this Assembly in common with other Members of this Assembly who have opposed developments. I have mentioned the 3 Parishes. Also Deputy Egré has made his feelings clear on some of the developments at St. Peter and Deputy Ferguson has been associated with some other developments at St. Brelade and even Deputy Hilton, to my left, has been involved in a very spirited debate last year on what she regarded as inappropriate development. It is not directly comparable to St. Clement, but it is an issue where States Members have stood up and argued a case for and on behalf of a Parish, or otherwise. Finally, Sir, I would ask Members in the summer recess to drive out to La Route Orange and turn right at La Moye Garage. **[Interruption]** I know that. **[Laughter]** Look at what is going on, on the Leonard's garage site, Sir, which is inappropriate. I ask Members to do that for me. Sir, I will be supporting Deputy Gorst because I think it is inappropriate to have a development on this little piece of green lung in St. Clement. Thank you, Sir.

## **6.18 The Deputy of St. Peter:**

May I first apologise for my late return to the Chamber but I was attending a funeral along with a Constable. I am sure he will be returning shortly. I promise not to venture into either St. Brelade, St. Peter or St. Lawrence. The point I would wish to make is a strategic point. I feel, as I mentioned in the debate in the last session, that we have lost control of the planning principles. I know the Attorney General scolded me, just a little, in his comments, saying that perhaps I should not have said that. But I think the speech made by Senator Ozouf emphasised that point. Because the question I ask is: at what point is a development determined? Because it is my understanding of the fact, as Senator Ozouf says, that there are white bits painted in the Island Plan, that that is not a presumption of that particular point that development can take place on that site. It is a fact that someone can apply to develop on that site. My concern is that at officer level - outside of Members of the States and Members of the Planning Sub-Committee - can make a view to a developer, give a presumption that certain actions can be taken on that site. It would appear from the advice that we have been given - on several occasions over several sites - it is at that particular point that that development is almost determined. Because it would appear that pressure is then put on the Minister - and the former President of the Committee in the old system - to progress that development according to that original presumption before public consultation and before the actual determination of that plan in front of the Planning Sub-Committee or the Minister. I think that is fundamentally wrong. I would ask the Ministerial system - through the Chief Minister and the Minister of Environment and Development - to look at that very, very carefully, so we avoid these debates. I absolutely agree with Senator Ozouf: this is not the place to determine planning. It just is not. We are 53 Members with 53 different views. What I see happening over this last 2 years as the main strategic fundamental problem, is the one I have just outlined and that is the one that I want addressed. Thank you, Sir.

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

I too live in St. Brelade but I will talk about St. Clement. I sincerely would like to - as other speakers have done - congratulate Deputy Gorst. I think he is doing a very good job on behalf of his parishioners. I was impressed with his speech. He did say in his speech, however, that he was disappointed at the comments of the Council of Ministers. Well, I can understand him being disappointed because the comments recommended that the proposition be rejected. So, I did not expect to see him jumping for joy about that. But he went on to say he was disappointed for a number of reasons. The fact is the Council of Ministers has to comment along the lines of what it considers to be in the best interests of the community as a whole. I think the points made by the Attorney General show, clearly, that the Council of Ministers' comment is correct: that should this House support the proposition and then should on the back of that the Planning Minister say: "Well, the House has taken a decision. I will not allow any development on this site, at all" because that is what we are talking about here, then the possibility of a legal claim, for a loss of profits, is very strong. I think what I would like to do here - and I do not think this has come into the debate although I have not been here for all of it - is just show how different this is to the debate we had recently on Goose Green Marsh. The debate we had on Goose Green was not about saying: "Goose Green should not be developed." It was effectively saying: "So far as Goose Green is concerned, we should go back to the original numbers in the Island Plan and not increase those numbers." So, nobody was suggesting we were going to breach the Island Plan decision, as such. This proposition goes a lot further. Although we are talking about a much smaller number of units, this proposition says: "Despite the fact that this plot was zoned for development and approved by the States as such in the Island Plan, despite the fact that the States rejected Senator Norman's previous proposition along the same lines, or similar lines to Deputy Gorst, and therefore re-

signified its view that this plot should be developed, despite all of that this plot should not be developed, at all.” Now, there is a fundamental difference, therefore, between the 2 propositions. What this proposition asks the States to do is to request the Planning Minister to ignore the decisions, the previous 2 decisions now, of the States and say: “Right, no development.” That, as I say, is a fundamental difference to the debate we had on Goose Green where the Planning Minister was, in effect, being asked to go back to where the Island Plan started and not allow additional units. So, Sir, I think it is very, very different indeed. The Constable of St. Brelade said he did not like having a pistol held to his head. Well nor I think does anyone in this House. But the fact is - and we cannot escape it whether we now like it or like it not - this site has been zoned for development. The States then reaffirmed that point in the debate on Senator Norman’s proposition. So, it is not a question of holding a pistol, Connétable, to anyone’s head, it is a question of referring back to 2 previous States’ decisions which, of course, have been conveyed to the developer who has come forward with plans in good faith and those plans are now going - assuming things proceed in the normal planning process way - to be considered by the Planning Applications Panel. Now, no wonder in the circumstance, if this proposition was successful and the Planning Minister agreed to abide by the decision - which he, as we all know, does not have to do - we are told that there could be a claim for compensation in the Royal Court. It is a very, very difficult position to put the Planning Minister in. I do not think we should put him in that position. With all the goodwill in the world, I do not think we should be re-debating this particular site at all and, Sir, it is with great regret - because I have a huge respect for Deputy Gorst - that I urge the House not to support this proposition and to allow the Planning Minister to do the job that he is charged legally to do and to do that job giving us an assurance, which he has, that all factors will be taken into consideration including, of course, the 2 States decisions which have led us to this position in the first place. I do - with some regret, but nevertheless I do - urge the House to reject this proposition.

**The Deputy of St. Peter:**

Can I ask for a point of clarification, if I may? It may be through the Attorney General. Because an area has been designated as part of the built-up area (in other words it is coloured white on the Island plan), is there a presumption for development on that site or is it just the built-up area, unlike something that has been rezoned? If something has been rezoned for development and a stipulation is to be put on that housing can go on it, is the assumption that because it is white that buildings can go on?

**The Attorney General:**

I had rather hoped the Planning Minister would know the Island Plan better than I do. My recollection is that there is a formal planning policy in the Island Plan which adds a presumption that this land is fit for building on. Zoning under the Island Plan is a material planning consideration which the Minister or the planner takes into account. I am sorry that without having the Plan in front of me I will not be categorical about it, but I am reasonably sure that it is a presumption in favour of development.

**6.20 Senator B.E. Shenton:**

Like a number of other Members I went down to the new housing estate and it was almost Disneyesque, especially with the Housing Minister leading the parade as we had a look at the

development. I must admit I was very impressed and I was certainly much more impressed with that development than I was with one near Beaumont. I am against the over-development of St. Clement and I was in 2 minds on this debate. I lived in Samares Lane until about 5 years ago and we left the Parish because of the over-development of the Parish. It seems to me that whilst St. Helier was signing twinning agreements with various French towns, St. Clement was signing suicide pacts. I was so undecided that I went back down on Sunday and I took my wife down with me just to get a different view, because we always have a different view. **[Laughter]** When we got down there the security was there because unfortunately a number of windows had been smashed on the new development, which is a rather sad reflection of this day and age. It struck me that where the development is and where the field is, it is imperative that there is access to the main road from the new estate. I think unfortunately it is a bit like a shotgun to the head: you build the estate and then you are forced to give the access; but if you do not give the access the kids will be racing through the fences, climbing over the walls at Avalon and getting to the buses and the shops and the beach in other ways. Otherwise they have got to walk all the way through Les Marais and all the way around. The problem I think we have here today is that the field is owned by a private developer. The private developer could quite likely just put fences up and say: "Well, stuff you. I am just going to block this field off. You are not going to have access. Everyone has got to walk around." Then we are creating a lot of trouble for ourselves in the future; a lot of social troubles. So, although I think St. Clement has had too much over-development, I am going to put my faith in the Planning Minister in this issue and I think it will be a reflection of his success if we have no more planning issues brought to the States over the next 5 years. I will vote against the proposition and go with the Planning Minister.

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

Rather than being NIMBYous as it was suggested by one or 2 speakers this morning, I believe St. Clement is a victim of "NIMBYism". Like Senator Norman, I too was unimpressed, Sir, by the remarks made by the Deputy of St. John this morning. It is, however, Senator Ozouf's speech that I would like to comment on. He will no doubt be amazed to learn that I thought it was a very good speech. He is perfectly correct to warn us that compensation could be an issue at this late stage. He also implied that the time to make changes was in 2002. Again, Sir, I agree. I cannot remember if he was a Member of the House at the time. I suspect he was and, if so, he will recall St. Clement representatives at the time went to some length to warn of the consequences of redrawing boundaries in the Island Plan between the Green Zone and the Built-up Zone. Unfortunately, assurances that we were given at that time, as we all now know, that allowed the debate to proceed to a vote count for very little if not nothing. It is a piece my fellow Deputy left out of his history lesson this morning but I believe it is a very important one. I spoke of a "NIMBYism" and I am not sure whether it was a collective failure during the debate on the 2002 Island Plan by States Members to study the document or whether it was that they did understand it and voted in favour of more new development in St. Clement than another Parish in order to protect their own. What Members did not grasp, Sir, and I am not sure they do now, is the reason parishioners of St. Clement do in fact complain. We are not unreasonable people and I am sure most parishioners would not mind appropriate development of field 91, but when it comes on the back of the estate at Jambart, field 40, Hodge(?) 2, the Les Marais density increase, the Seapoint development at La Mare, not to mention Millennium Court and the other developments that have taken place previously, then collectively it is just too much. It is the cumulative effect that is the real issue. Sir, the St. Clement parishioners were ignored when they opposed all the rezoning during the consultation period on the Island Plan of the sites. We were, I believe, ignored when I sought assurances - from the Housing President, if I remember correctly, at the time - that Hodge 2 would not become wall-to-wall housing. I wanted to see a lot of amenity space; in fact, more than the site

required in order to make up for the lack of amenity space on surrounding estates. But it appears, pleasant as the Hodge 2 site in itself is, that did not happen. If this proposition that my fellow Deputy is bringing today is, in fact, too late it is not our fault but of those who would not listen to us in the past. Sir, neither am I fooled by some of the compensatory assurances we were given this morning that the development has been substantially reduced. The application has not. As another speaker said this morning it has been reduced from 20 x 2-bed houses to 12 x 3-bed houses. Well, that is no great shakes, Sir. In fact, it probably increases the developer's margin. Of course, as others have said, it would be unfair on the owner to deny him now that he has put in an application. I am also aware that there is an agenda lurking behind some of the opposition but that does not mean that once again St. Clement has to be the fall guy for this. We have heard over sites such as field 126 and other long-running sagas in St. Clement that permission could not be refused at the time because it would cost "millions". Well, Sir, my reading of the Solicitor General's advice on that particular site led me to a completely different conclusion. So what I am really asking for is I would appreciate if the Attorney General could quantify our possible financial exposure (and I realise this would probably need to be held in camera) so that we have as accurate as possible an identification of the ramifications of our decision because I do not think the rather vague assumption that we could be exposed to some form of compensation really assists us in making a correct determination. Obviously I shall be supporting my fellow Deputy but it would help us all, I believe, if we could have a more accurate estimation by the Attorney General.

**The Deputy Bailiff:**

Deputy, are you in fact moving that we move into camera or were you just making the comment?

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

Yes, Sir, because I really would like to have that information and I do not believe it would be helpful for it to be in the public domain.

**The Deputy Bailiff:**

Is that proposition seconded?

**Senator M.E. Vibert:**

Sir, could we discover before we take the proposition whether the Attorney General feels he can answer the question?

**The Deputy Bailiff:**

Well, I was going to ask whether it was seconded first and then debate out. Is it seconded?

### **The Attorney General:**

I was going to say, Sir, I really do not think I can add much to what I have said to the Assembly already. In order to come up with any reliable estimate of what claims might or might not be made, I would have to have a file with all the figures; I would have to have the planning file and look through it, and I simply do not have that information available to me. So, I am sorry but I cannot assist Members at the moment.

