

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 5th JUNE 2007

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

QUESTIONS

1. Written Questions

1.1 THE MINISTER FOR HOUSING BY DEPUTY S. PITMAN OF ST. HELIER REGARDING THE TOTAL AMOUNT OF SUBSIDIES PAID TO HOUSING TRUSTS FOR EACH YEAR FROM 1998 TO 2006:

Question

Would the Minister inform members of the total amount of subsidies paid to Housing Trusts for each year from 1998 to 2006?

Answer

The only subsidy paid annually to the Housing Trusts is the capital interest subsidy on their borrowings. For the years 1998 to 2006, these payments have totalled:-

1998	£556,744
1999	£557,312
2000	£777,125
2001	£917,656
2002	£522,609
2003	£475,275
2004	£1,224,117
2005	£1,351,483
2006	£1,489,220

In addition the public have made a number of grants to the Jersey Homes Trust to facilitate certain developments. These grants amount to £10,665,000.

Rental subsidy in the form of Rent Rebate is a means tested benefit based upon the income of the applicant and is paid to the individual claimant rather than to the Trust or indeed any other landlord.

1.2 THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR REGARDING THE SCRUTINY REPORT ON OVERDALE:

Question

In replying to an oral question on 13th March 2007 concerning the publication of a response to the publication of the Scrutiny Report on Overdale, the Minister stated –

“I hope to have it completed and with the Greffe later this week.”

Would the Minister explain why this did not happen?

Answer

As the Deputy is aware, Senator Stuart Syvret, Minister for Health and Social Services, is currently indisposed following a short period of hospitalisation. Prior to his indisposition, the Minister spent a considerable amount of time preparing his response – and that response by definition cannot now at this late stage be delegated to either the Assistant Minister or a Minister of the Chief Minister’s choosing.

In the response to the oral question put by the Deputy on 13th March 2007, the Minister stated “I hope to have it completed and with the Greffe later this week.” I trust the Deputy will appreciate that this statement represented an honestly held intention, rather than a binding commitment.

The Minister has asked that I reassure the States Assembly that this response will be completed at the earliest most practicable time.

1.3 THE CHIEF MINISTER BY DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR REGARDING SUCCESSION PLANNING WITHIN STATES DEPARTMENTS:

Question

Would the Chief Minister advise members which States departments, if any, have formal succession plans in place for the appointment of senior staff?

Answer

There is a formal States-wide Human Resources Policy on Succession and Career Management in place, and this was introduced some ten years ago. The policy is still sound with regard to the aims it seeks to achieve, but it does need review and updating, e.g. there are no references to the rôle of the Appointments Commission as it was written before that body was established. I have therefore asked the Director of Human Resources to update the policy and present it to the States Employment Board for approval as soon as practicable.

It is true that the policy may not have been fully adhered to in all cases. However, Departments have been acting in accordance with the spirit of the policy, and have been providing training and development opportunities to enable officers to be in a position to apply for the more senior positions. As a result, three quarters of senior appointments are held by locally qualified officers, many of whom have been promoted from within the States workforce as a result of training and other learning initiatives.

My expectation is that a combination of the new policy and the initiatives recently launched under the leadership of the Director of Human Resources, and operating within the new structures he has introduced, will from this point, lead to local candidates being even better positioned to fill the more senior posts within the States.

1.4 THE CHIEF MINISTER BY DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR REGARDING THE RECRUITMENT OF SENIOR PERSONNEL FROM OUTSIDE THE ISLAND:

Question

What background information is sought by the Human Resources Department and the Appointments Commission when a States department seeks to recruit senior personnel from outside the Island?

Answer

The Jersey Appointments Commission's guidelines reflect best practice in recruitment in order to ensure appointments are made on the basis of merit following an open and competitive process.

The Commission and States Departments share an overall aim to make sound appointments which are in the best interests of both the public service and the Island of Jersey.

With regard to senior appointments, in the context of relatively small services and the consequent limitations on potential pools of suitable local applicants, the Commission's recruitment codes would normally require that the competition is opened up to potential candidates outside the Island.

However, where a Department considers that a sound appointment can be made without resorting to an off-Island competition, an agreed process is in place whereby compliance with the Commission's guidelines can be achieved. That process involves the Department demonstrating that it believes there is a pool of potentially suitable local applicants. Since the establishment of the Appointments Commission, this process has been used on a number of occasions and has led to a mixture of on and off-Island appointments at senior level which have all complied with the Commission's principles for open and sound recruitment.

In all cases, when a States Department seeks to recruit to a senior position, the Appointments Commission –

- works with the Department to gain information on the nature and context of the job;
- is consulted on the content of the job description;
- gives guidance as to the extent of the arena from which competition will be invited.

1.5 THE MINISTER FOR HOME AFFAIRS BY DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR REGARDING THE MINISTER'S ROLE IN THE RECRUITMENT OF SENIOR PERSONNEL FROM OUTSIDE THE ISLAND:

Question

Would the Minister advise members under what circumstances the Department recruits senior personnel from outside the Island and what rôle, if any, she plays in the process?

Answer

When appointing to a senior position, the Home Affairs Department consults with the Jersey Appointments Commission at the earliest possible stage. The Commission will normally approve the advertisement, the media to be used and the extent of the arena from which competition is to be invited.

Selection to Senior Home Affairs positions is based on the qualifications, skills, competencies, experience and personal qualities needed to do the jobs. In the case of some of the Home Affairs Services this will include relevant professional qualifications appropriate to maintain credibility and recognition at U.K and international level.

In the case of senior appointments the Appointments Commission will normally require the position to be publicised both locally and outside of the Island. However, prior to advertisement, the pool of prospective applicants are considered together with other relevant factors such as the age profile of existing senior staff. Where it is considered that there are likely to be suitable and eligible local candidates, permission will normally be sought to only advertise within the Island. Applicants are then considered equally on merit and assessed against the selection criteria at each stage of the recruitment process.

Conversely, where it is not considered that there is likely to be a pool of suitable and eligible local candidates, permission will be sought to advertise both locally and outside of the Island.

I take an active interest in the recruitment and selection processes associated with filling my senior positions as those appointed are of considerable importance for the setting and delivery of my policies. In line with the Jersey Appointments Commission Recruitment Code on senior recruitment, I am invited to participate in such areas as the period of the contract, criteria for appointment and the composition of the selection board. In the case of the appointment of my two chief officers, I will be involved directly in the interviewing of applicants but in other appointments I normally take no direct part in the selection process.

1.6 THE MINISTER FOR SOCIAL SECURITY BY SENATOR B.E. SHENTON REGARDING THE INTRODUCTION OF A WINTER FUEL ALLOWANCE:

Question

As part of the Strategic Plan and Annual Business Plan 2007 the States charged the Minister to introduce a new winter fuel allowance?

Answer

The Council of Ministers will shortly be lodging a report and proposition proposing a Winter Fuel component within the Income Support scheme. As originally planned, Income Support was to be introduced in August 2007 and thereby the Winter Fuel 'system' would have been introduced at that time. With the movement of implementation of the Income Support scheme to January 2008, access to payment for additional Winter Fuel costs will commence in January 2008, should the States approve the Income Support scheme and Winter Fuel proposition.

However, provision is to be built into the Income Support scheme to allow retrospective winter fuel payments for the months of November and December of 2007 to those eligible within the Income Support scheme in January 2008 if those months turn out to be cold enough for payment to be triggered had the system been in place for those months.

To this extent therefore, additional costs of heating for those eligible will be secured for the whole of the upcoming winter.

1.7 THE CHIEF MINISTER BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT REGARDING THE ADOPTION OF THE KYOTO CONVENTION ON CLIMATE CHANGE:

Question

Although Jersey recently adopted the Kyoto Convention on climate change, the Chief Minister has indicated that he will not apply it to air travel. Would he advise how the goal of economic growth and the proposed new energy from waste plant will affect our ability to comply with the terms of the Convention and will he also give details of what work, if any, has been undertaken to assess what effect these, and other projects will have on our ability to comply?

Answer

Jersey is proud to have signed up to the Kyoto Protocol which has set a target to cut greenhouse gas emissions to 5 per cent below 1990 levels. Whilst under Kyoto Jersey does not have specific targets, we have performed very well to date, cutting local greenhouse gases by 36 per cent as a result of switching to imported electricity.

Nevertheless the States are committed within the Strategic Plan, to demonstrate internationally that we adhere to the highest environmental standards. Therefore, we do not intend to rest on our laurels and the Council of Ministers will soon be bringing forward an energy policy which tackles energy related carbon emissions with the intent of continuing the reducing trend.

Emissions arising from air travel are not currently included in Kyoto accounting at the National level since without collective action little can be achieved – for example, if Jersey were to tackle aviation emission unilaterally by, say, a carbon tax on fuel, airlines would simply refuel elsewhere. Therefore it is accepted that the most effective way to tackle the emissions from aviation is by collective action and the proposed mechanism for co-ordinated action is the European Union Aviations emission trading scheme. Jersey continues to work with the U.K. as this process is consulted upon.

Turning now to the proposed new energy from waste plant:- a new plant that is compliant with the most stringent standards will materially improve local and transboundary air quality. It will have a little impact on our carbon emissions but a more modern plant of whatever technology will be more thermally efficient than the existing incinerator and so will recover more energy from waste for use locally.

The effect of net economic growth does not need to be increased energy use and as a consequence an increase in our carbon emissions. Instead we intend to bring forward policies for debate that will encourage wise resource use. These include demand management measures, focussing on low-carbon footprint industries and the increased thermal performance of new buildings. It is worth mentioning that research elsewhere has shown that the adoption of low and no-cost energy efficiency measures by households and business can achieve significant savings within the local economy so assisting our objectives of economic growth.

It is my opinion that Kyoto will be almost entirely beneficial, both domestically and for our international standing. It shows our commitment to tackling global climate change, supporting the U.K. government in seeking wide international commitment to the Protocol, and making progress towards the States strategic objectives on the environment.

Additional information:

The Kyoto protocol is an international agreement setting targets for industrialised countries to cut their greenhouse gas emissions, which are considered at least partly responsible for global warming, to 5 per cent below 1990 levels by 2008 - 2012.

Jersey has recently contributed to the consultation on the proposed European Union Aviations emission trading scheme. Nearly all flights to and from Jersey arise from airlines that are registered outside of the Island in Europe. These airlines will be regulated under such a scheme.

Although air travel may be affected as a result of measures to reduce greenhouse gas emissions from aviation, this is likely to be a consequence of measures taken by other European countries, not Jersey.

Energy Policy is currently under review by the Political Steering Group (Senator P.F.C. Ozouf, Senator F.E. Cohen and Senator S. Syvret) and is due to be presented to the Council of Ministers in the third quarter of 2007.

The policy proposes energy reduction targets in the domestic, industry and commercial sectors through demand management and energy efficient practices. These are not expected to curb economic growth. Indeed, growth is expected in the compliance industry (for instance the building industry – insulation, renewables sector etc).

1.8 THE MINISTER FOR HOUSING BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT REGARDING THE SALE OF PROPERTIES AT LE SQUEZ (PHASE 1B):

Question 1

With regard to the forthcoming sale of properties at Le Squez (phase 1B) would the Minister advise –

- (a) how the discrepancy between the price agreed in 2005 and current valuation occurred, and how he will ensure a similar situation does not arise with regard to future sales?
- (b) whether he has now resolved the dilemma of how to protect the public interest whilst at the same time avoiding placing those purchasers recently advised of a rise in price and change in terms in a position of distress or difficulty?

Answer

- (a) The properties were valued off plan on 10th December 2004. These valuations were based upon First Time Buyer market levels at that time. Following approval of P.19.2004 on 9th March 2004 the homes at Le Squez 1A, Le Marais Phase1 and Le Squez 1B were marketed to tenants by the Department at those prices. To have offered properties at Le Squez 1B for sale at a fixed price and at a stage when a completion date was not known was a mistake. The matter was further compounded by an inadequate deposit agreement. In 2007, the Department found itself in the position of selling homes at depressed values because the property market had seen a significant rise in the preceding 12 months. It therefore had to reconcile the price of these homes with the expressed aim of the States Assembly in seeking to avoid excessive profiteering by purchasers. This situation cannot happen again. Any future sales agreed by the States Assembly will be carried out in accordance with the Social Housing Property Plan 2007–2016. Three separate valuations will be carried out, all of which will be undertaken at the time of sale.

- (b) Balancing the needs of the individuals purchasing a home with that of protecting the public interest by preventing excessive profiteering has been immensely difficult. There was never a question of any prospective purchaser missing out as a result of the requirement to introduce additional safeguards. The matter needed to be resolved by negotiation and discussion. A fair and equitable solution has been found whereby sales will go ahead at the original prices with a 10 per cent claw-back provision in perpetuity. An additional 15 per cent depreciating claw-back will also be payable over a 15-year period. This enables all of the proposed sales to go ahead whilst providing adequate protection to prevent excessive profiteering. The Department has quite rightly apologised to all of those affected as a result of mistakes made.

Question 2

Would the Minister advise of the amount normally made available to tenants towards relocation expenses, how it was arrived at, whether it is index linked and whether he considers that amount sufficient to enable someone to move without being out of pocket, especially those persons moved involuntarily?

Answer

Relocation expenses are only payable where tenants are required to move so that homes can be refurbished or redeveloped. Therefore tenants are moving from sub-standard accommodation into homes which will be of a better standard and be cheaper to run. Refurbishment and redevelopment programmes take time to organize. Tenants are always consulted and aware of the proposals well in advance. They are advised not to expend unnecessary money on their homes running up to the time when they will have to move.

The allowances payable vary between £150 and £300 depending on the size of the accommodation. Each case is considered on its merits with the personal circumstances of the tenant concerned being taken into account. Expenses are set at a level so as to fund those specialist services which the tenant cannot reasonably be expected to do themselves, in particular the disconnection and connection of telephones and cookers. These items can be undertaken for approximately £90.00 leaving an amount of money to contribute to other removal expenses. These allowances are not index linked but are reviewed before each major project. The Department must balance the needs of those relocating with a finite budget, already stretched. Any increase in relocation expenses will have to be met by curtailing expenditure elsewhere.

On 19th June this year, the States Assembly will debate the Social Housing Property Plan 2007–2016. In view of the scale of the refurbishment programme contained therein, it is timely for the Department to review relocation expenses. If at all possible the Department will seek to extend the assistance given but with due regard to the budgetary constraints already mentioned. The Department will ensure that Deputy G.C.L. Baudains is aware of any changes.

1.9 THE CHIEF MINISTER BY SENATOR B.E. SHENTON REGARDING THE JERSEY COLLEGE FOR GIRLS SITE:

Question

Following the publication of the Corporate Services Scrutiny Panel report: ‘Review of the proposed sale of the former Jersey College for Girls site’, would the Chief Minister advise the Assembly whether he continues to uphold views which he expressed to the States Assembly on the 28th March 2007 in support of the deal with Grange developments, in particular that, having been

advised throughout by Drivers Jonas and others, the process was robust, professional, and correctly handled, and that it will result in a return to the public of significantly in excess of £3 million with no risk at all?

Answer

When I addressed the House on 28th March 2007 I was satisfied, based upon the advice I had received, that the process leading up to the proposed development agreement with Grange Developments had been properly undertaken and represented good value for the States.

I now nevertheless accept the Sub-Panel's view that the process could have been more stringent and that clearer criteria for selection should have been used and a formal contract, rather than an exchange of letters, drawn up at an early stage. It should however be noted that the Panel found nothing to support Senator Shenton's suggestion of corruption.

During the time that has elapsed since the decision taken in 2005 to dispose of the site, officers of Property Services and subsequently Property Holdings have sought professional guidance as and when they felt it was required. I was, however, informed by the officers concerned that Drivers Jonas had been advising throughout. This has subsequently been shown not to be the case and I regret that I inadvertently misled the House in this regard.

At no time did I suggest that the anticipated final price to the States of over £3 million would be risk free. I did state that the initial £1.8 million was not at risk and that remains true – not least because the Treasury and Resources Minister will not authorise the sign off of the legal document necessary to implement the agreement without assuring himself that is indeed the case. I went on to emphasise that the final figure achieved would depend upon the property market, but that the evidence suggested the figure of £3 million would be exceeded.

I remain of the view, given all the circumstances and the time-scales involved, that the proposed deal with Grange was reasonable and fair to all parties. However, the Treasury and Resources Minister, having received a further independent valuation, will review it in the light of this new information.

Final judgment should, in my view, be withheld until that information is available.

1.10 THE MINISTER FOR HOUSING BY DEPUTY S. PITMAN OF ST. HELIER REGARDING THE DEMOLITION OF CONVENT AND CAESAREA COURTS:

Question

If the Social Housing Property Plan is approved by the States, how soon after the debate will the Minister be able to give the residents of Convent and Caesarea (high rises) Courts a date for demolition?

Answer

The Social Housing Property Plan 2007–2016, has yet to be debated and therefore the States Assembly has not, as yet, supported the proposed demolitions. Officers from the Department are visiting all of the tenants of these buildings before the end of August this year to discuss matters in greater detail. The important factor is not the date for demolition but that all residents of Convent Court and Caesarea Court are relocated to new homes which are acceptable to them and are suitable for their needs. Whether either building is demolished or refurbished, residents would need to move

because of the scale of the works. Housing Department staff will work closely with all residents of these estates and will deal with the allocation of new homes in a sensitive and compassionate manner.

**1.11 THE MINISTER FOR HOUSING BY DEPUTY S. PITMAN OF ST. HELIER:
REGARDING THE REDEVELOPMENT OF CONVENT AND CAESAREA COURTS
HIGH RISE BUILDINGS:**

Question

Would the Minister advise the Assembly what progress, if any, his Department has made, in conjunction with the Planning Department regarding the plans to rebuild Convent and Caesarea Court (high rises)?

Answer

The Social Housing Property Plan 2007–2016, has yet to be debated and therefore the States Assembly has not, as yet, supported the proposed demolitions. Officers from the Department are visiting all of the tenants of these buildings before the end of August this year to discuss matters in greater detail. The important factor is not the date for demolition but that all residents of Convent Court and Caesarea Court are relocated to new homes which are acceptable to them and are suitable for their needs. Whether either building is demolished or refurbished, residents would need to move because of the scale of the works. Housing Department staff will work closely with all residents of these estates and will deal with the allocation of new homes in a sensitive and compassionate manner.

**1.12 THE MINISTER FOR ECONOMIC DEVELOPMENT BY DEPUTY G.C.L.
BAUDAINS OF ST. CLEMENT REGARDING FACILITIES AT JERSET AIRPORT:**

Question

Would the Minister advise what changes, if any, he will be making to ensure adequate room and facilities exist pre-security at the Airport, in order to cope with travellers delayed by weather or other factors?

Answer

The toilets and café facilities were available in the landside area before security on the day the new security arrangements were made operational. These facilities have been available to all visitors to the Airport – whether they're travelling or not – since that date.

I further advise that the existing café facilities are temporary, and will be so until the Starbucks shop is commissioned in late August/early September. The Starbucks facility will represent a significant improvement in café facilities, and will include an expanded seating area, both indoor and outdoor.

**1.13 THE MINISTER FOR ECONOMIC DEVELOPMENT BY DEPUTY G.P.
SOUTHERN OF ST. HELIER REGARDING THE FUTURE FUNDING OF THE
TOURISM AND AGRICULTURE INDUSTRIES:**

Question

- (a) Would the Minister advise members which sectors of the economy have so far applied for, or been granted funds from the Enterprise and Business Development fund?
- (b) Are the reductions outlined within the draft 2007 States Business Plan in dairy industry funding planned for 2007-2010 over and above those included in the Rural Economy Strategy plan to reduce Quality Milk Payment and the Dairy Support Services Grant?
- (c) In reference to the 2007 Economic Development Department business plan, would the Minister advise members how –
 - (i) the £2,240,162 allocated to Tourism and Marketing funds to ‘develop and implement a brand marketing strategy to promote Jersey for year-round tourism’ will be used?
 - (ii) the £505,000 allocated to Rural Economy ‘Rural Initiative Scheme – grant based scheme’ will be used?
 - (iii) the £25,000 allocated to the Rural Economy to ‘promote relocation and development of high-value / low-weight land based produce’ will be used?
- (d) Will the Minister advise the Assembly of the amounts allocated in 2006 to the respective areas outlined above in question (c), and detail how these sums were used ?

Answer

- (a) To date the retail, construction, manufacturing, tourism, hospitality, ICT, marine leisure and rural economy sectors have applied for, or been granted, funds from the Enterprise and Business Development budget.
- (b) There has been hardly any reduction in the dairy budget in the published 2007 budget. The small reduction (approx. £3,000) in 2007 is from a 1 per cent reduction in support to service provision for the industry which was less of a reduction than outlined in the Rural Economy Strategy. The Quality Milk Payment remains the same in 2007 as it was in 2006 as laid out in the Rural Economy Strategy. The Department is working on budgets for 2008 and beyond and any reduction will be based on the Rural Economy Strategy and any changes in the industry since its adoption.
- (c) (i) Each year the marketing campaigns are shaped to meet market conditions. For 2007 the lead medium in the U.K. was Television with a new commercial costing in excess of £400,000 (this commercial can be used again in 2008). This has been supported by national press, radio, direct mail and ambient media. The total U.K. consumer campaign cost £1.6 million with some £300,000 of that attracting equal investment from the industry.

In the European markets much of our marketing is undertaken in partnership with carriers, tour operators and other tourism organisations who contribute to the total spend.

- (ii) The budget is used to award grants under the Rural Initiative Scheme which is designed to promote efficiencies, diversification and entrepreneurship in the Rural Economy. Its simple aim is to help businesses in the rural economy become more productive and efficient. The explanatory documents, which set out the types and conditions of grants, and the application forms are available on the www.gov.je website in the Rural Economy section.

- (iii) This is a project to investigate the feasibility of attracting companies that produce high value crops to Jersey. These included pharmaceutical, nutraceutical, essential oil and other types of new high value novel crops. The work initially involves a desktop study of cross-matching Jersey's climate, growing conditions and other requirements to the range of novel crops coming onto the market. This will pinpoint key suitable crops and ranges of crops. It is expected that under half the £25,000 will be spent this year as most of the initial work is now being performed in-house.
- (d) (i) A restructure of the business planning and budget process for 2007 makes a direct comparison with 2006 unsound. However the total Tourism Marketing spend was reduced by £380,000 for 2007. Full details of the breakdown of the 2006 campaign and spend are published in the Jersey Tourism Annual Report – 2006 in Focus.
- (ii) In 2006, £460,000 was allocated to the Rural Initiative Scheme. This supported approximately 25 business projects from 44 applications. £360,000 was granted towards projects with a combined cost of over £2.5 million. £100,000 was additionally given towards the costs of the abattoir upgrade.
- (iii) This is a new scheme that was launched in 2007 hence there has been no corresponding spend in previous years.

1.14. THE MINISTER FOR ECONOMIC DEVELOPMENT BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING THE TOURISM AND ENTERPRISE BUSINESS DEVELOPMENT STRATEGIES:

Question

- (a) Would the Minister advise members which sectors of the economy have so far applied for, or been granted funds from the Enterprise and Business Development fund?
- (b) Are the reductions outlined within the draft 2007 States Business Plan in dairy industry funding planned for 2007-2010 over and above those included in the Rural Economy Strategy plan to reduce Quality Milk Payment and the Dairy Support Services Grant?
- (c) In reference to the 2007 Economic Development Department business plan, would the Minister advise members how –
 - (i) the £2,240,162 allocated to Tourism and Marketing funds to 'develop and implement a brand marketing strategy to promote Jersey for year-round tourism' will be used?
 - (ii) the £505,000 allocated to Rural Economy 'Rural Initiative Scheme – grant based scheme' will be used?
 - (iii) the £25,000 allocated to the Rural Economy to 'promote relocation and development of high-value / low-weight land based produce' will be used?
- (d) Will the Minister advise the Assembly of the amounts allocated in 2006 to the respective areas outlined above in question (c), and detail how these sums were used ?

Answer

- (a) (i) The department has in place guidelines to evaluate applications for funding for events that take into account the evaluation criteria in Financial Direction No. 5.4 'Obtaining

Value for Money from Grants'. This also includes tourism specific criteria such as: when will the event be held (shoulder months is preferable), length of stay, international appeal, brand fit, PR value, spend per capita and estimated income for the island. All applicants for a grant must present Jersey Tourism with a Business Plan and Budget, applications are then carefully considered using the above criteria.

- (ii) Yes. Each year an SLA is negotiated and signed between Economic Development and the Conference Bureau.
 - (iii) As mentioned in (i) all applicants for a grant must present Jersey Tourism with a Business Plan and Budget, applications are then carefully considered using the set criteria. Successful applicants have to provide the department with a post event evaluation and report.
- (b) (i) So far over 350 individuals have contacted the Economic Development Department in respect of the various initiatives under the Enterprise and Business Development Strategy. Broken down by sector as: finance 20, agriculture 20, tourism and hospitality 50, retail 70, distribution 20, manufacturing 20, construction 20, ICT 50, design and marketing 30, alternative energy (solar) 10, media and marketing 10, property and asset management 10, marine and leisure 20.
- (ii) The Enterprise and Business Development team are working with 200 individuals or organisations. The type of support given varies considerably depending upon the size and nature of the client but generally the support offered is a combination of:
- (a) Providing information to clients about local regulations, where to register for certain licences, what to consider before starting a businesses and details on the type of support available from either the Economic Development Department or others.
 - (b) Giving general advice to businesses who have started trading and who have a desire to grow and diversify. In some cases this includes referring clients to professionals who can provide financial, legal, IT, and marketing advice.
 - (c) Providing on-going coaching and mentoring for businesses to help minimise the expensive challenges that all business face during their start-up phase or during periods of growth.
 - (d) Providing grants to help with the cost of growing new export opportunities and to assist with the cost of developing new innovative ideas. We also provide some security to banks in the case where a business has no available security to secure a loan and after the bank has undertaken a full evaluation of the likely success of the organisation.

1.15. THE MINISTER FOR ECONOMIC DEVELOPMENT BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING RETAIL AND CATERING FACILITIES AT JERSEY AIRPORT:

Question

- (a) Would the Minister inform members –
- (i) if a formal framework has been developed within the Tourism Strategy against which all grant applications are considered?

- (ii) if a formal service level agreement has been established between the Economic Development Department and the Jersey Conference Bureau?
 - (iii) if guidelines have been instituted to evaluate grant applications, in order to establish priorities and grant levels?
- (b) In respect of the Enterprise and Business Development Strategy, would the Minister inform members –
- (i) how many individuals have contacted the Economic Development Department in respect of the various initiatives under the Enterprise and Business Development Scheme and give a breakdown as to how many there have been from each of the finance, agricultural and tourism sectors?
 - (ii) how many companies or individuals are the Enterprise and Business Development team working with, and what support is being given?

Answer

The Airport is currently liaising with the Jersey Competition Regulatory Authority (JCRA) on the Alpha contract to address any issues relating to Competition Law. At this stage, until the JCRA has concluded its findings, I am not in a position to elaborate any further.

To the second question regarding the new security arrangements, I have publicly stated the cost of the works as being £700,000. This includes the Airport's works to install the partition between the new landside and airside areas and around the new security area, the installation of new toilet facilities in the landside area of the departures hall, services such as electricals and plumbing, and improving the amenity of the landside area to include new flight information boards, redecorating and signage. This funding for these works has been allocated from the Airport's trading account.

The changes were instigated following extensive consultation with the airlines, ground handlers and retailers, and furthermore were based on best practice at like airports internationally. While the recent enhancements have been principally led by necessary improvements to security processes, the Airport recognised there would be incremental revenue benefits from retail operations. I am pleased to report that overall retail sales at the Airport have not been negatively impacted; on the contrary, there have been gains in all areas, including the arrivals section of the building. This is consistent with earlier projections.

2. Oral Questions

2.1 Deputy G.P. Southern of St. Helier of the Chief Minister regarding the progress made in developing individualised Retail Price Index rates, in particular a rate for Pensioners:

Will the Chief Minister advise Members what progress, if any, has been made with the development of individualised Retail Price Index rates, in particular a rate for pensioners which he agreed to investigate earlier in the year?

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

In response to a question without notice from the Deputy on 16th January 2007 I indicated that the concept of personalised inflation rates, particularly for pensioners, merited investigation. I subsequently asked the Head of Statistics to research the matter and he has informed me that publication of such an index is feasible by the end of the year. Thanks to the excellent response to the Household Expenditure Survey by the people of Jersey we are now better placed than ever

before to provide such detailed information and to develop social policy based on the economic needs of Jersey households, particularly the most vulnerable in our community.

2.1.1 Deputy G.P. Southern:

If I may, Sir? Yes, I heard it is feasible to do by the end of the year; is it the Chief Minister's intention to publish this figure?

Senator F.H. Walker:

Yes, Sir.

2.2 Deputy R.G. Le Hérissier of St. Saviour of the Minister for Health and Social Services regarding the delay in presenting the New Directions Report:

Would the Minister explain the delay in presenting the *New Directions Report* which Members were assured would be available in early February 2007?

The Bailiff:

Assistant Minister.

Deputy C.J. Scott Warren of St. Saviour (Assistant Minister for Health and Social Services):

Members will know that Senator Stuart Syvret, Minister for Health and Social Services, is currently indisposed following a short period of hospitalisation. In early January 2007 officers completed the first draft of *New Directions* and then this was submitted to the Minister for comments. In response the Minister proposed a significant number of changes which officers agree have strengthened the document considerably. These comments from the Minister have then to be discussed with the stakeholders who work with a small team of officers to ensure that there was no discordance between themselves and a Minister on any of the issues raised. This process has now been completed and a more robust draft is currently with the Minister. The Minister has advised officers that he intends to make one or 2 minor amendments as soon as he is able to. It is anticipated that this will be within the next few weeks. When the Minister has signed off the *New Directions* draft it is the intention to put this document in the public domain as quickly as due process allows.

2.2.1 Deputy R.G. Le Hérissier:

As the Assistant Minister knows, this has been - as with the *Overdale Report* - a matter of intense frustration and while we have great sympathy with the Minister, and if she could convey our best wishes to him, would the Assistant Minister acknowledge that she is running the Ministry and that this matter could be resolved at this very point in time?