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

I might just follow up that point swiftly by saying whether it is £5 or £5,000 or £5 million I do not really believe the question of compensation is one that Members should be considering. It is a question of principle and that is what Deputy Gorst has put before us. The question is, is this an important open space, and not how much does it cost. Just to digress briefly, I look forward very much to the day when Privileges and Procedures bring before this House an amendment to Standing Orders that says apart from the Island Plan, States will not consider planning applications and planning projects. It would save us an awful lot of time and worry and wasted debate because over the last hours I just feel that I have heard it all before and it is all coming around again, so why not add my own 3 pennyworth to the washing machine. I do not feel well. I think I am suffering from green lung and green lung is very contagious. I have seen green lung popping up in small streets in St. Helier; vital green lung in places that appear to be covered in tarmac, benches and planters, but nevertheless, a case of green lung. Green lung pops up all over the Island and here is another case of green lung. Well, it is not a green lung; it is a field. But is it an important open space? I have to say that I do not believe Deputy Gorst has come anywhere near making the case to say that this is an important open space. Yes, it might be the last undeveloped field between Samares and Havre des Pas. That is possible but just because it is the last does not make it important. I have heard nothing to indicate that here is a beautiful little meadow full of Bo-Peep types and gambolling lambs and sheep. I have not heard anything to suggest that raggedy little country boys clutching rosy apples with straw hanging from their teeth just having fun, fun, fun in this field. I have heard nothing to suggest what is unique about this field. Does it have the last Green Island Admiral butterfly lurking in its midst? No, nothing at all to suggest that there is anything whatsoever that is important about this field other than its the last one, once you get to Samares. No serious case, I believe, has been made to suggest that this is in any way an important open space. In fact, it is a pretty enclosed space. It is enclosed all around by other houses. Is this a case of "NIMBYism"? You are jolly right it is. I am very sorry to hear that these parishioners in St. Clement are stressed, and angry in some cases, but it is pretty rich, is it not? It is deeply ironic that the people who are looking out on this green field from their kitchen windows as they do the washing up and just would rather it stayed as a field do not want any more people living around here, that the house they are in was probably built on a field. Now, I am not as old as many Members but even I can remember when St. Clement did not have an old people's home at Avalon; did not have Les Marais flats. Yes, it was fair fields but I am afraid times have moved on. To be fair to Deputy Gorst, who does his best at making a speech, **[Laughter]** he tugs at our heartstrings with the story of the 9-year old boy and that was quite an emotional moment for us all. But what is he going to say to that 9-year old boy in 15 years' time? How long does that 9-year old boy want to carry on living with mum and dad? Is it not, in fact, the case that that 9-year boy would want to go into an apartment or live in 'Category A' housing? Or might that 9-year old boy perhaps one day want to have a privately developed home, one of the nicer ones in St. Clements, one of the ones where there was only 10 or 12 constructed on the field? I think when that 9-year old boy is 24, I know what choice he would like to make. That is why we have to support the Planning Minister and that is why we have to, with great regret, tell Deputy Gorst and his parishioners in St.



Clements: "Sorry, this is not an important open space." It is a field that frankly does not really have much use any more as a field. There is not going to be a row of farmers clamouring to get their hands on this one because it is top quality. No, it has barely got useful access and are children really allowed to play on it at the moment? Is the owner of that happy about trespass? I wonder. No, I am sorry, Deputy Gorst, nice try but this is not an important open space and we should not be doing these sorts of debates and we really should reject it.

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

I think the debate partly stems on what value do we put on a States decision or, in this case, 2 States decisions. In 2002, States Members designated this area as part of the Built-up Zone and then just last year in a specific debate on this field, it rejected re-zoning it into an important open space and we are now facing another call to do so. What has changed? Has a case been made that such a change to the Island Plan should go ahead, that the States should overturn 2 previous decisions? It is primarily for me not a question of possible compensation because we would be going back on our word that we have given twice, but a question also of being fair and demonstrating that we as a States can be trusted: that we will keep to the decisions we make; that we will not change decisions that we have made because some people do not like it. We need to have an overwhelming reason, I believe, to go back and to change decisions that we have democratically made to the detriment of a number of people who will have put trust in those decisions. Do we want the States to be trusted? Do we want the States to be regarded as an Assembly that will change its mind whichever way the wind is blowing? It would be wrong. We would be irresponsible unless we believe an overwhelming case has been made to change this decision. I am sorry, Deputy Gorst, I do not believe you have made an overwhelming case. I was in this Assembly when we debated the Island Plan. The emphasis then, which has only come out slightly today, was on the need for housing to house our people. One of those areas that was designated by this was this field in St. Clement. Housing is required. This field was designated for housing. Unless this States believe there is an overwhelming case to change that designation we should stick to our word; stick to our decision; show we can be trusted and unfortunately reject the proposition.

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

I fully support the comments made by Senator Vibert. As one that lives not 100 yards away from the site, probably the closest States Member living to the site and virtually living on the site, I have seen major issues and developments take place all around me. At the end of the day I have to concur with exactly what Senator Vibert has said. In the 2002 Island Plan, of which I was a Planning Committee Member at the time, this Assembly approved this land for homes. There was a desperate need. We were running around 100 units per 1,000 head of population behind what other countries in Europe were providing for their people. So we had a huge, huge problem. This land, Sir, is absolutely eminently suitable for housing. But, of course, when Hodge 1 was developed, Deputy Baudains was previously on the Housing Committee. One of the greatest errors that was made was the non-provision of a footpath from Hodge 1 to go along to the coast road alongside the shop and the beach. So this is a private piece of land, privately owned, and as Members have said, the owner does not have to sell it to the Parish or anybody else. The owner can sit on it; he can legally fence it off; bar it off to anybody else and leave it. This is all about a family dispute and nothing else. Most of the opposition is coming from a member of a family that has fallen out. Quite honestly it is an absolute disgrace because I wish they would come clean and say that there has been an argument in the family and this is what this is all about. Sir, can I say that since the reconstruction of the low-rise Les Marais, the high-rise development some years ago and

now Le Benefice, this is the only opportunity that we will have to ask the Planning Minister to provide a footpath through this development. The developer is willing and able to do that as part of the planning obligation. If there will be several hundred children all around the site coming from Le Squez through to Les Marais and particularly Le Benefice and Le Scelliere, they will be required to walk through Rue de Maupertuis up on to the coast road and the nearest 24/7 shop will be the Marks & Spencer down the road or the shop at Green Island. This provides a wonderful opportunity, the only opportunity available. Deputy Baudains, when he was on the Housing Committee, time and time again complained bitterly about the lack of a footpath to the coast road. In fact, Deputy Baudains on 8th February, when my Assistant Minister, Deputy Hilton and myself, made representations to the Planning Panel about the provision of the footpath, supported that view and came along with us. Deputy Baudains saw the benefits of, at this only stage, being able to provide this footpath. I was a little bit amazed that the Connétable jumped up straight away after Deputy Gorst, totally opposing this as an open space. Only a few months ago, the Connétable was knocking on the door of the owner of the land pleading with him to sell it to the Parish for sheltered housing. Yet today he stands up waving the shroud that this should remain unbuilt on and be part of an open space. I just do not understand where he is coming from. He would have been jumping with delight had that site been passed over to the Parish for development and yet today has changed his mind for one reason or another. I have to say that I have sat on the Planning Committee under 2 different Presidents and Senator Ozouf's arguments on the legal issues are absolutely correct. As I say, I have much experience in the kinds of issues that the Planning Minister will have to deal with. The Planning Minister will have to deal with it under the law; he will have to be fair; he will have to take into account the issues that have been discussed and advice given by officers which has been normal procedure for years upon years. The other issue, Sir, that I did like Senator Norman's Constables election speech this morning and I wish him the best in the election for Constable in the future. As I say, Sir, I think it would be a retrograde step to support Deputy Gorst. I know Deputy Gorst fairly well now. He passes alongside my home and he speaks to me now and again - although I am not sure he will do after this - but as I explained to him, I can understand where he is coming from in representing his parishioners. But I think in his heart of hearts Deputy Gorst realises that this really is not a proposition that Members should support. It is going to look good for Deputy Gorst's parishioners but unfortunately I cannot support it.

### **The Deputy Bailiff:**

Does any Member wish to speak or feel they have something new to add? Very well, I call upon the proposer to reply.

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

It is difficult to know where to start but I think if any Member is still in doubt or wavering about whether they ought to support this proposition or not, I think the vision offered by the Minister for Transport and Technical Services would surely swing them in favour of supporting this proposition. It is one where green fields are there to be built upon. It is an interesting concept if we bear in mind the gyratory motorway that we can expect across the Bay of St. Aubin. I thank him and as I said earlier, I look forward to his comment and I thank him for that. I thank all those Members who have spoken, particularly those who have spoken in favour of the proposition. I will try and address one or 2 of the issues and concerns that Members have. Firstly, if we turn to the idea that any field could have a 6-foot wall built around it and therefore would no longer be an open space, I believe that is quite correct but that is the case for any field on the Island at large. That is not a suitable reason for building upon that field because one day the owner might build a wall around it

nor does it take into consideration the Island Plan's view of what an important open space can be which clearly states that it can be a piece of agricultural land without public access. I believe that point also addresses one or 2 of the issues raised by one or 2 other people. Deputy Martin said that she would like to support this proposition. She highlighted over-development issues in the Parish of St. Helier and bemoaned the fact that there were not enough green lungs in St. Helier. I would say to her by rejecting this proposition she will be leaving St. Clement to the same fate where there are no open spaces remaining for the parishioners to enjoy. She also said that she would like some assurances about what was going to happen to the field if this proposition were approved and if the Planning Minister were then to take note and to bring the Island Plan to the States Chamber for revision. It is, as I have said, a private piece of land and therefore I cannot second-guess what the owner would intend to do. However, Senator Le Main alluded to one of the letters that the Constable had sent to the owner. What he failed to do was mention the second letter that the Constable sent to the owner, which he has kindly allowed me to speak about this afternoon, and that was that the Parish might be able to buy the field from the owner and bring it to some other use within the Parish. Now, if this proposition is not approved today any chance of this space being used as an amenity in the future will be lost because the Minister and the planner will take it that development is acceptable and this field will then be built upon. I come to the kind comments by Senator Ozouf and thank him for his kind words. I am not sure whether he has now decided how he is going to vote but I trust that he might at least abstain from voting rather than voting against me. I thank the Attorney General for his clarification on the legal points, particularly regarding what we would be doing today by supporting this proposition and that is requesting the Planning Minister to look at this issue and to bring it back to this Chamber. That, as I said in my opening speech, is a decision for the Minister and for him alone. There would not be, by supporting this proposition today, any financial loss to the States and I remind Members, as has been reminded before, that is all I am limited to doing as a States Member. It is in the hands of the Planning Minister to bring any changes required to the Island Plan to this House. I was upset by the comments made by the Deputy of St. John and was unsure whether they were in any way related to his concerns that he spoke about a fortnight ago when he felt that some of the development they had in St. John was already too dense and he was concerned about that. If he is truly concerned about the density levels of development then I would suggest that he would support this proposition today because this is an area that is very heavily developed. We have over 200 units bordering this field and therefore I ask him to reconsider and to support this proposition. We are not saying that by retaining this field as an important open space that the development is going to take place in other Parishes. What we are doing is ensuring that for the future we limit social problems around this densely developed area. I thank Senator Norman for his support. Deputy Fox reiterated the idea that there was a great need for open area and amenity space and also insinuated that he would not be supporting this proposition. I ask him to change his mind. As I said, this is the last opportunity for this space to be used for anything other than building. With regard to the third party appeal we were told that this proposition would not have to come to the States without a third party appeal. Well, as the Deputy well knows, the third party appeal is not in place.

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

Point of order. That is the point that I was making. Were it in place, neighbours would have a right without coming to the States.