Deputy C.J. Scott Warren:

No, Sir, I do not accept that it can be resolved when, as I have explained, the Minister has one or 2 tweaks to make. He is the person who is reviewing the draft. He is the person who, as Minister, has the responsibility for this draft and therefore, Sir, to wait one or 2 more weeks until the Minister is recovered sufficiently seems more than reasonable to me.

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

Would the Deputy Minister not acknowledge that this is outside the general ethos of Scrutiny where the Health Scrutiny Panel should have been brought into the discussion at an earlier stage so that they might make a positive contribution? Would the Assistant Minister like to comment on this?

Deputy C.J. Scott Warren:

I am aware that this document, when the Minister has reviewed it, is going to go to Scrutiny. I believe that many people have worked and been involved with the initial draft but it first has to go

to the Council of Ministers, to States Members; and when it has been through the relevant stakeholders the Health Scrutiny Panel will be involved in the consultation process.

2.2.3 Deputy S.C. Ferguson:

Looking at the success of looking at draft policies shown by the panels dealing with the Treasury Minister and the Minister for Social Security, does the Assistant Minister not understand that it would have been a great deal more helpful if they had brought Scrutiny in at an earlier stage?

Deputy C.J. Scott Warren:

I believe that Scrutiny is being brought in at a stage where it can contribute. This is not set in stone, that is why this is going to be out for public consultation. It has to be approved and, as I said, go to Council of Ministers, States Members and the Scrutiny Panel. I understand what the Member is saying but I do feel that Scrutiny still will have a very relevant role in this process.

2.2.4 Deputy J.A. Martin of St. Helier:

To follow on from Deputy Ferguson, being a member of the H.S.S. Scrutiny Panel, we have asked for this document, and being the Chair of the Sub-Panel on income support, it is not frustration I have felt over the last few weeks, it is total embarrassment when we are interviewing people in organisations who are telling us about *New Directions* and what it contains. They are also telling us the timescale. It is out for public consultation between June and September and this is draft 2 of the main document. Now, Scrutiny has asked, Sir, for an 'in confidence' draft weeks and weeks ago and could the Assistant Minister not try and get Scrutiny this document, because, as I say, there are more people out there who know what is going on *New Directions* than the Panel that is supposed to be looking at it and scrutinising it. Thank you, Sir.

Deputy C.J. Scott Warren:

As I said in my original answer, the Minister has asked for significant changes and this is why this document has not yet come to the Scrutiny Panel. As soon as the Minister is happy with this document it will go to all the stakeholders, but obviously the Scrutiny Panel will have their opportunity to review it.

2.2.5 Deputy G.P. Southern:

Does the Assistant Minister not accept the delay in publication of such an important document is causing consequent delays on discussing other serious issues, not least a population review which is ongoing as we speak?

Deputy C.J. Scott Warren:

I accept that no delay is what we would wish but as I have said in my original answer, the Minister is currently indisposed. He has to be able to complete the final draft version before it goes to the Council of Ministers, the Scrutiny Panel and States Members. So I would ask that under these circumstances Members do understand that the Minister is going to complete this at his earliest opportunity, as I said in my answer, Sir, certainly within the next few weeks.

2.2.6 Deputy R.G. Le Hérisier:

Would the Assistant Minister, notwithstanding the excellent job she is doing in holding the fort, accept that a 3 month delay on replying to a Scrutiny report which was called the worst report the Minister had ever seen - notwithstanding the Minister's understandable delay from the indisposition aspect - is utterly unacceptable and can she promise she will use her good offices to ensure that the Health Department starts responding much more professionally to these matters than has been the case?

Deputy C.J. Scott Warren:

The answer to the question of the Overdale response has been tabled and the Deputy does have that response and has been assured in that response he will hear at the earliest opportunity that is available.

2.2.7 Senator F.H. Walker:

It may be asking the Assistant Minister to double confirm but could I ask her to do so? Could I ask her to confirm that the *New Directions* policy has not yet gone to the Council of Ministers, that it will go to Scrutiny at the same time as it goes to the Council of Ministers and it will then be subject to an extended period of consultation?

Deputy C.J. Scott Warren:

That is my understanding.

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

Deputy Le Hérissier mentioned about the Overdale report. Could the Assistant Minister give the House some idea as to when the G.P. (General Practitioners) Out of Hours response will be coming to the Education Home Affairs Scrutiny Panel?

Deputy C.J. Scott Warren:

I would think, for the same reason, there has been a delay on this but I will certainly give the answer to the Deputy during the day.

The Bailiff:

Final supplementary, I think, Deputy.

2.2.9 Deputy J.A. Martin:

I totally appreciate the Assistant Minister's frustration that we have been waiting an extra 3 months for a document because the Minister is not very well and is incapacitated. Could the Assistant Minister explain to the House why, given the extent of the time that the Minister is off, she has not been given full power? I am not having a go at the Assistant Minister, but is she not frustrated that she had not been given full power to step into the Minister's shoes and get on with the job that she has been appointed for. Thank you, Sir.

Deputy C.J. Scott Warren:

Firstly, Sir, I have not said that I am frustrated. **[Laughter]** I am assuming full power that an Assistant Minister can fulfil while a Minister is out of action or away. I am doing that. But as I think Members understand the Minister is in the middle of his detailed work on this. You cannot pass over one person's work - the Minister's work - to an Assistant Minister halfway through. It has to be his work. This is a very important document, Sir, and I would think Members would understand that.

2.2.10 Deputy R.G. Le Hérissier:

Could I have the final supplementary? We were originally told it was a couple of tweaks that were awaited, now it has become a detailed revision.

Deputy C.J. Scott Warren:

Maybe I did not make myself clear. In the first draft the Minister proposed a significant number of changes and this has strengthened, as I believe I said, the document considerably. Now, it is basically waiting for him to just look at this again. It has to be his work. He is the person who wanted these changes and you cannot just have someone else step in to do that. I think anyone would agree that that is totally reasonable and we are, as I said, talking about a matter of 2 or 3 weeks. Thank you, Sir.

2.3 Deputy G.C.L. Baudains of St. Clement of the Chief Minister regarding the recent agreement with the U.K. being identical to that reached with another Crown Dependency:

Was the Chief Minister made aware before he made his announcement to Members that the historic agreement he recently agreed with the United Kingdom was identical to that reached with another Crown dependency and, if so, why was that fact not made clear?

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

I was well aware that the agreement with the U.K. (United Kingdom) on the development of Jersey's international identity is identical to that made with the Isle of Man. At no time have I said the agreement between Jersey and the U.K. is unique. But to be precise this particular agreement is not between the U.K. and the Crown dependencies collectively, our agreement is between the U.K. and Jersey alone. The fact that the U.K. has made the same agreement with the Island of Man is, I believe, of no particular significance for Jersey. I reject absolutely the comments from some quarters that the importance of the agreement has been diminished as a consequence. We should welcome the advance in the Jersey's international identity that this agreement marks, not seek to devalue its historic significance for the Island.

2.3.1 Deputy P.V.F. Le Claire of St. Helier:

Could I ask the Chief Minister if he is aware of any other Island that was offered this identical agreement? I have been informed that Guernsey was offered to sign this and did not. I just wondered if the Chief Minister had any knowledge as to any other Islands that were offered the same agreements. In particular, if Guernsey was offered it, does he know why they did not sign it?

Senator F.H. Walker:

This has been well publicised already. Guernsey were in their negotiations on the same agreement but because some issues have arisen between Guernsey and the D.C.A. (Department of Constitutional Affairs) it has not been possible for that agreement to be signed as yet but one has to assume it will be signed at some point.

2.3.2 Deputy S.C. Ferguson:

Would the Chief Minister explain whether the agreement has legal standing and what is its legal validity?

Senator F.H. Walker:

I do not believe it has legal standing but it is an agreement signed by the Lord Chancellor on behalf of the U.K. Government and we in Jersey would expect the U.K. Government to honour every aspect of it, as indeed they would expect us to do the same in any other such agreement.

2.3.3 Deputy S.C. Ferguson:

Does the Chief Minister mean, Sir, that we cannot force compliance with the terms of the agreement in a court of law?

Senator F.H. Walker:

I think that is more an issue for the Attorney General. That, I think, would depend on the U.K. Government in the unlikely event that they sought to break the clauses - and I do not believe they would - then I think that is a matter that we would need to consider at that juncture with the Attorney General, the Bailiff and other members of our legal team. But we should not be concerned with such matters at the moment. This is an agreement willingly entered into between the U.K. Government and Jersey which moves Jersey's international position forward. We do ourselves no good whatsoever by seeking to question - not as you are doing, Deputy, because I

think the Deputy's question is valid - as some have done, whether or not this is indeed the significant historic agreement that it represents for Jersey. That does Jersey no favours whatsoever.

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

Would the Chief Minister outline to the House the extent to which his office, or indeed officers that he has direct responsibility for, undertook the work in drawing-up the individual clauses within this historic unique agreement?

Senator F.H.Walker:

I did not hear the Deputy terribly well. I think he is asking me what role my office has played in negotiating the agreement, in effect?

Deputy R.C. Duhamel:

In drawing up specific clauses within the document.

Senator F.H.Walker:

Some of the clauses in the agreement were indeed drafted within my own office. Some were drafted in the D.C.A. and some were drafted elsewhere but the majority were either drawn up by my own department or by the Department of Constitutional Affairs in the U.K.

2.3.5 Deputy P.V.F. Le Claire:

Could I ask the Chief Minister to confirm that indeed the agreement does strengthen Jersey's position internationally in many respects in a much stronger way than we have had before. In particular in respect of the question that was put to him by Deputy Ferguson that one of the clauses within the agreement that has been negotiated and signed does include the full consultation with United Kingdom Government of any proposed business changes for Jersey and any disregard of that consultation could then be used in a position, should we want to, in a court of law in the future. They cannot agree to consult and then ignore that consultation. So, in that respect there is that safeguard, would he agree that is the case?

Senator F.H. Walker:

Yes, Sir, and that is an achievement because we have never had such an agreement before. We have also never had a statement from the U.K. Government which confirms that the U.K. Government has no democratic accountability for Jersey's domestic affairs. These are big steps forward and why it should be of such concern to Members and apparently cause Members to devalue the agreement because another Crown dependency has had its own historic agreement along the same lines, frankly defeats me.

2.3.6 Deputy G.C.L. Baudains:

I just wanted to ask the Chief Minister, Sir, and nobody is doubting the relevance of his historic document but I think he must agree with me that when he told us of the nature of this document he gave the clear impression that it was unique to Jersey. Now that we learn that it is not, does the Chief Minister understand that some people have a feeling that they have been misled?

Senator F.H. Walker:

I do not believe that anyone has been misled in any shape or form whatsoever. Can I just, out of interest, make a point. I was in discussion about this agreement a number of days before it was signed, but when it was known it was going to be, with a journalist from the *Jersey Evening Post* and I mentioned to him, quite openly, that we were aware that the Isle of Man were in the same negotiations and he could have published that at any time. He chose not to do so because, like me, he did not see the strict relevance to Jersey.

2.4 Deputy G.P. Southern of the Chief Minister regarding progress with the development of a population model for the Island:

Will the Chief Minister advise Members what progress, if any, has been made in the development of a population model for the Island, when these population scenarios will be presented for public consultation and when he will be lodging a population policy for consideration by the States?

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

As stated when I answered the Deputy's question on 27th March, the findings of the officer group reviewing population issues will be made public. As I also stated, at that time, the initial work of the officer group has been discussed by the Council of Ministers. This work has included the development of a population model which enables different population scenarios to be modelled and analysed. I expect that the Council of Ministers will consider a further report in July and will launch a full consultation process running through September and October. Following this consultation process the Council of Ministers will identify the policy issues to be brought to the States and I expect proposals to be lodged at the turn of the year.

2.4.1 Deputy G.P. Southern:

Will the Minister inform Members what part the 500 job growth attached to economic growth will play in the new consultation process?

Senator F.H. Walker:

It will be one of many factors in a very complex population modelling exercise that will be taken fully into account.

2.4.2 Deputy J.A. Martin:

While we are on the development of population, could the Minister inform us if the 20 days put aside for law drafting on the population register will be used in 2007?

Senator F.H. Walker:

I sincerely hope so, Sir. That is very much the plan. We are on target here. This is a major piece of work and I believe the House will welcome the report when they receive it. I look forward to a constructive and detailed debate after the proposals have been thoroughly scrutinised and plenty of time, I do assure the House, will be made available for Scrutiny to do their necessary work in that respect.

2.5 Deputy S. Pitman of St. Helier of the Minister for Housing regarding the future of the tenants of Convent Court and Caesarea Court:

Would the Minister advise Members whether tenants of Convent Court, when re-allocated, will get priority over people on the States' Housing waiting list if they want to move to Les Marais (Block G) or the Cedars? Would any tenant of Convent Court or Caesarea Court who has refurbished/redecorated their flat shortly before the reallocation date be reimbursed for these costs and will tenants moving costs be met?

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

Any tenant who needs to be moved as part of a refurbishment programme takes priority for empty units over those on the waiting and transfer lists, other than those categorised as the most urgent medical cases. Of course subject to the Property Plan being approved by the Assembly, residents of Convent Court and Caesarea Court will be visited before the end of August this year and during these visits officers from the department will be able to update tenants on the timetable of events, answer such questions as they have, and most importantly ascertain the preferred choice of relocation. In view of the size and duration of the refurbishment programme as outlined in the Housing Property Plan the department will be reviewing the policy regarding moving allowances in order to ensure it is equitable and sufficiently broad to meet tenant's expectations. Naturally any

such expenditure will have to be met from within the existing budget constraints. Residents of Convent Court and Caesarea Court will be treated, as I have often said, with total compassion and respect, as will all those facing a similar situation. Nobody, but nobody, will be rushed into making any decision about the location or the future of their new home.

2.5.1 Deputy S. Pitman:

Could the Minister confirm when Caesarea and Convent Court will be demolished?

Senator T.J. Le Main:

I cannot confirm anything at the moment, Sir, because as I have said this Assembly has to make the decision on whether the Property Plan will be approved or not. Subject to approval then it is highly likely. Negotiations are taking place at the present time. The town park is a top priority as I understand it under *EDAW* and there are discussions of changing course a little bit on Convent Court and Caesarea Court allowing the town park to take place with parking facilities in the east of town. So it is quite likely that subject to all sorts of issues there could be a delay of anything up to 48 or 60 months in Convent Court and Caesarea Court.

2.5.2 Deputy J.A. Martin:

Given the shortage of sheltered housing we have... I have seen some very good 21-22 storey tower blocks in North London, obviously were I am from, converted into some superb sheltered housing. Has the Minister's department looked into the feasibility of these 2, and maybe even the Cedars or La Collette... because as it has been discovered, Sir, in the U.K. these are really not suitable for families and young children. Could he tell us what consideration has been given?

Senator T.J. Le Main:

The issue with high rises is something that my departmental officers, my Assistant Minister and I do not like for a variety of reasons. They have caused us immense problems over a period of years and we feel that to put elderly people in a high rise does cause concern in many areas. I am not really interested in what happens in North London, I am interested in the people of Jersey. The issues are that the people of Jersey - a wealthy little Island like we have - deserve better than jamming them up in high rise developments. Quite honestly the issue is quite clear: the town needs a total regeneration and some of these high rise developments that have been placed in the town areas need coming down over a period of years and we can refurbish and work with the *EDAW Report* and provide a wonderful new town that can be a credit to everyone.

2.5.3 Deputy J.A. Martin:

I am sorry that the Minister does not feel he would like to look further a field. These places, if the Minister of Housing cared to look, are absolutely superb and all the residents like them and they are secure. They are not high rise for families. They are sheltered housing. Obviously the Minister hopes the planning will go through and we will build sheltered housing in the countryside, but that is another problem. I would ask has the Minister had any structural, let alone visual, engineering done on both of these - Convent Court and Caesarea Court - and if he has, and if they are suitable to be refurbished as sheltered housing or not, could he let us have the structural engineer's report? Thank you, Sir.

Senator T.J. Le Main:

No, Sir, we have had some structural reports, particularly on Convent Court. I am not prepared to release it to the open media at the present time. The issue is quite clear: it is confidential information between the department and the engineers. At the moment I am not prepared to release any material that could be construed and misconstrued in the open media by Members or otherwise. The issue is quite clear by the evidence we have got before us, it would be cheaper to demolish the existing high rise structures than spend a huge amount of money on refurbishing them where, in fact, the residents have to move out anyway while major work is undertaken.

2.5.4 Deputy R.G. Le Hérisier:

Building on that issue, would the Minister acknowledge that in fact under his highly esteemed leadership developments like the Berkshire development in La Motte Street - modest high rises - have proved very successful and he is being somewhat over dismissive of high rises which have, in some cases, with the right security and community facilities, been successful.

Senator T.J. Le Main:

Yes, I agree that is a moderate high rise but I was asked the question of high rises and when I consider a high rise I consider a high rise more in what has taken place in past like Les Marais and the Cedars and Convent Court. I do not believe that what we are trying to achieve in St. Helier and what we are trying to achieve for the elderly people of this Island those kind of high rises are what is required. I have to say that the situation is getting worse by the day, we are now creeping up towards 400 very, very urgent cases for sheltered housing. I keep getting asked by the Connétables, I get asked by other Members: "Where are the figures?" Well, we have got an urgent waiting list increasing by the day and the quicker we can get something done... I am getting extremely concerned, Sir, at the lack of action, income provision and moving forward with the provision of homes for elderly and otherwise. It is very, very important and urgent that we proceed with the Property Plan as a starter.

2.5.5 Deputy S.C. Ferguson:

Does the Minister not realise that it is a perfectly reasonable request for the relevant Scrutiny Panel to ask for sight of the consulting engineer's report on Convent Court and Caesarea Court? Does he not understand that Scrutiny is well aware of the need for confidentiality and has observed it scrupulously throughout its existence?

Senator T.J. Le Main:

I do not know where the Member is getting her facts and figures. In fact, Scrutiny have not asked for that report or information and my department are totally transparent. If, in fact, any information is required by Scrutiny, Sir, then they are able to look at it in the department with officers. But I am not prepared to release any report, which is confidential to the department, so that they end up in the open media and then the scaremongering that takes place afterwards. In fact, I am really disappointed with the statement being made this morning. Because there are several issues there that can be addressed and the questions have not been asked of myself, or my Assistant Minister. So, I am terribly disappointed the way that Scrutiny are acting and behaving at the present time over the Property Plan.

2.5.6 Deputy G.W.J. de Faye:

Specifically, in respect of high-rise accommodation, especially that which might represent a value to the Island and which is already planning approved, I wonder would the Minister consider, at some time in the future, the possibility of selling existing high-rise accommodation into the private sector to be developed and using the proceeds from such a sale to provide the sort of accommodation that would be more suitable to his tenants?

Senator T.J. Le Main:

Yes. We are always willing to accept and to look at issues. But you must remember, Sir, that we have a duty also to house people in the areas they wish to live in. You take places, like Convent Court and Caesarea Court, which do not meet the needs of the people that are living in them and our prospective and future clients because of all sorts of issues. Therefore, by removing some of these eyesores, it gives us an opportunity to create homes in the area where people have wanted to live and lived all their lives. It is all about people. It is not about money all the time. I am well aware, Sir, that we could probably put Convent Court/Caesarea Court on the open market and probably get developers interested. But I have a duty to house people on this Island, and the

developers are certainly not going to put in developments for sheltered housing and for housing for elderly people. They are there to make the big money.

The Bailiff:

Final supplementary, Deputy Fox.

2.5.7 Deputy J.B. Fox:

Would the Minister consider that if I identified suitable converted high-rise in the U.K. - of which I have been to several myself over the years - that it might be worth a visit to have a look at how some of these units can be converted to quality sheltered housing and especially, as he indicates, that there seems to be a very urgent need that will not be fulfilled by other sources for some time. Thank you, Sir.

Senator T.J. Le Main:

Yes, Sir, because in London, and all those places, they are used to living in immense high-rise developments. People have been brought up in many areas of the U.K. to live in huge high-rise developments. The majority of people we are housing in some of these high-rise developments, in the town areas, are people that have lived all their lives in the country in Jersey. Because they cannot be housed in their own parishes, we are dragging them in, putting them in high-rise flats, like Cedars, Convent Court, and Les Marais and such places. I think we have a better duty to our Jersey people. We have Jersey people that would like lifetime homes so they are going to be able to enjoy the fruits of their working lives in retirement. My aim is to work to get this achieved. But I am very happy to work with any Members. Sir, I have seen the developments in London and the high-rises in these other countries. Certainly, I would not want to live in them but some people may do. The general public that I deal with, and the ordinary Jersey people I deal with, do not want those sort of high-rises. Even the public in Jersey do not want high-rises, themselves, in Jersey.

The Bailiff:

Deputy Pitman, that is all the questions I have.

Deputy S. Pitman:

May I just clarify for the House that there are a lot of people in these high-rises, who love living in these buildings, and they have been there for many years, Sir.

Senator T.J. Le Main:

Absolutely. I know for a fact that since the Housing Department, 4 or 5 years ago, refurbished Les Marais high-rise, there is a waiting list. We have a huge amount of people wanting to live in the Les Marais high-rise. Of course, they have wonderful views. You can see France. They all sit in their windows with their binoculars and their telescopes, and the environment at Les Marais - a refurbished high-rise - is a little different to the environment in some of the parts of St. Helier.

2.6 Deputy R.G. Le Hérrissier of the Chief Minister regarding the introduction of a system of Green and White Papers:

Would the Chief Minister advise Members when the system of *Green* and *White Papers* will be introduced?

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

A system, based on the U.K. model of *Green* and *White Consultation Papers*, was developed originally by the Policy and Resources Committee and came into effect in December 2005, with the introduction of the Ministerial system. These arrangements are described in the report on public consultation, R.C.82/2005, that was presented to the States on 25th October 2005. At that time, the

consultation papers were identified as discussion and draft policy papers, but it has since been decided to call these *Green and White Papers*, as this terminology is more generally recognised by the public. Eight discussion papers were published in 2006 and 17 draft policy papers. So far in 2007, a total of 6 *Green Papers* have been published.

2.6.1 Deputy R.G. Le Hérrissier:

Can I therefore, Sir, infer from that that all departments will be adopting this practice and, certainly, at the *Green Paper* stage - as was discussed by the Deputy for St. Brelade just now - all Scrutiny Panels will be brought into the process at the *Green Paper* stage?

Senator F.H. Walker:

Yes, Sir, as always, intended.

3. Questions to Ministers without Notice - Minister for Home Affairs

The Bailiff:

Well, we come now to questions to Ministers without notice, and the first question period is to the Minister for Home Affairs. The Deputy of St. Peter.

3.1 Deputy C.H. Egré of St. Peter:

Would the Home Affairs Minister confirm that our recent problems in communicating, as commented on in the *Jersey Evening Post*, were as a result of a misunderstanding, exacerbated by trying to make contact on a mobile phone number that is no longer current? My main question, Sir, is: in the light of recent events, would the Minister indicate to the Assembly what action, if any, is being proposed to create an independent body to investigate individual complaints into the actions of the States of Jersey Police?

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

I am grateful to the Deputy for his public apology [**Laughter**] for blackening my name, for not supposedly getting back to him when he was ringing me on an old mobile number that has been out of use for over 6 months now. Anyway, moving on. [**Laughter**] What are we doing about these complaints? Well, of course, there are 2 elements to dealing with the issue of complaints against the police: one is, of course, the independent Jersey Police Complaints Authority. That is available for members of the public, or anyone else, to make a complaint about the behaviour or the conduct of the police. It is a body that is made up of independent members. It can require another force to investigate if it considers it desirable. There is provision within that Law, as well, for a panel to sit with an independent chairman for disciplinary proceedings. There is an appeal to a panel of Jurats, also existing in the Law. We are also aware, Sir, from comments in this House, that the Police Professional Standards Department is not slow to act on accusations of police misconduct. Indeed, the public has the ability to bring a civil case. Moving on from that, Sir, there are proposals to bring to this House a police authority in the strategic plan for 2008. Action has already been taken to incorporate into our new Police Force Law the police authority. Indeed, I took the matter to the Scrutiny Panel, in February of this year, asking that they would scrutinise the proposal and respond with the Panel's views. They have yet to say that they are prepared to scrutinise that matter. There is much going on with, Sir, to deal with the issue of complaints.

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

Now that small countries in Eastern Europe have joined the European Community, enabling its citizens to relocate to Jersey as long as they have a valid passport, is it not time for the States of Jersey Police to have a reciprocal police check agreement with these countries as, at present, there is no way of checking if someone has a police record. Does the Minister not agree?

Senator W. Kinnard:

There are difficulties in checking police records in other jurisdictions. We are, in part, dependent on the quality of the records that are kept. Obviously, every effort is made to particularly find out the police record of those individuals who may be coming to the Island from other jurisdictions. There is much work going on in my department on the issue of vetting and barring, which will really update and give, I think, greater comfort to the Island, that we are in a position where we have the ability to have as up to date information as we can possibly get our hands on. I have to admit that there is a difficulty with some other countries because we are dependent on the information that they themselves keep.

3.3 Deputy R.G. Le Hérrissier:

When the likelihood of appointing the Fire Chief externally was discussed, could the Minister tell us whether she asked for the succession plan in place in the Fire Service and, when she received that succession plan, what comments she made upon it?

Senator W. Kinnard:

Yes, I did receive the succession plan quite some time before the matter was discussed with the Jersey Appointments Commission. I cannot, off the top of my head, think of when it was but I think it may have been in the previous June that we looked in detail at the succession plan. Obviously, the decision to go the way that we did, in terms of opening-up the recruitment process, was as a result of discussions with the Jersey Appointments Commission.

3.4 Deputy R.G. Le Hérrissier:

Supplementary. Given that the Minister looked at the succession plan, could she answer my second question: what conclusions did she draw from having seen that plan and did she ask why, apparently under a stewardship of 8 years of the former Chief Officer, who had made attempts, I understand, for succession planning, the plan was not working and what answers was she given?

Senator W. Kinnard:

No, Sir, the plan, as far as I was concerned, seemed to be working and, in fact, it was my department's recommendation originally that it should be an internal appointment.

3.5 Connétable G.F. Butcher of St. John:

Could the Minister advise the House if it is normal practice for Immigration Officers to board a vessel coming from St. Malo into Jersey and then on to Poole, to check the passports of every person that is going on to Poole? It seems somewhat unnecessary.

Senator W. Kinnard:

Yes, Sir, it is normal practice and I disagree, I think it is absolutely necessary.

3.6 The Deputy of St. Martin:

The Minister just made reference to the Home Affairs Department, or herself, consulting with the Education and Home Affairs Scrutiny Panel regarding the police authority. Will the Minister confirm that the Panel does not support what Home Affairs is proposing because it is not in line with the Strategic Plan, which was approved in this House only last year.

Senator W. Kinnard:

In the Strategic Plan it uses the words "consultative group", which was a phrase that was agreed between the Scrutiny Panel and ourselves. Since the Strategic Plan was published we have, of course, had the benefit of Her Majesty's Inspectorate of Constabulary to the Island. It was he who suggested that we look at the model that is used in Gibraltar. That is currently what is drafted and is just about to go to consultation, slightly wider than the immediate stakeholders. I think if the Deputy wishes to stick to his guns, just because we happen to have come up with something that he

has not necessarily agreed the wording of, I would say that he would be far better to scrutinise our proposal, to give us his considered Panel's thoughts on it, rather than just sticking to his guns for no good reason, other than it was something that he happened to agree and now does not like it because we have slightly changed with the benefit of the advice of Her Majesty's Inspectorate.

3.7 The of St. Martin:

Will the Minister confirm that the prime objection to what has been proposed is because it does not include the honorary police, who would like to be part of what the Minister is proposing?

Senator W. Kinnard:

The proposal is as I have mentioned in the drafts at the moment that are about to go to consultation currently set out, because of all the difficulties that we have had in setting up a previous police authority; that we should originally, if you like, learn to walk before we run and that we should set up the police authority for the States of Jersey Police. I, as Minister, and the States of Jersey Police, have been very keen to have a police authority in place. Indeed, that decision as to whether or not the honorary police will be covered immediately at the beginning of the police authority is a matter that I am having consultations with the Constables about. In fact, I am meeting the Chairman of the Constables Committee this week to discuss those very issues as to the practicalities, Sir.

3.8 Deputy G.C.L. Baudains:

I wonder if the Minister would, firstly, confirm that the Police Complaints Authority does not in fact carry out independent investigations into the States' Police but, rather, oversees the States Police investigating themselves? Could she, therefore, tell us when we are likely to have a completely independent investigatory process?

Senator W. Kinnard:

The Complaints Authority does oversee the investigation and the investigation is undertaken by the Professional Standards Department, as I have mentioned before. They are known to be rigorous in their rooting-out of police misconduct. The Complaints Authority is quite a common model. I am quite happy to share with Members a very important cross-jurisdictional book, Sir, called *Civilian Oversight of Policing: Governments, Democracy and Human Rights*. Indeed, Sir, what that book shows is that the model that we have in Jersey is an extremely robust model. I am quite happy to share that with Members. Indeed, if Members have any concerns, there is an open and standing invitation to come out on a night shift. So far very few Members have taken up that opportunity. I would, certainly, ask those Members who do seem to have some concern, that they should take up that opportunity. If I may ask the Dean to close his ears for a moment, Sir, I do sometimes get the feeling that there are some Members here that when they were to arrive in heaven might immediately start complaining about the softness of the clouds. Thank you, Sir. **[Laughter]**

Deputy G.C.L. Baudains:

That was very interesting, Sir. I wonder if the Minister would mind answering my question? **[Laughter]**

Senator W. Kinnard:

I did, Sir.

3.9 Deputy J.B. Fox:

In a reply that the Chief Minister gave with regard to succession planning and talking about modern manager programmes for success and future leadership programmes, and recognising that emergency services are quite unique in the knowledge and expertise that is required but having limited knowledge only with the police service, could the Minister give us reassurance that in the future succession programmes that the best use of facilities, such as the Police Staff College of

Bramshill, will be encouraged and used. Perhaps it may be on another occasion, we ask: are we still using Bramshill College to its full potential for our future senior specialised officers, *et cetera*? Thank you.