**Deputy I.J. Gorst:**

Absolutely right and I am reiterating that, Sir. It is not in place and therefore I ask her to reconsider voting in favour of this proposition. I am thankful to the Planning Minister for his clarification that no commitment has been given with regard to the number. However, he did say that he felt that 10 would be a reasonable number. If that is the case I ask then why is the current incarnation of this application for 12? Senator Perchard - I am not quite sure what relevance this had - kindly said I was no banana. Other Members have said that we need to bear in mind the developer and the developer, we were told also, has human rights. I would point out to Members they might be interested to note that a recent meeting where the developer's representative was present, after my usual rant he agreed that St. Clement was over-developed but really it was not his fault and there was nothing else he could do because this was zoned for building. Therefore, I ask Members, when thinking about whether they are going to support me or not, to bear in mind the poor developer. If you support this proposition today you will be helping the developer with that conundrum of not having to develop this site because it is in the Plan. The same Member also said that he felt that areas should be looked at in the round and whole areas should be taken into consideration. We come back again to amenity space, space for young people, and the space for community use. I would agree with him there. I thank the Constable of St. Brelade for his support and also Deputy Power. I turn now to the comments made by the Deputy of St. Peter when he asks when is approval being given to the applicant. It is my understanding, and I believe it is an understanding in law, that the approval is given when either the Minister or the Planning Applications Panel approves that application. I am slightly concerned that from some of the noises that maybe we have been hearing today and in the past, that may not be the case. Whatever the outcome of today I would ask the Minister to investigate this issue and ensure that we, as Members of this House, can have confidence that that procedure is being adhered to and that the decision is only binding when the Panel or the Minister has given that decision. I am disappointed again, as I am sure he will be aware, with regard to the Chief Minister's remarks. He said that he felt that there was a world of difference between the debate we had in the last sitting regarding Goose Green March and field 91. I would respectfully point out, however, that there is a development of a similar nature right on the edge of this field virtually identical to what is proposed at Goose Green. Therefore, I do not feel that it is that different. All we are doing by accepting this proposition today is creating that amenity space which really ought to have been there in the initial development at Hodge 2 and surrounding. Senator Shenton, I am also disappointed to hear, is no longer going to support me; he is going to put his faith in the Planning Minister. I would like to put it on record that I also have ultimate faith in the Planning Minister. However, I do not believe this is a matter of faith in the Planning Minister. What he is doing by rejecting or voting against this proposition today is putting his faith in the Island Plan. All well and good. However, I refer him to the Strategic Plan, which this House has just approved, which acknowledges itself that the Island Plan needs to be reviewed and undertakes to do that review. I thank my fellow Deputy for his support. He has been fighting the cause of St. Clement much longer than I but I am delighted to be able to stand with him and with the Constable, and air the concerns of our parishioners and, as I said earlier, what I believe is a growing concern of the Island at large. I turn very quickly again to the Minister for Transport and Technical Services and I was indeed alarmed to hear about his disease and I trust that although the Minister for Health is not with us he will certainly be taking that on board and doing a full investigation into this illness, green lung. I trust that it is not related to any other habits that he might have. **[Laughter]** Senator Vibert asks me what has changed. What has changed? The development to the north of the field has been completed. The repercussions of what that is going to mean for the whole area has dawned and is dawning on those local residents. Senator Le Main. I am very disappointed by the comments from the Housing Minister who felt the need to lower the debate to a personal nature. I felt that his comments were insulting to the residents of Avalon and to the residents of Glendale Close and the other surrounding properties and, in actual fact, were factually incorrect because every meeting that I have had with opponents to development of this site has been with more than one person and has been with upwards of 10 people, only one of whom may fall into the category that he described. Various Members have mentioned my

electioneering technique, or at least I think that is what they were saying. Members have asked is it truly an important open space because there were no vistas into the field from the road? Well, I would say that important open spaces are not for those travelling up and down the road past this space, but for those living around it. The possibility of this space being open or having a vista has been stalked by the development to the north. So we have accepted development; now we are being told that we have got to allow this infill because this field no longer has a vista to the north. I feel that is rather unfair to the local residents. So I ask any Members who are wavering, who are unsure; this is the last opportunity that you have by supporting this proposition to retain this field as an important, open, green space. Sir, I maintain the proposition and call for the Appel.

### **The Deputy Bailiff:**

The Appel is called for on the proposition of Deputy Gorst. I invite all Members to return to their seats and the Greffier will open the voting.

Members present voted as follows –

<b>POUR: 14</b>	<b>CONTRE: 27</b>	<b>ABSTAIN: 8</b>
Senator L. Norman	Senator F.H. Walker	Senator F.E. Cohen
Connétable of St. Mary	Senator W. Kinnard	Connétable of St. Saviour
Connétable of St. Clement	Senator T.A. Le Sueur	Connétable of St. Helier
Connétable of St. Lawrence	Senator P.F. Routier	Connétable of Grouville
Connétable of St. Brelade	Senator M.E. Vibert	Connétable of St. John
Deputy G.C.L. Baudains (C)	Senator P.F.C. Ozouf	Deputy R.C. Duhamel (S)
Deputy G.P. Southern (H)	Senator T.J. Le Main	Deputy of Trinity
Deputy P.J.D. Ryan (H)	Senator B.E. Shenton	Deputy A.J.H. Maclean (H)
Deputy of St. Peter	Senator J.L. Perchard	
Deputy J.A.N. Le Fondré (L)	Connétable of Trinity	
Deputy D.W. Mezbourian (L)	Connétable of St. Martin	
Deputy S.S.P.A. Power (B)	Deputy A. Breckon (S)	
Deputy S. Pitman (H)	Deputy J.J. Huet (H)	
Deputy I.J. Gorst (C)	Deputy of St. Martin	
	Deputy C.J. Scott Warren (S)	

	Deputy R.G. Le Hérissier (S)	
	Deputy J.B. Fox (H)	
	Deputy J.A. Martin (H)	
	Deputy S.C. Ferguson (B)	
	Deputy of St. Ouen	
	Deputy of Grouville	
	Deputy J.A. Hilton (H)	
	Deputy G.W.J. de Faye (H)	
	Deputy P.V.F. Le Claire (H)	
	Deputy K.C. Lewis (S)	
	Deputy of St. John	
	Deputy of St. Mary	

**7. Draft Jersey College for Girls (Removal of Covenants from Former Site) (Jersey) Law 200- (P.62/2006)**

**The Deputy Bailiff:**

We come next to Projet 62, the Draft Jersey College for Girls (Removal of Covenants from Former Site) (Jersey) Law 200-, lodged by the Minister for Treasury and Resources. I ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Jersey College for Girls (Removal of Covenants from Former Site) (Jersey) Law 200-, a law to remove covenants from the former site of the Jersey College for Girls and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty and Counsel, have adopted the following law.

**The Deputy Bailiff:**

Yes, Minister. Do you propose the principles?

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

Today we are not debating the sale of this property but rather we are ensuring that the property is in a fit state to be sold. Today's debate may be about legal niceties. To me it is an indication that law is an ever-changing, ever-evolving, subject and that a decision made in 1935 is perhaps no longer quite so robust as we thought it was at the time. The legal arguments for this are set out in pages 4 and 5 of the report but I think the summary in paragraph 7 is all that Members need to read. It says that although the position is arguable, it is better to put it beyond doubt via Law rather than leave room for further argument. The reason for that is that if we do not pass this Law then any subsequent conveyances of property will run into potential difficulties when lawyers from both sides enter the argument at great expense and ultimately at a cost to the taxpayer. So this Law simply puts beyond doubt what I think is 99 per cent certain anyway, but for the avoidance of that 1 per cent uncertainty this Law is clearly required. I therefore propose the principles of the Law.

### **The Deputy Bailiff:**

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

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

I just want to ask Members to look at pages 8 and 33. With respect to my connections and interest in stamp duty do I read it on this particular occasion that there will be no stamp duty made payable on the registration but it does not mean automatically there will be no stamp duty paid when the property is sold? I think there is a subtle difference but I hope the difference is subtle inasmuch that when the premises do eventually get sold stamp duty will be payable.

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

Just for the avoidance of doubt I just wanted to confirm that we have no need and no foreseeable need for another secondary school for young girls. We have replaced the Jersey College for Girls with a modern new school which is doing very well and it would be a nonsense to insist that this building is retained for a girls' school when there is no need for it.

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

I should probably declare to the Assembly that in fact I am an old girl. I did my A level French at Jersey College for Girls because of a clash at Victoria College, for the avoidance of doubt. It is a great building with an SSI (Site of Special Interest) that my previous Committee designated. It has got to be retained as a great building and this proposition ensures that the building itself will be given a new great use but not as a ladies' college.

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

Whilst supporting the removal of the covenant, I should tell the House that I do have extremely strong reservations as to the intentions on behalf of the sale and the refurbishment of the building and, indeed, the building behind. It does not necessarily - from what I have seen and although it is

for discussion at a later stage - represent best value for money so we shall see what happens. That said, Sir, the covenant does allow the building to be used for other purposes and in that sense only it does make sense.

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

As has already been stated, it is a wonderful old building but it would never again be used as a school. The vandals have moved in; many windows have been broken there is destruction and graffiti. Can I quote from the report, Sir, and I would like a legal opinion, please, from the Attorney General. It says: "The decision of the *Royal Court v The Schools Trust (Jersey) Limited* case has been the subject of some criticism and some legal practitioners think that it has been wrongly decided in as much as the general principle related to covenants affecting immovable property is that saving the case where a trust has been created, a covenant affecting land can only be created in favour of (a) a person, in which case it comes to an end with the death of the person, or (b) in favour of other land." In the case of Jersey College for Girls, the vendor of the site, the Schools Trust (Jersey) Limited, no longer exists at the date of the proposition. Could we have a legal opinion on that, Sir, please, as to whether the covenant would exist now that the Trust has gone?

#### **7.7 W.J. Bailhache, Q.C. (H.M. Attorney General):**

I think the point which the report makes is that there was not a trust. The covenant was not, therefore, in favour of the Trust; it was in favour of a company which is now in liquidation. So it was not in favour of a person and it was not in favour of any other land, the customary law rule generally being that to create a servitude affecting land there is what is called a dominant or diservient tenement and the servient tenement - the land over which the covenant is granted - owes that obligation to the dominant tenement so that even though the owners of the land may change from time to time the covenant is not affected. So right of way once created carries on; it does not matter who owns the relative houses. The point the report is making is that this is a case where the covenant was created in favour of a company which was not a trust, it was not a person, it was not in favour of other land and, therefore, some practitioners think that the Royal Court got it wrong back in 1935. Certainly the present company could not be heard to say that at all. The advice I give the Assembly is that there must be some doubt; it is to remove that doubt that this proposition is being made.

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

I think the whole purpose of this is to remove any possibility of any ambiguity and I am in favour of it. I have seen the proposals that have been brought forward for the site. It makes very useful accommodation. It retains the quality of the building in its facade and the special features, although one or 2 bits will be moved, like the staircase and the library. I will certainly be voting for this in the hope that work can start to restore it and to bring it to its new use for the benefit of the community.

#### **7.9 Deputy A.E. Pryke of Trinity:**



As a former student of Girls College, I am saddened to see the building come out of education use but I understand the reasons why. It was such a shame to see this great building left and being vandalised but I ask if the Minister can assure that the dome remains and especially all the hundreds of signatures on the walls in the dome. These are signed by students on their last day of school and go back over many, many decades. That is part of our heritage.

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

First I would like to thank all those who have spoken. As I said at the outset, this is a very narrow Law and a very narrow subject of righting a possible anomaly or uncertainty. It is certainly not my remit at this stage to go into planning matters on what should or should not go onto that site. Having said that I do, as Minister with responsibility for property, take note of what the Deputy of Trinity says in relation to the dome and I am not sure what treasures can be dealt with but I can certainly speak to the Planning Minister in that respect. To all Members who have spoken I offer my thanks. To the Deputy of St. Martin who questions the stamp duty point, which is article 3 of the Law, he is quite right. It just relates to registration of the Law and not to the stamp duty on any sale and that is a fairly normal situation. I think that deals really with all the matters arising, Sir, and I reassure Members that this Law has nothing to do with future use of the property; it just enables it to be sold and put to better use than it is now. I maintain the principle, Sir.

**The Deputy Bailiff:**

All those in favour of adopting the principles, kindly show. Those against? The principles are adopted. I have to request the Chairman of the appropriate Scrutiny Panel whether he wishes this to be referred to the Panel. I am advised by the Greffier that Corporate Services is probably the appropriate Panel. The Chairman is not here. Vice Chairman, can you receive this?

**Senator J.L. Perchard:**

No, Sir, we have no desire to scrutinise the removal of the covenant.

**The Deputy Bailiff:**

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

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

I think the simplest way is, yes, I will do that and I will answer any questions I can.

**The Deputy Bailiff:**

Very well. Are those articles seconded? **[Seconded]** Does any Member wish to speak on any of the individual articles? All those in favour of adopting articles 1 to 4 kindly show. Those against? Articles 1 to 4 are adopted. Do you propose the bill in Third Reading? **[Seconded]** Does any Member wish to speak on Third Reading? All those in favour of adopting the bill in Third Reading kindly show. Those against? The bill is adopted in Third Reading.

## **8. Income Tax: allowances, reliefs and exemption thresholds (“20 means 20”) (P.58/2006)**

### **The Deputy Bailiff:**

We then come to Projet 58, Income Tax: allowances, reliefs and exemption thresholds (“20 means 20”), lodged by the Minister for Treasury and Resources. I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of the opinion to refer to their Act dated 13th May 2005 in which they agreed a progressive package of tax and benefits and to agree; (a) that all tax allowances and reliefs other than approved pension contributions, allowable employment expenses, child allowance, additional personal allowance and allowances on the first £1,000 of life assurance premiums and all policies in existence as at 31st December 2006 should be phased out over a 5-year period commencing 1st January 2007 for those paying income tax at the standard rate of 20 per cent; (b) that exemption thresholds for all taxpayers should be increased by 2.5 per cent for the years of assessment 2007, 2008 and 2009; and (c) that the option for all taxpayers to continue to receive all exemptions and allowances and to pay tax to the marginal rate of 27 per cent should be retained following the introduction of the changes set out in (a) and (b) above.