Senator W. Kinnard:

I answered a question at length I think, last time that this House sat, all about the different ways in which we use the various opportunities that are available for training, not just in the police but across the whole range of Home Affairs departments. I think it seems ridiculous to take up the time of the House and go through all of that again, but I am happy to reissue the information to the Deputy for his information.

Deputy J.B. Fox:

Just to clarify, she did not answer the question last time. That was the reason I was asking this time. It was so general last time it was invisible. Thank you, Sir.

Senator W. Kinnard:

Well, Sir, I am happy to provide him with all of the absolute details but that really needs to be a written question as to exactly what we use when. But, yes, we do use the college. I am happy to provide the details.

3.10 Deputy S.C. Ferguson:

On a recent C.P.A. (Commonwealth Parliamentary Association) visit to Belfast, we had the privilege of meeting Nuala O'Loan. With the wealth of knowledge about Northern Ireland available to her, officers are being trained over there now. Has the Minister not considered a completely independent complaints authority, on the line of the Northern Ireland Police Complaints Authority?

Senator W. Kinnard:

Indeed, that matter is in this particular tome that I have just referred to. I do believe, Sir, that the particular issues that were attendant on the problems in Northern Ireland, and the R.U.C. (Royal Ulster Constabulary), are certainly not in the same league in Jersey. We have very few complaints against the States of Jersey Police and very few of those, in fact, are upheld. The vast majority of the complaints that are upheld tend to be on rather minor matters. I think if we are being asked to implement the system that they have had to implement in Northern Ireland for Jersey then I think, really, we have lost all sense of credibility.

3.11 Deputy R.G. Le Hérissier:

I have to return to the issue of the Fire Chief, I do not feel I have had satisfactory answers. I wonder, Sir, if the Minister could inform me, given we are talking of a very compact highly operational unit, which has a great tradition using external courses of promoting from within, why, in this instance, the system broke down? What were the reasons given her why there was no successor available locally?

Senator W. Kinnard:

It was not that there were no successors available locally. In fact, local candidates were involved in the selection process. The difficulty was to deal with the issue of retirement ages coming quite close together, which is a particular problem in a small service where we have very few people, a very small pool upon which to draw for these kinds of specialist appointments. That is simply the matter, Sir, that we sometimes have a difficulty in the selection process, in a small pool, when we have very few people with those skills and when they sometimes have the unfortunate issue of being of similar age and retiring at a similar time.

4. Question for Ministers without Notice - Minister for Economic Development

The Bailiff:

I am afraid that concludes the first question period without notice. The second question period is of the Minister for Economic Development. I invite questions.

4.1 Deputy G.P. Southern:

Will the Minister inform Members whether he is now prepared to accept my invitation to meet the Economic Affairs Scrutiny Panel, in public, to discuss the details of his draft business plan 2008-2010, and the Enterprise Business Development Strategy. If not, what exemptions does he consider apply to justify secrecy for all or part of these 2 topics?

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

My friend, the Minister for Home Affairs, made some comments in the media at the weekend that we needed to get away from macho politicking and macho positioning. The Deputy is well aware that he can call me to give evidence at any time. I will attend those meetings if it is a properly organised and properly called for meeting. I would inform the Assembly, that there was some media coverage of an issue of a meeting which we had invited the Scrutiny Panel to attend for us to give him briefings on. They were confidential because we were giving confidential business information. If the Chairman wishes to invite me to give evidence on my business plan on my department's activities of course I will attend.

4.2 Deputy S.C. Ferguson:

I am glad to hear that the Minister will be attending with the Economic Affairs Scrutiny Panel. I think it will clear the air considerably. I wonder if the Minister would outline to the House what the circumstances were under which the coffee bar contract was awarded to an overseas company? Was it not offered to local businesses?

Senator P.F.C. Ozouf:

I would start by saying I thank the Chairman of the Scrutiny Panels for helping to deal with the issues of the Scrutiny Panel. I hope that she will continue to have an oversight of the behaviour of the Chairman and the Panel. **[Laughter]** I wish to be scrutinised possibly. In relation to the second question, I can inform the Deputy that the decision for the awarding of a Starbucks café at the airport was one for the operator - that is Alpha Catering - that has the contract, which was a contract of longevity agreed for by previous Harbours and Airports Committee. It was their decision. I accept the arguments and I accept the concern that she has, and other people do, that other local companies cannot, at the moment, operate within the airport. A review is currently being undertaken by the J.C.R.A. (Jersey Competition Regulatory Authority) and I am in discussions with my Assistant Minister, and the Airport Director, of the consequences of the J.C.R.A. advice.

4.3 Senator L. Norman:

Could the Minister please say what progress is being made to resolve the fishing dispute with Guernsey, following the recent successful appeal of the Jersey Fishermen's Association to the Privy Council?

Senator P.F.C. Ozouf:

Yes, the announcement of 2nd May effectively meant that the Guernsey Ordinance of the 3 to 12 miles was invalid and has been struck down. Guernsey remains able to legislate and put arrangements in place for the 0 to 3. My officials have been in contact with D.E.F.R.A. (Department for Environment, Food and Rural Affairs). It is now for the U.K. to bring forward a licensing system. We need, obviously, to support the U.K. in bringing forward a licensing scheme for the 3 to 12 mile zone. I personally would like to see a situation where Guernsey, themselves,

have their territorial waters extended to 12 miles. We shall do everything possible to help Guernsey, but we want to protect our own historic fishing rights for Jersey fishermen in Guernsey waters in the 3 to 12. That is the position of Jersey. I believe that that is the position of the U.K. We will be working with the U.K. to find an acceptable way forward.

4.4 Deputy R.G. Le Hérissier:

Does the Minister, on mature reflection, feel that the powers given to the J.C.R.A. - the role that the law requires it to play, and the fact that it has resulted in the possibility of 4 mobile telephone operators, with 4 sets of aeriels which have been such an irritation and such a problem to his dearly esteemed colleague, the Minister of Planning - does he feel that this requires a re-think of the well-meaning approach he took originally to the J.C.R.A., that we have now been left with 4 possible sets of masts?

Senator P.F.C. Ozouf:

Well, the first thing I would say is that we have 3 sets of masts. I gave evidence to - I thought - a very helpful and thoughtful review about the mobile phone mast issue. When competition was envisaged I thought that we were going to have innovative competition and I have always had that view. I am currently having discussions with the Treasury Minister about the important issue of infrastructure sharing. That is a trick that I do not think we have grasped yet in Jersey. I think there are legitimate questions about having... and the Planning Minister and myself have been faced, effectively, with decisions that have been made by our predecessor Committees. No directions were given by the previous E.D.C. (Economic Development Committee) on infrastructure sharing and the J.C.R.A. has gone about that without, effectively, political instruction. That is being changed. I am in discussion with my friend, the Treasury Minister, on the issue of infrastructure sharing. At the heart of it, that is how I believe competition should work, with infrastructure to be shared by operators. It is difficult and it is not without challenge but, certainly, it is an issue that I am looking into and I have also agreed with virtually all of the recommendations of the Mobile Phone Review Panel's conclusions.

4.5 Deputy P.V.F. Le Claire:

Could I ask the Minister if he would undertake to investigate the issue of light aircraft and commercial aircraft flying low over the centre of St. Helier, possibly constituting a risk to the businesses and the residents, and whether or not it is possible to exclude those practices in his role in charge of the airport, as it has been raised to me as a concern.

Senator P.F.C. Ozouf:

I think the quick answer is, yes, I am happy to deal with the Deputy's concerns and will arrange a meeting with the Airport Director and my Assistant Minister.

4.6 Connétable A.S. Crowcroft of St. Helier:

Would the Minister like to comment on the recent I.O.D. (Institute of Directors) Conference on St. Helier, which was attended by several Members of the Assembly? Would he agree with me that it was an extremely useful event, and that the I.O.D. and the sponsors should be congratulated for it? Would he comment, in particular, on the view expressed by the majority of those present that a supermarket on the Waterfront is something that he should not be encouraging?

Senator P.F.C. Ozouf:

May I congratulate the Constable and the other people that were on the panel. I attended the I.O.D. event and I thought that his contribution about a vision for St. Helier, and Mr. Mike Waddington's vision of a delightful St. Helier were absolutely inspirational. His comments were welcome and I warmly endorse them in terms of the importance of the regeneration of town. If we are to develop the economy, if we are to grow the economy, it is in St. Helier that we have a fantastic opportunity to regenerate the existing part of town; to deal with West of Albert and also East of Albert. I

entirely agree with all of the sentiments and, indeed, are working with him and the urban task force with the Chief Minister, Planning Minister and Transport and Technical Services Minister to deliver that. On the issue of a supermarket on the Waterfront, let us be clear. I think, the question was: a supermarket on the Waterfront, not whether or not another supermarket was required. I maintain the view that you need 3 operators to have vitality and competition. No doubt the Planning Minister will be considering the response of the I.O.D. and I will be too. The retail strategy is an incremental one. I will also be announcing, in the next few days, a more detailed consumer survey so that we can be more understanding. I think we are already understanding what consumers want, but I want to further understand what consumers want in the important area of supermarket retailing.

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

In the past the Minister has been a great advocate of greater co-operation with Guernsey. In particular, does he still advocate the possibility of a joint regulator and, if so, will he be pursuing this matter any further?

Senator P.F.C. Ozouf:

I think I also agree with the Deputy of St. John, C.I. integration - C.I. working together - has cost advantages and, effectively, means that we can both punch above our weight if we work together. The issue of a common regulator is one that I also aspire to, in terms of telecoms and competition. Unfortunately, my opposite number in Guernsey does not share my view of the importance of tough anti-trust competition laws, which I believe are benefiting the economy and one of the reasons why we are seeing lower R.P.I. (Retail Price Index) figures than we have seen for some time by reference to the U.K. I will continue to try and work with my opposite number in Guernsey for a common regulator. I am sure that the Deputy of St. John will be supporting me in those endeavours.

4.8 Deputy J.A. Martin:

In the 2007 Economic Development business plan, there was a scheme to set up a small firms loan guarantee scheme, to allow small businesses access to finance at vital stages. Could the Minister inform the States Assembly how this exactly works, what is the risk to the States and how many firms have taken up the offer of the small loans, and exactly how much it is costing the States at the moment. Thank you, Sir.

Senator P.F.C. Ozouf:

That is a very detailed question and I am happy to table a more detailed answer on exactly the functionality on the small loans guarantee scheme. It was part of a package of measures in order to deliver a more enterprising economy. Effectively, the money that E.D. (Economic Development) is putting in is effectively an annual amount to deal with potential defaults on small loan guarantees. Most of the risk is undertaken by partner banks. It is absolutely vital that businesses and young people and, indeed, older people that want to set up businesses have access to capital. It is by small loans, and small loan guarantees, that we can get people into the aspiration of running their own business. If the Scrutiny Panel - and the Deputy is a member of the Scrutiny Panel - want to come and understand what we are doing in this exciting area, she can see just how many firms are taking up that option. There are many firms taking up this option, not only in agriculture and tourism but across the industry. I think it is one of the most exciting things that we have been doing in the last few months and I am happy to explain that to the Panel.

4.9 Deputy J.A. Martin:

Sorry, Sir, I thank him and I understand it is a very detailed answer. Again, the Minister has invited me to come to him to discuss. As a member of the Scrutiny Panel I thought his offer, earlier, was for him to attend. Could he confirm attendance upon the Scrutiny Panel at a public meeting. Thank you, Sir.

Senator P.F.C. Ozouf:

I am not going to go on about this any more, but I invited the Scrutiny Panel because I did not think the Scrutiny Panel have a wide enough understanding of what we are trying to do in reinvigorating the enterprise economy of Jersey. They did not invite me so I invited myself to attend upon them. If they want to invite me to a public meeting, I will attend, as I have to under this law, under the Standing Orders of the States.

4.10 Deputy G.P. Southern:

The Minister just mentioned the need - I think he said - for 3 members in a particular area to promote competition. Does he not accept that while he may believe that 3 participants in the supermarket sector, for example... the Minister is looking puzzled, I think he referred to 3 competing members in the supermarket sector as being healthy. Despite that belief, does he not believe that the evidence produced by the *Experian Report*, and on which his retail strategy is based, does not support the demand for a third operator in the Island.

Senator P.F.C. Ozouf:

There are 2 issues: there is the issue of the total quantum of retail that is available, and there is the issue of the number of operators. I think the deputy is asking me about the issue of the number of operators. It is my view that the competition conclusions of competition authorities in Australia, and throughout the United Kingdom and other jurisdictions, where they have cited the fact that you need more than 2 operators to get vitality in terms of consumer goods and grocery markets, is the dynamics of what you need in the marketplace. I believe the conclusions of those other competition authorities. I believe that they are relevant to Jersey. I believe the J.C.R.A. also subscribe to those views. I am happy to ask the J.C.R.A. to further confirm that, if the Deputy wishes me to.

4.11 Deputy G.P. Southern:

Supplementary if I may, Sir: does he not accept that those studies refer to much larger economies than ours? We are a tiny economy and, therefore, have to make adjustments to our competition policy.

Senator P.F.C. Ozouf:

The difference is no difference to small market towns, whether they be in the United Kingdom or in other jurisdictions. There is a certain catchment area where people will go and buy their groceries or their consumer goods in a certain area. Jersey is no different. We are a community of 90,000 people. Similar communities in Cornwall will enjoy the opportunity of trading, an opportunity of going to buy in 4 or 5 different retailers, whether they be discounted retailers - which we do not have in Jersey - or 3 or 4 other nationals. The differences are similar. I would ask the Deputy to look at the conclusions of competition authorities elsewhere. We can draw from their experience and understand, perhaps, why our figures and our inflation figures over the years are so much higher.

4.12 The Deputy of St. John:

Does the Minister have any plans to review Jersey's current licensing laws in the interests of the tourism industry and St. Helier's night-time economy, in particular?

Senator P.F.C. Ozouf:

The review of the Licensing Law is something that was discussed with the Minister for Home Affairs and, indeed, the Council of Ministers, when we were discussing her criminal justice strategy. I absolutely agree with her Police Chief and the Home Affairs calls for review of licensing. I believe that there is a case to reform them. I am concerned about the night-time economy and the disturbance of town, and I will be working very closely with the Home Affairs

Minister in progressing the licensing reforms that I think that her Police Chief and she believe in. I look forward to working with the Deputy, too, on the subject.

4.13 Senator J.L. Perchard:

The sinking of the road on the Waterfront would undoubtedly have an effect on the Island's economic development. Is the Minister aware to what extent these works will have and what economic impact they will have, and is the Minister in favour of the proposal to sink the road?

Senator P.F.C. Ozouf:

I am excited and delighted by the Hopkins master plan and everything that is contained with it. I think that this Assembly understands there is a widespread feeling that what we have done on the Waterfront is not what we really aspire to in having the Waterfront. I believe that lowering the road is the key. I believe that having started as previous planning President and having started a process of not approving some of the previous development on the Waterfront, that that was the right thing. I believe I was correct in not approving those. I am excited and potentially delighted by what I see. I further think that the economic prosperity and future of Jersey is absolutely dependent on getting West of Albert right and then moving on to East of Albert and using some of the fruits - as the Constable of St. Helier has said, - from the West of Albert to regenerate town, to reinvigorate it. That is where the fuel for our economic prosperity is coming from. So I wholeheartedly endorse them.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

The Bailiff:

That concludes the second question period. We come to statements, there being no personal statements. On a matter of official responsibility, the first statement is to be made by the Chairman of the Sub-Panel, I think, looking at Social Housing. Deputy Power.

5 Deputy S. Power of St. Brelade:

The Minister for Housing lodged the report and proposition, Social Housing Property Plan 2007-2016 (P.6) on 16th January this year. The Sub-Panel had sight of this document some 3 weeks before, about 3 days before Christmas, it was lodged and it has now been confirmed that it was at a final draft stage some 6 months earlier, which would have been the summer of 2006. The Panel set up the Sub Panel on 2nd February this year and membership is as follows: myself (Deputy Power), Chairman; Deputy Alan Breckon, Deputy Chairman; the Constable of St. Martin; the Constable of St. John and Deputy Roy Le Hérisier. Since it was set up, the Sub Panel has met on 20 occasions. This has included meetings with the Housing Minister, the Assistant Housing Minister and all officers of the Housing Department. The Sub Panel subsequently retained Consult CIH Limited, a subsidiary of the Chartered Institute of Housing, to advise the Sub-Panel. They are a professional body that specialises in social housing and are a registered charity. CIH (Chartered Institute of Housing) is a non-profit organisation with over 20,000 members in 20 countries, working predominantly with local authorities. The advisers have visited the Island on several occasions and met with the Housing Minister, the Assistant Housing Minister and Housing Officers. The Sub-Panel specifically arranged for CIH to have access to the Housing Department, and I thank the Housing Department for their co-operation in this area. Indeed, the Housing Department arranged a short tour of specific housing properties for CIH. A large amount of Jersey housing data was made available to CIH and they consulted with other parties who have knowledge of the local housing situation. They have related this Jersey knowledge to their other experience in dealing with housing matters elsewhere. CIH have produced a draft report for the Sub-Panel and this is now in its final form. Some of this report will be included in the final Sub-Panel report. The Sub-Panel has carried out its own research, and this included a questionnaire that was sent to all States' tenants in co-operation with the Housing Department. I am pleased to report to the Assembly that

the Sub-Panel received 1,248 responses from the 4,437 tenant households contacted. This represents a 28 per cent response rate, and the results are being analysed locally by a statistician. The results will form part of the Sub-Panel report next week. The Sub-Panel has also carried out a preliminary background research into Housing's financial situation, bearing in mind that over £500 million of public funds and assets are going to be involved over the next 10 years. As a result, the Sub-Panel is minded to recommend that the Comptroller and Auditor General takes a look at the Housing Department finances, to ensure best practice and public accountability. I hope that this gives Members some idea as to how much ground has been covered in the past 16 weeks. The Sub-Panel raises some serious questions about the Property Plan that the Plan does not answer and, as a result, the Sub-Panel is not in support of the Social Housing Property Plan proceeding in its present form. However, the Sub-Panel does find some measured support, which will not delay some progress being made in a measured fashion. To date, therefore, the Sub-Panel has important reservations about the lack of analysis for the future demand for social housing and whether this lack of information supports the Plan. The sale and selection process of properties, outlined in the Plan, has significant shortcomings. The fundamental problems relating to rent subsidy and transfer to Social Security are not addressed. The assumptions behind the refurbishment of properties under the Plan are not sufficiently robust. Finally, the model put forward in the Plan for increasing home ownership appears to be inappropriate to the needs of the community. Members should be aware of this, as a preliminary notice of the Sub-Panel report to be published next week, and the Assembly should decide whether the Plan should be debated on 19th June. Thank you, sir.

5.1 Senator T.J. Le Main:

Would you allow me, as the Minister involved with this, to make just a few comments on the statement, Sir?

The Bailiff:

No, I am afraid not Minister but you may put a question.

Senator T.J. Le Main:

Well, would you bear with me that I could ask several questions, Sir?

The Bailiff:

Certainly, you can start by asking one. **[Laughter]**

Senator T.J. Le Main:

Well, could I ask the question and have some appendices to it, Sir? **[Laughter]**

The Bailiff:

Well, as you know, the Standing Orders allow 10 minutes for asking of questions relating to statements. I will certainly allow you to ask a question, perhaps more than one question, but if other Members have questions I must hold the scales of other Members too.

Senator T.J. Le Main:

I have to say I am very disappointed with the final comments of the statement made this morning and, therefore, I would like to ask the following question: will the Chairman of the Sub-Panel confirm that the Housing Minister and Assistant Minister only met the Scrutiny Panel officially once. We have never been invited back. Many of these issues they relate on the final bullet points were not expressed or discussed at that meeting, so we have no reason to understand why and how they have come to those conclusions. We can address these issues very easily, but I would ask the Chairman that we urgently meet to discuss these issues as a way forward. As I say, Sir, I am very disappointed that this statement has been made this morning without any prior consultation to myself or my Assistant Minister. I am very happy to meet with the Sub-Panel urgently.

The Bailiff:

I think that is the question.

Senator T.J. Le Main:

The question is, Sir, that the bullet points on the last page, in fact some of them were never discussed with myself or my Assistant Minister...

The Bailiff:

Well, that is the question.

Senator T.J. Le Main:

I would like to ask...

The Bailiff:

Yes, I think you must sit down, I think, now.

Senator T.J. Le Main:

Yes, Sir, I would like to ask the Chairman why he makes those assumptions without having spoken to us about them.

Deputy S. Power:

The Housing Minister refers to the fact we have only met once. He is referring to a public hearing which was copied and recorded and transcribed, but we have met on far more occasions that, unofficially. With regard to his request for an urgent meeting, I think the Sub-Panel would be minded to concede that. We are planning to publish the report next week - probably on Monday - but I am willing to meet with the Housing Minister to discuss any issues that he feels he wishes to bring to the Sub-Panel's attention. I also feel that it is slightly unfair of the Housing Minister to say that we did not consult him about the 5 bullet points. Out of courtesy, we have brought to the attention of the Assembly the issues that we feel are material in the debate going ahead on 19th June and we did not feel there was any other way of doing it. Thank you, Sir.

5.2 Senator T.J. Le Main:

Can I ask a supplementary, Sir, in view of the answer: will the Chairman put in writing, immediately, the concerns and the reasons why they have concern on those bullet points, so that we can address them and deal with them immediately?

Deputy S. Power:

I am very happy to write to the Housing Minister today and put those 5 points to the Minister for consideration.

5.3 Deputy P.V.F. Le Claire:

The statement that has been read this morning appears to have been written with the effect of being severely critical. Was this the intention of the writer or drafter of this statement? Was it the intention to produce a severely critical statement? In particular, can I ask for clarification in relation to the third paragraph on the first page, whether there is any insinuation, as could be read, that there is impropriety occurring: "As a result, the Sub-Panel is minded to recommend that the Comptroller and Auditor General take a look at the Housing Department finances to ensure best practice and public accountability" as that infers some doubt. I would like to have that cleared, if possible, at this opportunity. Also while establishing whether or not this has been written to be severely critical, whether or not the final bullet point, in particular, could be explained by the Chairman of the group, in relation to the fact that it is inappropriate for the needs of the community. Could he expand exactly what that means? This statement does seem to be something that has been written to be severely critical and I would like to ask those questions.

Deputy S. Power:

The first question was in relation to the critical statement. We brought our statement to the Assembly to put the Assembly on notice that we have concerns about the Housing Property Plan. These are issues that I think we have reservations about and they will be fully addressed next week when the report on the Plan is published. There is absolutely no question of any suggestion of impropriety in the Housing Department. The reason we are recommending that the Comptroller and Auditor General has a look at the Housing Department's financial structure is because we are dealing with £500 million. That is a significant amount of money, even by Island standards. I want to make that clear, that there is absolutely no question of any impropriety or any untoward goings on in the Housing Department. This has never been suggested. Finally, with regard to the Deputy's last question on bullet point 5, he is referring to "The model put forward for increasing home ownership appears to be inappropriate to the needs of the community." I would make the following comment: it has long been accepted that those in greatest need of affordable housing in Jersey are young couples and families. If this Plan were about increasing home ownership based on need, it would seek to address the needs of younger buyers - up to the age of 40 years - who would want, in many cases, benefit from higher levels of discount. I would also add to that, the group that Housing accept they are most likely to attract with their Plan are older tenants who have higher incomes and are not on abatement. Thank you, Sir.

5.4 Senator P.F. Routier:

My question relates to bullet point 3. There is a statement: "The fundamental problems relating to rent subsidy and transfer to Social Security are not addressed." I recognise that the Deputy has offered to write to the Minister for Housing explaining what the bullet points are and, hopefully, he would be prepared to include me in that circulation. But could he give me any inkling of what that statement means?

Deputy S. Power:

Yes, I can give an indication. The States, as a whole, have not been made aware of the possible implications of the planned transfer of rent abatement and rebate to Social Security under income support. The financial effects of the move are unclear, owing to inadequate information. The implications of change to a 5-year qualification rule for housing benefit have not been adequately investigated. The Housing Minister has made it clear that he strongly opposes the move. Those are just 3 issues and I think there are another 9, but I am not going to take up the Assembly's time with that. It will be available next week.

Senator T.J. Le Main:

I do not oppose the 5-year rule now. I have had a full explanation.

5.5 Deputy R.G. Le Hérrissier:

This may be a pointed question. I would like to ask the Chairman, would he concede that, in fact, the Panel took a very positive view but part of its problem was trying to identify what was the particular focus of this programme. Was it a quick sell-off to get maintenance money? Was it a realignment of property or was it for some other reason? Would he not accept that - depending on how you judge the programme - sometimes contrary to the comments of Deputy Le Claire, you may well end up taking a positive view, albeit with reservations that have to be dealt with.

Deputy S. Power:

I would like to answer that question by saying that the Sub-Panel became aware, fairly quickly, to coin a phrase, that normally one says that: "The devil is in the detail." In this case the devil was in the lack of detail. We had trouble analysing how a States' department could realistically justify selling that amount of property, in a very short report containing 34 pages. I think the Sub-Panel

was unanimous in its view that there were problems with the Property Plan and I have forgotten the last part of the Deputy's question, if he could remind me again?

Deputy R.G. Le Hérrissier:

Would the Chairman not accept that, having given the courtesy of indicating the direction the report is going, it would be wrong for people to infer it is going to be a wholly negative report and, in fact, there are some strengths to the Plan and we are very concerned, though, that the reservations be dealt with?

Deputy S. Power:

Yes, I would like to point out that I think the Housing Department, and the Assembly as a whole, could possibly look at the reservations we have as an opportunity to look at the bigger picture. The Sub-Panel struggled with the fact that we felt sometimes that we were being used as a Trojan horse in this exercise. We feel that the major review of housing policy on this Island, the future of the Housing Department: whether there is a housing authority; a housing commission; a housing association; the control and management of States' social rented housing; rental in the private sector, and all the other parts, should have been taken into account in this. We feel that the Housing Department should really regard this now as an opportunity.

The Bailiff:

I am afraid that expires the time allowed for questioning, Senator. So, we come next to the statement to be made by the Chairman of the Privileges and Procedures Committee.

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

Members will have found on their desk this morning a copy of P.P.C.'s (Privileges and Procedures Committee) proposals on the reform of the composition of the States. Members will also have found an amendment, in the name of Deputy Baudains, putting forward an alternative option for reform. After working on this issue since it took office, and analysing all possible reform options, P.P.C. has concluded that there are only 2 workable and acceptable options to be put to the electorate in a referendum, both involving an Assembly comprising of Connétable and one other category of Member. The other category could either be an increased number of Deputies - an option proposed in the amendment of Deputy Baudains - or the Committee's preferred option of 36 Members, still to be known as "Deputies" elected in 6 new large electoral districts. P.P.C. urges all Members to read the Committee's proposals very carefully, and to assess the arguments for and against other options before jumping to any conclusions. The Members of P.P.C. are not afraid to admit that they were not all initially supportive of this option but, by a majority, eventually concluded that it represented the best way forward to accommodate as many, as possible, of the underlying themes that have emerged from the public consultation undertaken by the Committee. P.P.C. came to the conclusion after weighing-up the disadvantages and advantages of all options very carefully, and it is for this reason that I strongly implore all Members to undertake a similar exercise for themselves. P.P.C. believes very firmly that reform of the composition of the States is necessary to complete the machinery of government reform, begun in 2001. As a result, the Committee very much hopes that States' Members will be prepared to make a final decision in the coming weeks, by putting aside their own personal views and supporting an option to put the electorate in a referendum so that the public will have their say on this important issue. P.P.C. has analysed all options and is convinced that there are only 2 options for real reform that are workable and acceptable. If these are rejected, the *status quo* will have to remain. It is, unfortunately, naïve to believe that there are yet more workable and preferable reform options that could be found through further investigation. Might I add that my Committee is keen to have an orderly debate on this issue, and thank Deputy Le Claire for withdrawing his Projet, P.64. Perhaps to further this aim

in achieving an orderly debate, the Comité des Connétables may consider postponing the debate on their Projet, P.54, until 17th July when P.P.C.'s Projet will be debated. Thank you, Sir.

6.1 Senator J.L. Perchard:

The Chairman of P.P.C., in his statement just now, said there are only 2 real options for possible reform and he wants the States to debate these options, before recommending that we go to the public of the Island in a referendum. I just wondered, Sir, if we take his point, that there are only 2 options for real reform that we do not cut out the man in the middle and go straight, with his 2 options, to a referendum?

The Bailiff:

Well, questioning of statements: may I remind Members is meant to be done to remove anything which is not clear. The maker of a statement may be asked to clarify the statement. I do not know whether that is really asking the Chairman to clarify it or whether engaging in some debate, but if it is the former?

Senator J.L. Perchard:

Could I help, Sir, by perhaps being more specific: did P.P.C., Sir, consider not having a States debate and taking the 2 options for a referendum straightaway?

The Connétable of St. Clement:

It will have to be a decision of the States to take it to referendum, Sir. We cannot take it directly ourselves.

6.2 Senator P.F.C. Ozouf:

I wonder if the Chairman could comment on the following: he believes, I think, that the future makeup of this Assembly should be based upon Constables and constituencies. If he believes that, then why is his Committee not progressing an improvement in the way in which constituency seats for Deputies are allocated for next year's election, rather than waiting for 2011?

The Connétable of St. Clement:

Could I refer the Senator to our Projet, which I think explains all the situations.

6.3 Deputy G.W.J. de Faye:

Electors in my constituency, No. 3 St. Helier, are currently able to vote for one Constable, 4 Deputies and 6 Senators. Under the proposals put forward by the Chairman, in future it appears they will only be vote for one Constable and 6 Deputies. That constitutes a change in directly elected representatives of 11 falling to 7. Would the Chairman explain to me how this has improved voter choice for my constituents, and how it has improved democratic accountability?

The Connétable of St. Clement:

I think, really, this is a matter for the debate on our proposition, and not for me to answer questions at this stage.

6.4 Deputy I.J. Gorst of St. Clement:

A supplementary to Senator Ozouf's question. I note that the Committee is now proposing electoral reform from 2011. Could the Chairman please explain what has happened to those 3 years where we were assured any proposition would be changed from 2008? Thank you.

The Connétable of St. Clement:

I realise, Sir, that our Projet was only on the Members' desks at 9.30 a.m. this morning and they obviously have not had the chance to read it, and I would draw their attention to my statement, which I asked them to read first.

6.5 Deputy R.G. Le Hérrissier:

Will the Members of the much-strengthened St. Clement caucus on the Committee be seeking to discipline their dissident Member [Laughter].

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

I do not know whether it was a clerical error, but the President of P.P.C. did go on a little bit further than what was on the paper in front of us. I believe that he called for the Connétables to maybe withdraw P.54. I would point out to him that, like all other Members, the Comité des Connétables have not had time since 9.30 a.m. this morning to consider what is on our desk, and at this moment I have no intention of withdrawing it.

The Connétable of St. Clement:

Can I respond to that, Sir, because I did not ask the Constables to withdraw, I asked them to postpone the debate.

6.7 Senator P.F.C. Ozouf

I have briefly read the report, but the Chairman in his statement said that there were only 2 workable solutions. Could he summarise the reason why an option is not that we keep the Constables, keep the Island-wide vote and reform the constituencies of Deputies?

The Connétable of St. Clement:

I would again ask you to read it in more depth, Sir.

PUBLIC BUSINESS

7. Draft Water Resources (Jersey) Law 200- (P.26/2007)

The Bailiff:

We come now to public business and the first item of public business is the draft Water Resources (Jersey) 200-, P.26, in the name of the Minister for Planning and the Environment. I ask the Greffier to read the principles of the draft.

The Greffier of the States:

Draft Water Resources (Jersey) Law 200-: a Law to provide for the protection, management and regulation of water resources in Jersey, the promotion of the conservation of the fauna and flora that are dependent on inland waters and of the habitats of such fauna and flora to the extent that those habitats are themselves dependent on inland waters, the conservation and enhancement of the natural beauty and amenity of inland waters and for related purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

Over the past few years, the States have passed a number of laws that are concerned with the protection and enhancement of the Island's natural environment for the enjoyment of present and future generations. These laws include the Water Pollution Law, the Drainage Law and the Waste Management Law. I believe that the time is now right for the States to enact the draft Water Resources Law. To use an analogy, this Law will be another piece in the jigsaw of laws required to ensure comprehensive environmental protection on the Island. I further believe that there is a compelling need for the introduction of comprehensive water resources management legislation in Jersey. This would ensure better protection, management and regulation of this vital, precious resource for the benefit of the whole community and the environment and, in addition, will protect existing and future water abstraction rights. The need for the Law is supported by, among others,

Jersey Water which supplies some 90 per cent of the Island's population with drinking water. Following a dry period in the 1980s, a working party was set up on the Island to examine the subject of water management. The working party, under the chairmanship of the late Major John Riley, published its Report on the Safeguarding of the Water Resources in Jersey in March 1992. The report was debated by the States in September of that year. The States acknowledged the importance of water management and charged the then Public Services Committee to produce comprehensive legislation on the issue. As the first stage in an overall water management legislation, the Water Pollution Law was debated by the States in March 2000 and was fully and successfully implemented on 27th November 2000. The Island's water resources consist of both surface waters, including streams, reservoirs, ponds and wetlands, and groundwater which is the water under the surface of the land in underground rock strata. Jersey Water relies almost exclusively on surface water supplies in order to supply drinking water to 90 per cent of the population of the Island. The Water Resources Law will greatly assist Jersey Water to perform its statutory obligations to provide an adequate supply of wholesome water for domestic purposes. As I stated earlier, Jersey Water fully supports the need for the Law. In addition, surface waters are vital for crop irrigation, for recreational purposes and, very importantly, they also provide the habitats for Jersey's animal and plant life that are dependent on them and support the Island's biodiversity. Groundwater, on the other hand, is a smaller component of the overall water resources of the Island, but it is however vital to those approximately 3,500 households that are not connected to the mains water supply, as well as for agriculture and industry. The Law will also ensure that the water supplies to these households are adequately protected for present and future generations. Fresh water must be seen and treated by everyone as a precious, finite, and shared resource. Water resources must therefore be protected and managed. Consequently, most countries in the world - indeed more than 120 - have already enacted appropriate legislation for this purpose. For example, comprehensive water resources legislation was successfully introduced in England and Wales over 40 years ago. Small islands have particularly difficult water resources problems due to their small land areas and, in the case of Jersey, these difficulties are compounded by our high population density. Fresh water is therefore an extremely valuable resource for the Island which, to a large extent, has been taken for granted in the past. The Island is already reliant on Jersey Water's desalination plant to augment its water supplies. The amount of available fresh water in Jersey per person is less than any region of the United Kingdom and many other parts of the world, mainly due to its high population density and the Island does not realistically have the benefit of being able to import water from elsewhere. Hardly a day goes past without the media running stories about climate change. The best available climate change models show that Jersey will in future experience summers that are much warmer than today and that there will be significantly less rainfall in the summer months, albeit with more rainfall in the winter. The extra winter rainfall cannot, however, be stored to compensate for the predicted shortfalls in the summer without constructing additional reservoir capacity. This likely scenario further highlights the need for sound water resource management on the Island. The issues and consequences of climate change were very much highlighted during the recent visit to Jersey of the U.K. Government's Chief Scientific Advisor, Professor Sir David King. I am advised that all of Jersey's freshwater resources, both surface waters and groundwater, originally fell on the Island as rain. As I stated earlier, the vast majority of the water for human consumption is collected from streams by Jersey Water to be stored in reservoirs. The rest of the water runs off back into the sea, evaporates, is taken in by plants or soaks into the earth and underlying rock strata to form groundwater which can be later abstracted for drinking and other purposes. Jersey's water resources make up a finite valuable resource which is vulnerable to over-abstraction, that is, overuse, and pollution. Jersey already has a law in place to protect the quality of the Island's water resources, but currently there is no equivalent legislation to protect the quantity and use, which makes Jersey very unusual in the world. The draft Water Resources Law underwent an extensive consultation process with some 90 consultees, including all States Members, various former States Committees and relevant stakeholders. Many of the constructive comments that were received were incorporated into the

draft Law. I am pleased to be able to add that there was considerable support for the need for the Law. Indeed only 5 objections were received, 2 of which came from States Members, both of whom subsequently became members of the Shadow Scrutiny Panel that reviewed this particular Law. I can also add that the only substantive objection on water resources grounds came from the Water Diviners and Engineers' Association. I shall deal with the basis of their objection later on in my introductory speech when I come to address the question of the deepwater investigations that have recently been carried out. However, at this juncture, I should like to record my appreciation to the diviners and drillers for the very useful contribution that they have made to the debate on the Island's water resources. I recognise and respect the views expressed by these groups and others on the Island and fully understand that they are genuinely held and longstanding. I shall now give a summary of the main provisions of the Law. It provides for the protection, management and regulation of Jersey's water resources and the protection of all animals, plants and habitats that are dependent on them. It allows for the proper allocation and sharing of this valuable resource for the benefit of the whole community and the environment. It introduces a new licensing regime for the abstraction and impoundment of water but subject to very important exemptions, in particular, a threshold level below which a licence will not be required as well as a total exemption for all domestic abstractions. The Law protects existing and future abstraction rights, both public and private. At this juncture, I would also point out to the Assembly the transitional arrangements set out in Schedule 3 of the draft Law which ensure that those who currently abstract and impound water will be entitled automatically to a 5-year licence after the Law comes fully into force. The draft Law complements the Water Pollution Law in lowering pollution levels that may be caused by over-abstraction. It allows for the management of drought situations and for long-term management strategies to be implemented in order to minimise the negative impacts of global warming and climate change. It will allow for the further collection of data on the number and distribution of boreholes on the Island as well as current and future abstraction rates. Finally, the Law allows for a long-term integrated and sustainable approach to the management of Jersey's water resources in line with the approach adopted in the European Union and many other countries worldwide. In April 2004, the draft Law was called-in for review by the then Vibert Scrutiny Panel. During the Panel's consideration of the Law, a fundamental disagreement arose as to whether or not deep groundwater in Jersey is recharged from local rainfall as opposed to underground streams flowing from France. The British Geological Survey (B.G.S.), who had undertaken detailed hydrological studies on the Island during the previous 15 years, gave evidence to the Scrutiny Panel on behalf of the former Environment and Public Services Committee on this issue. B.G.S. contended that the vast majority of Jersey's groundwater abstractions take place in the top 25 metres of saturated rock commonly referred to as the shallow aquifer. However B.G.S. accepted that some boreholes in Jersey abstract usable quantities of groundwater at depth. Indeed details of approximately 40 such boreholes had been included in their original technical report to the States in 1991. B.G.S. stated that the deepwater resources had very limited resource capacity. In contrast, local water diviners told the Panel that they believed that the deep groundwater beneath Jersey represents a separate and major groundwater resource capable of significant future development. The Panel's report was published on 13th December 2004. The Scrutiny Panel concluded that no comprehensive water resources management legislation should be introduced on the Island for an indefinite period for 2 principal reasons. In the first instance, a scientific investigation making use of local knowledge needed to be undertaken to prove one way or the other whether the Island benefits from significant quantities of groundwater flows from France. In addition, it was necessary to find out what is the extent of the exploitable sources of water that were known to exist at depth beneath the Island. They also took the view that substantial further data needed to be collected on the Island's water resources. Having said that, the Scrutiny Panel was fully supportive of the need to introduce legislation immediately to deal with drought situations which, in effect, represent Part 4 of the current draft Law before the Assembly. On 15th March 2005, the former promoting Committee submitted its formal response to the Scrutiny Panel. In a nutshell, the Committee did not concur with the view expressed by the Panel, namely that the Law

should be deferred indefinitely. On that basis, the draft Law was duly lodged 'au Greffe' on 27th September 2005. However, despite its formal response in relation to the deepwater issues, the Committee under the presidency of Senator Ozouf very wisely decided in October 2005 that the necessary scientific investigations should be carried out in order to assess the magnitude, sustainability and origin of the deep groundwater resources that were known to exist beneath the Island before any debate on the draft Law by the States Assembly took place. At that stage, the Committee set up the Deep Groundwater Advisory Group (the D.G.A.G.) in order to undertake those investigations, an action that I fully support. The composition of the D.G.A.G. comprised of 2 Jersey-based geologists, 2 local water diviners and drillers, the Managing Director of Jersey Water, 2 States' Members - being Deputies Ferguson and Duhamel - and the Director of Environment. The D.G.A.G.'s terms of reference were taking an evidence-based approach to examine the theory that Jersey has a groundwater connection with France that contributes to the Island's overall water resources and assess the likely contribution that deep groundwater makes to the overall water resources of the Island. On 7th June 2006, all D.G.A.G. members signed-up to the design and purpose of the investigations. Within the signed agreement, all parties agreed to accept the findings of the investigations and to "drop all claims" of an underground water connection between Jersey and the European mainland if the investigation concluded that no significant difference existed between the deep groundwater beneath the Island and the water in the shallow aquifer. Two of the water diviners/driller members of the D.G.A.G., being the main supporters of the claim to the underground streams, specified 2 exact locations where the test boreholes should be sited: one at La Rocque and the other at St. Catherine. In addition, they specified the required depth for each of the boreholes which they considered were the optimal positions where the underground streams from outside the Island were located. No restrictions were placed on them in relation to either of the chosen locations or depths. The detailed methodology, analysis of data and reporting of the results was undertaken by the nominated consultants, B.G.S. and Entec U.K. Limited. Entec has provided the technical advisor to the Scrutiny Panel in 2004. The agreed investigations were undertaken in autumn 2006, and the joint B.G.S./Entec report was published in December 2006. The report concluded on the basis of the investigations undertaken that there is no significant difference between the water in the shallow aquifer and the deep groundwater beneath the Island. There is no evidence of underground streams from the European mainland. Thus Jersey's groundwater is recharged entirely by the rainfall that falls on the Island. Based on the present evidence, there is no separate major deep groundwater resource that is capable of significant future development to contribute to the water needs of the Island. On the basis of the signed agreement of the D.G.A.G. members, the findings of the investigations represent the definitive test. I have studied the report very carefully and likewise I find its findings as conclusive on the deepwater issues that were identified by the Scrutiny Panel. Having said that, I do of course recognise that further groundwater drilling and investigations will need to be undertaken following implementation of the Law as part of our ongoing evaluation of the Island's water resources. I do understand that these conclusions are hard to accept for those who hold a view passed down through the generations that there is an underground water connection with the European mainland. However, I do hope that they will feel content that if this Law is approved, further test drilling will take place as a result and that this will add to our understanding of our underground water resources. I now turn to the substantive amendments that have been made to the draft Law following on from the Scrutiny process. Firstly, 3 sets of amendments were made by the former promoting Committee. A requirement for returns to be made to the regulator on request by those abstracting below the exemption threshold has been included. It has been made clear that the granting of a test pumping consent by the regulator in effect to test a new borehole will not guarantee the issue of an abstraction licence although clearly the results of the investigations will be taken into account by the regulator in determining an application for a licence.

The Bailiff:

Minister, may I ask you to pause just for one moment while I ask Members or some of them who are in the precinct to return to the Chamber so that the Chamber can become quorate? Perhaps while that happens, you could continue, Minister.

Senator F.E. Cohen:

Provision to enable the regulator to have access to relevant borehole data has been added. Secondly, since taking this project over, I have myself made 3 further amendments to the Law. The exemption threshold has been increased from 3 to 15 cubic metres per day. All private households will be totally exempt from the licensing provisions of the Law. It will be possible in future, in light of operational experience of the Law, for the States to amend the exemption provisions by Regulations. It has been estimated that the total cost of implementing all the provisions of the Law will be approximately £100,000 per annum. I will explain that. This includes the cost of further groundwater investigations to which I have previously referred. It also includes the provision of specialist hydro-geological services, the need for which was supported by the Scrutiny Panel in order to implement and enforce the provisions of the Law, to analyse data on water resources and to advise the regulator on applications for licences. The costs of implementation of the Law will be recovered through charges in respect of abstraction and impoundment licences. However, it is important to note that all domestic properties will be totally exempt from the licensing provisions of the Law and hence they will not be charged. As Jersey Water will be the main abstractor, most of the implementation costs of the Law will be borne by the company. That is about £90,000 per year. As I have explained earlier, the Law is fully supported by Jersey Water. It has been estimated that the cost of the other abstraction licences - and there are approximately 120 of them, all non-domestic - will be between £50 and £150 per year, depending on the licence quantity involved. To summarise, the Water Resources Law will provide for the protection, management and regulation of one of the Island's vital precious resources, its water. It will also promote the conservation of animals and plants and their habitats that rely on the resource. The Law will allow for the proper allocation of the Island's water resources for the benefit of the whole community and the environment, ensuring that sufficient water will be available for drinking as well as for industry, agriculture and recreation. Very importantly it will protect current and future abstraction rights, both public and private. Furthermore, it will allow for a long-term integrated and sustainable approach to be adopted for the management of the Island's water resources in line with the approach adopted in the United Kingdom and many other countries worldwide. I should like to add and record my appreciation to the instructing team who have worked so diligently for so long on the formulation of this piece of legislation. This Water Resources Law has had a long gestation period. Much thought and consultation has gone into its development and I therefore strongly commend the principles to the house.

The Bailiff:

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

7.2 Deputy G.C.L. Baudains

I thought this was going to be an interesting subject with a lot of people wanting to speak on it. Maybe I can change that. Well, Sir, Members will no doubt be glad to hear that today I will not be addressing the issue of water divining, nor shall I be addressing the possible hydraulic link with France although the Minister did expand that at some length. However, as Members will know, I have studied Jersey's water supplies for a considerable period of time, many years. In fact, my file on the subject would fill an office filing cabinet. I have to say, Sir, that the knowledge that I have gained during those years of research enables me to assure Members today without a shadow of doubt that the legislation before us today is unnecessary. Sir, I am being perfectly serious when I say that this Law is simply a job creation scheme. With Members' indulgence, I shall prove that. The Law, Sir, is virtually the same as the draft Law produced some years ago. It has one or 2

changes to it as the Minister has just highlighted; the most significant change, of course, being the volume increase from 3 cubic metres to 15 cubic metres. This Law is a virtual carbon copy of the 1991 U.K. Water Resources Act. The old Public Services Committee have a document entitled Information Paper on Jersey's Water Resources, and on page 4, it states that the proposed Law, based on the 1991 U.K. Water Resources Act, consists of 4 parts. We have improved that; we have 5. So, Sir, yet again we have a piece of U.K. legislation being imported to satisfy the department. As the Minister has correctly said this morning, Sir, I think it was in 2004 the draft Law was the subject of a scrutiny review which I will refer to in a moment. I am somewhat disappointed that the only real substantive reference made to that review was in relation to the possibility of deepwater or the possibility of a hydraulic connection with France because that was not the main thrust of the review, Sir. So what did Scrutiny uncover in that review? Well, basically, most if not all of the arguments made in favour of this Law are without foundation. I wonder how much longer we are going to keep importing legislation from the U.K. before we realise that what may suit a country may not necessarily suit a small island. I believe this Water Law is a prime example. In the U.K., they have rivers and lakes. We do not. Those lakes are easily monitored. Over there, Sir, the general geology is fairly simple. One area will be all chalk. Another area will be all peat or clay. Again, Sir, simple to monitor to see if one is abstracting too much, for example. Jersey is completely different. Our geology is very complicated and mainly granite. Some water lies on top of the rock, beneath the soil, that is. Other more reliable supplies lie in the cracks and fissures of the rock. Add to the fact that our aquifer is constantly overflowing to the sea, as the Minister referred in his opening speech. In areas such as Grève d'Azette and Grouville Bay, there are millions of gallons of fresh water flowing into the sea. Surely it should not take a scientist to realise that trying to calculate that is a fool's errand. Trying to do so by monitoring one borehole here and another borehole there and how much water flows into one of the Jersey New Waterworks Company streams is simply a waste of time. The Law will not collect meaningful data. It does, however, Sir, seek to regulate supplies at a cost to the consumer while at the same time using evidence and information which is seriously wanting. So, Sir, I would like to briefly touch upon how this legislation has gained so much momentum over the long gestation period which the Minister referred to. He did touch upon the *Riley Report* and if I might take him back a little bit further to the *Guthrie Report* of 1977. I mention that because some people have said that the report was the first demonstration of the need for Water Law. In actual fact, that is not quite so because the Water Inquiry Board which was chaired by Sir Giles Guthrie had the terms of reference: "To consider the water needs of the Island of Jersey for the foreseeable future and to make recommendations to the Public Works Committee on how best they can be met." But, Sir, Members must realise that the board was set up as a direct response to the controversy about the flooding of Queen's Valley, the proposal by the waterworks company at the time to do that and also the water company's estimation that demand would double every 25 years. It was in the light of that, that that particular working party did its work. Of course, we must not forget that in 1977 tourism was still vibrant so there was a higher sum of demand on water than there is now. It is not reflected today. The demand is more even. That board, Sir, made 31 different recommendations which I am not going to read out. They did suggest immediate metering of all mains water, persuading architects to incorporate rainwater systems and promoting research in the avoidance of waste. In conclusion, there are better alternatives and Queen's Valley should be flooded only as a last resort. So we see, Sir, that that report was to find alternatives to flooding Queen's Valley. So the suggestion, as I said, that some have made, that the *Guthrie Report* identified a dwindling resource needing regulation, is without foundation. Notwithstanding that, Sir, in 2001, the Public Services Committee declared that the Law would implement the 1967 *Guthrie Report* and the 1992 *Riley Report*. Well, they had the year wrong; it was 1977, not 1967, and the Act was wrong. The second report which is suggested to underpin the need for this Law is, as mentioned by the Minister, the *Riley Report*. It was, as he correctly said, as a result of that report that the States charged within Public Services Committee to produce comprehensive water legislation. The law-drafting brief was, I believe, finalised in 1994. So 13 years later, we have that legislation before us

today. The Law, in my view, stands or falls on that *Riley Report* as it is known. So it is important that we make sure the foundations that were built on are sound. How accurate was that report? Well, I have to say, Sir, it is a load of rubbish, but I hasten to add we must not blame Major Riley or his working party for that. It was because the findings were so at variance with the evidence that I wrote personally to Major Riley seeking an explanation. I will just briefly quote from his very courteous, short reply to me: "Our terms of reference were to consider the need for the introduction of measures to safeguard the Island's water supplies" and here he puts in capital letters: "IN THE LIGHT OF THE B.G.S. REPORT." He then says: "We were not asked, nor were we qualified to do so, to question the conclusions reached by B.G.S." So, Sir, we see that the Major's work relied entirely on B.G.S.' work at that time. As today's Law is, in fact, a direct descendant of that report, so it too depends on the accuracy of the conclusions in those early B.G.S. reports. So we come to the crux of the matter, Sir. The Water Law that is before us is based on the evidence of B.G.S., a body commissioned I think originally in 1990 by Public Services to investigate Jersey's water resources. So if we look for a moment, Sir, at the extracts from that Riley working party and from which it came to the conclusions that have led to today's Law, I just have 3 quotes in front of me, Sir. They are: "The available groundwater resources are under attack from 2 separate directions, over-exploitation and pollution." Secondly: "The groundwater resources of the Island are being over-pumped and are not wholly replenished in a normal recharge year." Thirdly: "Analysis leads to the conclusion that over-pumping is already occurring." All 3 statements are wrong. Sir, these phrases only serve one purpose and that must be to cause those unfamiliar with the subject to believe that we have a problem, and the answer to that problem is a Water Law. I can state categorically, and will do shortly, Sir, there is no problem and nor ever likely to be. As the Minister correctly said in his opening speech, pollution is already dealt with by our Water Pollution Law. As for the over-pumping allegation mentioned 2 or 3 times in those quotes, were that true, our water table would be slowly falling whereas, in fact, it is slowly rising. For those who do not believe me, and I know there are a few, proving that is fairly simple because, for a start, being environmentally conscious, I decided not to print off 53 or 54 copies of Scrutiny's draft water resources. I left some in the Member's room, those copies that were available, for Members' general perusal. If I could refer to pages 24 and 25 of that report, which was referred to by the Minister, there are 3 relevant and very important statements in there. I would hasten to add not made by me but made by B.G.S., British Geological Survey. One comment they made was: "There appears to be no deficit in the water balance at present." Secondly: "Problems of physically unsustainable use, that is, where abstraction exceeds recharge, are probably only significant in the short term [so in the short run] during periods of drought and in particular localities rather than posing a longer-term threat to the Island as a whole. Thirdly: "Groundwater levels remained healthy throughout the year and in some areas, groundwater levels have been showing a positive trend for some years." I will ask Members to note that last comment there, that B.G.S. are aware that the water table has been rising for some years. So the fact is B.G.S.' later research has proved that their original assumptions, the ones that the *Riley Report* worked on, are wrong. Just to finish with that *Riley Working Party Report*, Sir, the working party was told that these conclusions are strongly supported by the Groundwater Review Group. Well, I am afraid that is untrue because in 1994 Scrutiny received a position paper published by the Groundwater Review Group which makes interesting reading. If I may just quote the relevant part from it: "We would like B.G.S. to take the uncertainties, both of recharge and of geological complexity, more into account when estimating resource potential and using computer modelling. This is particularly important if they persist with MODFLOW [that is the computer modelling] which we do not accept as a sound computer model for Jersey. We have confidence in the basic approach employed by the B.G.S., but would wish them to (1) modify their resistance to considering deeper levels of water resource, (2) consider geological conditions and associated structures' important controls on water storage and movement, and draw-up a programme of investigation to address these, (3) provide a more detailed appraisal of the effects of weathering, look closely at the MODFLOW computer model, have geologists at new water bore sites and take greater account of drillers' depths." So, Sir, we see with hindsight that the

Riley working party based its findings on erroneous information. Findings such as: “We accept the findings of B.G.S. report which states clearly that groundwater resources are shallow and the bedrock aquifer system is at risk” when in fact the main groundwater resources are deep and the aquifer is not at risk. Their conclusion: “We are persuaded that the groundwater resources are being depleted faster than they are being replenished” has now been admitted by B.G.S. as incorrect. So, the very foundation of this Law is questionable. Unfortunately, Sir, I notice that the Planning Minister does not recognise this when he refers to it on pages 5 and 6 of his own report which I will refer to in a moment. Where do we go from here? The original purpose of this Law was to protect a dwindling supply. We now know that is not the case. So does the need for a Water Resources Law still exist? Did previous Public Services Committees admit they were wrong and withdraw? No. Instead they came up with a range of supplementary scare stories to bolster their argument. Unfortunately for them, when the Scrutiny Panel called for evidence to support those claims, they were stuck. They could not produce any, not one valid fact. As I said earlier it was unfortunate, in my view, that the Minister concentrated on one aspect of Scrutiny’s work and left out all the others. Basically the only reason that the then Public Services Committee could offer for pursuing this Law was that other countries have a water Law so we must have one. Indeed the Minister told us this morning that there are more than 120 countries with water legislation, to which I say: “So what?” I am sorry, it is not a good enough reason in my book, especially when we are supposed to be rolling back bureaucracy, simply to have a Law simply because: “Well, somebody else has one, so we will have one too.” Goalposts: Sir, a subject dear to the heart of the Deputy of St. Martin, only not to do with football. The goalposts have been moved, Sir, not once, but several times. In fact they are no longer even on the same field. We cannot find them. The original reason for this Water Law was that we were running out of water. When that was proven to be wrong, firstly by the well drillers and later confirmed by B.G.S., the need for the Water Law changed to protecting the flora and fauna. Again, Sir, like the water shortage myth, there is no supporting evidence. Protect from what, and how? Scrutiny probed this area time and again. They could not get a single satisfactory answer. Eventually, Sir, one suspects out of desperation, Public Services submitted a paper to the Scrutiny Panel which suggested Jersey was in a perilous position with regard to its water supplies. Jersey was so short of water it ranked alongside Jordan, Yemen and desert countries like the United Arab Emirates for scarcity. How ridiculous. I have to say we all had a good laugh when we found them out because their evidence had been downloaded from a website run by an organisation called Population Action International who lobby for population control on the basis that the world’s water resources are running out. Oh, and the information was 14 years old. So to compare Jersey, with approximately 36 inches of rain a year, with those countries is patently ridiculous. I view that as an act of desperation by a Committee unable to prove its case specifically. Then, Sir, the Committee came up with climate change. Indeed it is in the report attached to the Minister’s proposition. We have a little more information there than Scrutiny was able to get, but still insufficient. Scrutiny at the time was unable to get any meaningful answer at all. What did climate change mean for Jersey? Did it mean more or less rain? Would it be hotter or colder? Some say if the Atlantic Conveyer, that is basically the Gulf Stream that keeps our climate temperate, was to switch off, the British Isles would end up in another Ice Age. How would that affect our water supplies? They could not tell us. Public Services and B.G.S. did not know. So the reasons put forward for needing a Law continued to unravel. Goalposts were moved yet again. Now the reason is given we must collect data, yet sadly we see all the reasons put forward, and which have been carefully tested and found to lack substance, laid out in the Minister’s report as if they were valid. Sir, this draft Law has fallen at 2 hurdles. There is no need to regulate to prevent over-abstraction because there is no over-abstraction, and the case for managing flora and fauna has not been made, which leaves collecting data. I agree we need to collect accurate data, but unfortunately the Law will not achieve that either. If I could explain, in 1990 or during the period of 1990/1992, B.G.S., under their terms of reference, were required to establish a hydro-geological database for the Island to determine location and quantification of available groundwater resources together with yield and response to

abstraction using kilometre-square grid patterns. They monitored 109 bores across the Island. Compare that with what this Law proposes. Non-domestic bores supplying more than 15 cubic metres of water a day - that is, according to my calculations, a shade over 3,000 gallons - will require a licence. How many bores are involved? No one knows. Where are they? No one knows. Unlikely, but they could all just be in one Parish. They could all be in one corner of one Parish. They certainly will not be spread evenly across the Island as the original B.G.S. survey required, therefore cannot give us an Island-wide data that we need if we are to have any meaningful data. The notion, Sir, that licensed bores will somehow supply data that adds to the department's knowledge is misleading because any data gained would be totally meaningless. Again if I could explain, just as it is obvious that measuring water flowing from a tap will not tell you how much water there is in Val de la Mare reservoir, measuring water from a borehole has no correlation whatsoever with the potential yield of that bore or the size of the resource supplying it. To learn that, you have to pump the bore quite hard. It usually means fitting a larger pump. You also have to measure the draw-down in the surrounding area; how much it pulls the water down around it. To get a complete picture, you have to do this all across the Island. If data is required, and I do believe it is, what is needed is what B.G.S. asked to do in 1992, monitoring in kilometre-square grid patterns or thereabouts across the Island, pumping bores hard, possibly sinking new ones, measuring draw-down, possibly over a 10-year period, but the Law does not do that. It is true, when we are talking about surface water, streams running into reservoirs could be measured, but I am sure the Waterworks Company does that already. Surely they must have the figures. There is another problem. I do not believe this Law is human rights compliant. I received comprehensive legal advice from Crown Officers on the effect of this Law - and it is clear this Law would remove landowners' customary rights. The advice I was given was given to Scrutiny and is in the public domain, in fact on the website. So if I may quote just one part: "It is clear that the draft Law contains certain provisions which are inconsistent with the landowners' customary rights concerning ownership of water, and because there is such clear inconsistency, the statute will abrogate any customary law to the extent of that inconsistency." I think that speaks for itself. If I could turn to page 5 of the proposition, Sir, specifically the bullet points near the bottom, which, unlike the Scrutiny report, Members will have on their desk. Talking of page 5, Sir, there are 2 bullet points over the page but they are not strictly relevant to the present argument. So I will start with the first one on page 5 where it states that: "The Law provides for the protection, management and regulation of Jersey's water resources and the protection of all the animals, plants and habitats that are dependent on them." We know that is true because the Minister just told us in his opening speech. I am slightly concerned to note "all the animals" obviously includes rats and other vermin but we will overlook that for the moment. Wow! Look at all this protection. Sounds great. Well, apart from ensuring the welfare of rats. But to take the first part, Sir, protection, management and regulation of water resources. Protection from what? We already have a Pollution Law. We know there is no over-abstraction, either present or likely in the future. So what are we protecting it from? There is no explanation. Management: we will keep somebody employed, I have no doubt, but doing what? Shuffling paper perhaps? We barely have a clue about how much water is beneath us, and because of Jersey's very complicated geology, what is there is not evenly distributed. There are areas where there are enormous quantities of underground water. There are other areas where you could drill 10,000 feet and it will be bone dry. How on earth is that going to be managed? Who has the expertise to manage that? The only people who have a reasonable knowledge of that are the well drillers, but they are not going to be the regulator. Yet the regulator will be expected to have sufficient knowledge to enable him or her to issue licences including details of abstraction volumes and maybe times when abstraction is permitted, all with some degree of equity. How on earth can that be done with the present lack of knowledge? It is simply not possible. Then, Sir, we come to the protection of all the animals, plants and habitats. Here I believe we have a real problem because if there was ever a shortage of water threatening animals or the quality of flora and fauna, what would the regulator or Minister do? Cut off people's private domestic supply? I do not think so. Prevent a farmer giving his cows drinking water or irrigating