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

Let me begin with an apology. The Chairman of the Corporate Scrutiny Panel - who is not here at the moment - sent me a letter about 10 days ago and I did undertake to give him a reply by today. Unfortunately, Sir, I was off sick last week and I have not notified the officers in my department of the undertaking I had given to that Chairman. However, Sir, I have subsequently apologised to him for not being able to reply to him in advance of today’s meeting, although the subject matter of that letter I will refer to in the course of my speech this afternoon. I turn then to the proposition itself and begin by reminding Members of the general background to this proposition and, indeed, the whole fiscal strategy which started from the need to move our corporate tax system to what has been known as ‘Zero/10’ and the resulting deficit or black hole of £80 million to £100 million which that generated. We said that would be dealt with in 3 ways: £20 million from efficiency savings, £20 million from economic growth and £60 million from new tax measures. Part of those new tax measures was to raise the majority through business services tax. In addition to that, because of the impact of Goods and Services Tax (GST) particularly on those with low incomes, the strategy was accompanied by an enhanced income support system and by a method of ensuring that more tax was payable by those on higher incomes. That fiscal strategy was debated by Members of the House on the 13th May last year and amongst the proposals which were adopted at that time was a proposal to withdraw allowances from higher earners in order to generate the sum of £10 million. That principle was adopted and this proposition today puts before Members how I

propose to implement that States decision. It is important that withdrawing income tax allowances for those on higher incomes is not considered in isolation. It needs to be set in the context of the whole fiscal strategy framework. Before I get into the details of my proposal, I do want to remind Members that that fiscal strategy requires that we as a House raise the sum of £10 million from these particular proposals. So, it is a question really of how we do that, not if we do that. The consequences, therefore, of rejecting this proposal are that we would have to find some other way. Arguably someone might say there is another way in which that money could be raised. Indeed, that question was addressed at the time of the fiscal strategy debate last year. There was a suggestion that we should have a higher rate of tax for those with higher incomes and that is really the alternative way of ensuring that those on higher incomes pay more. But that proposal was debated last year and it was rejected. I see it has been reborn today in a new proposition, which we will be debating no doubt in the next session. But I do remind Members of this House that we made a decision last year and what we are doing now is delivering it. If Members do not want to raise the basic rate of tax above 20 per cent - and I am sure there are numerous reasons why we should not - then the alternative would be something like raising the rate of GST from 3 per cent to 4 per cent. That to me would be absolutely perverse because it would simply mean that our tax system, instead of possibly being progressive as I intend it to do, would undoubtedly be regressive. As I say, the only alternative to this sort of approach is to go to for higher rates of tax, and that would be contrary to what is going on around the rest of the world but, more importantly, contrary to what this House has already decided. I think maybe one of the difficulties about '20 means 20', although it is a nice catchphrase, is that a lot of people are not quite clear what it means. I think it is important for Members to realise that although Jersey's basic rate of tax is 20 per cent, most people have an effective rate of tax far less than 20 per cent. It is far less than 20 per cent because they get personal allowances; they get relief. To the extent that even someone or a household with income of over £100,000 - which may be middle income for some people but for me that is what I call a high income - even with an income of £100,000 many families have an effective rate of tax of only 15 per cent or less. So there is clearly scope that those families, those households perhaps not on the breadline, could be expected to contribute an increased share of their income in taxation but still within that golden rule of a 20 per cent rate. So, if I now turn to the detail of what I am proposing in this particular proposition, Members may recall that this is not the first time that these matters have come before the House. In 2004 I put forward some initial proposals, which I think quite rightly were felt to be rather too blunt in their approach. Last year we revised those proposals to take into account individuals' personal circumstances. That I think has solved one problem. It has maybe caused another problem in some Members' minds because at the original time we said: "Well, start at a single person about £40,000; for a married couple to about £70,000." People say: "Well, where does this start now?" and the answer, which is perhaps not satisfactory to everyone is that: "It all depends." It all depends on your family circumstances. It all depends on the number of children you may have, what other allowances you may have. It is difficult to give a precise answer and for those who like a precise answer there is a model on the income tax website. For those who are not particularly computer literate, there is also an annex at the back of the proposition which contains about 150 examples, none of which probably match exactly what you want it to do but in general can get fairly close to some sort of typical situation. So, over the past 4 or 5 years since this was first mooted, incomes have increased quite considerably but income tax thresholds, apart from one notable exception, have remained static. Consequently we find that the yield that my amended proposals would have generated was significantly in excess of the £10 million a year I was looking to raise. That has enabled me to reflect the concerns which members of the public and Members of the States have expressed to me over the past 12 months that we need to be targeting those at the higher end of the income spectrum. These latest proposals do just that. There have been concerns, not unreasonably, by those people who are presently receiving some of those tax allowances who do not want to lose them and I have listened where I can to those concerns. In particular, there have been 2 concessions compared with the previous proposals. The first is in respect of child allowance, where I have indicated that we will continue

with the child allowance both for children at school and perhaps more importantly for children on approved courses of higher education. Secondly, we have acknowledged to some extent the situation regarding life insurance and given ongoing relief to existing policies up to a premium maximum of £1,000. But perhaps the most important thing we have been able to do is to propose increases in the tax thresholds because that affects not just those at the top of the income spectrum, it affects people all across the income spectrum and the effect of that, therefore, is to give everyone - but particularly those on lower incomes - an extra boost. I think as a result many taxpayers will find that '20 means 20' proposals as they are now do not give them an increased tax bill. In many cases it will actually give them a reduced tax bill and if Members look at the appendix they will see in the fourth column that there are a majority of figures in blue showing increases but significant numbers of figures in red which show decreases. Those decreases - the figures in red - tend to be at the lower end of the income spectrum and those increases - the figures in blue or black - tend to be at the higher end of the income spectrum. Exactly what I was asked to do 12 months ago when Members said: "We want this targeted at those at the top end." Some practical examples: a married man whose wife is not working, has no children, no mortgage; if he is earning £40,000, he is £367 better off; a married man whose wife is working, child at school, another one at university and a mortgage of £240,000, if their household income is £70,000 he will get a tax cut of £251 rather than what would have been a tax increase under the old proposals. Even a married couple earning £100,000 and a mortgage of £360,000 will pay additional tax and they will pay additional tax of £1,800 now compared with £2,168 in the old proposals. There are another 145 or so examples if you care to go through them. In addition, as before, we propose that those allowances should be phased-out over a period of 5 years so that where there is a blow it can be softened. I think maybe Members can be confused by too many figures but I will, at the risk of confusing, give a few more figures. Under these current proposals at the present time and on present incomes approximately 28 per cent of households by 2012 will not be paying any income tax at all. Forty-five per cent will benefit from the increasing exemption limits and only 27 per cent will pay more tax than now, and of that 27 per cent only the top 6 per cent will be paying anything like the 20 per cent rate. Of course, no one will be paying more than the 20 per cent rate. That is the whole purpose of these proposals, '20 means 20' and no more than that. Now, it has been suggested that the proposal to restrict life insurance relief to the first £1,000 should be somehow upgraded and the argument is put forward that that would encourage savings and encourage provision for retirement. But I think that is maybe a little bit naïve to look at in isolation and I do want to remind Members of our peculiar tax system, which has both a standard rate of tax and a marginal rate of tax. I did explain this at the presentation I did last week to States Members, when I think some people were surprised to realise that the majority of taxpayers in the Island pay tax at what is called the marginal rate rather than at the full rate of tax. The full rate of tax is lower than the marginal rate of tax but the tax bill on the marginal rate is lower because of tax thresholds, but more importantly because those people paying tax at the marginal rate are not entitled to allowances. So, allowances only benefit those people paying tax at the standard rate and those people are a minority. They are the minority with the highest incomes, the highest 25 per cent or so of incomes, and that is why I find it perverse and if we are trying to encourage savings we do it in a way that cuts out three-quarters of the population. It cuts out the lowest quarter because they do not pay tax at all. It cuts out the next 2 quarters because they are paying the marginal rate. It only benefits those at the top end of the scale. Now, I am sorry to say to Members but you cannot have your cake and eat it. If we are going to try to direct the '20 means 20' proposals to the top-end of the scale, then it is at the top-end of the scale that people are going to pay more and little benefits that they get, like having government to subsidise their savings schemes, subsidise their permanent health insurance, are very nice but they are being paid for at the present time by people of middle incomes lower down the income threshold. Nonetheless, Sir, I am grateful to the Corporate Affairs Scrutiny Panel for raising the whole issue of provision for savings in retirement. I confirm that as a separate exercise I will be working with officers over the coming months to investigate and research further that particular area of work. But the focus of debate today must be about how we

implement our agreed fiscal strategy and in particular how we implement the agreed strategy of raising more tax from those on higher incomes. Sir, in conclusion, there has been extensive consultation not just over the last 9 weeks but also over the last 12 months on the '20 means 20' proposals, which I have listened to, and these proposals reflect the concerns and the need to move the tax target to the top-end of the income spectrum. To reject these proposals would not be free of consequences. We would still need to raise that £10 million in another way. Who would then pay that £10 million? These revised proposals meet the criteria of ensuring that the overall fiscal strategies progresses by raising at least £10 million from higher earners and that would be phased-in over a 5-year period. I ask Members, Sir, to look carefully at the examples in the appendix and ask themselves 2 questions. First, are these proposals fair? In other words are they aimed mainly at higher income households and do they take into account factors such as dependants and housing costs? Secondly, are the increases in tax, which those higher earners are being asked to pay, reasonable, especially when you consider that they are being phased-in over a 5-year period? I believe that the answer to both those questions is a resounding "yes" and in bringing forward these latest proposals, Sir, I have done exactly what the House asked me to do and I therefore propose these proposals to the Assembly.

**The Deputy Bailiff:**

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

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

Can I ask whether we need to suspend Standing Orders as we obviously all have a pecuniary interest in the outcome of this or is that not appropriate?

**The Deputy Bailiff:**

No, I think it has been previously held that this is just a general interest that Members have.

**8.2 Deputy G.P. Southern:**

I never thought I would see the day when I rose to my feet opposite the Minister for Treasury and Resources and read out the words on his paper that exemption thresholds for all taxpayers should be increased by 2.5 per cent for the year's assessment 2007, 2008 and 2009. I never thought I would live to see it. The Minister of Treasury and Resources, at last after 4 years of campaigning, cajoling and pressing, has finally accepted what I have been saying all along, when you get down do a certain level you start taxing the relatively poor and you should stop using fiscal drag to grab in a few more shekels from those who are relatively poor. So, I come today full of praise that he at last, at last, has seen the light. At face value what we have in front of us is, as he said, the final version attempting to do what he has been asked to do, with details, with appendices, at 15 pages packed with information, and he recommends that we study the columns in the back and make our own minds up to see if they are fair and reasonable. Unfortunately, I do not believe I can put my hand on my heart and wholeheartedly support the package that is here and I wish to briefly talk about the reasons why. This project has been launched for 9 weeks. It is relatively short for a

major piece of work and it is the third version of attempts to get '20 to mean 20'. Each of those versions has seen major changes. It is said they are in response to consultation. In fact, the first version where the extra £10 million was to come from those in highest income, which came before the House, was a complete and utter mess. Nobody could understand it but it was intended that it started with single persons over incomes of around £40,000 and married people around over £70,000 to £80,000. It was clearly targeted at the relatively well-off. But nobody understood it. Nobody could make head or tail of it. The IOD (Institute of Directors) took a look at it and said: "What is this? Take it away. Come back with something that we can understand." They had deep reservations, as I did. The second version came along. It, too, was incredibly complex, and remember this is the Treasury and Resources Minister who insists - insists - as his prime aim, that taxation is kept simple. I ask you to look at the table in the back and say: "Do you think this is simple?" I do not believe so. Nonetheless, here it is, still complex but phased-in to soften the blow. The second version, phased-in. But it contained massive tax rises for those concerned; tax rises of the order of between 15 and 20 per cent for many. The maximum I saw was 28 per cent on my calculations; 28 per cent tax rises for some people. So, there were large tax rises and lo and behold, instead of being targeted at the £40,000 to £80,000 mark, the starting point has shifted way back down to £25,000 roughly and £40,000 for married couples. £25,000; below the average wage. So, in mending some of it they have got it wrong in the sense of: "Hang on, we are now going to hit many, not high earners, but many middle earners." The impact starts relatively low. Here we go now with the third version and we have redone the figures, revisited the figures, updated them, with proper updated earnings figures and lo and behold the old scheme was going to raise more than twice the amount it was supposed to. So, we have some leeway to put some adjustments in. The first adjustment is put in, as I say, indexing the thresholds. Well done. That is exactly what was needed. But then we are looking at putting in further... Now before I go there, look at the way those figures are presented. We have eliminated fiscal drag. In the report the Minister says: "In future - according to his tables - approximately 28 per cent of households will not pay any income tax." I say: "Nonsense." If you look at these tables, they are frozen; they are a snapshot. There is no element in these tables for inflation, for rising wages or anything. It is a frozen, still, snapshot and yet he says that fewer and fewer people will be paying tax at the lower end. Well, no they will not, because their wages will rise. Elimination of fiscal drag merely means that you stop taking in more and more people at the lower end. You do not let off more and more people. The reality is that we will not see a move from 25 per cent approximately to 28 per cent, we will see if 2.5 per cent is approximately the right figure. If wage rises are in balance we will see that figure steady. Twenty-five per cent will remain out of taxation. So, incorrect statements being made on the basis of relatively superficial figures. So, that is the low earners but what about the middle earners? For example, what about the interaction between '20 means 20' and the educational grant system? Last time, in version 2, I asked that the figures were produced. What is the interaction? The fact is under '20 means 20' the allowances get taken away over approximately similar ranges to the educational grant and parental contribution to that grant is going up. I believe at the present the maximum, around £10,000, is payable at an income of around £76,000 for a married couple. That is very similar to '20 means 20' coming away. So, at the time as we are reducing allowances on the same scale and in proportion people will be asked to pay more and more towards their education. This is not a single-whammy; it is a double-whammy. Where is the research that says: "This is the impact on people with children who will be going into higher education?" It is not there. It was asked for months ago. It has not been delivered. So, we have to vote on this in isolation from that information. I do not believe that is supportable. The only measure that is still in there is that retention of child allowance has not been eliminated, has not been one of the allowances that is eliminated, but that does not compensate for this double-whammy. Are the middle earners - and I note the flexible use of the word "middle earner" or "middle income"- really protected? The fact is that now, under this scheme, I know it is rough and ready but nonetheless the Minister of Treasury and Resources started using it, so I will continue to use it. It is rough and ready. Where is the kick-in point start? Instead of £25,000 for a single person we are now up to the region of £27,000,

£28,000, around the average wage and above. That is when it starts to make an impact. Instead of £40,000 for the married couple, it is around £42,000, £43,000. Think about it. The range above £42,000, £43,000 for a married couple, between that and let us say £80,000, £85,000, who are these people? They are our middle earners. They are our middle classes. They are our young professionals bringing up families and we are seeing significant rises for their taxation. For example, if we turn to page 9 and we cast our eye down this very difficult table where you have got to scoop-down to see people in similar conditions, you will find rises of £1,000 plus on £11,000; 10 per cent rise in your taxation. Further down, on £80,000 income, a 14 per cent rise is possible on your taxation. Further down; £80,000, 12 per cent. Different circumstances. This time with children; 12 per cent rise in taxation; 15 per cent; 10 per cent as you go down the page. There are significant rises still contained in this document for middle earners, professional couples, with or without the children but largely without mortgages here, which are significant. They are not in the 20 per cent range but they are certainly significant; 15, 12, 14 per cent. Turning back to page 7 you look at single people and what do we find? A single person with no children and no mortgage on £30,000 paying £95 tax. The next single person with no children and no mortgage comes in at £60,000. No examples in there of single people without children and without a mortgage paying tax in the range £30,000 a year to £60,000 a year. I put it to you and I ask the question: "Why not?" I suspect it is because, as ever in this Island, single people without children, without mortgage, are really whacked. Now, they are in there, they are paying tax and they will be paying tax under this scheme but they are not illustrated. I hope that was not a deliberate omission because there are lots of people out there earning those sorts of ranges. They are our middle class, young, working professionals, the backbone of the Island, yet they are not mentioned. Then finally I turn to page 10 in the document and in the report, it says: "Generally the Committee's proposals would have increased the rate of tax paid by a married couple earning £100,000 by up to 3 per cent, i.e. up to £3,000 per year." Turn to page 10, look at the column where it says: "Earnings, £100,000." There are one, 2, 3, 4, 5; 5 examples - married people with children, without children. Have a look at how much extra tax in column 4 they will be paying: £2,000, £2,000, £2,600, £2,200. Do the sums. This is around 15 per cent. The 3 per cent is a completely spurious figure thrown in to make it look good and not particularly punitive. But those people will be paying 15 per cent extra tax, those families. That is the reality. Are the middle earners protected? Is this truly progressive? Of course it is not. The middle earners have not been protected by this measure. Their tax rises have been lessened but the tax rises are there indeed. Then, finally... though again a set of columns apparently full of data but with great holes in them and with significant tax rises there that is quite difficult to work out what is going on. Where is the column showing the percentage rise in what each individual will be paying 2012 compared to 2005, in percentage terms? It is not there because that is where it really hurts. If your tax goes up by 20 per cent or 15 per cent, you are going to notice it and this 3 per cent figure is just bull. You are now paying 18 per cent instead of 15 per cent. That is not what you pay; you pay the real money going out and you notice when your tax has gone up by whatever, 15 per cent because you are paying £1 in £6 extra every time. So, that column is not there and yet it should be. What columns are there; look at columns 5 and 6. What do columns 5 and 6 show you? Apparently, it shows - column 6 - a tax decrease. No. A tax decrease; old proposals versus new proposals. It merely indicates that we have not taxed you with the old swingeing tax rises. Sorry, not good enough. Finally, I bring us on to the other measure we could afford, which was that additional personal allowances on the first £1,000 of life insurance premiums on all policies in existence should be exempted from the phasing out of allowances. Now, those of you who were there at the meeting will remember that I asked the Minister what research have you done in order to establish what the impact of this £1,000 will be and why is it set at £1,000 and not £2,000 or £3,000 or £10,000, whatever? The answer came back very clearly: "What research have we done? None." We have heard that again today, this afternoon. We have heard the Minister say: "In the general concept. In the general arrangements for encouraging savings I will look at it in the very near future." Now, concerns have been expressed to Corporate Services, who would love to take a look at the detail of what is happening with this measure but

simply, quite frankly, has not got the time or resource to do so. They have got 2 major ongoing pieces of scrutiny. They cannot get down and bury into this and tell you what it means and what the impact will be. The Minister has said: "I will come back to you. In terms generally, in savings and what the impact is, I will come back and I will tell you." By that time it will be too late. It will be changing for this time next year. It will not be changing now. I say to the Minister, given the concerns around this measure, this measure that has been adopted and again I paraphrase but I am trying to quote the Minister: "Why did you set it at £1,000?" "Because that is what we had left to spare to make sure we still got £10 million." Sole financial criteria. No investigation of what this means for people's endowment policies. No investigation of what this means for people saving through a life policy to pay for their kids' education, et cetera. No impact. No assessment of what this means in terms of people's long-term commitment to major savings in the terms of life insurance. It is a common practice. No understanding of how many people are involved in this. No understanding of what the impact on individual families might be. No research done. No research done on this particular issue, just thrown in the pot as what? As something I picked off the shelf earlier. That is all it is. Now, I am sorry, Minister for Treasury and Resources, I for one cannot pass material like this, no matter how much I am dying to because it does, more or less in one particular area, the right sort of thing, because you have not done the homework. Fifteen sides which cover up the absence of homework. As a consequence I must ask for a reference back because the homework has not been done on this project. So, I would like this proposition referred back to do the research, as he promised he would on savings, in particular on life insurance and why £1,000, before he brings this back in early September.

### **The Deputy Bailiff:**

Is the proposition seconded? [**Seconded**]. Under the new Standing Orders there is no longer a discretion in the Chair provided that a proposition to refer back is for further information relating to the proposition. The Deputy has given a list of further information that he says is necessary; therefore, it seems to me that I must allow a debate upon the reference back. So, therefore, that is the matter now before the Assembly.

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

I think, taking now just the reference back, the Deputy maybe misunderstood what I said in relation to savings and life insurance relief. I said we needed to look at ways of encouraging savings and why we would be looking at that over the next few months; ways of encouraging savings, not merely ways in which tax relief might be used in terms of enhancing savings or savings products. Because I made it quite clear to the Deputy, and indeed to the House, that the difficulty with the present method of supposedly encouraging savings through life insurance or any other method like that is that it is only relevant to those taxpayers paying at the standard rate. I wanted to find a better way of encouraging savings than that. I wanted to find a way which will enable the whole community to make savings for retirement or for health or for education, whatever they need, and I am happy to work with the Minister for Education. I am happy to work with the Economic Minister or any other department in order to find ways in which the whole community can benefit. What I do not want to do, Sir, is to find ways in which three-quarters of the community subsidise the affluent quarter that can use tax incentives in order to generate savings for themselves, which is denied the other three-quarters of the community. That to me is just divisive; that is antisocial. Now, Sir, the reference back from the Deputy asks for more information on life insurance, as I understood it, from the point of view of savings and also about whether the figure of £1,000 is appropriate. I say to Members that the figure of £1,000 in this respect is a total red herring because



that figure of £1,000 is merely a figure in respect of the revenue which we need to raise totalling £10 million. If the thrust of the Deputy's reference back is correct then whether that figure £1,000 or £10,000 or £5,000 or any other figure, my research and the information I would need to give to Members in respect of the reference back was not in terms of the revenue yield but in terms of the benefits or savings or investments for using life insurance products. Now, that is a very different situation. That is a situation which will, I think, require more than simply looking at life insurance products and it will need to look at investment products across the board, be that through investment trusts or other activities, which at present do not qualify for tax relief. So, I think the Deputy has opened up a far wider issue than simply that of tax relief on life insurance. But then I bring Members back to the whole purpose of this proposition. The purpose of the proposition is not to find the best way of encouraging savings. It is not to find ways of supporting people with higher incomes to get tax relief and tax benefits from the ordinary taxpayer on their life insurance. It is to raise £10 million from those on the highest incomes. What we are doing here is kidding ourselves that by doing all this nice research and finding encouraging ways of saving we would generate that £10 million in some other way. We will not. The other ways of raising that £10 million are quite clear. We can raise the basic rate of income tax, but the House rejected that. We can, instead of increasing exemption thresholds by 2.5 per cent - for which the Deputy is eternally grateful - we can scratch that and simply give the relief instead to those seeking life insurance relief. We can call that £10 million up in different ways but if we do it by not giving the exemption thresholds to the needy and do it by giving tax relief to the well-off to enhance their life insurance premium relief, we will be shifting the burden back from those with the highest incomes down to those on middle incomes. Is that what the Deputy is trying to achieve? It certainly appears to be and, Sir, if I sound a bit emotional and fed up with the Deputy it is because he finds all sorts of different ways of suggesting that this is not perfect for middle income people and he has got a better way of doing it. He has proposed a better way of doing it and I must say having read it this morning I do not much like what I see. He also, I think, ducks the issue of who he is trying to preserve. He talks about looking after the middle earners and then he talks about people with income of £100,000 a year. Now, if that is his definition of a middle earner, it is not mine and, furthermore, when I look at the recently published household expenditure survey - and, indeed, the previous household income survey to which the Deputy frequently refers when it suits him - he will find that the household income across the Island is divided into 5 quintiles. I am sure he has read that report and he has read the previous household income survey and I am sure he knows where those household income quintiles lie. But for Members who perhaps have not read it, I did say last week that the top quintile was household incomes of £50,000 and above. It has now gone up. It is about £60,000 and above. That has happened with the passage of time but it does mean, not to suggest that £60,000 is the average; £60,000 is the start of the top 20 per cent - people with highest household incomes. That is maybe a sobering thought to some of us when we think that the average household income may be £50,000. No. If one looks at those figures, the actual average or the mean - and the Deputy can use whichever statistical figure he wants - we are talking about people much lower down the income spectrum and the number of people on high incomes is relatively small. Those people may well have incomes of £100,000, £200,000 or £300,000 a year but there are remarkably few of them and the vast majority of households have incomes between £30,000 and £60,000 a year. So, when the Deputy talks about protecting those on middle income - when I talk about protecting those on middle income - let us be quite clear what we mean by those on middle income. But, Sir, I run the risk of digressing from the reference back and to come back to that, the reference back was on the relatively narrow point of the benefit of looking further into tax relief on insurance premia. I have to tell Members that it will be virtually impossible to give Members any meaningful information from tax records because tax records are not analysed in terms of insurance premia *vis-à-vis* the household income and it would mean the Comptroller of Income Tax going through something like 50,000-odd taxpayers' files and picking out every single life insurance claim on every single one of those files, adding them up and dividing them by 52,307. I see him blanching already at the thought and I am not surprised. If we are going to have

information which is not much use to us but simply delays this debate, then I think all we do is create unnecessary bureaucracy for our officers. We simply put off what we do not want it to do, which is to say to some people: “You are going to have to pay a bit more.” To whom are we saying: “You are going to have to pay a more”? Not those on lower incomes. These proposals say you will be paying a bit less. We will be saying to those on the top incomes: “Yes, I am sorry, you will be paying a bit more.” Sir, I urge Members to reject this reference back as a time-wasting and suddenly unnecessary intervention. **[Applause]**

**Senator F.H. Walker:**

May I ask a question, just for clarification, without giving up my right, possibly, to speak later? I just want to be absolutely clear that the reference back is purely on the issue of allowances on life insurance premiums.