his crops? Would the flora and fauna be deemed of higher importance? Well, presumably it must be otherwise it would not be in the Law. Yet I can hardly see it happening. What we are told without proper answers is simply not acceptable. Take another bullet point, Sir, and alluded to in the Minister's opening speech: "Allowance for the proper allocation and sharing." How will allocation be achieved? How on earth can anyone allocate when they do not have a clue what is available? It is ridiculous. What precisely does the Minister mean by "sharing"? I have no idea. The Scrutiny Panel could not get a sensible answer when it did its review. So what does it mean? We are not told. The third bullet point protects existing and future abstraction rights. Well, it does not. In fact, it does the opposite. One's abstraction rights will in future be subject to the whim of a regulator who will decide if you can use your own water and, if so, how much you can use or maybe not at all, and you will have to pay for the privilege. I cannot see how that could remotely be described as protecting existing and future abstraction rights. The fourth bullet point: "Protection from pollution caused by over-abstraction." I have to say, Sir, that I am getting irritated by this sort of nonsense. The department is fully aware that over-abstraction was an early assumption by B.G.S. and since 1994 that information has been superseded by further research. There is no over-abstraction nor likely to be, as I have already demonstrated using B.G.S.' own data. Yet the department continues to pedal scare stories in the knowledge it is not true. It is disgraceful. The last bullet point on page 5, Sir, collection of data. True, it would tell us how many bores are licensed and how much water they use. But what purpose would that serve? Would it help us better understand our water supplies? I would like to think so, but unfortunately it will not. It is a bit like measuring rainfall by counting umbrellas; very interesting, gives somebody a job to do, but achieves absolutely nothing. So we have a proposition urging us to adopt a Law to prevent something that does not exist, protecting flora and fauna by unknown means, restrict or curtail abstraction rights and collect data that is entirely meaningless. That is useful. I cannot ever remember, Sir, such a deplorable waste of law draftsmen's time. What concerns me most of all is the complete lack of supporting evidence for this Law. The accompanying report relies on innuendo. It suggests problems exist without specifying them and then suggests remedies for these theoretical problems without telling us how it will be achieved. The ramifications are not spelt out. Vague figures are given as to the costs of this exercise, without any proper analysis. Many hotels use boreholes because mains water could, in some cases, tip the scales of profitability for them. I am aware of one hotel operator who, if he changed from a borehole to mains water, would spend well over £50,000 a year. Other hotels cannot use mains water; it is not available to them. Where is the analysis of this? How will licensing work for irrigation? The Minister tells us that those who are already using water will be able to automatically have a licence for 5 years. How does that work when a farmer may not require water, and I am thinking of irrigating crops, for 8 or 10 years, then one year, perhaps in order to dig his potatoes and the ground is dry and hard, he needs a lot of water for a short period? How is the Law going to cover that? We are not told. What about artesian bores? That is boreholes that overflow naturally. There are many in Jersey. What would happen if the regulator decided that the water could no longer be allowed to run to waste because many of them far exceed 3,000 gallons a day? What would happen if the hapless landowner was charged for the privilege of allowing his water to run to waste? We are not told. When we look at the articles, Sir, and I do appreciate this is not the time to go into them in detail and I shall not, but I will just very briefly refer to a couple I have noticed in Article 4, and it was referred to in the Minister's opening speech. How water is to be redistributed and augmented, I have no idea. It is left to our imagination. In Article 1, Sir, I wonder if the Minister realises his definition of groundwater precludes 90 per cent of boreholes. To press ahead, I believe, with a Law under these circumstances is irresponsible. Sir, we could simply reject this proposition, but I fear if we do it will simply keep coming back with a new set of reasons every time those given are scrutinised and found to be unsupportable or unsupported. Sir, innuendo, guesswork and, in some cases, no analysis at all is not a satisfactory base for Members to be making decisions. So I am therefore going to propose a reference back so that Members can see for themselves exactly what evidence, if

any, supports the need for this Law. At present, Sir, all we have is innuendo without science and I do not believe that is good enough. Sir, I propose a reference back [**Seconded**].

The Bailiff:

Deputy, may I just be clear, please, of the basis upon which you wish to move a reference back? Standing Order 83(1) provides that a proposition may be referred back in order that (a) further information relating to the proposition can be provided to the States or (b) any ambiguity or inconsistency in information be clarified. Now, there is no ambiguity or inconsistency as I understand it that you are replying upon.

Deputy G.C.L. Baudains:

I would agree there is no ambiguity. That was not the case I was making, Sir, but I think I made the case that there is a complete lack of information supporting this Law.

The Bailiff:

Information in relation to what?

Deputy G.C.L. Baudains:

The need for this Law, Sir. We are, for instance, told that we need to protect water supplies. We are not told from what. There is to be redistribution or augmentation; we are not told how or why. We are not told about the costs. I mean, for argument's sake, it has been suggested that this will potentially cost people somewhere between £100 and £150. Well, that is not correct. I am advised that a meter suitable to put on an irrigation pump could easily cost £1,000 and that is an immediate capital outlay for a farmer. All these matters, Sir, need to be addressed.

The Bailiff:

So just to sum up, the purpose of the reference back would be to require the Minister to provide further information on the need for the controls set out in the Law and the cost of those controls. Anything else?

Deputy G.C.L. Baudains:

Well, yes, quite a few other matters, which I had hoped I had made clear.

The Bailiff:

I am sorry to be pedantic but the Standing Orders require that Members who wish to move a reference back must do so on a particular basis and it is important that Members should know what that basis is if the debate is going to change course and is going to be on the reference back. So Members must know exactly what it is that you want the Minister to do.

Deputy G.C.L. Baudains:

So, therefore, it is too wide an explanation to say that I believe Members should know the evidence that supports a need for this Law. You want me to be more specific?

The Bailiff:

Well that probably is covered by the need for the controls which the Law will bring into place. You want the Minister to provide more information as to why it is necessary to...

Deputy G.C.L. Baudains:

Indeed, Sir. As wide as necessary to protect the water supplies and from what; what would happen in the case of the flora and fauna being affected; how that is to be regulated; how the regulator is going to manage to regulate given the paucity of information that currently exists on the subject; and, lastly, how meaningful data is going to be collected.

The Bailiff:

Very well and, Deputy Southern, you would second the reference back? **[Seconded]** Very well. Well, I accept the reference back and the debate will now continue on the desirability or not of referring the Bill back to the Minister for further information in relation to the need for these controls, broadly speaking, and the need to protect flora and fauna and the costs of the exercise. I remind Members that they are to speak on the need for the reference back and not on the principles of the draft. Does any Member wish to speak on the reference back?

7.2.1 Deputy G.P. Southern:

It comes out clearly in Deputy Baudains' speech that underlying these principles that have come before us now and this particular Law are a set of assumptions which have been floating around based on some fairly, I believe, poor research in the first place and which appear to have taken on, as so often happens, the appearance of facts merely because they have been repeated and repeated for the last decade and a half *ad nauseam*, so everybody appears to know it. But in fact they are, when we peel away the layers, simply assumptions that went into some early research. Now, certainly, whether Shadow Scrutiny or Scrutiny in its full-blown face, there was a Panel that had a look at water resources and, quite frankly, on reading it at the time, I was quite amazed that there were so many facts brought to light which just flatly contradicted many of the assumptions that have gone into the thinking that underlies this particular piece of work. I think what we have to address in this case, and it does, as the Deputy said, smack of desperation, some of the arguments that have been piled into this in order to shore-up some sort of case for taking these quite serious ... It is absolutely germane that, before we vote on this substantial piece of work, which is going to affect very many people, in the countryside particularly, we have in front of us the data, the arguments. Not just way back to 1990 and the assumptions that went in there and the so-called research that backed it up, but the evidence from much more recently, so that we can weigh the pros and cons of taking this measure any further. We have to - and the Minister has to - address that more recent evidence which flatly contradicts the assumptions lying behind this. Therefore, I believe a reference back is absolutely essential on this particular piece of legislation.

7.2.2 Deputy R.C. Duhamel:

As one of the Members who have been involved from the very outset along with Deputy Baudains of St. Clement with the Water Resources Law it does look, at first sight, if we read page 23 of the Draft Water Resources (Jersey) Law, the preamble to the Law and the reasons why the Law has been set out in the first place, it states: "A Law to provide for the protection, management and regulation of water resources in Jersey." Well, I think that is fine as far as it goes and I would argue quite strongly that most of the legislative clauses that accompany the report really speak to that particular part of the preamble. However, this Law is not just for the protection, management and regulation of water resources in Jersey. It is also for the promotion of the conservation of the fauna and flora that are dependent on inland waters and of the habitats of such fauna and flora to the extent that those habitats are themselves dependent on inland waters. If we read through the clauses, there is absolutely nothing within the legislation which has anything to do with that particular clause. Now, it may be an idea at the back of people's minds that this is one of the things that might come out of the management and regulation of water resources but, specifically, there is nothing within the Law that helps.

The Bailiff:

Deputy, you are going to address the reference back, are you?

Deputy R.C. Duhamel:

I am, Sir, yes. I am making the argument, albeit fairly slowly, Sir - we are moving up to lunch - that, if we read through the 4 reasons for promoting this particular Law, it looks as if 3 of them out of the 4 are not represented in any particular shape or form within the Law itself. On those

grounds, Sir, I think it can be supported that a reference back in order to flesh out those particular sections is desirable.

The Bailiff:

I am sorry. That is not a reason for a reference back, Deputy. That may be a reason for voting against the principles of the draft so that the draft can be rehashed. What the Assembly is being asked at the moment is whether the matter should go back to the Minister in its current form - not to be amended, in its current form - so that further information can be provided.

Deputy R.C. Duhamel:

Absolutely, Sir, that is what I am saying and in its current form 3 out of the 4 reasons being put forward to promote the Law do not have any information appended within the document to make a case for that particular element within them. On that basis, Sir, I think it can be justified on what I am saying that there is justification for asking for a reference back in order to flesh out those missing sections. Just to finish on that note, Sir, if we go on to the penultimate one: "The conservation and enhancement of the natural beauty and amenity of inland waters." There is nothing specifically within the Law that refers to that other than its blanket desirability in terms of being appended to the main preamble. So on those grounds, Sir, I think there is reason to support the reference back and I will do so.

7.2.3 Senator P.F.C. Ozouf:

As a previous president of the Environment and Public Services Committee, one of my top priorities was to get this Assembly to approve a law which protected our shallow groundwater, something which had been called for for years, as Deputy Baudains said, back to even the esteemed former Deputy Reilly. I tried to get this Assembly to bring and approve a proposition. I was thwarted in doing so because there needed to be a Scrutiny Panel to review the groundwater study and it was the Panel of Senator Ted Vibert that scrutinised the draft Law as it was originally put forward. Much work was done. I had to get briefed. One of the most memorable briefings that I had was from the 3 eminent geologists that are part of the Groundwater Survey Group. A Scrutiny Panel report was put forward, a response was given and a Law was lodged. I missed the opportunity of debating that Law before the closure of the last sitting. More work had been done, a further groundwater test carried out, and now we are being asked that this Assembly needs more information. I would suggest, respectfully to Members that if they do not want to have a Law to protect the shallow aquifer then they should vote against the Law but let us not go round in further circles and pretend to ourselves and pretend to the Island that we need more information. A Scrutiny Panel, a groundwater investigation led by the current Minister - 2 individuals heading it - effectively me as previous President and now the Minister himself - being convinced of the principles having carried out significant research. There is no case for further research. There is a case for getting on and debating once and for all the Law that is required to protect our shallow aquifer.

7.2.4 Senator F.E. Cohen:

I concur entirely with Senator Ozouf. This is chicken and egg. It is all very well talking about wanting more data. There is plenty of data in the public arena. British Geological Survey, who are a government research body - not just a group of consultants - have produced considerable data. If you want more data, you need a Water Resources Law because it is the Water Resources Law that will enable the department to obtain that data. This is about being a responsible jurisdiction. This is about good management of an essential resource and it is about responding to the very important issue of climate change. I have already made it repeatedly clear that all domestic boreholes are exempt and, therefore, this will not have an affect on the 3,500 domestic borehole users in the Island. It will only result in restrictions on the use of commercial water if there is clear evidence that abstracting in that area is detrimental to neighbours. So I can see that nothing would be gained

by a reference back. The available data is in the public domain. The only way we will get additional data is through passing the Water Resources Law, obtaining the £100,000 a year and using a part of it for further investigations, including test drilling which I have already committed to. Thank you, Sir.

7.2.5 Deputy S.C. Ferguson:

Yes, I want more information too. I want information from the relevant French authorities with whom there has been virtually no communication but unfortunately, if this Law is not passed, we will never get the information. I have every sympathy with Deputy Baudains. His knowledge of the water position is enormous and well known but I am afraid that, if we do not pass the Law, we will not get the additional information on the deep groundwater as well as the shallow groundwater that Senator Ozouf referred to. There is evidence of deep groundwater, and particularly in France, but if we do not get the Law through, if we refer this back and shilly-shally again, we shall not get the information.

7.2.6 The Deputy of St. Martin:

Many households, like my place, do not have access at all to any mains water and we have had to find various ways in which to obtain water, either by drilling boreholes or digging one's own well or even saving the rainwater. One assumes that the water that falls on one's own property is owned by the people who have that property. We have heard from the Minister that we have had tests and, in fact, there are no underground channels or rivers and so the water on my property does not come from Switzerland or France or anywhere else. It is pure, I suppose, Trinity rain. **[Interruption]** So, therefore, if one assumes that the water on one's land belonged to that person, I just ask what right has a government to tax anyone who uses that water? It is not the government's water. It is the water that comes from the heavens. I guess it does come from the heavens, Sir. With the Dean to my left I had better say it comes from the clouds. But on page 3 it says that: "In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law, this particular piece of legislation is compliant." Well, what we have not heard today is why is it compliant. Why is it that one has to be taxed to take the water off one's own land when the water itself is...

The Bailiff:

Deputy, I am sorry to interrupt but I do not believe that that was one of the reasons why Deputy Baudains has sought a reference back. He has sought a reference back for other purposes but not for seeking Human Rights information.

The Deputy of St. Martin:

I am just about to come to that, Sir. One thing we have not heard, and we have not heard it from the Minister at all, is why is it Human Rights compliant? We are told it is but...

The Bailiff:

Deputy, I am sorry to interrupt but this is a matter which you can certainly say in the context of the debate on the principles if we get back to that but it is not a matter which is relevant to the reference back because it is not what Deputy Baudains wants to have the Law referred back for.

The Deputy of St. Martin:

I understood, Sir, that reference back was for more information.

The Bailiff:

It is for more information in the context of the 3 matters which Deputy Baudains has outlined. It is not a matter for general information. It is a matter for information which the Deputy proposes the Minister should provide, otherwise the Minister will have no idea what he has to do.

The Deputy of St. Martin:

I was just trying to make the point that, as far as I am concerned, I want more information and I certainly want more information to know how it is Human Rights compliant to tax somebody for water which is their own on their own land, Sir.

Senator P.F.C. Ozouf:

Can I just make a point of correction. The Deputy of St. Martin spoke about water from Switzerland. I believe that Petite Suisse is in Normandy.

7.2.7 Deputy G.W.J. de Faye:

As it is getting near lunchtime I want to be brief and I pose a simple rhetorical question to Members. How much information can you extract from a bore? **[Laughter]** I suggest that the answer is probably, in theory, an almost unlimited amount but will you know any more at the end of the time you have been extracting from the moment you began? Before I plumb the depths any further, I suggest that we do have enough information to carry on with this debate. **[Applause]**

The Bailiff:

Well then, I call upon Deputy Baudains to reply.

7.2.8 Deputy G.C.L. Baudains:

Yes, I thought the basis for this reference back was fairly simple, Sir, and I thank those who have spoken. I believe Deputy Southern summed the situation up most adequately when he suggested that this Law has been gathering momentum for such a long time that people have grown accustomed to the view that somehow: "Well, it must be necessary. We have been told it is necessary for so long." Of course, when you look behind it, there is nothing there at all. There is no supporting evidence that says we need this Law. In fact, I am reminded of a situation. If I could jump forward to the comments made by the previous president of Public Service, Senator Ozouf, he said: "A top priority to get this Law passed, to protect the aquifer." That is exactly what he told Scrutiny. When we asked him: "From what?" he could not tell us and he did not tell us this morning. His speech today was a mirror of what he said to Scrutiny, innuendo: "We must do this and we must do that." You say: "Yes, of course. Why?" "Oh, I do not know." I remember a conversation I had with him, Sir, and he may recall it, at the top of the stairs there one day during the Scrutiny process and he accused me of being totally opposed to the Water Resources Law on principle. I said to him: "No, I am not. You give me the information that this Law is necessary, it will get my 100 per cent support." I am still waiting for that information. Sir, I thank Deputy Duhamel for pointing out, as I tried to point out earlier, the fact is that the statements are made - protection, regulation and management - without any reason being supplied as to why that is necessary or indeed what is going to be done. The comments from Deputy Ferguson, Sir, which I thank her for, but I do not think she fully understands how this Law is intended to work. She, like myself, wants more information but I think she was referring to the data which it is suggested this Law will collect because she said: "If this Law is not passed, we will never get the information." I thought I had made it perfectly clear this morning, Sir, and I really do not want to rehash what I said earlier, that this Law will not collect any new information. The B.G.S. principle of monitoring bores across the Island is the way you get information. If you measure what you take out of a borehole, all that tells you is how much water you have taken out of that borehole. It does not tell you a thing about how much water is down below, whether you are extracting as much as is safe to do so or whether you are just touching the surface. It tells you absolutely nothing. There is another issue as well. She suggested that it would give us information especially on deep groundwater. Well, the way the articles are written, deep boreholes are excluded because it only applies to bores that go into the saturated layer. I did not want to go into that when I spoke this morning but we are not given a definition of the saturated layer so one must presume it is the saturated layer as one sees in the hydro-geological map supplied by Public Services. In that we see that, in fact, the deep boreholes go way down through that and beyond. So, in fact, we would not be gathering any

information from deep boreholes. The Deputy of St. Martin, again, raised the Human Rights issue, which I raised but not as a matter of the reference back. Deputy de Faye unwittingly hit the nail on the head by saying: “How much information can you extract from a bore?” I think I have just pointed out, very little; whereas he thought it would produce a great deal. I am afraid that is not the case. So, Sir, it is not a question of voting for or against this legislation. On such a profound piece of legislation, which could have far-reaching ramifications that we may not be aware of and we may not have considered, we need to have the proof that it is necessary. We have not been given that proof. So we have a Law lifted straight out of the U.K. Water Resources Act but nothing supporting as to why we need it. Innuendo that flora and fauna need protecting from some unspecified threat but no details. No evidence that it needs protecting and no specification as to how the regulator would balance the need of the flora and fauna against the need of a private domestic supply or a farmer. It is innuendo that somehow it would be looked after but, of course, in the final analysis, if a farmer is running out of water and the nettles are looking a bit grim at the bottom of the brook, I am quite sure the nettles will look a bit grimmer at the end of the week. It is just a nonsense. The innuendo of over-abstraction, Sir: if there is over-abstraction let us hear about it. In fact, we know there is not because this whole Law is based on pre-1994 B.G.S. information which they themselves have now counteracted with fresh information. Their original assumptions were that we were abstracting water to the limit and that is why we needed the Law. Information which they have brought forward since then shows that, in fact, that is not the case. So I believe Members require the evidence that supports this Law. Surely it would be quite simple for the Minister to come back and say: “The water in Jersey, both the streams and the groundwater, needs protecting from this and the flora and fauna need protecting from that and this is how we will do it. This will be the sort of data we will collect and this is how we will collect it.” It is full of holes. The Law as presently drafted will do absolutely nothing unless there is an explanation as to how it is going to do that. I cannot see it doing that, so I require that explanation before I can support it. I make the reference back, Sir. Could we have the Appel please, Sir?

The Bailiff:

Yes. I invite any Members in the precinct to return to their seats if they wish to vote. The vote is for or against the reference back and I ask the Greffier to open the voting.

POUR: 17	CONTRE: 30	ABSTAIN: 0
Senator B.E. Shenton	Senator F.H. Walker	
Connétable of St. Mary	Senator W. Kinnard	
Connétable of St. Clement	Senator T.A. Le Sueur	
Connétable of St. Lawrence	Senator P.F. Routier	
Connétable of Grouville	Senator M.E. Vibert	
Deputy R.C. Duhamel (S)	Senator P.F.C. Ozouf	
Deputy of St. Martin	Senator T.J. Le Main	
Deputy G.C.L. Baudains (C)	Senator F.E. Cohen	
Deputy P.N. Troy (B)	Senator J.L. Perchard	
Deputy C.J. Scott Warren (S)	Connétable of St. Ouen	

Deputy R.G. Le Hérissier (S)	Connétable of St. Peter		
Deputy J.A. Martin (H)	Connétable of St. Helier		
Deputy G.P. Southern (H)	Connétable of Trinity		
Deputy P.V.F. Le Claire (H)	Connétable of St. Brelade		
Deputy S. Pitman (H)	Connétable of St. Martin		
Deputy I.J. Gorst (C)	Connétable of St. John		
Deputy of St. Mary	Deputy A. Breckon (S)		
	Deputy J.B. Fox (H)		
	Deputy S.C. Ferguson (B)		
	Deputy P.J.D. Ryan (H)		
	Deputy of Grouville		
	Deputy of St. Peter		
	Deputy J.A. Hilton (H)		
	Deputy G.W.J. de Faye (H)		
	Deputy D.W. Mezbourian (L)		
	Deputy of Trinity		
	Deputy S.S.P.A. Power (B)		
	Deputy A.J.D. Maclean (H)		
	Deputy K.C. Lewis (S)		
	Deputy of St. John		

Senator J.L. Perchard:

Before we adjourn for lunch, Sir, on reflection, as we are due to return to the substantive debate, I think I need to declare an interest in this subject as possibly a large extractor of water with one of my businesses and I will withdraw after that, Sir.

The Bailiff:

Very well.

LUNCHEON ADJOURNMENT PROPOSED

Senator J.L. Perchard:

Should I propose the adjournment since I am up, Sir?

The Bailiff:

That would be a very good idea. If Members agree, we shall adjourn and reconvene at 2.15 p.m.

LUNCHEON ADJOURNMENT

The Bailiff:

Now, the debate returns to the principles of the draft and I call the Deputy of St. John.

7.3 The Deputy of St. John:

When I was canvassing in the Parish of St. John in 2005 many of my parishioners were concerned with the previous proposals, particularly from those that were involved in the agricultural sector. I therefore must congratulate the Minister and his department for working out, or rather perhaps watering down - excuse the pun - the previous suggested policy which is now far more palatable. There are still some persons out there that think maybe this is just a bit of a stealth tax but I think, like I said before, the changes that he has made to this document before bringing it back here, hopefully, will get rid of some of that perception. However, I have a couple of questions for the Minister - and perhaps he could answer them in his summing-up - and that is, out of the likely 120 abstraction licences, how many of those are from the agricultural sector or likely to be and what consultation has taken place with the agricultural industry? If so, can he confirm that they are quite content with this, like I say, much revised proposal. I am not suggesting that this Law is perfect and I think a number of people in the Chamber today have suggested that is far from the case but water on an Island, of course, is a finite resource and it would be irresponsible if we were not to manage it properly and wisely. However, I do need to be assured by the Minister that this is all necessary and we are not creating a bureaucracy that really is not necessary. Some people have suggested that we are creating jobs, creating bureaucracy and do we really need to do that? Can this be policed in another way without legislation? Well, maybe we can get legislation ready and put it in place when we really need it. I wonder whether the Minister could answer me as to whether that is also possible. But, like I say, I must congratulate the Minister and his team for bringing back, I think, a very revised document which, I think, will find favour with a lot more people than it would have done before, particularly now domestic users are not going to be affected. I would just like those few questions answered. Thank you, Sir.

The Bailiff:

Deputy Baudains, I made an assumption, and it may not be the right one, that you had finished your speech.

Deputy G.C.L. Baudains:

Correct, Sir. I will not take advantage of your lack of ...

The Bailiff:

Very good of you, Deputy, thank you very much. Deputy Duhamel.

7.4 Deputy R.C. Duhamel:

There are a number of Members in this House who will recall - perhaps not as vividly as I do but recall nonetheless - the long discussions and the difficulties we had when this House was asked to... **[Interruption]** Continuing, Sir. There would be those of us who will recall - perhaps not as vividly as I do - the discussions and the wrangling that went on in this House when we had to determine whether or not we should flood another valley for water provision services. At that time there were a number of reports written and notably we had the *Guthrie Report*. I do not have a copy on my desk but I can recall the outcome of that particular report, which was to suggest that

water management was not just an issue of flooding one valley after another. It was mainly to do with wise water usage and the outcome of that report was to suggest that we should be undertaking, sooner rather than later, water metering. Now, since that time, Sir, a number of water meters have been installed by the Waterworks Company but the Island does not have a policy whereby it indicates that everybody has to have a water meter which would, in its very essence, limit the amount of water that people use or indeed encourage them to think about wise water usage. We have a new set of building regulations that are just coming out which suggest, for the first time, in parodying what is happening in the U.K. and elsewhere, the move towards rainwater harvesting and grey water usage - that is using dirty waters that fall on roofs for flushing toilets - but, in essence, the argument is all one about wise water usage. Now, I do not really think, Sir, having looked at this Law for quite a long time, that really it does the job that it should be doing. We are wanting to set up, through this particular Law, a department manned by possibly 2 staff - maybe 3, I do not know - to ostensibly just supply themselves with a register of water users above a certain limit. I do not think it gets to the heart of the problem and that is one of the reasons why I will not be supporting it. In analysing the case for this particular Law, I also put forward to the department at the time - but the suggestions were not picked up or acted upon - that, in my view, having a blanket Law which restricted the usage of water across the Island as a whole, again, did not particularly make sense when a large body of the water that falls from the heavens on to the Island does flow out untreated, uncollected, to the sea, unused. Most of the waters that we do collect fall on the Island and we do have, within the Island Plan, very strongly designated areas for water catchment. Those waters or the ability to deal with pollution, for instance over-nitrification of the waters by the application of too much fertiliser in the water catchment area; there is a whole stack of things that we are already covering in laws in other places. Now, I would just like Members to think a little bit about what happens to the water that falls on the catchment areas, and that does not extend to the whole of the Island by any means. It is only a fraction of it. Those waters flow down the valleys and get trapped or stored in reservoirs, then it goes into the system where it is cleaned-up and ends up coming out of our taps. But any waters that fall on the Island outside of the water catchment areas flow out to sea. So there is a stack of water, as I mentioned earlier, that is not really within the system and certainly the draft Water Resources Law, although it is suggesting that we should prohibit or limit - and at least record and register - large users of this water which could potentially lie in areas that are not in the water catchment area, I cannot really see the point. The final issue was just touched on by the Deputy of St. John but I would just like to amplify it. One of the things that really concerns me - and it is not just for water resource management, it is across the board - this House, time and time again, tells the Island or tries to tell the Island that we are serious about cutting back the size of the Civil Service. One job in 8 is it - something like that, or one job in 6, I cannot remember the exact number but it is certainly a huge proportion of the Island - is employed within the Civil Service. All doing what they would all consider to be essential jobs but "essential" is a relative term and it depends to the extent to which we have monies that are collected through the taxation system and whether or not it makes sense to be spending them in the particular directions that the departments are spending them. I would argue, Sir, as strongly as I could that to expend £100,000 of taxpayers' money, or indeed a further amount of private monies which are going to be collected by the Jersey Waterworks Company in order to pay for this particular application of the Law, does not strike me as being value for money. As I said, Sir, if any monies that were going to be expended were to be expended on what was suggested as the better way forward for the provision of the wise water usage system, and that is to say if monies were collected to encourage people to convert to grey water systems or rainwater harvesting or indeed water metering, then I think they would be monies better spent. Just spending £100,000 plus, and we do not what the final cost will be because it is hidden within the monies that will be raised by the 120 persons who are going to be contributing to this fund and certainly by the £3 or thereabouts extra cost that is going to be added on to everybody else's household water bill in order to pay for the privilege of the service, I really cannot see the point, Sir. It does not add up. It is not value for money in my book, and I do not think, on that basis, that we should be supporting a Law which

essentially is just designed to set this up. The final point that I would like to mention, and I mentioned it earlier in the discussions on the reference back, is that I do not consider... and I was on the Planning Committee at the time when we were struggling to find reasons to bring forward this particular Law. If Members have the time to go back into the archives they will find out that the original draft Water Resources Law did not have the second and the third and the fourth clauses about the promotion of the conservation of flora and fauna or anything else or habitats. That was put in by the Committee of the day of which I was a member in order to add a green label, so to speak, in order to extend the... not suitability but the acceptability of the draft Water Resources Law which was achieving comments, notably from St. Clement, that it was not necessarily a Law that the Island should be adopting. So I think it is not surprising that there does appear to be a tenuous connection in the preamble to the Law suggesting that this Law is, on the one hand, to provide for the protection, management and regulation of water resources to Jersey, which in itself is a good thing we should support. But I think we should be supporting it through positive measures to encourage water saving methods, or at least people to think about it, and not just a collection of data. But the second half, I mean it just does not fit and if we read it through again: "The promotion and conservation of fauna and flora dependent on inland waters," but there is nothing - and I have to stress this, Sir: there is nothing - within this Law which says exactly how we are going to carry this out, what it is for, whether it is a sensible idea and whether or not it should be paid for on the back of a £3 extra amount added to household water bills or indeed a sum to be sorted out for the 120 lucky customers who are going to be footing the lion's share of the bill. So, all in all, Sir, I cannot really, unfortunately, find myself in a position to support this Law and I would recommend and urge the Minister to take back this Law, to cross out the bits that do not particularly make sense or at least to put them in an alternative draft Law in order to achieve the ends that the 2 things are trying to achieve, but in a format that makes sense of the whole. By putting these 2 pieces together at the moment, in an *ad hoc* fashion, there is not any one implying the other. I think, in my view, just as the vehicle emissions duty that was being proffered at an earlier stage as a green tax has been seen by the Minister not to be a green tax but just a tax with a green label, I think in this particular case a Water Resources Law for the protection and management and regulation of water resources could be marketed with a green label on it but only if that green label makes sense. In this particular case, it does not. So I would urge the Minister, even at this late stage, to take it back and come forward with a better argued Law which does merit to the legislation officers who have beavered away trying to make sense of what should really be a simple topic. Thank you, Sir.