**The Deputy Bailiff:**

Deputy, can you confirm that? Because Members are entitled to know what is the further information which is being requested.

**Deputy G.P. Southern:**

The main thrust is indeed the insurance premium figure that has been plucked out of the air. However, there is other data that is missing. I mean, for example, single people in the band £30,000 to £60,000 completely missing from the data. It should be there. Information also about percentage rises or decreases in tax, I believe, need to be in there where they were asked for last time. Finally, the interaction between the effect of withdrawing allowances and the educational grant system, which have a double-whammy effect on this particular range of people.

**The Deputy Bailiff:**

Four categories of information.

**Deputy G.P. Southern:**

Four categories I am looking for.

**Senator F.H. Walker:**

I am afraid I am not ready to accept that. I accept that those were all issues that the Deputy referred to in his speech. I do not accept that those were the issues that he referred to when he proposed the reference back. My clear understanding is that he merely proposed the reference back on the allowances on life insurance premiums. There is a colossal difference.

**The Deputy Bailiff:**

There is but we now have clarification, Senator, and I think we have to take it. It is the Deputy who has proposed the reference back. He has clarified that the information which he requires is in those 4 categories and that is the matter before the Assembly.

**Senator F.H. Walker:**

With respect, I have to accept your ruling obviously but I believe the record will show that is not what the Deputy based his reference back on.

**Deputy G.P. Southern:**

That was not what I based my reply on, Sir, but that is another matter.

**8.2.2 Senator B.E. Shenton:**

I think this quote from Senator Le Sueur sums it up. He actually said: "Members can become confused if you give them too many figures, so I will give them a few more figures." The trouble with Jersey is that it is changing. We all look back and reminisce when we could get cheap booze and we all look back to when we could get cheap petrol and I think in the future we will all look back at the days when we had low taxation, when it was not as high as the U.K. The whole term '20 means 20' is misleading. For the low-income earners, quite rightly, it is '20 means nothing at all.' For the very, very wealthy and the very rich, it means '20 means 20 unless you have a good accountant.' But for the middle income earners, it means '20 means 40' because the whole thing about managing an economy is you tie-in all the loose ends. Now, I have been going on about university funding and we have the highest parental contribution rates in Europe. In the Isle of Man you pay nothing to educate your child at university if you are parents.

**The Deputy Bailiff:**

Senator, I am sorry, I must ask you to confine yourself to the reference back.

**Senator B.E. Shenton:**

Well, this is to do with the fact we need more... part of the reference back was university funding and tying the whole thing up and we have not got the figures on university funding.

**The Deputy Bailiff:**

We do not want to go through a debate about the level of university funding.

**Senator B.E. Shenton:**

About the level of university funding, which affects the middle-income earners and is an effective tax on the middle-income earners.

**The Deputy Bailiff:**

Yes. But the desirability or not of that is not the matter here. It is a question of whether you need more information at this stage.

**Senator B.E. Shenton:**

Well, you do. I do not think you can debate '20 means 20' unless we know what the university funding levels are going to be.

**The Deputy Bailiff:**

Well, can I ask you to confine yourself carefully to why you need further information and why it is relevant to the reference back? We cannot have a debate about the principle.

**Senator B.E. Shenton:**

Tax is not just about income tax. It is also about the amount you have to pay out. Now, in the Isle of Man you do not pay anything towards parental contribution for your child. The Isle of Man has a very similar education budget to Jersey but fortunately for them it is not managed by Senator Vibert. In the U.K. you pay nothing towards parental contributions. In Guernsey you pay a lot less than you do in Jersey. So, faced with '20 means 20', a middle income earner - which we will not define but say £80,000 or £90,000 where both parties work - not only will they have to pay 20 per cent tax but they could also have to find another £20,000 a year to send their kid to university because the state will not pay. Now, is that 20 per cent tax or is that 40 per cent tax because the state will not pay? But the very, very wealthy, it does not affect them quite so much. If you are earning £200,000, sending your kid to university is not too bad. So, what we have to look at is the effect '20 means 20' has on the economy on the Island and on the middle income earners and I cannot get my head around the figures of '20 means 20' until Senator Vibert comes up with the parental contribution rates for university funding. It is impossible to do. You have to remember that the middle-income earners, to a certain extent, are the drivers of the economy. If we move to a society, as we are doing, that fails to encourage savings, fails to encourage prudence and then taxes anyone that works hard and tries to better themselves, then we are moving towards a very sorry state. I think the '20 means 20' debate should be tied-in with the education funding figures and we can look at the economy as a whole rather than bit by bit in isolation. Therefore, I support the reference back.

**8.2.3 Senator P.F. Routier:**

I think we are in danger of becoming so isolated as States Members about what is middle income and what is high income and what is low income. I cannot believe some of the things which people are saying about people's levels of income and Deputy Southern, in particular, who is wanting to

protect those in middle income barriers. I always thought he wanted to protect those with lower incomes, but we will put that to one side. The reference back is about the lack of information. The Deputy did mention that there was no information regarding single people in the £30,000 to £60,000 bracket. Well, on page 7, third line - the top 3 - starts at for single people with no children, no mortgage, an example is for £12,000, £20,000, £30,000, then you jump down a few lines to £40,000, there is an example for single people there and you jump down to £50,000, there is an example there for single people.

**Deputy G.P. Southern:**

Point of clarification, Sir. This - the absence between £30,000 and £60,000 - is of the exemplar single person, no children, no mortgage. Look again between £30,000 and £60,000, you will not find it. You will find single person with a child and no mortgage. You will find single person without a child and with a mortgage. You will not find a single person, no child, no mortgage, and they are heavyweight taxpayers.

**Senator P.F. Routier:**

I think if the Deputy was to look a bit closer, he will find that single, no children, no mortgage at £60,000 is there. **[Interruption]** Oh, in between those 2. **[Interruption]** Okay. We could have pages and pages of these things. I think that for somebody who can do the work to find out what those examples are, this gives you a very good coverage of all the various options that there are. I believe that there are so many examples here that I cannot believe that somebody saying perhaps there is not a particular one which talks about a States Member's income and perhaps got a married wife working and got an income of about £80,000, perhaps you cannot pick it out there. But I am afraid, as far as I am concerned, the information I need to ensure that people at the lower end of the scale, which is what I am really concerned about, there is a sufficient amount of information there to make a decision on. With regard to Senator Shenton's desire to know about a higher education and the concern that it is a double-whammy, about what is going on, he gives an example of the Isle of Man, for instance. Well, he does not give the whole picture there: on the Isle of Man you are paying 17.5 per cent V.A.T. So, you need to compare things properly rather than just pick the bits you want to help prove your case. I really feel that the Deputy is just trying to put off the day of debating this just for the sake of it because he is trying to protect the wrong people, I am sorry to say.

**The Deputy Bailiff:**

Does any other Member wish to speak on the reference back? Yes, Deputy of St. John.

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

On the subject of more evidence and information, it is a question I have asked the Treasury Minister a few times now, and that is the effect that income levels will be from GST as a result of these measures. I would like to know a bit more about that and also the fact that we have some very successful insurance companies here and IFAs that pay a considerable amount of tax on their profits locally. How would that income be affected also by the removal of the relief on insurance policies? Coming back to Senator Routier's point about the Isle of Man, yes, they are paying 17.5 per cent V.A.T., and also Senator Shenton referred to Guernsey. Middle-income earners in Guernsey are paying a lot more tax already. We are not really comparing apples with apples, but there are bits of information I think that are missing so I do have some sympathy with Deputy

Southern's request for more information. I do not feel that I have got all the information I need to make a final decision on this. I have lobbied from the outside of this Chamber for a long time and not always had all the information I am looking for. I think that is what Members' concern is and I understand and sympathise with their reasons for a reference back. Thank you, Sir.

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

Track record. Track record of Deputy Southern and track record of Senator Le Sueur in relation to matters and in terms of bolstering the case for a reference back. We know that Deputy Southern has wanted to put off the debate about '20 means 20' and does not agree with it. He has brought propositions to this Assembly on the issue of a higher rate of tax, unsuccessfully. Again, by the fact that there is a proposition before this Assembly for consideration of a higher rate of tax, he is indicating quite clearly he wants to put off the debate. In fact, his opening remarks in supporting a reference back have then clearly changed as the Chief Minister has clearly indicated when seeking clarification. Senator Le Sueur is a Minister with a track record of giving and sharing information, a track record of proving that he has done the research and carried out all of the background information that Members would expect. This Assembly has careful checks and balances in the way in which we decide matters. We come forward with propositions in principle where we agree the general principles of the matter. That is what is being asked for today. The detail will come in our budget debates. If Members still have residual concerns, if there was some information not being put forward at that stage - it may be an issue of education funding not being dealt with - then that would be a matter at that stage for us to maybe put off that debate or make amendments. Has a case been made for requiring more information at the general principle stage? I do not believe that has been said whatsoever. I can see Deputy Southern wincing. I can hear some of the supporters of a reference back, some of those people that want to put off a debate. I hear Senator Shenton saying that tax is not only income tax. Senator Routier quite rightly said: "V.A.T. of 17.5 per cent." Senator Routier could have also said: "And put lots of information - more information - in the debate about comparing apples and pears and saying social security contributions are of course, as everybody knows, much higher in the Isle of Man." We could have said: "But Guernsey has just slapped-up their social security contributions up to £100,000 affecting middle earners, if middle earners... whatever they are, but they are certainly over the £33,000 mark." This Assembly has got information before it and can trust the Treasury and Resources Minister to have known that he has done his research. He has answered the issue of insurance premiums quite clearly. We know Deputy Southern wants to delay this matter. Reference backs are used as a delaying tactic. There has been no case for more information. A case has been made if one wants to put off a decision. I urge Members to vote against a reference back and if they do not like what Senator Le Sueur is putting before the Assembly, then they should vote against it.

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

Now just one question that I do not think has been addressed by anybody else. This is a question of private health insurance. I think that I would refer Members to the letter that my Panel wrote to Senator Le Sueur on the 7th July. Item 3 on that refers to private health insurance. There does seem to be some kind of an anomaly that exists whereby, currently, if private health insurance is provided by an employer in a blanket manner for all of the employees that it is tax-deductible as far as the employer is concerned and it does not count as a benefit in kind. It does not count as a benefit in kind. What this means is that effectively people that are employed through businesses do get a tax benefit - a tax subsidy - however you would like to call it. Private health insurance is effectively provided and you do get a benefit - a tax allowance - that way. Under these current proposals that will not be the case or it will cease to be the case for people who do not get private

health insurance through businesses but pay for them separately. Now, this could mean people who either do not have that benefit but are employed, or it could mean that it is people who have ceased to become employed but have carried on a private health scheme when they leave employment, either because they leave early or they change jobs or they retire and of course, as we know, as you get older and older, private health insurance costs more and more. But also at the same time, as we heard this morning from the Minister for Health and Social Services, that private health insurance paid for by individuals assists the State because, as we currently say, it gets more and more expensive and the State has to pay for more and more expensive health care for all the people. The reference back, Sir, is that there is this anomaly, we have not heard anything about it, and it would be interesting to know more about it. I have not yet decided quite which way I will vote, I will wait and see what the rest of the speeches say. Thank you, Sir.