7.5 Deputy K.C. Lewis:

As usual I will be brief. Although tourism is not what it was, the Island's population is expanding at an incredible rate. I would like to ask the Minister, Sir, are we at present abstracting more water than the Island can replenish and has the Minister left the door open regarding the possibility of fresh water coming in from France? I would dearly love to think so but I remain to be convinced. Something that has been touched on previously, Sir, would a small farm holding be classed as commercial or domestic? Thank you, Sir.

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

Well, I must admit I like this proposition better than I liked the last proposition because, when you live in places like I do in St. Helier, you have the benefit of mains water. You just turn it on and turn it off and everything works well. But from friends that I have in the countryside, you are either having to dig something up because something has gone wrong or it is costing you a fortune or you have run out of something that that you are supposed to have, an ingredient, *et cetera*. So it is not quite as simple and as straightforward as that and the bit that was concerning me, originally especially - and without going into the detail - is that if the government decides to regulate something you also take the responsibility and the expense of all the problems that also ensue and those were the areas that were causing huge amounts of discussion and argument that came up.

The other area that has come to my attention, which is quoted quite often, is that originally the States thought that they owned the Jersey War Tunnels but, in fact, it was a private company that owned the land on top and, therefore, owned the land underneath. Does that still apply when it comes to people owning land and now looking at the Regulations? So I would just like to have that point clarified please, Minister, if I can; is what the precise position is in relation to ownership of water when you own the land that it goes down beyond and it was something that we were looking at when we were looking whether this Island had oil underneath or not. Sadly we have not so we cannot look at that for the future. The other aspect, Sir, I think Deputy Duhamel has been covering this, is this Law, to me, is only half the Law. Yes, there is need for safeguards for our future and, yes, the weather does change, *et cetera*, and we have to be more productive in findings ways of trapping our water supply for our future generations. But, in effect, we talk about bylaws and Planning Regulations, *et cetera*, but we have missed a point. My house was built some 200 years ago in the back streets of St. Helier and in the backyard it has a great big brick tank which used to be the water supply that came off the roof. It was in there before I bought the house, and most of them I suspect, have long since either been blocked over or filled in, *et cetera*, but it is a waste. If we were looking at refurbishment of houses, why are we not saying this should be something that we should look to bringing back into operation. It makes sense and it makes positive sense. I have gone on to water meter. I do not do it because I perceive I am going to save money. I do it because it makes me think a little more when I am using water. The Waterworks Company is going to have to cover its costs like any other business and, if you are paying for the amount that you are using, in my belief, it is a lot fairer than paying it on a rate because you pay a lot because you have a large house that you might have inherited or whatever but you are, what do they say, property rich and cash poor. I do not think that is a very good system. Again, this is the sort of area that I perceive that we should be looking to making vast improvements. I am also very well aware that the originals, again I quote St. Helier - it is probably the same all over the Island - is that there were community wells all over St. Helier that people used to go and get their water and they are still there in many cases. Most people, I understand, have them covered over and do not see the light of day; otherwise the neighbours have the right to go in and extract water from them. But we should be looking at is there a better way of utilising that water that is there or transferring it to storage, *et cetera*. There is so much more, I think, that we can do. But on the other hand, I also, by nature, believe in the sort of natural justice of things in this world, it is that if one puts up a bureaucratic barrier the tendency is not to do anything and not to think about it. Therefore, the trick is that if you want all these improvements - and this Law is part of it - then you have to start somewhere but let us not stop just at what is in this proposition. Let us look ahead and say: "What is better?" Then slowly, through Regulations or Orders or a new Law or an extension to a Law, then let us bring it forward but let us not get it buried into red tape bureaucracy, otherwise it will never happen and we will carry merrily working on until we end up with a crisis which is the last thing. As for the argument of where the water comes from: yes, I always believed it came from the Pyrenees and various other things because that is what I am told. It was probably nice rose-tinted glasses to think about it. Now, whether it does come from there or not is undefined at this time at the very least. Let us just accept that there is a finite resource that drops down from the sky and we are building all over the place but we are not building the infrastructure into save as much water as we could do or make better use of it. This, I think, is an area that we need to step up a few notches to be able to able to improve the quality of life for future generations and prevent a crisis occurring at the time. Thank you, Sir.

7.7 Deputy C.J. Scott Warren:

I was on a Public Services Committee with Deputy Gerard Baudains approximately 7 years ago when the need for a Water Resources Law was discussed and I certainly appreciate the strength and sincerity of Deputy Baudains' opinion on this subject. I am concerned about the need for this Law now. Obviously, on behalf of the Health and Social Services Ministry, I do support all necessary measures to protect Jersey people, and fauna and flora too, from the threat of drought. I do

appreciate that much revision has taken place from the original proposals regarding this Law. So I would ask, Sir, if the Minister could please, as has been requested by others, give full reasons to this Assembly when he sums up regarding the need for the introduction of this Law now.

The Deputy of St. Martin:

I did not quite catch the end of what Deputy Scott Warren said. Could I just ask her to repeat as I think it may be in line with something I want to say?

Deputy C.J. Scott Warren:

I just asked if the Minister could please give Members full reasons for his belief in the introduction of this Law now. Thank you.

7.8 The Deputy of St. Martin:

Thank you very much, Sir. Being a country Deputy, I suppose, with a lot of parishioners who are on boreholes, I have had a number of calls over the course of time as to say: "Well, I think the water on my land belongs to me and I have a customary right to it." As being also someone who has a borehole and also a well, I may be of that belief as well. Certainly I have followed with interest the testing that was done about seeing whether in actual fact we did have these underwater channels or tunnels or rivers or what not and, from the reports we have now received, it would appear that it is a fallacy and, in fact, the water on our land really comes from the sky above. I do not really want to disturb the Attorney General, but it may be the Minister in summing-up could advise us because it says here that it is complaint with Human Rights. But I was asked - and this is the reason why I am raising this in the House today - by some of my parishioners who have said that if it is Human Rights compliant, how can it take away one's customary right to the ownership of the water that falls on your land? In summing-up, I would ask the Minister to tell the House really why it is Human Rights compliant which, in actual fact, would remove that customary right for people to have ownership of the water on their land. Thank you, Sir.

7.9 Connétable T.J. du Feu of St. Peter:

This Law proposal undoubtedly has a number of well-intended parts. The aspect of it that concerns me greatly is the mere 3 lines on page 9 which refer to financial and manpower implications. We have seen so many times over the years of something that is relatively simple, it is just going to start, it is going to be implemented at a very moderate cost, only to find that we are creating another empire that is going to run away with numbers, be it from the employment side, the officer side and the demanding of financial resources. I do not believe that there is sufficient evidence that has been shown in the Minister's preamble towards the financial implications upon this proposed Law, if it were to be approved, and I really believe that at a time when we are being told on almost a daily basis - reminded of all the additional taxing of the public of this Island that is going to take place, now or very near into the future - this is not a very good time to be coming forward with something that is going to undoubtedly, in the longer term, have yet a greater form of taxation to add to all that which is envisaged today and almost going to take to take place without question. It is not very good timing and, taking the points of previous speakers, I believe that there are a number of aspects where perhaps there could have been a little better selection of the actual parts that have qualified the need to bring this forward and indeed covered the more basic requirements rather than go into a lot of areas possibly to make it a very nice package. But in all nice packages there is a cost at the end of it and I would wish to be reassured very clearly in the Minister's summing-up that the financial requirements on this proposed Law are going to be sustainable without having to resort to another financial demand on the public of this Island who, quite frankly, are getting sick and tired of getting taxed for just about every move they make left, right and centre. People are getting fed up with this constantly coming out of this House where it is tax, tax; one after the other. It is high time that somebody put their foot down and we have to put our foot down on this by saying: "No, enough is enough." Until we moderate our spending on some of the other quarters of government

where, quite frankly, there is an enormous amount of money which appears to be going in a number of directions and in what can only be described as a very loose and uncontrolled manner, then I think we have to think of this very seriously before agreeing to it.

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

When the first draft of the Law came forward I put in an amendment to it to change the exemption which came forward at 5 cubic metres. I put in an amendment to 20 cubic metres and I was given an assurance at the time that that figure would be increased. I was hoping that it would have come back at 20 cubic metres. I notice that 5 cubic metres disappeared there on my proposition and I withdrew that to be of assistance to the Minister but I still feel really... and I should say that I am a borehole owner. So I have a borehole on my land and I am concerned about the fact that this is over-regulation. As has been said by someone else, there are an awful lot of jobs here for the boys. Normally when we have a proposition come to the Assembly we have one, maybe 2 people outside in the corridor. Well, there is not one, there are not 2, there are not 3 but there are 4 people outside and I think it might grow in the future; the number of people who are needed to administer this whole project. I am surprised that within this document, which is all about water resources, there are not any charts about how much water we are using; how much water we have got in storage. There is nothing really here on the backup information. I have got the *Jersey New Waterworks Company Report* of 2004. That is the only one I could get when I looked for it a while back. There is probably a 2005 in existence, there might even be a 2006 but I do not know if they are out because they take a while to come out, I believe. So I am referring to information here in 2004. But it gives you a concept of what is happening. In 2004 our monthly demand in Jersey starts about 550 mega litres of water per month. It moves up to around 700 mega litres per month and then goes back down. In June, July and August we are around the 680-700 mega litres of water usage and then it tapers off at the year end back down to the 500 mega litres. Normally we start off the year with about 2,500 mega litres in storage. So, if we are using 500 mega litres we have got 4 times our usage in storage at the beginning of the year. Then as we move through to July and August the water storage moves down generally to around 2,000-2,100 mega litres and, of course, we are still only using 700 mega litres per month. So, we are covered for 2, maybe 3 months of water normally. This is why I question really whether this Law is going to achieve anything for us because if we do get drought conditions they are normally short-term - a month in August; we do not get 4 months, 5 months, 6 months and we always seem to have good levels of storage. Of course, it was a very wise decision to increase our water storage many years ago even though it caused concern at the time. We increased water storage through Queen's Valley and, of course, it has been a godsend to us in that we have adequate storage. Now, in 2004 we did not run the desalination plant either. We had a good supply of water so we did not even bother running the desalination plant. I think the same was true in 2005. I would need to clarify that but I think we did not run the desalination plant in 2005 because I did question that. In 2006 I think it ran, but I am not quite sure why it ran because I do not think we had any major shortages in 2006. I think it might have run just for the sake of keeping it clean and keeping it running and so on. So, the point is, why do we need to regulate water usage when we are fully covered across the Island on our storage basis. Our drought conditions are not drought conditions as you would see in the Sahara Desert and so on, they are fairly light drought conditions, I would maintain. It is just a shortage of water for a short while. It is not something that permanently goes through our Island. In fact, in 2004 reservoir water levels were above the 10-year average and, as I said, we did not need to run the desalination plant. So, why are we doing this? Then I get on to my favourite subject which is "my" borehole. It is not your borehole, it is mine and it is on my land and if you want to come and drink from it you have to ask me first. Any water authority person turning up to look at my borehole places himself in the position of being ejected from my property as it is my property. I am not happy about it. I do not want to be registered and regulated and pay fees to draw my own water. This is my water on my land and someone is going to ask me to register and pay some fees then put in reports of my water usage every week? Well, I have got enough things to do without

filling in forms about how much water I use. My actual house is on the mains and I have got a water meter and everybody can see how much water I use on my meter and I am quite happy to pay for what I use through that source. But my borehole which I use to sprinkle a little bit of water on the garden every now and again, that is mine. There are 5,000 people who have boreholes on this Island now, the Minister says. Of course, a lot of them are drawing water and it is domestic usage and they will not be affected. That is fine, that is what he says now but 5 years down the line there is going to be some other Planning Minister who is going to come along and say: "You remember those Regulations we brought in in 2007? Well, they are changing a little bit now and what is going to happen is we are going to charge you for everything you draw from your own borehole." I paid for that borehole. I spent thousands of pounds on it. It cost a lot of money and the Waterworks did not come round and send me a cheque. They did not put anything in. I put everything into my borehole and so it is mine and they are not having it. **[Laughter]** There are a lot of people around the Island who feel exactly the same way as me. Keep off of my land and keep off of my water. This Law, quite frankly, is useless. It is bureaucracy just coming forward; more men running around checking everything. But we do not need it checked because we have got lots of water anyway if you look at the statistics, which quite conveniently are not in this document at all because they do not want you to know we have got lots of water. Why would they want that? We have got a lot of water at the moment but they do not want to tell you that. They think that we will all just vote for this because we are mugs, we are sheep; we will all follow along and do as we are told. I am sorry; this one is not for me. I think you have guessed, I am voting against it. **[Laughter]**

7.11 Senator L. Norman:

As a recently retired director of Jersey Water **[Laughter]** I can confirm what Deputy Baudains said in the previous debate on this reference back that consumption over recent years has been held pretty steady; little ups and downs, but generally steady. That is not simply because of the reduction in the number of tourism beds but it is because of a lot of good work that has been done by the Water Company, particularly in leak detection and control by improved infrastructure. I think particularly of the Les Platons Reservoir which now feeds quite substantial areas of the Island by gravity feed which reduces pressure and if you reduce pressure you reduce the amount of water that is used. That is a lot of the reason why even with hotter summers consumption has been held pretty steady. But whatever we do, whatever the company does, whatever the States do by law, Jersey Water can only hold a limited amount of water in stock at any one time. That is because of the number of reservoirs that they have. When they are full, that equates to about 3 months supply. There is no room, there are no buckets, to keep any more in. Deputy Troy is right to a degree when he says the Island has plenty of water. Plenty of water falls on the Island, particularly during the winter months, but it runs off to sea a lot of it because there is, as I said, not enough buckets to keep it in. By the way, I notice the Managing Director of Jersey Water is in the public gallery today and I am sure he will send Deputy Troy another copy of the 2005-2006 report which was sent to him earlier this year. As I say, this Law will not increase the capacity that the Jersey Water has nor will it avoid drought. There will be no immediate benefit for Jersey Water or for Jersey Water's customers. But this Law, as far as the Water Company is concerned, is not simply about the quantity of the water but more importantly - and most importantly I think - about the quality of the water. This Law is the last remaining part of the jigsaw to allow water quality objectives to be set for each water resource followed by the designation, which has been long overdue, of water catchment management areas. That is the way that quality parameters regarding nitrates, herbicides and pesticides, in particular, can be improved even further in the future, as they probably will be required to do by international conventions. Deputy Duhamel is quite wrong when he says that water catchment areas are only a fraction of the Island. The whole Island is, in effect, a water catchment area and should be respected as such. Water, for treatment by Jersey Water, is collected from every corner of the Island. He is right when he says that much raw water runs off to sea and as I said just now, it is not because of the restricted catchment areas but simply it runs off to sea

when the reservoirs are full. When they are not full every available stream and the company's own boreholes are used. As I say, as a retired director of Jersey Water, I can say that the company welcomes the Law, although it is surprised that the exemption limit before an abstraction licence is required is 100 times more than the average amount of water a person uses per day. This is the increase from 3 to 15. If the abstraction licence was required for less than that amount the costs could be spread among more people and, therefore, would be considerably lower. But that is the decision the Minister has made and at this moment we will have to accept that. The costs in financial terms to Jersey Water customers will be about £2.70 per annum for each account holder. I do not know whether Members consider that a significant amount or not but it certainly will pale into insignificance when 3 per cent G.S.T. (Goods and Services Tax) has also to be added to the water bills. I can say that I believe that this Law is important because it will enable Jersey Water to serve their many thousands of customers and to meet the highest possible quality standards well into the future. I hope and I am sure that States will have the good sense to adopt this Law.

Deputy P.N. Troy:

On point of order, Sir, the Senator is misleading Members slightly because this Law does not mean that water quality in the Island will be greatly enhanced because there is already a Water (Jersey) Law 1972, which in January 2004 was amended to bring in an amendment on water quality. So, we already have water quality control, Sir, and for the Senator to say that this will improve water quality control is a misdirection.

Senator L. Norman:

The Deputy should have noted that what I said was this was the last piece of the jigsaw which would enable that control to happen.

7.12 The Connétable of St. Ouen:

Firstly, I would like to apologise for the Minister for not attending his presentation on this Law, I was unfortunately out of the Island at the time. The number of people who have approached me about it have all said that the Minister and his department - and I do not particularly blame the Minister because this is another of these things which he has inherited once he came into office - have got the cart before the horse. Rather than look to regulate, which is an easy thing to do because it does not really cost a lot of money... you can charge the public a sum which will pay the costs of the regulation. Rather than regulating they should be looking at conserving the water which is now lost. Thousands of gallons of water are lost daily throughout the year, even in drought conditions, off this Island. Nothing has been done to try and solve that problem. I accept what Senator Norman said and I am sure that following his speech Jersey Waterworks will be asking him to change his mind and come back as director. I accept what he said that we could only store a finite amount of water because of the storage facilities we have. But one of the points which was raised with me was that over many years - and again, this is not the present Minister's problem, well it is his problem but he was not the cause of it - the Planning Department have failed miserably to get people to save the water which falls on to their buildings. In fact, it has been a policy over a number of years to allow that water to go down pipes straight on to the public highway. I have inherited a farm which had 3 large underground storage areas which are filled through the winter and which, unlike Deputy Troy who uses his own well water to water his garden, I use through the summer. I think the people who have spoken to me have said that the Minister should be encouraging developers to save the water which falls from the sky for other than domestic use. Certainly, I have real problems with this. I think that this is over-regulation and I think that the Minister should seriously consider another way forward.

7.13 Deputy J. Gallichan of St. Mary:

For the sake of brevity let me simply say that I do share a lot of the concerns that have already been expressed on the need for this Law. Where is the evidence? Where are the dry wells? Where are

the dry boreholes? I simply ask the Minister to please give me the evidence for this in his summing-up and, assuming that this evidence is forthcoming, can he please also assure me that this is not using a sledgehammer to crack a nut, that there is really a need for such an extensive and expensive Law. I have just seen a presentation on the Jersey brand, a lot of us have and I believe we need to live up to our promises. One slide in the Jersey brand show said: "No red tape." Now, I think that we really do need to make sure that we are not being over-bureaucratic here. For example, could not something have been done to make a significant improvement in water saving by simply extending the draft Order provisions to all supplies not just to mains water supplies? A simple thing which simply would have had far-reaching consequences. I apologise here if I am asking about something which the Minister may have explained in the recent briefing for which I was also out of the Island. The Minister has given us his assurance and he has repeatedly made it clear that all domestic supplies are exempt. My understanding is yes, they are exempt from licensing but they are not exempt from registration. Can you please clarify exactly what the requirements of the registration process will be? What data will need to be collected and periodically submitted? Will that be some form of meterage of the domestic supply? Will it simply be something like a statement as to what the supply is used for? I believe that the impact on the domestic supply is something that has been of concern to many, many people. Certainly, I have had a lot of calls about this sort of thing in the previous guise of the Law, not so many now because the levels are set at such an incredibly high level really for daily usage. I would be grateful for the Minister to give me his clarification on these points. Thank you, Sir.

7.14 Deputy A.E. Pryke of Trinity:

Water is one of our most important, if not the most important, essential of life. We cannot live without it and that includes what is discussed here about our wildlife, flora and fauna. So, I very much feel that our fresh water resources must be safeguarded. This is important on every continent but especially so for a small island like ourselves as we have a very limited land area. As we all know now, our fresh water comes from rain, sleet, hail and occasionally snow, so it is essential that we retain as much of it as we possibly can. Do not forget, we rely on it totally. We have heard the difference between groundwater and surface water. Surface water, the water in dams and streams, *et cetera*, and this water supplies over 90 per cent of the population, mainly through Jersey Water who has a statutory right to provide it. But this water is also vital for our wildlife, flora and fauna which live right up to our seashore. This is a very fine balance of life and that must be protected. There has been much discussion regarding the amount of water that flows into the sea. It is essential to have some water flowing into the sea to prevent seawater intrusion which could kill plant life which grows up to the sea. With groundwater there is a smaller supply but over 3,000 households rely on it through boreholes, wells, *et cetera*, including our agriculture industry. Some of these boreholes go to depths of 40 metres or more. Back in 1992, as you have heard, the States made a very wise decision with their proposition P.78 when they acknowledged the importance of this vital resource and charged the Public Services Committee - now Planning and Environment - to produce legislation which they partly did in 2000 when the Water Pollution (Jersey) Law 200- was enacted and this draft Law will complement it. This proposed Law will protect this water for all the community, industry, plant and animal life by ensuring that this essential resource is managed and regulated for future generations, as it is now in over 120 countries. Very importantly, it also allows the Minister to manage any drought situation that may occur in the future. In small islands like ourselves, we know that water is a valuable resource especially with our high population density. The amount of fresh water available in Jersey per person is less than any region in the U.K. - think about that one - and in many other parts of the world. We cannot import it easily. We are already seeing climate change; less rain in the summer and more in the winter. This can place an added strain on our resource when rainfall and weather patterns are not so predictable. There must be good forward planning, more data, more research. This draft Law will be able to provide that. The cost of implementing this Law will be in the region of £100,000 per year and this will provide one hydro-geologist, more studies and more surveys which can only benefit all of us. There are some

very important exemptions to this Law, the abstraction of water for domestic use - you may have a well or borehole, including Deputy Troy's borehole - is exempt no matter how much water they use; this includes watering the garden, filling the swimming pool. They will only be asked to register it as it will form part of the data and also if there is any pollution that takes place in their areas as the department will know who to contact. For any changes to this exemption it must come back to this House for debate. The Minister will not be able to change that, it must come back here. The abstraction of groundwater that does not exceed 15 cubic metres - which is, in old money, 3,300 gallons - in 24 hours is also exempt. Jersey Water are the main abstractors of the surface water and most of the cost of implementing this Law will be borne by them and they are fully supportive of this Law. In their 2006 report, they state that they supply 20.5 million litres every day. This Law will provide protection and management of our essential resource for all forms of life for the future. This would ensure that we all have sufficient water for our needs. We have all taken water for granted over the years and by passing this Law it shows that we care for our environment, and especially its natural resources, and wish to see it properly managed for future generations.

7.15 Deputy G.W.J. de Faye:

Straightaway I would like to congratulate the Deputy of Trinity on what I thought was an outstanding speech that went right to the very heart of the issues contained in this Law. For my own part I have seen boreholes spouting forth, I have witnessed boreholes drying-up. There are hundreds of boreholes around the Island. We need to know where they are and what they are doing. Is there a good time to carry out this survey? Well, certainly not at a time of crisis. Now is a good time to register unlicensed boreholes when there is no serious pressure on our water resources. The Minister has been able to take advantage of that by allowing generous dispensations in usage so that just about everybody is exempted from penalties on use and penalties in terms of cost. I do feel that as an Island community where we look at resources that we all rely on, we do start to have to move away from the old concepts of customary proprietary interest. It really is of no great matter whether there is a Perrier or an Evian route source from France to La Rocque, St.Catherine's or anywhere else. At times of crisis I would hope that as a community the water resource, no matter where it happens to come from, would be appropriately shared-out, not hoarded and not kept for personal gain and profit. Now, fortunately, we are not living in those times but those times could be not far around the corner if climate change is to be believed. I believe that we have in front of us a sensible way forward into the future. I think it is a shame that not more Members attended the excellent presentation given by the Minister because a lot of the fears that we have heard expressed today would have been allayed. I think it is notable that, among other things, the Minister said that the burden of payment would largely fall upon the Waterworks Company which, in fact, is the main owner of most of the important boreholes that have levels of output. We have heard, usefully, a statistic brought to us by Senator Norman that says there will be a knock-on cost to mains water customers of, I believe, £2.70 a household. Well, again, this, it seems to me, should reassure domestic borehole owners because the burden is not being placed upon them, it is being placed largely and squarely, almost 95 per cent, if I recall the Minister's description, upon the major user, supplier and seller of water in Island, which is the Waterworks Company. The only elements, I think, that are a cause of concern for Members who have this particular bent, in terms of invasion of privacy, are the elements that relate to enforcement. That is the only area of this Law that I have had a constituent come to me with any concerns about the abilities of enforcement officers to come on to property and to enforce water measures. I have checked the Law and was hugely relieved to see that under all ordinary circumstances 48 hours notice will be given, so this is not going to be the knock on the door in the night. I think that the approach is an entirely reasonable one and will only vary in times of emergency and crisis. We have heard a number of views expressed that I think if those Members had been at the Minister's presentation they would not have put them up as a potential for complaint. The Minister has backed-off from the previous draft legislation to a very great degree indeed. He may be 5 cubic

metres off Deputy Troy's requirement but I am reliably informed that you have to get through an awful lot of water to hit 15 cubic metres a day which, I believe, is the figure. The Minister has been very generous in this respect and we should all hope that over time the other issues, such as leaking drains, water storage and how we may have additional storage, will be properly addressed. But they should be properly addressed in the context of having a full and complete picture of how all the borehole operations in this Island work; what drain they put on the water system as a whole, are they shallow or deep, *et cetera*, and it is quite clear that we are going to have a competent expert in the form of a hydro-geologist put in charge of this entire operation. I see this as a very useful step forward; a painless step, a step that none of us should be frightened of taking. I fully support the Minister and this legislation.

7.16 Senator P.F. Routier:

I was fortunate as well to go along to the presentation which the Minister had last week. I went along because I wanted to know what had changed from the previous attempt to bring this Law forward because I can recall in the long and tortuous path of this Law there were major concerns about the restrictions and requirements on property holders and borehole owners to have their boreholes regulated in a way which was taking it too far last time. They really went just too, too far. Last time, as Deputy Troy has mentioned, he brought forward an amendment to make it a bit easier. As I say, I went along to the presentation to find out what had changed and what had happened. I was given the assurance and having read the Law that is now a lot softer. It is a watered down water Law. It is diluted. It is appropriate now for what the Law is trying to achieve. This Law, I believe, will protect the water resources for the whole of the Island and we need to do that. We cannot get away from that. I do not think we can move away - I hope we cannot move away - from the need to ensure that we have enough water for the Island. We need to be able to have this Law which will achieve that. I will not go on much further other than to encourage people to support this Law because it is appropriate and it is at the right level to ensure that we can gain the information that is required to know what the water resources are and what the requirements of the Island are. We are flying blind to a certain extent with the current information we have and we need to have that information. I encourage Members to support it.

7.17 Deputy S.C. Ferguson:

I have been saying for some time that water is the blue gold of the next 100 years or so. There will probably be more wars fought over water than have ever been fought over oil. I regret the necessity for this Law but with the possibility of supplies being affected by global warming, however this is caused - and I have various reservations about that - it is essential that we know how much water there is under the Island. From my readings - the internet is a wonderful research medium - we have done a woefully small amount of research on this subject. We have had a few superficial reports from a consultant whom I am not sure appreciates the complex geology of the Island; it is rubbish. But I do not think there is any doubt that there is a quite lot of water under the Island. There are a considerable number of bores extracting a large amount of water. There are artesian bores with water flowing into the sea; I know where they are. But we are caught by the Data Protection (Jersey) Law in that people who have a bore and who do not want to be identified need not be, without legislation, and if we do not have the legislation we will not know who they are and we cannot work out how much water we have got. It is an awful, vicious circle. We need to research whether we have the possibility of one 750-foot bore supplying the whole Island similar to the one in Lessay. I agree with Deputy Baudains regarding our consultant's advice but I do want a proper research programme. For instance, the water at St. Catherine's was 5,000 years old. If we had any over-extraction it follows logically that you could not have water that old because we would have already extracted it. It all fell from the sky, I will agree with that, but that lot fell 5,000 years ago. Even I was not born then. I want to see more work with our French neighbours; their experience is far more relevant to us. I am concerned that Jersey Water - and I am glad to see they are represented here today - has always relied on information supplied by States' consultants. They

have done wonders with regards to distribution but most resource companies, oil, gas, gold, diamonds, are digging things out of the ground getting together natural products. Most of these resource companies spend a proportion of their income on investigating the availability of their particular resource. So, I would wonder why Jersey Water have always relied on the States and their consultants for information. Can they not think for themselves, with respect? This is not a perfect Law but as Deputy Fox said, we have to start from somewhere. We need to know how much is under the ground, how the geology is structured in detail, whether it relates to the geology in France. I will support this Law because we need to have the information.

7.18 Senator T.A. Le Sueur:

It is only a few months ago that there was a big exhibition at Trinity on Jersey as an eco-friendly Island. That message, I think, resonated around the whole Island that we are trying to be environmentally friendly, environmentally aware and environmentally responsible. I think what we have with this Law before us is a way in which we can demonstrate that we are environmentally responsible without being environmentally or legally intrusive. I think there could have been a danger in the past that we had got that balance wrong, that it was more intrusive than it needed to be. I think the Minister has reacted to those criticisms and we have got now what I would call a light-touch approach; an approach which does enable us to get more information but above all enables us to be and to show that we are being environmentally responsible. I think this is a different approach. It is not meant to be, I am sure, a “thou shalt not” approach. It is really a matter of how can we best achieve what is environmentally the right thing for the Island and the environment generally, not just in the Island but worldwide. We do have international obligations to act in an environmentally responsible way. This is the way, I think, the least we could do to demonstrate that we are acting in that spirit.