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

Senator Le Sueur, very conveniently and perhaps cleverly, pointed to the size of the scope that is required to investigate the whole ethos of encouraging savings, and reminded us about three-quarters of the population subsidising one-quarter. That may well be quite a large task but the way to approach it is simply to start with the role that life insurance plays and its impact and its necessity in many families where it already existed. What the reduction in that saving would do to those individual families and to start with life insurance as a starting point. That need not take too long. He then said: "This will require the Comptroller of Income Tax to trawl through 60,000 individual tax files." To which I have to respond: has he not heard of sampling? It is not a question of digging out 60,000 tax files, it is taking a reasonable sample of those tax files and getting a picture. It is not hard, it can be done in a fairly short scope of time and evidence can be brought back to this House that it is (a) not damaging to people's circumstances currently because they have invested heavily, and (b) it is appropriate to do this because £1,000 is the appropriate level." It was interesting to hear him say, very clearly - and it is I fear, very much the accountant's view - that this £1,000 - I am glad he confirmed it - is solely related to the achievement of the £10 million. He said it then: created a lovely false dichotomy. He said: "If we do not get it this way, remember that it is not the £10 million in its entirety, it is a part of that £10 million. If we do not get it from there, from these relatively well-off, we will have to get it from the other end and we will have to dismantle the bit that I like, and attack those at the lower end." What a load of nonsense. If a man of his resources, as Treasury Resources Minister, cannot find a way of achieving a couple of million pounds - I do not know what the sum is, he probably does, but a couple of million pounds - through other mechanisms, or in fact, as he said last year when there was some doubt about funding the financial services growth plan, he managed to find £2.7 million: "It will be there in loose change." He said: "We will find it. Do not worry, the books are balanced." Now, if he can do that for the financial services development growth plan, then he can do that in this particular case. But, even if assuming that there is a problem about this, then there are any number of ways of achieving that without attacking the poor. It is a completely false dichotomy. He then started talking about average household incomes being around £11,000. Oh dear, I do not know where he got that from. It still is £27,000-£28,000. I think he was referring to the average household income in the bottom quintile. There is a large range, it is around about £11,000 I think from memory, having merely looked at the household expenditure survey.

### **Senator T.A. Le Sueur (Minister of Treasury and Resources):**

I do not remember saying £11,000, Sir, but if I did it was in error.

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

It was an error. Thank you, Sir, glad you admit that. The fundamental question I put back to the Minister is: “Has the research been done?” and the answer - has he confirmed? - is: “No.” Second question is: “Can the research be done in fairly short order?” I believe the answer is: “Yes.” This is not a big delay, this is: “Come back in September with the right answers and no doubt this will steam through.” I thank Senator Shenton for his contribution, reminding us that there is information missing about what is the overlap between withdrawal of allowances and education grants. It is important to many families on the Island. Senator Routier, again, used a wonderful false dichotomy: “I am Deputy Southern. I work on behalf of the poor, therefore I could not possibly turn my attention to middle earners and try and do something for them, which I believe to be the wrong way forward, could I? We thought Deputy Southern only helped the poor.” Well, think again. I have not got one eye, I have got two. He then said, surely having made the mistake of not noticing that the particular grouping I am referring to was not on the sheet, and it is important, because they are significant earners and significant tax contributors: “If you really want to see who pays the tax on the Island, go to single people without mortgages. They are paying tax hand over fist by and large.” He said: “Someone can do the work, surely, if I miss out.” I do agree with him. They can do it in a fairly short time. Senator Routier owes us. I thought he was going to get personal but he did not, and I am glad to refer to track record. I am glad he used the words he did, because he pointed to his colleague Senator Le Sueur, the Minister for Treasury and Resources, and said: “He is well known for doing his research.” As well he is. Which is why I found it so surprising that the research has not been done this time. If we are going to make the track record, in comparison, I put it to him in the humblest possible terms that if I am known for one thing in this House above all, it is for doing my research. Thank you. So, we are on a par, and I am saying the research has not been done, and I am saying it needs to be done. He then went on, and the new Members please do not be taken in by this: “The correct time to amend this or to change this proposition is not at the ‘in principle’ stage, it is in the budget.” Ah. I ask Members who have yet to go through a budget debate not to believe these words because that is not the case. If this goes through in principle, there will be precious little time to start messing around with the budget and you will be told in very clear terms that you cannot amend this budget because we have accepted it in principle. I just mentioned Deputy Ryan, and thank him for his contribution before I come on to the final contribution from Senator Ozouf. He finally used the words: “What you have to do is trust this good man on my right.” You may choose to do that, but if we have to get down to trust and not evidence and information, then I do not think we are doing the right job. I maintain the reference back, and call for Appel please, Sir.

**The Deputy Bailiff:**

Yes. The Appel is called for on the reference back. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 22</b>	<b>CONTRE: 27</b>	<b>ABSTAIN: 0</b>
Senator B.E. Shenton	Senator L. Norman	
Connétable of St. Peter	Senator F.H. Walker	
Connétable of St. Clement	Senator W. Kinnard	
Connétable of St. Helier	Senator T.A. Le Sueur	



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

**The Deputy Bailiff:**

The reference back is lost, 22 votes pour and 27 votes contre. So we then return to the debate. Deputy Southern, you were in the middle of your speech, I think. If you wish to continue, this is your chance.

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

I shot my bolt there, I think. But nonetheless, briefly, Sir, given the reservations I have about this proposition and, I believe, fundamentally flawed information that we have been given, I will not be voting for this measure although it breaks my heart, because it contains that particular phrase of which I am so enamoured.

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

These proposals today, I believe, balance the tax proposals, I have to say, better than they did in the previous versions. The proposal which Deputy Southern is very pleased to see in there... and I think he laboured the point earlier that he has been telling the Treasury Minister this for years and he has eventually seen the light of day and he should be congratulated for seeing the light of day. Of course, when the Deputy previously proposed this, he did that as a stand-alone amendment, which just sprayed the money up the income ladder, and everybody benefited from that. But with this package that we have before us today, it is the counterbalance of taking the allowances away from those higher earners do balance that out now and it is a very fair and equitable package of measures which are being brought forward today. There is protection for those on low incomes but also the money is clawed-back from those with higher incomes and on that basis I am very pleased to be able to support the proposition.

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

One of the problems with having a debate on something like this without any amendments is that Members as they now are, as a result of the vote on the reference back, can only do one of two things. They can either vote for or against the proposition. We had recently the Strategic Plan and as we all know, there were lots of amendments, lots of debate, and I think as a result of that, the vote in favour of the Strategic Plan was resounding and it was as a result that a lot of the arguments, a lot of the differences of opinion, as you would expect, came out in amendments. They were either defeated, the discussion was how they were defeated or not, as the case may be, and you ended up with a pretty fair result. Possibly also, as a result of the Strategic Plan and all of the thoughts and the time that people put in on the Strategic Plan, maybe people were a little slow in looking at these '20 means 20' proposals and perhaps we would have seen an amendment or two, when I think that would have been an advantage. It would have meant that the full airing could have been had on perhaps life insurance premium relief, perhaps on private health insurance, and the other issues that we highlighted in our letter to the Treasury and Resources Minister. I think that the whole process would have been enhanced by that kind of debate on amendments and then Members would not have been in a position other than perhaps a smaller number of having to vote for or against '20 means 20.' I think the principle of '20 means 20' and what comes out of it is well understood and I think most people would probably support it. It is the question of the detail around it that is the problem. But now we are going to have to be put in a position as we are, that you either vote for it or you vote against it. I do think that a lot of people will come out of this with a slightly jaundiced view. Yes, I voted for it but there were bits in it that I did not like and I have just now got to hope and trust that the Treasury Minister takes account of those little anomalies. When I say "little anomaly", I referred to it before in the reference back, there is a glaring anomaly over private health insurance, without any question of doubt. Private health insurance saves the Island an enormous amount of money and will hopefully continue to do so. I am like everybody

else, I am in a dilemma. I support the principle of '20 means 20' but it is far from perfect and I want the Treasury Minister to tell me what he intends to do about private health insurance. Is he going to make the provision of private health insurance a benefit kind, when it is supplied through a business? If he is, I think it will certainly have a very detrimental effect because it will mean lots of employees that are employed and get private health insurance as a benefit, will be saying to their employers: "If it is taxable, well, I'd rather have the cash." If that is the case, we are going to get an enormous reduction. I believe there is a danger, we will have an enormous reduction in the amount of private health insurance and that we will be shooting ourselves very firmly in the foot, as far as the provision of health is concerned and health costs. I believe that Senator Syvret will confirm that. He has already said this morning that the hospital makes a nice profit, thank you, out of the provision of private health to people paying private health insurance. So, if we lose out through a benefit in kind of taxation on private health insurance, we are going to have a problem. But now, then, if we do not do that, we are left with the problem of equity. People outside of that way of paying for private health insurance are suddenly going to find that: "Well, he gets it and I do not." Where is the equity in that? So, there is a problem and I would very much like the Treasury Minister to tell us in his summing-up what he intends to do, or, at the very least, that he intends to initiate a careful - perhaps with Senator Syvret as the Health Minister - a very careful review of what happens with health insurance. I would like that kind of assurance so that I will feel a bit happier when I support '20 means 20.'

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

I also welcome Part B, the increase in the exemption thresholds. I do, Sir, believe that many people are concerned, rightly or wrongly, they are concerned if they have mortgages, children at fee-paying schools and in higher education, universities in England. I therefore would ask the Minister whether he will confirm that he will review, and keep under review over the next years, the effects of these proposals. I concur with the previous speaker regarding this anomaly of private health insurance. I am speaking as Assistant Minister of Health. I feel it is very important that we encourage more people to take up private health insurance and those that are paying this should continue to do so. I did vote for the reference back, not because I wanted to delay this, but because I do feel there are gaps in the information. I would also like to ask the Minister, would he be able to... although I know we are debating this now, it would be very useful to have information on that range of the people, single earners between £30,000 and £60,000. Any other information he can give us, I think we would appreciate. I think this is important. So I do have some concerns but I believe this proposition is obviously vastly improved on the original proposals. Thank you, Sir.

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

Just briefly, Sir, I would like the Minister, when he sums up, to confirm that, annually, the States will have an opportunity to - for want of a better expression - "tweak" thresholds and relief levels with the '20 means 20' proposals to ensure equity and fairness; and that the third proposal of '20 means 20' comes out and a few Members have expressed concerns. But there is, and I want the Minister to confirm this, that there will be the opportunity annually during the budget debate for Members to highlight any anomalies or concerns they have, to put right any areas that they feel are unjust. If the Minister can satisfy me there, I will be supporting the proposition.

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

I supported the reference back as well on the grounds that the Appendix B is a pretty baffling document. I hunted through here, trying to find where I fitted - roughly, and with my family - and I am not in there. I obviously do not earn enough. I think that when the Minister comes back with further proposals, I would hope that he takes the message from the Assembly, which, after all, only defeated the reference back by 5 votes. There does appear to be a lack of information and I think members of the public who want to find themselves and how their tax bill is going to be changed by our proposals would go to this document on the web or in the bookshop and find it a very frustrating exercise. There must be clearer ways of setting out what effect tax changes are going to have on a person than what we have here. It is a table which, as I say, defies... Someone should be able to turn to this - maybe a few visuals would help as well - to see which style of family they fit into. There is a picture or box, a nuclear family, and there is someone at university, and they can identify fairly quickly, within a band, say, of £10,000 or £20,000 income, where they fit and how it is going to affect them. So, I think there is a good case for better communication of the effect of these proposals on the public. The other thing which is completely missing from this document, and I suppose that nobody really thought it was relevant any more, is that when we approved the fiscal strategy, great store was set on the fact that the States are doing so much to cut down on unnecessary public expenditure. It does seem to me that no reference is made to that in the document nor by the proposer, and I think that when we bring forward elements of the fiscal strategy, as we will be doing in the next few years, and every time we do that, we should give the public an update on where we are with those savings that we have promised. We had a long debate on the Strategic Plan over the fact that the manpower savings annually of £20 million have been reinvested: certainly not given back to the taxpayer, anyway. I think there are people out there who feel that, having got the fiscal strategy through, the States of Jersey now are going to be a bit soft when it comes to making tough decisions about expenditure. So, I think it would be helpful to the Assembly and I think it would be helpful to the public if the Minister, at each occasion he brings forward aspects of the fiscal strategy, were to remind the public of where we are with those savings that justify the increase in taxation. Thank you, Sir.

### **8.9 Deputy J.A.N. Le Fondre of St. Lawrence:**

I think Members need to remember why this proposition is being brought. Essentially, it is to raise £10 million as part of the fiscal strategy and that is to fill the funding gap caused by the changes from 'Zero/10' and to fill the so-called "black hole". If we do not approve this proposal, we have got to find the £10 million from somewhere else. Now I can safely say I do not look forward to pressing the poor button on this proposition, because ultimately it is going to cost me money. In fact, I had wondered if I could get away with declaring a pecuniary interest, Sir, and trying to leave the Chamber but even before you clarified the matter, I had figured out I would not be able to get away with that one even if my Minister allowed me to. I can remember a discussion I had with someone a couple of years ago who said that the States should be taxing the rich, by which they meant anyone earning more than themselves. As they earned double what I was earning at the time, as a mere accountant, I was slightly less sympathetic to their cause than they might have imagined. I think that is the point. In order to feel the full effect of these proposals, you need to be paying outside of the marginal band. If you fall within it, it is already the case; you do not receive tax relief for life insurance or private health premiums anyway. Now, I will freely admit it was only approximately a year ago that I had fully appreciated this as a fact. So, these proposals to raise more money from the better-off, and we are likely to be amongst those affected. There are bound to be some anomalies that will need to be sorted out, but these type of teething problems always arise in such circumstances and will be addressed when identified. Make no mistake, there are issues that do need to be addressed, such as the impact of the changes in university fees and certain matters raised in the letter from Corporate Affairs. However the feeling at present is that these need to be addressed on a more holistic basis and this is one reason why full child allowance and

pensioner savings have been retained as allowances for everyone. Is also why the Economic Adviser has been asked to look into certain matters and to report back by the end of the year. To put matters into perspective, I am informed that the median amount of family income in the Island is in the order of £34,000 a year. So, whilst I do not like making myself pay more tax, I do accept the previous decision of the States on this matter and for the reasons suggested above, I do believe that the proposals that have been suggested are far better than suggested earlier. Indeed, to refer to the Connétable of St. Helier's comments; I think it is likely that this will maintain public pressure on ensuring a continued work of achieving efficiencies in the States' expenditure, and in my view that would be no bad thing. So, I do support the proposition.

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

In the November elections, I said to the parishioners of St. Brelade that I was not in favour of the '20 means 20' proposals and I really have not changed my view on that. Because, as other Members have said, middle income earners are the highest hit, and the problem with '20 means 20' is that additional tax will be paid by families that are already reeling from the shock of all of the other tax hikes hitting them. I would prefer to see these proposals scrapped and have the Treasury Minister explore other options to raise his £10 million. **[Laughter]** Members certainly, I hope, will vote against Part (a) and I hope that the Treasury Minister will split the vote into two, and I would like him to confirm whether he will do that or not. I think there is a mood in the House, there are some Members who would like to see the vote split on Part (a) and Part (b), and I would like the Treasury Minister to take that on board and give Members the option to do that. But certainly, if these proposals were defeated, if Part (a) were defeated, and then you had to find... Part (a) might relate to £5 million, I do not know - the figure is not quoted as to how much Part (a) will raise. But if it were, say, £5 million - if it were £4 million or £3 million - it might mean that you would have to find it somewhere else. One could explore increasing the rate of GST by a small sum or there could be other avenues to explore. If one did move at putting the rate of GST up by half a per cent, for example, or a quarter of a per cent, that would mean that families in this income bracket can exercise control over their spending because, with the GST, it is taxed as you spend. Of course, if you exercise control over your spending, you can limit the amount of tax that you are paying. If the Minister would take that on board, then there may be an opportunity for this income group to have some relief here. But in this Chamber before, I have also said that there has never been any certainty over the actual size of the tax hole that we are going to create. It started at £100 million, it then moved to around £90 million, to £80 million, and then it was something around £75 million and I think that the figure still has not been substantiated. I think that we are in a bit of a panic really, we are panicking to find £5 million here and £5 million there, but we do not still know the size of the tax hole. I think the panic is coming through in all of these bitty moves to raise £5 million here and £5 million there. I think that it is probably not necessary in many ways. If one was short of £5 million in the first year, later down the line you can raise the GST to recover some of those funds. But I would look at what happens first because we have not seen what will happen. These figures are not cast in stone on the size of the tax hole. I have argued in the past as well that I think that our take on GST will raise a greater sum than in the Isle of Man because we have a larger economy. We have a larger number of people, and the turnover of GST through the economy will generate larger amounts from the rate of each one per cent against the Isle of Man. So, I am not convinced that we need to be panicking to find £5 million here and £5 million there. I have never agreed with the '20 means 20' proposals, and I will be voting against them. I have said previously that I have never agreed with them, and I am sticking to my guns on that, and I will be voting against it. But I would hope that certainly we get the opportunity to vote on Parts (a) and (b). I think that is very important, there are many Members here who are not content with Part (a).

### **8.11 Senator M.E. Vibert (Minister of Education, Sport and Culture):**

I must apologise. You gave us a look on the Senatorial bench as a sort of murmur of laughter went round and that was because unfortunately when Deputy Troy was suggesting we find another tax to replace it with, somebody suggested a tax on property developers. [Laughter] I think I have rarely heard such a misguided speech as Deputy Troy's. One, it shows a complete misunderstanding of what the whole proposal is about; wanting to separate it. It is a package. The first part raises the money that is required - the whole amount of money - and the second part is raising the exemptions to ease the pain. I think we need to be honest, Sir. There is a saying that: "turkeys don't vote for Christmas" but having looked at the table in the back here, I think most Members in this House are turkeys. They are going to be facing - if they look at it - an increase in their own tax bill. I cannot speak for everybody, I have looked at my own possibilities, I would have thought it is quite likely that most States Members would be looking at an increase in their own tax bill. That is not a reason not to support this. This is right; it is progressive; it is saying, unfortunately, because of changed circumstances, those who can afford it must pay a bit more, and that is the right thing to do and it also protects those at the lower end. Sir, this is one turkey who will be voting for Christmas and I urge all the other turkeys to join me, Sir.

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

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

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

I would like to thank those Members who have spoken and made comments, which I have noted down here and will take account of. There seems to be a theme running through many speeches in one of two totally contrasting directions. One says that we have provided far too many examples, far too many figures, and we have confused everybody. The other group says we have not produced enough figures because we have not produced the figures which reflect my particular circumstances. Well, we cannot win them all, can we? Those figures, which I did give, were simply meant to be examples of a reasonable range - as I thought - of different situations. But if Members want a particular situation clarified and quantified, then the helpdesk at the Tax Office will be only too happy to deliver that. There is also a website, as I say to people who can put their own particular figures in. But I would simply say to those people who have any queries - uncertainty about what their future tax bill might be under these proposals - please ask the Tax Office, they are there to help and they will help. In that respect, in terms of figures, Deputy Scott Warren asked if we could have the figures for the single person on £40,000-£50,000 a year. A single person earning £40,000 a year with no other dependents will see his tax bill go up by £775. A single person earning £50,000 a year will see his bill go up by £1,200, which is not surprising. We are talking about a single person on £50,000 a year with no commitments, who may be also expecting to be paying a bit more towards the cost of the Island. But if those people do not, then somebody else lower down the scale will be. I think Deputy Southern clearly had at least one good thing to say about this proposition, which I thank him for. But I think he is perhaps simplifying things too much when he says: "The impact starts at £28,000 for single person and £43,000 for a married couple." In many cases, people with that sort of level of income will see a reduction in their tax bill next year and not an increase. It all depends, as I said in my opening speech and that is why it is very misleading, just to quote them out of context. Yes, I could have put percentage rises in there, frankly it is again a question of: "Do you put in too much information? Too little information?" You can never get it right. You can never please all the people all the time. Senator

Routier, I thank for all his comments; yes I think these proposals are better. Certainly, if they were no better, I would not bringing them because I was told that the last proposal needed improvement, and needed focussing on the top end, and they do focus on the top end. Deputy Ryan says he has a problem because there are no amendments to this debate. Well, of course, it is up to any Member in this House if they want to bring amendments, and I accept that, as it was a time of constraints, Deputy Southern was tipped at the post. He has, in fact, lodged an alternative proposition. That proposition which contains what he would say is: "The best of this one and some other bits as well" will be up for debate in the next session, I presume, if he wishes to pursue that; and if that proposition is successful, then the budget proposals finance law can be amended accordingly. So, Members, in a way, if the Deputy proceeds with his proposition, we will have a chance to debate an amendment or an alternative. Deputy Ryan also makes reference to the permanent health insurance issues as well as the life insurance issues. I do want to stress that we are, indeed, intending to look at incentives either to save or to provide health cover, or to find ways for funding university tuition. I will happily work with the Minister of Education, with the Economic Minister and any other Ministers concerned. But I want to try to find ways of doing that, which are not linked to tax incentives when those tax incentives only affect a minority of the population. If that is the only way we can do it, well, so be it. But to me, that would be a second-best solution. I want to see if we cannot get a better solution than that. But Deputy Scott Warren and I do confirm that we will review the effects of these proposals and also, as they come in, we will be able to quantify whether they are indeed achieving the right level of revenue. Yes to Senator Perchard, I confirm that the thresholds can be tweaked annually if we need to, and any concerns about this and other matters can be addressed at budget time and can be addressed indeed at other times of the year as well. The Connétable of St. Helier, as I say, had difficulty in finding the right sort of information and thought that there must be a simpler, clearer way. Yes, so did I, and I began drawing diagrams and drawing graphs and drawing pretty pictures. At the end of the day, I got even more confused because the graphs seemed to be not particularly helpful and many people, I think, get put off by graphs anyway. You can get a bit confused by 120 different happy families, each with two men and a dog or whatever it may be. So, in the end, I decided that figures were the simplest way out but, as I say, you cannot necessarily get everything to suit everybody. He says I did not refer to more general fiscal strategy, cuts in public spending and so on. Well, no, I did not but I try when I can to stick to the subject matter of the debate. But, except that it could be in a wider debate on fiscal strategy, we also refer to all elements of that fiscal strategy, and I could have spoken about economic growth. I could have spoken about the efficiency savings of the Government are delivering. I could have spoken about the additional number of people being registered as a result of ITIS, but I thought I would just focus on the '20 means 20' proposals. He asked if we are getting soft about cutting spending. I think my fellow Ministers will assure him that I am not getting soft about cutting spending yet. Where we need to spend money, we shall spend money. When we do not need to spend it, I want to ensure that we do not spend it. We do not need to spend money unnecessarily, we need to spend money wisely. I appreciate the comments of my Assistant Minister, and even though it may hurt his wallet, he accepts that these proposals do benefit society as a whole. Deputy Troy's comments I was going to go over at some length but I think Senator Vibert has dealt with them as adequately as I could have done. I accept that Deputy Troy has a different view on '20 means 20.' I simply point out to him and to Members of the States that this House agreed last year that we should implement tax proposals to withdraw allowances from those on higher incomes. We agreed that by a significant majority and now I am simply implementing those proposals. He asks, finally, whether the vote can be taken in stages and I am sorry to inform him that this is a package of proposals. It is put together as a package and we are voting on it as a package. So, I propose the package as a whole, Sir, and ask for the Appel.

**The Deputy Bailiff:**

Very well. The Appel is called for, so I invite Members to return to their seats and the Greffier will open the voting on the proposition.

<b>POUR: 38</b>	<b>CONTRE: 10</b>	<b>ABSTAIN: 0</b>
Senator L. Norman	Senator S. Syvret	
Senator F.H. Walker	Senator T.J. Le Main	
Senator W. Kinnard	Senator B.E. Shenton	
Senator T.A. Le Sueur	Deputy R.C. Duhamel (S)	
Senator P.F. Routier	Deputy A. Breckon (S)	
Senator M.E. Vibert	Deputy P.N. Troy (B)	
Senator P.F.C. Ozouf	Deputy J.A. Martin (H)	
Senator F.E. Cohen	Deputy G.P. Southern (H)	
Senator J.L. Perchard	Deputy S. Pitman (H)	
Connétable of St. Ouen	Deputy of St. John	
Connétable of St. Saviour		
Connétable of St. Mary		
Connétable of St. Peter		
Connétable of St. Clement		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Lawrence		
Connétable of Grouville		
Connétable of St. John		
Connétable of St. Brelade		
Connétable of St. Martin		
Deputy of St. Martin		
Deputy G.C.L. Baudains (C)		
Deputy C.J. Scott Warren (S)		



Deputy R.G. Le Hérissier (S)			
Deputy J.B. Fox (H)			
Deputy S.C. Ferguson (B)			
Deputy of St. Ouen			
Deputy P.J.D. Ryan (H)			
Deputy of Grouville			
Deputy J.A. Hilton (H)			
Deputy G.W.J. de Faye (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

## ADJOURNMENT

### Senator S. Syvret:

Sir, I wonder if it might be appropriate to propose the adjournment now. It has been suggested to me that we might want to stay late tomorrow afternoon and evening in order to complete business rather than returning on the Thursday. I do not know ... we will have to, I guess, play it by ear and see how we progress with the business tomorrow.

### The Deputy Bailiff:

Is it the wish of the Assembly to adjourn at this stage? Very well, we will adjourn until 9.30 a.m. tomorrow.