7.19 Senator P.F.C. Ozouf:

During the branding proposition at lunchtime, I understand that the Chief Minister explained that the market research that had been carried out outside of the Island that we were a generous, cultivated and independent jurisdiction. The research also indicated that outside of this Island we are regarded as being a responsible jurisdiction. I regard this Legislative Assembly as having the responsibilities of that of a small self-governing nation state. We need to make proper decisions based upon good information. We need to be alert to global practice and best practice. With the greatest of respect to the Constable of St. Peter who stood a few moments ago and said that this Law was about a tax, I need to tell him that, with respect, it is not about a tax, it is about proper sound environmental legislation that should have been passed by a responsible legislative assembly such as this a number of years ago. Jersey Water needs this Law. Jersey Water supports this Law. Jersey Water will be paying for this Law and ultimately it will be the customers that will be paying. But that is the investment that is required. That is the investment that is required to secure. Why are they saying that? Are they saying it because they are simply in a monopolistic position that they want to charge their customers more? No. They have properly informed research that indicates why they should be securing and how they need to be securing the long-term interests of their Island. I will turn to some comments of Deputy Troy. Deputy Troy said: “Get off my land.” My grandmother had a borehole. She had a well in her garden in the good Parish of Trinity that I think had operated for a couple of hundred years. A neighbour sunk a borehole, a neighbour extracted a great deal of water from the borehole and my grandmother’s well dried-up. Was it her water or was it the neighbour’s water? Does that not underline the point that water is a shared resource and a resource that we all have a responsibility over? I would urge Deputy Troy to get out of his selfish: “Get the tanks off my lawn” or: “Get off my land” and appreciate that water is not only the life blood of the human race but is a resource for which we need to put in place proper protection. Deputy Scott Warren said that she did not understand why we need this Law. In the moments before we have a debate on the preamble, can I just ask her and urge her to read the introduction that is on pages 4 and 5 of the Minister’s proposition, where he highlights, and many

other Members have explained, some of the background of the reasons why we need this Law. In paragraph 3 it says: “3,500 households are not connected to the mains supply.” In that position is Deputy Troy and my late grandmother who need a proper understanding and proper protection. In the paragraph 5: “Small islands have particular problems with water resources.” We are not in areas such as the north of England or other Icelandic jurisdictions with an abundance of water; we have a shortage of water. We have even more necessity...

Deputy P.N. Troy:

I dispute that we have a shortage of water. I just gave figures of water in storage over periods which demonstrate there is not a shortage of water. The Senator is quite clearly incorrect.

Senator P.F.C. Ozouf:

The Senator is not incorrect. The Island has a very clear problem with water. If we do not have a problem with water why would we have a desalination plant which we need to use?

Deputy P.N. Troy:

Which is not running, Sir.

Senator P.F.C. Ozouf:

I will not give way once more. We have a desalination plant. A desalination plant was required. It was required for good reason. This Assembly has a proud record of not being short-term in its thinking; not simply thinking year-to-year but taking a long-term view. Can we honestly sit here this afternoon and say that we are absolutely sure that there is no issue with our water resources? Of course we cannot. Deputy Ferguson is absolutely right; she has been on the side of the water diviners. I will say to her and admit one thing, that since I originally lodged this Law in the original format which, by the way, I am not necessarily agreeing with my friend the Planning Minister in his introduction of a higher threshold. Personally, I would have kept the old thresholds and I think that is going to have to be something to be reviewed in future. But as Deputy Ferguson has quite rightly said, subject to States' approval and when the evidence is right it will be brought in and could be reduced but only with evidence. Those Members who previously said that they were unhappy at 3 cubic metres, well they should be happy at 15. It is a significantly liberalised piece of legislation. But Deputy Ferguson is absolutely right when she says that we do not have a proper understanding of boreholes. We need that information and that is one of the most important reasons. If Members are looking for reasons to support this legislation it is for the reasons that Deputy Ferguson stated. We need an understanding of where our water is; where the abstraction is coming from. The Constable of St. Ouen said that we needed to do more with groundwater. He is absolutely correct. My Committee brought in new arrangements for the Planning Committee encouraging developments to put water parks in all new developments and we need to do more. He says it did not happen but it did not happen because we did not the planning processes in place. They are now in place but that is not a good reason...

Senator B.E. Shenton:

Could I just ask why you never asked Senator Ozouf to speak through the Chair when you do pull other people up on the matter?

The Bailiff:

Senator Ozouf was choosing to look towards the Constable, which is perhaps not the best parliamentary practice, but he was speaking through the Chair which is the proper way of addressing the Assembly.

Senator P.F.C. Ozouf:

I was absolutely speaking through the Chair and not referring to the individual. The fact is that groundwater conservation is important. Groundwater conservation is something that we require but

it is not the solution to protecting and understanding our water requirements. I am a farmer's son with boreholes at my family farm which would have been caught under this Law, in terms of cost, no doubt. Now they are not. I regret that, I think it should. There is no doubt, if Members review what is on pages 4 and 5 of the Minister's introduction, that there are compelling reasons why we need this Law. I will say one thing in conclusion, just at the time when climate change and environmental considerations are rocketing up the political and business agenda across the world in small and large jurisdictions, are we, as a responsible, small State Legislative Assembly, going to be sending out the message this afternoon that we are eschewing, we are turning away, we are turning our backs against basic water protection legislation? Is that what we are going to do this afternoon? I do not think that that is the symbol or the message that needs to be sent out from this Assembly if we are a responsible, environmentally-friendly, environmentally-concerned jurisdiction, no. It is a liberalised Law. It is less burdensome than the one before but it is evermore necessary. It is evermore necessary for the future of Jersey Water and for the future of the understanding of our water resources. I urge Members to support the preamble to the Law.

7.20 Deputy G.P. Southern:

Well, we have heard the rhetoric, let us, hopefully, get back to the facts. Despite the entertainment that is possibly on view as Deputy Troy defends his water against Senator Cohen, I think they are probably reasonably well matched although Deputy Troy is probably on the heavier side, so one wonders what weapons will be chosen. We will have 48 hours notice we are told that this might happen. Nonetheless, what I want to do is bring us back to the words of Deputy Baudains this morning. Deputy Baudains spent much time this morning on his reference back with the central arguments that I believe were not only justified in terms of a reference back, but in terms of voting through this piece of legislation. Sir, I made a few notes as the speakers have been going on and the first note says: "Is the case proven?" to which I have written: "No." Just briefly, if Members will bear with me, let us go back. Deputy Baudains did not insist that you all read this but nonetheless, there are a few germane extracts that I think we need to focus on before we come to the vote. Key findings, 3.1 of the *Scrutiny Water Resources Report*: "The Committee's case is not supported by evidence presented to the panel. In addition, the prediction in the *Riley Report* in 1992 of 'catastrophic consequence on the economy, ecology and environment unless action was taken to introduce protective measures to manage the water supply', has not materialised." Has not materialised. No catastrophe in the making. Further on: "Despite the *Trinity Catchment Study* confirming criticisms of the recharge estimates, resulting in a revision of B.G.S.' own position on the risk of severe depletion of the groundwater resource, advice to the then Committee continued to maintain that Jersey's water resources were under serious threat." That advice appears to have been continued into Ministerial government. Again, no case. 3.16: "No firm or reliable evidence has been given to the panel of existing boreholes harming the water supply in neighbouring properties, nor was it clear how a regulator would decide whether or not a proposed new borehole might have a detrimental impact on a neighbour's use of water." Again, no firm or reliable evidence. Further on we find: "In the absence of any evidence of progressive depletion of groundwater levels over the period 1990 to 2002, the case for the new Law is now confined to establishing new special measures in case of drought, getting information about abstraction rates, protecting the wildlife and plants and meeting the environmental objectives of the E.U. (European Union) Water Framework Directive." A very limited case, but especially: "Accepting that special provisions for drought situations are sensible, no compelling argument was put forward of the necessity of this being linked to this system of proposed licensing and registration." Again, no evidence, case not presented. Then turning to the recommendations, 1(f): "An analysis of the types of businesses that would be affected by the proposed licensing system quantifying the administrative and financial impact it would have on small businesses dependent on borehole water sources has not been done." Still has not been done. "Clarification of the implications of the E.U. Water Framework Directive, together with an assessment of the resource implications for the Island, in order to promote public awareness of the issues." Again, not been done. "An assessment

of the actual ecological needs of specific catchment areas balanced with the needs of abstraction.” Again, has not been done. The case has not been made yet that this is a necessary piece of legislation. Now, earlier on the Deputy of St. John called this a watered-down version of the original Law. Indeed, I think it has been. When we look to the conditions the exemption threshold has been increased from 3 cubic metres per day to 15 cubic metres per day. Then all abstractions for domestic purposes will be totally exempt from the licensing requirements of the Law. What are we looking at there? Are we looking at a hard, factual, argued decision to alter the provisions? No. We are looking at a political fudge, a political expedience to say: “Let us increase the limit. That will take out a good chunk of objectors and that will make it easier and then let us exempt all domestic households. That will take another x number of objectors out of the way and that will do.” This is pure politics: “How can we get this through?” Then Deputy Duhamel suggested that what has happened here to make it further an acceptable measure is that a ‘green’ label has been slapped on this measure. A ‘green’ label which contains none of the detail, none of the investigation, none of the evidence to ensure ecological protection but just simply: “We are protecting the environment and the ecology.” with no mechanism involved in there. Again, another way of getting this through. Returning to this watered-down version. The point Deputy Baudains was making that in terms of its own objectives by watering it down, exempting all households, raising the threshold, they have made some of their objectives impossible to achieve. All this monitoring and measuring with all these exceptions cannot be done. So the justification for doing it this way is no longer there because in watering it down they have removed some of their own aims from what they intend. Deputy Duhamel also said: “I urge the Minister to take it back.” The only way to get the Minister to take this back is to vote this measure out, to vote it down. It may well be that the case made by Senator Norman is the correct one. We do need, possibly, a Water Resources Law. What I believe is that we do not need this Water Resources Law on the basis of this evidence which has not been presented. Finally, to argue that this is not in some way a cost to Islanders, that it is not in some way a stealth act, is completely specious. Whether it is £2.70 or whether it is another sum and whoever will be paying for it some consumers on the Island will be bearing the brunt of this cost. That, as Senator Norman did hint, would be another blow on top of G.S.T. and all the tax hikes that we have been seeing recently. Then, further, the final blow for me in the presentation that has been presented is the little disagreement between Senator Ozouf and Senator Cohen when Senator Ozouf said: “Of course I do not agree with the Minister in lifting the volume exemption from 3 cubic metres to 15 cubic metres, I think this needs to be reviewed in the future.” That may well be the near future. So, get it through on 15 cubic metres per day and 2 years down the line bring it down. Beware, beware!

Senator F.H. Walker:

On a point of order, the Senator did say: “Subject to the approval of this House.”

Deputy G.P. Southern:

I accept totally, subject to the approval of this House, a minor reg. that we are just introducing. You have accepted the principle. Now we believe it is absolutely possible I have seen it. I have seen it. I have been here long enough to see exactly the same tactic used...

The Bailiff:

Deputy, as a point of accuracy, it would require in fact a change to the primary legislation to the Law.

Deputy G.P. Southern:

If that is the case, Sir, indeed. Okay, I accept that. A change to the Law even - not unheard of. So I urge Members today to reject this Water Resources (Jersey) Law. It is not the Law we need today. Please, please vote this down.

7.21 Connétable M.K. Jackson of St. Brelade:

The last bullet point on page 6 of the draft Law alludes to the powers of entry for monitoring and other purposes. I wonder if the Minister would be kind enough in his summing-up to clarify what is meant by other purposes?

7.22 Senator F.H. Walker:

I would implore the House to stop to think about what it is doing here, or may be doing here, not just about today - particularly not about today - but in particular about tomorrow and the legacy we will be leaving if we are not careful to future generations. Water is our most precious resource. I doubt there is any disagreement about that. Water is Jersey's most precious resource and the size of the Island and our water profile makes it particularly important for Jersey that we preserve that resource, we monitor and manage that resource because above all else it has to be protected; we cannot walk away from protecting our Island's most precious resource. We just cannot turn our backs on it and hope all will be well because with the advent of climate change, and we are facing climate change whatever the reasons may be, even if there is no shortage now - and I think the very existence and the continuing use, I would say to Deputy Troy, Sir, of the desalination plant suggests that there is a shortage now - but even if there was not, facing climate change and the inevitable consequences of that which almost certainly mean reduced rainfall on Jersey there will probably be a water shortage and it could be a severe water shortage in the not too distant future. It is vital we have the ability to monitor and to control, and I make no apology for repeating it, our most precious resource. It is vital. Just imagine the legacy to future generations we would leave if we failed to protect our water supply and ultimately - and this is not a scare story - the Island ran out of water. How would we then be regarded? Take your pick: irresponsible, careless, wasteful, whatever. That is what would happen and that is the risk we are taking for the future of Jersey and the future of our most precious resource. We place great store in this House on being environmentally responsible and the only way forward if we are to protect our environment, because the consequences to the rest of the environment of a water shortage do not bear thinking about, the only environmentally responsible way forward is to enable us to monitor and manage our water supply. Let us remember that virtually everywhere else in the world has introduced this type of management and control not because they want more legislation but because they realise the importance of their water supply and it is even more critical to us than it is to many of those nations. The only environmentally responsible way forward is to approve this Law and I hope Members will think ahead, look to the future, look to the possible consequences - and they are dire - of rejecting this Law and find a way of supporting it and enabling us to ensure that we do what we owe the Island and certainly what we owe to future generations.

Deputy G.C.L. Baudains:

I wonder if I could seek clarification from the last speaker. I believe I heard him say Jersey runs the risk of running out of water. Could he justify that comment?

Senator F.H. Walker:

I do not need to look any further than the report of the Minister. We are facing climate change. The probability is that climate change will reduce Jersey's water and water availability. Let us face it that Jersey has come very close to running out of water in the past. I can still remember Jersey being rationed to 4 hours out of 24. Do we really want to risk going back to that?

7.23 Deputy D.W. Mezbourian of St. Lawrence:

I have no wish to repeat the comments that other Members have made already during this debate but I think it is important that if we as the States are proposing or even perhaps going to pass this Water Resources Law this afternoon, which is very much based on the management of this important resource, I wonder whether the Minister in his summing-up will advise the House and the public whether there is any intention for his department, perhaps in conjunction with the

Waterworks Company to educate the people of the Island to manage the water resources themselves in a sensible and appropriate manner so that we do not waste the water that we have as our natural resource.

7.24 Deputy I.J. Gorst:

I do not want to repeat what other Members have said but there is just one issue. They might have mentioned it but I might just have stopped concentrating at that point. What we will be doing here is people that do require to register and pay their licence fee potentially will incur cost in maintaining and repairing those bores and ensuring a good supply there. Has the Minister considered the possibility of an offset again that licence fee and repairs incurred to maintain that water? I wonder if he could just comment on that in his summing-up, please.

The Bailiff:

Before I call upon the Minister to reply, may I just issue an apology to Deputy Southern for misinforming the Assembly as to the power of the States to amend the cubic figures? I have overlooked paragraph 4 of Article 12 which does allow the States to do it by Regulations.

Deputy G.P. Southern:

I suspected that might be the case.

The Bailiff:

I call upon the Minister to reply.

7.25 Senator F.E. Cohen:

Firstly, may I repeat the point that I have made on numerous previous occasions, that is all domestic boreholes are 100 per cent exempt and it would require a change in the Law to change that. A very simply registration form will be required to be completed. It can be completed on-line. It is not an onerous obligation. It has to be done once only. You do not have to fill in a form every week so I have no idea where Deputy Troy has got his ideas from. It is an absolute essential that domestic boreholes remain exempt. I was only prepared to bring the Law forward on that basis. I would like to thank Members for all their comments. I am not going to deal with them on a Member-by-Member basis as a lot of them overlap. I have tried to put them into groups. The first is that managing our water resources is a clear environmental obligation. Water is our most important resource. It is the very basis upon which life exists and good management of our water supplies is absolutely essential. This is what being a responsible Islander is and from the States perspective, in my view, this is what being a responsible jurisdiction requires. We do not know everything about our water resources and that is the reason for this draft legislation. We need to do more drilling; we need to do more deep drilling. To pick up on a very important point made by Deputy Mezbourian, we need to use this information to educate the public on water resources issues, on saving water and on our obligations in relation to water and other environmental issues. The figures we do have, and they are in the public domain - you have all had access to them - have largely been as a result of the work of the British Geological Survey. The British Geological Survey are not a bunch of cowboys. The British Geological Survey are the U.K. Government research body responsible for such matters and their work is regarded as of the highest quality all over the world. What we are proposing is not a tax. There seems to be a misunderstanding that we are proposing some form of taxation. What we are proposing is to implement a system whereby we begin the process of properly identifying our water resources and managing those water resources and using the money we raise by licence fees to fund the cost of doing that work and that basically is paying for a hydrologist and paying for further water testing including further boreholes. It is not a question of coming back for more money to the States. That is simply not the case. This is a case where one has to cut the cloth according to the means available. If it turns out that there are less than 120 licences that are applied for then we will not have as much money and will not be able to

do as much in terms of identifying and putting in place the measures to properly manage our water resources. I also wish to make it very clear that I intend to keep the D.G.A.G. in place and to actively engage with the D.G.A.G. in respect of further water testing and I expect that to be an ongoing process continuing over many years. This is not about being selfish about water. Some of the rather jovial comments made about water belonging to the landowner are not really responsible comments. Water is something that we all need. If you take too much of it in one place you have an effect on your neighbour and your neighbour can have less. If you look at the provisions of the Law and the basis upon which the Law is constructed, the only circumstance in which we are likely to restrict the abstraction of water is if the mechanism that we put in place, in the form of the hydro-geologist, shows that that proposed abstraction is going to have a negative impact on one's neighbours. There is no customary Law relating to groundwater. There are also other logical facts in relation to groundwater. It is not a bucket under your land which you tap into; it is flowing water that has passed perhaps a moment before under your neighbour's land and presently is under your land and if you do not abstract, in a few moments may be under your other neighbour's land. So this is something that we all have an obligation as a community to consider as a whole. The Law is human rights compliant. There has been suggestions that flora and fauna are only referred to in the introduction and not in the Law itself. I would refer Members to Article 16 and Article 21 where flora and fauna are specifically referred to. The whole process of protecting flora and fauna is all tied-up with run-off water. It is all very well talking about water that runs off and is lost but that water on its way supports the flora and fauna and ensures that we maintain biodiversity. You cannot just dam it up and hope for the best. We anticipate that we will have applications for around 120 licences. We do not know; it is only a best guess. We do not know how many of those will be agricultural so I am afraid I cannot give a precise answer to the Deputy of St. John's question. I would assume that a reasonable number will be agricultural users. One point has repeatedly been made and that is that in the past we were better at managing our water. We did not all have boreholes. Many had water run-off from their roofs collected in underground tanks and we did our best to manage with that water. The Building Regulations are undergoing a current rewrite. One of my frustrations is that it is taking rather longer than I would have hoped but by November will have a draft of new Building Regulations that will focus primarily on environmental considerations including the good management of water. To reiterate, we are not talking here about taking money from central funds. This is effectively a discrete programme where the licence fees are used to manage the programme, the programme is designed to provide additional information through properly conducted research and that is funded by the licence fees. I was asked for proof that we are abstracting more water than is being replenished. All I can tell you is that in the last 13 years the desalination plant has been used 9 times. I think there is sufficient evidence there that at times we are abstracting more than we are replenishing. There is an unquestioned acceptance now throughout the whole of the world, with serious signs, that climate change is a real issue. In fact, the general acceptance is that climate change is the major issue that the world will face in the coming years. This will have undoubted effects on our Island. It is not a question of it may, or if, or perhaps; there will be effects and one of those effects will be that we will have less rain in the summer albeit that we may have more rain the winter. The 2 are not matched because we do not have the ability to contain unlimited amounts in the winter. So what we need is to put in place a mechanism now as we race towards the effects of climate change that protects us in the lean times. That is what this Law is about. It is about providing information, it is about using that information so we understand our water resources and it is about managing our water resources for the future to ensure that we are not caught out at a time when it is too late. It is, in fact, as was said by Senator Norman, the last piece in the jigsaw in ensuring that we have pure water for future generations. We must not be selfish about our water usage today because only by putting in place a programme such as this will we be able to ensure that we leave adequate water supplies for future generations and that is a responsibility not just of Jersey but of all responsible jurisdictions. Indeed, 120 countries have already taken this course. They have accepted their obligations in terms of managing their water supplies and if you want to measure us in terms of water available per person as defined by

land mass, we are at the bottom end of the scale. So, clearly, we have got something to be concerned about. As I have said, this is not a tax; it is a licence charge to ensure we live up to our international obligations. Many of the comments have related to articles of the Law, and we will come on to those later if we get past the principles, that relate specifically to the application of the Law. I can assure you that the intention is to apply the Law with a very light touch. It will take time to implement. You can see there is a transitional programme in order to ensure that the implementation is as comfortable as possible. We have heard references to a Jersey Water charge of around £90,000 a year and that this equates to £2.70 approximately per user per year. I sincerely hope that Jersey Water will find a way of absorbing the £90,000 and not passing it on in that way. **[Laughter]** I believe that if Members believe that we are a responsible environmental jurisdiction that they will vote in favour and I commend the principles to the House.

The Bailiff:

I ask any Members in the precinct who wish to vote to return to their seats and I ask the Greffier to open the voting which is for or against the principles of the Bill.

POUR: 27		CONTRE: 21		ABSTAIN: 0
Senator L. Norman		Senator B.E. Shenton		
Senator F.H. Walker		Connétable of St. Ouen		
Senator W. Kinnard		Connétable of St. Mary		
Senator T.A. Le Sueur		Connétable of St. Peter		
Senator P.F. Routier		Connétable of St. Clement		
Senator M.E. Vibert		Connétable of Trinity		
Senator P.F.C. Ozouf		Connétable of Grouville		
Senator T.J. Le Main		Connétable of St. Martin		
Senator F.E. Cohen		Connétable of St. John		
Connétable of St. Helier		Deputy R.C. Duhamel (S)		
Connétable of St. Lawrence		Deputy A. Breckon (S)		
Connétable of St. Brelade		Deputy of St. Martin		
Deputy J.J. Huet (H)		Deputy G.C.L. Baudains (C)		
Deputy C.J. Scott Warren (S)		Deputy P.N. Troy (B)		
Deputy R.G. Le Hérissier (S)		Deputy J.A. Martin (H)		
Deputy J.B. Fox (H)		Deputy G.P. Southern (H)		
Deputy S.C. Ferguson (B)		Deputy P.J.D. Ryan (H)		
Deputy of Grouville		Deputy of St. Peter		

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

The Bailiff:

Deputy Duhamel, Chairman of the Environment Scrutiny Panel, do you wish to scrutinise the legislation?

Deputy R.C. Duhamel (Chairman of the Environment Scrutiny Panel):

I think if I am answering on behalf of the Committee without consulting them I would say no, but I think the proper democratic process to follow would be should any Member wish to refer it to us, then I am quite happy to discuss it at the next meeting as per the Standing Orders.

The Bailiff:

I am taking the answer to be no, is that correct?

Deputy R.C. Duhamel:

Unless any other Member wishes to specifically refer it to us.

7.26 Deputy P.N. Troy:

Can I ask that it be referred to the Environment Scrutiny Panel?

The Bailiff:

What Standing Order 72 says, Deputy, is that if the States agree to the principles of a draft Law, the draft shall be referred to the relevant Scrutiny Panel if the Chairman of the Panel has previously informed the States or confirms when asked by the presiding officer that he or she wishes to have the draft referred to the Panel. If the Chairman of the relevant Scrutiny Panel informs the States that he does not wish to have the draft referred to the Panel, any Member of the States may propose without notice that the States request the Panel to reconsider the decision. If the States agree to the proposal the second reading of the draft shall not continue at that meeting and so on. So your position as Chairman of the Scrutiny Panel is that you do not wish to have the Bill referred to Scrutiny, is that correct?

Deputy R.C. Duhamel:

I think that is correct, Sir, but it is under the other Standing Order. I think Deputy Troy has requested that we look at it.

The Bailiff:

That is a matter for Deputy Troy. Very well, are you making a proposition?

Deputy P.N. Troy:

Yes, Sir, I am requesting that it is formally sent to the Environment Scrutiny Panel to assess the back-up data on water storage facilities and whether we are likely to run out of water. There has been a lot of scaremongering here today.

The Bailiff:

Please, Deputy Troy, can I just remind you what you are empowered by Standing Orders to do, and that is to propose without notice that the States request the Panel to reconsider the decision. If you wish to propose without notice that the Environment Scrutiny Panel reconsiders its decision and the States agree with that proposition, then we move on from there. Do you wish to make such a proposition?

Deputy P.N. Troy:

Yes, Sir.

The Bailiff:

Is that proposition seconded? [**Seconded**] The proposition of Deputy Troy is open to debate.

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

Can we not waste everybody's time and go straight to the Appel, please? I think everybody has made their mind up in the Chamber.

7.27.2 The Connétable of St. Peter:

Could we have clarification on a point that I believe has some bearing? The Scrutiny report that was prepared was dated 2004. Now, that was, I believe, under the presidency at the time of Senator Ozouf of the Planning and Environment Department. Since then Senator Cohen under the new Ministerial system has picked it up and therefore we are talking about 2 different areas of proposed Law, surely? While there are similarities and a certain amount - I have no doubt - are one and the same, nevertheless there has been a significant change in the presented articles of the proposed Law.

The Bailiff:

Constable, what Standing Orders allows the States to do, and this is what the current proposition of Deputy Troy is all about, is to request the Environment Scrutiny Panel, which has already said through its Chairman it does not wish to scrutinise the Bill, to reconsider the matter in the light of something which for some reason the Scrutiny Panel might wish to do that. That is the issue before the Assembly at the moment. Does the Assembly wish to request the Environment Scrutiny Panel to reconsider its decision not to scrutinise?

7.27.3 Deputy P.V.F. Le Claire:

Just to say that I will be abstaining from the vote as a member of the Panel.

7.27.4 Senator P.F.C. Ozouf:

I realise there is no need for a lengthy debate. All I would just do is comment on the Constable of St. Peter's observations and that is that the previous Committee did put forward draft legislation. It was scrutinised. The legislation that is before the Assembly is largely similar save that there has been a few minor changes and the important difference of that number that has been explained in the previous debate has been made. So this legislation has been scrutinised. I was President of the

Committee that gave evidence for that so I think there is no case for further Scrutiny. It has been almost scrutinised to death.

7.27.5 Deputy G.W.J. de Faye:

I would really very strongly oppose this. I am well aware that the Environment Scrutiny Panel has already an enormous amount of work before it, quite a lot of it relating to the operations of the Transport and Technical Services Department. I am very much looking forward to seeing the reports that I know they are imminently going to produce. I would be, quite frankly, distraught if the enormous amount of work that has already been put in was deviated from in any way, particularly in an issue like this which I think has already been thoroughly debated. I would vote strongly against this.

7.27.6 The Deputy of St. Martin:

I was a former member of the Scrutiny Panel that carried out the initial scrutiny and I certainly think that we did a good job. The job has been done and all we would be doing is regurgitating what we have already had and I would really ask Members not to support it.

The Bailiff:

Do you wish to reply to the debate?

7.27.7 Deputy P.N. Troy:

I would like to disagree with what the last speaker said because what has happened today is there has been a lot of scaremongering. We have heard about how there is going to be a lack of water in the future and there really is not. The storage capacity is there and the amount of usage that we have does not qualify this claim that there are severe shortages in our water capacity. The Minister also said that the desalination plant had been used considerably over the years but it is used, of course, many times just to turn over the engines so it does not seize-up. It is not being used because we have a major shortage of water. I think that what is happening here is Members are bringing in a whole layer of bureaucracy when there really is no need for one. Of course, in the Strategic Plan it is one of our intentions not to introduce more bureaucracy, not to introduce more red tape. This flies in the face of that totally. To the public, we hear that the water company are going to take on the cost, maybe. Well, no, because they are going to be passed on to the consumer so is this Law good value for the consumer? No, I say it is not because it is going to cost the consumer in his pocket. I think that Members have really not taken into account some of the costs or the manpower implications. What are the manpower implications...

The Bailiff:

Deputy, I am sorry to interrupt you but the issue is whether the Scrutiny Panel should be directed to reconsider the matter having decided that it does not wish to scrutinise.

Deputy P.N. Troy:

Absolutely, but what I am trying to point out to the Chairman of the Scrutiny Panel is that there are many issues that are not covered in his previous report and basically I would hope that the Panel Chairman would change his mind on this because I am afraid to say this Law is absolutely unnecessary at the present time. The claims by the Chief Minister that we are going to have shortages of water is, quite frankly, absolute nonsense. I think I would like to see the Scrutiny Panel look into this because there has been some real scaremongering today. It is nonsense, what has been said in this Chamber; total misdirection from people. The vote was quite close in reality and I think that the Chairman of the Scrutiny Panel should take on board that there were many Constables and there were many people in this Chamber who were not in favour of this Law. It was quite a close vote in reality; just 3 people to switch and we would have been there. So I ask the Panel Chairman to reconsider and hope that he will do that.

The Bailiff:

I put the proposition of Deputy Troy. Very well, I ask Members who are in the precinct who wish to vote to return to their seats. The vote is for or against the proposition of Deputy Troy that the Scrutiny Panel be requested to reconsider its decision.

POUR: 7	CONTRE: 39	ABSTAIN: 1
Connétable of St. Mary	Senator L. Norman	Deputy P.V.F. Le Claire (H)
Connétable of St. Peter	Senator F.H. Walker	
Connétable of Grouville	Senator W. Kinnard	
Connétable of St. Martin	Senator T.A. Le Sueur	
Deputy G.C.L. Baudains (C)	Senator P.F. Routier	
Deputy P.N. Troy (B)	Senator M.E. Vibert	
Deputy S. Pitman (H)	Senator P.F.C. Ozouf	
	Senator T.J. Le Main	
	Senator B.E. Shenton	
	Senator F.E. Cohen	
	Connétable of St. Ouen	
	Connétable of St. Clement	
	Connétable of Trinity	
	Connétable of St. Lawrence	
	Connétable of St. Brelade	
	Connétable of St. John	
	Deputy R.C. Duhamel (S)	
	Deputy A. Breckon (S)	
	Deputy J.J. Huet (H)	
	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 G.P. Southern (H)		
	Deputy S.C. Ferguson (B)		
	Deputy P.J.D. Ryan (H)		
	Deputy of Grouville		
	Deputy of St. Peter		
	Deputy J.A. Hilton (H)		
	Deputy G.W.J. de Faye (H)		
	Deputy D.W. Mezbourian (L)		
	Deputy of Trinity		
	Deputy S.S.P.A. Power (B)		
	Deputy A.J.D. Maclean (H)		
	Deputy K.C. Lewis (S)		
	Deputy of St. John		
	Deputy I.J. Gorst (C)		
	Deputy of St. Mary		

The Bailiff:

We come then to the articles of the Bill and, Minister, I invite you to move Articles 1 to 3, if that is how you wish to do it.

7.28 Senator F.E. Cohen:

Perhaps I could take your advice. I have 2 versions, one is in 10 blocks and one is in 12 blocks. The truncated version in 10 blocks, I think will make it much more speedy.

The Bailiff:

It is a matter for Members, of course, but any Member can address any of the articles at any stage. It is a question of your convenience. I would have thought to do it in 10 blocks would be probably sufficient.

Senator F.E. Cohen:

Article 1 is the interpretation and it contains definitions of the various terms used in the Law which will become more apparent to Members as the debate progresses. Article 2 covers the meaning of inland waters. In a nutshell inland waters is the collective term used for those water resources that will be subject to the requirements of the Law. Article 3 defines the meaning of source of supply.

The source of supply will, in effect, be the particular source of groundwater or surface water from or in which water will be abstracted or impounded.

The Bailiff:

Articles 1 to 3 are proposed and seconded? **[Seconded]** Does any Member wish to speak on Articles 1 to 3?

7.28.1 Deputy G.C.L. Baudains:

I have a little difficulty with the definition of groundwater. The definition as we read it here means water that is below the surface of the ground in the saturation zone and in direct contact with the ground or with the subsoil. My reading of that means that the water to which is being referred is (a) in the saturation zone and (b) in direct contact with the ground. I wonder if it occurs to the Minister that those boreholes which have the largest capacity are generally speaking, in the main, deeper boreholes, in fact boreholes that draw from below that specified level. Unless I have missed it in the interpretation, I notice that there is no definition of saturation zone. I wonder if the Minister could clarify what is the saturation zone. I presume it to be the saturation zone, as I said earlier today, that is defined in the hydro-geological map by Public Services. If that is the case, that is a blue line along the map which following B.G.S.' assumption means that the water in the saturation zone rarely, if ever, goes below 40 metres. The thickness of the saturation zone is usually defined as being about 25 metres thick and starting from 5 to 10 metres below ground level. That means if you have a large supply coming from 80 or 90 metres, my understanding of this definition means that that borehole will be exempt, therefore, no data will come from it and it will not need to be licensed. So I wonder if in summing-up the Minister could explain what is meant by, or define for us, saturation zone and explain how those boreholes, which do not abstract groundwater as defined, are captured.

7.28.2 Deputy R.C. Duhamel:

I was going to make similar points; perhaps in the summing-up we can have a proper definition from the Attorney General. I do not think we have any definition made in terms of subsoil either. In the terminology that is used in order to describe groundwater there is no definition as to what happens should a borehole pierce an impermeable layer which is a layer through which no, or very little, water is able to pass and the thickness of that impermeable layer. If it implied that by wet earth, wet ground or wet rock beneath that impermeable layer was sourced not from the subsoil - which would presumably be interpreted to be a rock source that is on the Island, if waters were percolating from off-shore areas which has not been ruled out entirely because the depths of the wells that were drilled did not go down to a sufficient depth... But should that be the case then by implication the Law either does not refer to those waters in the definition that is given for groundwater or by implication it does. If the second case is the interpretation then I think we have a problem, Sir, because technically that would mean that all waters that appear from the surface layer down to presumably the centre of the earth and across to the other side, in the Antipodes, would also be brought into the remit of this Law which is clearly a nonsense. So I think there is a little bit of a lacuna in terms of the definitions. I do not think they are internally consistent and I think on that basis unless modifications are made on the hoof, which I do not think they will be, I will be inclined to vote against this whole section.

7.28.3 Deputy P.N. Troy:

I think also that there should really have been a definition of domestic purposes which is where I was coming from earlier. I know in Article 12(1) abstracting water for domestic purposes for a household is mentioned and the Minister earlier said that if you have a borehole which is on land attached to your house which you use for watering your garden... I think he means that watering your garden whether your garden is the size of 20 feet by 20 feet or 2,000 feet...

The Bailiff:

Deputy, can we come this when we come to debate Article 12?

Deputy P.N. Troy:

Yes, Sir, will do.

The Bailiff:

Mr. Attorney, do you wish to comment on the points raised by Members?

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

Yes, if I can help Members I will try. This is not a matter of which I have had notice. It is right that the expression “saturation zone” is not defined in the legislation and it follows that a court would have to give the ordinary and natural meaning of that language to the expression if a court was faced with a problem where it had to identify whether water was groundwater or not. The obvious line for that would be if there was some issue about whether a borehole should be registered or should not be registered. By cheating on the laptop earlier I discovered that in Carter there is a dictionary definition of saturation zone as being the zone below the water table that is saturated with groundwater. That is one ordinary, standard meaning, the dictionary definition that is given to that expression. Therefore, I would assume that that is what it means. If that has the effect, in practice, that according to Deputy Baudains that there are numbers of boreholes that would not need to be registered then that is a matter of which I could not comment. It is one for the Minister. I do not have that factual knowledge. It is a mixture of Law and fact here.

Senator F.E. Cohen:

Groundwater is all the water below the ground and that means that all boreholes will be caught by this legislation. The saturation zone as...

Deputy G.C.L. Baudains:

I am sorry to interrupt the Minister but I think he is misleading us because the definition of groundwater is in direct contact with the ground or with the subsoil. If water is below rock it is not in contact with the ground or subsoil.

Senator F.E. Cohen:

I am afraid the Deputy is incorrect. Groundwater is all water below the ground. That is the commonly understood meaning of the word “groundwater” and therefore groundwater will catch all bores no matter how deep they are. The saturation zone, as the Attorney General has described, is all the water that is below the water table. The domestic purposes issue raised: domestic purposes has an ordinary meaning in the English language which is well understood and is well-tested. Domestic purposes includes water in your garden.

Deputy G.C.L. Baudains:

There seems to be an anomaly here because is the Minister telling us in fact the definition as written down there is incorrect?

The Bailiff:

Minister, do you wish to say anything more in response?

Senator F.E. Cohen:

No, I have made the definition perfectly clear and I will repeat it. Groundwater is all water below the ground.

The Bailiff:

The Appel is called for. I ask all Members who wish to vote on this matter to return to the Assembly. I invite the Greffier to open the poll which is for or against Articles 1 to 3 of the Bill.

POUR: 18		CONTRE: 12		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator B.E. Shenton		
Senator F.E. Cohen		Connétable of St. Mary		
Connétable of St. Ouen		Connétable of St. Peter		
Connétable of St. Clement		Connétable of St. Lawrence		
Connétable of St. Brelade		Connétable of St. Martin		
Connétable of St. John		Deputy R.C. Duhamel (S)		
Deputy of St. Martin		Deputy G.C.L. Baudains (C)		
Deputy C.J. Scott Warren (S)		Deputy P.N. Troy (B)		
Deputy R.G. Le Hérissier (S)		Deputy J.A. Martin (H)		
Deputy S.C. Ferguson (B)		Deputy P.J.D. Ryan (H)		
Deputy of Grouville		Deputy P.V.F. Le Claire (H)		
Deputy G.W.J. de Faye (H)		Deputy S.S.P.A. Power (B)		
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Bailiff:

I will ask the Minister to propose Articles 4 to 8 and Schedule 1.

7.29 Senator F.E. Cohen:

Article 4 is the general objectives. This article sets out the general objectives that the regulator will be required to take into consideration in carry out its functions under the Law. Article 5 refers to operating considerations. This article sets out the various operating considerations that the regulator will be required to follow in carrying out its functions under the Law, namely the best techniques and environmental practices, the precautionary principle and the cost principle. Article 6 covers the gathering of information. Under this article the regulator will be required to

monitor water resources on the Island and to ensure compliance with the requirements of the Law. Article 7 concerns the dissemination of information. Under this article the regulator will be required to make available to the public certain information that it holds under the Law in accordance with the Access to Environmental Information principle. This article is, however, subject to 2 exceptions, (1) where trade secrets are involved and (2), where the regulator exercises its discretionary powers to withhold disclosures of the information specified in Schedule 1. Schedule 1 deals with information that need not be disclosed. At this juncture I should draw the attention of the Assembly to the provisions of Schedule 1 to the draft Law which lists the various categories of information that the regulator will not be obliged to disclose. Article 8 deals with public notice of proposals. Under this article the regulator will be required, unless it is satisfied that the proposals have no appreciable adverse affects, to advertise applications for water resources licenses under the Law in the Jersey Gazette. This will, of course, ensure that third parties including neighbouring landowners are aware of such applications and consequently are in a position to object to the proposals which the regulator will be obliged to consider before determining applications.

The Bailiff:

Articles 4 to 8 and the first schedule are proposed and seconded? **[Seconded]** Does any Member wish to speak?

7.29.1 Deputy G.C.L. Baudains:

The Minister will be glad to know the questions I have taper off as we go through the articles. Under Article 4, I wonder if the Minister would be kind enough to explain precisely what he means by redistribution and augmenting. It is something that we were unable to discover when I was on the Scrutiny Panel that scrutinised the Law originally. Under Article 5(1)(b): “If there are reasonable grounds for concern”, I wonder if the Minister could explain how they will know if there are reasonable grounds for concern, or how the regulator will know.

7.29.2 Deputy P.N. Troy:

In Article 7 a whole host of information is to be supplied, except I notice under Article 7(6) it says: “The regulator may refuse to make available under this article any information specified in Schedule 1” and then in Schedule 1 we have a whole section of information that need not be disclosed. In our era of open government and openness why, can I ask, is there this whole host of items that can be refused to be provided and can the Minister justify such proposals?

The Bailiff:

I call upon the Minister to reply.

7.29.3 Senator F.E. Cohen:

As far as I am aware, augmenting has the standard definition which means that it is adding to. As far as Article 7 and Schedule 1 are concerned, I will give Members an example of how trade secrets could be involved. For example, if someone had a licence to abstract water for the purposes of developing a new low water-requiring tomato they would not want their competitors to know exactly how much water they were using because very clearly that would give the stage of their development away and, therefore, it would be reasonable that such information was not made available. So that is one example.

The Bailiff:

There was a question which I think Deputy Baudains put about Article 5(1)(b): “If there are reasonable grounds for concern.”

Deputy G.C.L. Baudains:

I did also ask about Article 4(1)(b): “Redistribution and augmenting.” I am unclear as to where the water is being taken from and where it is going, and what it is going to be augmented with.

Senator F.E. Cohen:

It is the adding to of water as I had already explained. I do not really understand why the Deputy is having problems understanding it.

The Bailiff:

The Deputy also asked, I think, whether you could elucidate what was meant by reasonable grounds for concern in Article 5(1)(b).

Senator F.E. Cohen:

It means if there is a reasonable concern that the water may be depleted.

Deputy G.C.L. Baudains:

I do hate to press the Minister but the question I asked is how will they know?

Senator F.E. Cohen:

The purpose of this Law, as I have explained on many occasions, is in part to employ the services of a qualified hydro-geologist. That is exactly the sort of test that a hydro-geologist would be able to answer.

The Bailiff:

The Appel is called. Any Member who wishes to vote should return to his or her seat and I ask the Greffier to open the voting which is for or against Articles 4 to 8 and Schedule 1.

POUR: 19	CONTRE: 11	ABSTAIN: 1
Senator L. Norman	Senator B.E. Shenton	Connétable of St. Mary
Senator F.H. Walker	Connétable of St. Peter	
Senator P.F.C. Ozouf	Connétable of St. Clement	
Senator F.E. Cohen	Connétable of St. Martin	
Connétable of St. Ouen	Deputy R.C. Duhamel (S)	
Connétable of St. Lawrence	Deputy of St. Martin	
Connétable of St. Brelade	Deputy G.C.L. Baudains (C)	
Connétable of St. John	Deputy P.N. Troy (B)	
Deputy J.J. Huet (H)	Deputy J.A. Martin (H)	
Deputy C.J. Scott Warren (S)	Deputy P.V.F. Le Claire (H)	
Deputy S.C. Ferguson (B)	Deputy S.S.P.A. Power (B)	

Deputy P.J.D. Ryan (H)			
Deputy G.W.J. de Faye (H)			
Deputy D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

7.30 Senator F.E. Cohen:

Article 9 deals with authorised persons. This article enables the regulator and the water company to appoint authorised persons for the purposes of carrying out their respective day-to-day functions under the Law. I can assure Members that only responsible persons will be appointed to such positions. Article 10 refers to assistance. This article in effect supplements Article 9.

The Bailiff:

Articles 9 and 10 are proposed and seconded? **[Seconded]** Does any Member wish to speak on Articles 9 or 10?

7.30.1 The Connétable of St. Brelade:

This article concerns me a little in that we have anyone under the auspices of the service of the States or the company with permission going on to private property. I am concerned on 2 parts, one for the owner of the property in that people can come in purportedly for whatever duty in connection with this matter, but secondly, the person going into that property - the employee - could be at considerable risk, I suppose, if the nature of the property owner or his feelings is not particularly known. In general terms, Sir, where we have situations where officials have to visit private property it is the police who carry that mantle. I feel that we are potentially putting employees of either the States' Environmental Division or the Waterworks Company at potential risk and would ask perhaps the advice of the Attorney General on this; whether the police ought to be involved in this situation at all.

H.M. Attorney General:

I will point out to Members that these authorities are given for the purposes of drought orders under Articles 28 and 29 so these will be in the case of some emergency that gives rise to the drought order. It appears to me that the work that has to be done by the authorised persons will be specialist work which would be unlikely to be within the expertise of the police.

The Bailiff:

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

7.30.2 Senator F.E. Cohen:

There are very similar arrangements in relation certain elements of the Planning Law that enables particularly Enforcement Officers to enter properties in certain circumstances. If it would be of any

assistance to the House, I am perfectly happy to give an assurance that an appropriate and proper code of practice will be drawn up before the implementation of the legislation.

The Bailiff:

The Appel is called for. I ask any Member in the precinct who wishes to vote to return to his or her seat and I ask the Greffier to open the voting which is for or against Articles 9 and 10.

POUR: 25	CONTRE: 11	ABSTAIN: 1
Senator L. Norman	Senator B.E. Shenton	Connétable of St. Ouen
Senator F.H. Walker	Connétable of St. Mary	
Senator T.A. Le Sueur	Connétable of St. Peter	
Senator P.F. Routier	Deputy R.C. Duhamel (S)	
Senator M.E. Vibert	Deputy G.C.L. Baudains (C)	
Senator P.F.C. Ozouf	Deputy P.N. Troy (B)	
Senator F.E. Cohen	Deputy J.A. Martin (H)	
Connétable of St. Clement	Deputy G.P. Southern (H)	
Connétable of St. Lawrence	Deputy P.V.F. Le Claire (H)	
Connétable of St. Brelade	Deputy S.S.P.A. Power (B)	
Connétable of St. Martin	Senator B.E. Shenton	
Connétable of St. John		
Deputy J.J. Huet (H)		
Deputy of St. Martin		
Deputy C.J. Scott Warren (S)		
Deputy J.B. Fox (H)		
Deputy S.C. Ferguson (B)		
Deputy P.J.D. Ryan (H)		
Deputy G.W.J. de Faye (H)		
Deputy D.W. Mezbourian (L)		
Deputy of Trinity		
Deputy K.C. Lewis (S)		

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

7.31 Senator F.E. Cohen:

Article 11 deals with restrictions on the abstraction or impounding of water. This article provides the fundamental control mechanism under the Law since it prohibits both the abstraction and impoundment of water from or in a source of supply. There will, however, be 2 basic exceptions to this rule, namely where the activity involved is specifically covered by one of the exemptions provided for in the Law or where the person who is abstracting or impounding, as the case may be, has obtained a water resources licence from the regulator beforehand and is complying with the conditions of that licence. Article 12 deals with cases in which restrictions do not apply. This article sets out various important provisions some of which I have already referred to during my introductory speech but which I will now explain in more detail. Firstly, I draw the attention of the Assembly to the following particular exemptions: the abstraction of surface water where the quantity does not exceed 15 cubic metres in any period of 24 hours - I would add that this form of extraction will be totally outside the scope of the Law and will not even need to be registered with the regulator; the abstraction of groundwater where again the quantity does not exceed 15 cubic metres in any period 24 hours provided that the abstraction is registered with the regulator beforehand; the abstraction of water whether from a surface water source or from groundwater for domestic purposes irrespective of the quantity involved. Secondly, it enables the regulator to make orders in respect of the procedure for registration of the exemptions under this article and the information to be provided to the regulator by those whose abstraction has already been registered which I can also assure the Assembly will be very simple and straightforward. At this juncture, I would like to record my thanks to Deputy Baudains who, in his capacity as a member of the Shadow Scrutiny Panel, identified the deficiency in the previous draft Law in terms of the data that the regulator could obtain under this article. Article 13 deals with offences in respect of water resources. This article sets out the basic offence provisions of the Law. Article 14 deals with the statutory defensive emergency. This article provides a specific defence to a person who, in an emergency situation, abstracts or impounds water in circumstances that would otherwise be in contravention of the requirements of the Law, for example, in order to deal with a fire in say, an adjacent farm building. Thank you, Sir.

The Bailiff:

Articles 11 to 14 are proposed and seconded. **[Seconded]** Does any member wish to speak; the Constable of St. Lawrence?

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

In some ways, I am going back to definitions but in Article 12, it refers to the abstracting of groundwater and I did attend the presentation the other day on the new Law and we were shown some slides and the slides - the fifth slide in particular I mentioned to the Minister - do not seem to bear out the definition as expressed in the Law, or at least as defined by the Minister just now. The definitions say groundwater means water that is below the surface of the ground, in the saturation zone and in direct contact with the ground or with the subsoil. I am not a lawyer but I presume those 3 conditions have to apply. Now, according to the slide that we were shown the other day - and I need to take my glasses off because it is very small print - it shows ground surface, this is going down through the ground, then soil water, then capillary fringe are all in the unsaturated zone. We then come to water table, then we come to the saturated zone which is where there is

groundwater. Now, if that is the official recognition of what groundwater is - I do not know whether it is or is not - but it is not in accordance with the definition in the Law or as put across by the Minister just now and I think it is extremely important that we do not adopt a Law that is not at all clear. I would ask the Minister please, to ensure that in the very near future, even if we do adopt the Law in its entirety, that he looks into this particular point to make sure there is no dispute coming up shortly in misinterpretation of what groundwater means because certainly from the slide that we were shown, I do not believe groundwater is immediately below the ground. I think it is way below that again in the saturation zone; the first zone you come to being the unsaturated zone. I may be wrong but that is the information that we were given. Thank you, sir.

7.31.2 Deputy G.C.L. Baudains:

Yes, I would reiterate what the previous speaker said. I am afraid I am unable to correlate what the definition of groundwater is; the definition as explained by the Minister and I hope there will be clarity shortly on that. But what I rise to speak about, Sir, is Article 11. If I understand it correctly, this is tied in with Part 1(b) of Schedule 3, so could I ask when Article 11 is due to come into being because I believe that has some relevance.

The Bailiff:

Is that a question for me, Deputy, or for the Minister?

Deputy G.C.L. Baudains:

I expected when the Minister was summing-up, it was for him to tell me when Article 11 was going to come into force because my understanding - and perhaps you can clarify it for me, Sir - is that the schedule on page 52, Schedule 3, part 1(b), states that he or she applies at least 9 months before Article 11 comes into force. Well, clearly if Article 11 comes into force next week, you cannot do that.

The Bailiff:

Can we come to that when we debate Article 53 because the schedule is linked to Article 53?

7.31.3 Deputy P.N. Troy:

Article 11 is stating that you shall not abstract water without having a water resources licence. Then in Article 12, it says it does not apply; that means where you do not need a licence are in these instances and section (b) is abstracting groundwater by or on behalf of an occupier of land not exceeding in aggregate 15 cubic metres in any period of 24 hours and then (c) is the abstracting of water for the domestic purposes of a household. As I said earlier, there is no definition of domestic purposes of a household. I want the Minister to clarify absolutely that it means that any land attached to a person's residence is exempt for the purposes of - if they have a borehole - watering their garden because that is considered domestic purposes; filling their swimming pool, that is domestic purposes. I would like him to confirm that, so that - in that instance - domestic purposes is fully clarified because in this Law, there is no definition for domestic purposes. Then, of course, I want to clarify also that (b) does not override (c). So that if domestic purposes are excluded totally, you can extract any amount of water from your domestic premises because it is excluded and that (b) does not kick-in once you have hit 15 cubic metres. Now, that is what his staff just told me outside of this Chamber; his staff told me that (b) does not override (c) and I would like him to clarify this.

7.31.4 Deputy R.C. Duhamel:

It is in relation to paragraph 3. Paragraph 1(h) refers to any effect on - under (c) - any fauna or flora dependent on any source of supply; that is materially different from the effect that the works had or were likely to have had before the Appointed Day Act. It strikes me, Sir, that in this particular clause and indeed, a little bit later on, I think, there are other references to harming fauna and flora that are dependent on the source of supply that we are probably going way, way over the

top in saying that it is any fauna or flora that is dependent on any source of supply. There could be things that are materially unimportant like, for example, grass. There could be certain elements of plants that are classified as weeds or whatever and normally, in any of these schedules, particularly when we are dealing with conservation schedules, as in other parts the Law, we have had specific schedules that refer to the importance of the particular plant species or indeed, the animal species and their dependency on water. This goes back to the previous comments that were made by myself and other Members in that the whole Law does not specifically define how the promotional conservation of fauna and flora that are dependent on inland waters or the habitats, *et cetera*, how they are going to be preserved other than there is a blanket preservation order across all of them. I think, in any particular law, that is probably going a stage too far. We are normally particular in the way we write laws rather than very, very open and general and I think it is an oversight and again, on that basis, I do not think I can support it.

The Bailiff:

I call upon the Minister to reply.

7.31.5 Senator F.E. Cohen:

The definition of groundwater is, in practice, all the water that is below the ground. It would be impossible to take water from anywhere other than the saturated zone but groundwater means all water below the ground. In relation to Deputy Baudains' question on Article 11, this would come into force 12 months after the Appointed Day Act and assuming the Appointed Day Act is 1st January 2009, that would mean the 1st January 2010. Domestic use is exempt entirely and (b) does not override (c), so very clearly, any domestic use, any quantity of water is completely exempt from any form of licence requirement. This includes water in your garden, filling the swimming pool, washing your car; all the normal domestic activities are excluded. There was one other question I made a note on. It was in relation to Deputy Duhamel's question. We will apply a commonsense approach to the protection of flora and fauna based on current diversity and conservation objectives. We do not need to be specific at this stage but a reasonable approach will be applied at all times.

The Connétable of St. Lawrence:

I do not think the Minister really answered my point or maybe I did not make it clearly enough but I was wanting an undertaking that he would review the definition of groundwater. Assuming that we do vote the Law through, I believe it is totally unclear and does need to be seriously reviewed to see if an amendment to the Law is necessary because I do not think that we are approving here a workable Law as it currently stands because I am not convinced that the definition of groundwater is as the Minister believes it to be. If he gives me that undertaking, I would be happy to go forward. Thank you, Sir.

Deputy G.C.L. Baudains:

In light of the confusion that seems to exist, certainly in my mind, around the definition of groundwater, I wonder if we could ask the Attorney General for what his understanding of it is because I am completely confused because the definition that is in the Law is completely contrary to what the Minister is telling us.

The Bailiff:

I think the Attorney General has already advised the Assembly that there are 3 elements of the definition of groundwater and my understanding of what the Minister said is that for practical purposes, although there are 3 elements of the definition, he thinks in practical purposes it means all water beneath the ground but perhaps I should ask the Minister whether he is prepared to give the undertaking to look at the definition again which the Constable of St. Lawrence seeks.

Senator F.E. Cohen:

I am most happy to give that undertaking. However, I would make it clear that the term “groundwater” is used extensively in other jurisdictions. It is a well-tested term. It has a precise definition. I will circulate that and I will give an undertaking to make any alterations required to clarify the position once that has been circulated.

Deputy P.V.F. Le Claire:

Can we have an Appel, please, Sir?

The Bailiff:

I ask Members who wish to vote who are in the precinct to return to their seats and the voting is for or against Articles 11 to 14. I ask the Greffier to open the voting.

POUR: 29	CONTRE: 11	ABSTAIN: 0
Senator L. Norman	Senator B.E. Shenton	
Senator F.H. Walker	Connétable of St. Peter	
Senator W. Kinnard	Connétable of St. Martin	
Senator T.A. Le Sueur	Deputy R.C. Duhamel (S)	
Senator P.F. Routier	Deputy of St. Martin	
Senator M.E. Vibert	Deputy G.C.L. Baudains (C)	
Senator P.F.C. Ozouf	Deputy P.N. Troy (B)	
Senator F.E. Cohen	Deputy J.A. Martin (H)	
Connétable of St. Ouen	Deputy P.V.F. Le Claire (H)	
Connétable of St. Mary	Deputy S.S.P.A. Power (B)	
Connétable of St. Clement	Deputy S. Pitman (H)	
Connétable of St. Lawrence		
Connétable of St. Brelade		
Connétable of St. John		
Deputy J.J. Huet (H)		
Deputy C.J. Scott Warren (S)		
Deputy R.G. Le Hérissier (S)		
Deputy J.B. Fox (H)		
Deputy S.C. Ferguson (B)		

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

The Bailiff:

I ask the Minister to move Articles 15 to 25.

7.32 Senator F.E. Cohen:

Article 15 deals with implications in respect of water resource licences. This article sets out the necessary machinery relating to the various applications to the regulator for water resource licences. Article 16 deals with matters to be taken into account. This article sets out the various matters that the regulator will be obliged to take into account when adjudicating on applications for water resource licences. I particularly draw the attention of the Assembly to the consequences of granting the application in terms of its potential effect on pre-existing protective rights under the Law. I would explain that this covers both those who already hold a water resource licence and those who have previously registered their abstraction rights with the regulator. At this juncture, I would like to record my thanks to the Shadow Scrutiny Panel for pointing out that the granting of a test pumping consent would not, of course, automatically lead to granting of a licence. The Law has been amended accordingly. Article 17 deals with the termination of applications for licences. This article deals with the determination by the regulator of applications for water resource licences. It specifically provides that normally such licences will be granted for a maximum period of 10 years. It does, however, provide for licences to run for a period longer than 10 years where the licence is being granted to Jersey Water in view of its statutory obligations, in particular to supply wholesome water for domestic purposes or there are exceptional circumstances, for example, a large commercial project involving a long-term investment. Article 18 deals with conditions of licences. This article sets out the various conditions that the regulator will be able to impose when granting a water resource licence. Naturally, the specific conditions will depend on the particular circumstances of each application. At this juncture, I would like to record my appreciation to Deputy Duhamel for highlighting the importance of including the provision dealing with the efficient use of water that is to be extracted during the consultation process on the Bill. Article 19 deals with issues of licences. This article is purely formal in nature. Article 20 deals with the effect of licences. This article declares that provided the conditions of the licence are complied with, the licence holder will be authorised to abstract or impound water from or in the source of supply specified. However, as we will see when we come to consider Part 4 of the Law,

all licences are subject to the drought provisions. As I mentioned in my opening speech, the importance of having legislation in place to deal with drought situations was supported by the Shadow Scrutiny Panel. Article 21; variation and revocation of licences. This article will enable the regulator to vary or revoke a water resource licence either on the application of the licence holder or at the regulator's own initiative. However, the regulator will not be permitted to vary or revoke a licence on its own initiative unless there is a threat of serious harm to a source of supply or its flora and fauna. At this juncture, I would like to record my appreciation to Mr. Lewis de la Haye, well driller, who during the consultation process brought to our attention the need to limit the regulator's powers to vary an existing licence in the way that I have just described. Article 22 deals with the suspension of licences. This article will enable the regulator to temporarily suspend water resource licences because of an emergency situation. Article 23 deals with the transfer of licences. This article will enable the regulator to approve the transfer of a water resource licence from one person to another, for example, following the sale of land. Article 24 deals with notice of decisions. This article requires the regulator to give reason for its decisions on the various applications for water resource licences. Such information will, of course, assist an appellant in the event of an appeal being brought by him or her against the regulator's decision. Article 25 deals with charges. This article will enable the regulator to impose charges by order. I would emphasise that there can be no question of the regulator being able to charge for the registration of boreholes under the Law. Thank you, Sir.

The Bailiff:

Articles 15 to 25 are proposed and seconded. **[Seconded]** Does any Member wish to speak; Deputy Baudains?

7.32.1 Deputy G.C.L. Baudains:

Article 16(1)(b), just a technical comment really. I notice that the wording is that: "The regulator shall have regard to all the circumstances including ...", so it seems that the regulator has no flexibility other than to have regard to the quantity and the quality of the water available to be abstracted. I merely make the observation, Sir, that no one knows the quantity of the water when it comes to groundwater, so I am not quite sure how the regulator can have regard to it. There are a couple of concerns that I have. Article 18(1)(i), the provisional maintenance of approved meters. I am concerned about high volume usage. I did refer this morning, Sir, to the possibility of an agricultural undertaking with an irrigation of perhaps an outdoor crop which would require a large volume of water, possibly maybe only for a few days and maybe only once every 10 years but we are talking about pumping at the rate of maybe 1,000 gallons a minute. Such a meter, I am advised, costs at least £1,000, maybe more. I hope that where it says the condition of a resource licence may relate to any of the following, I hope that the regulator would have regard to that because that would be a fairly substantial capital outlay. Finally, Sir, under Charges, a similar concern. On Article 25, the regulator may prescribe - when we come down to 4(b) - different charges according to the kinds of scale involved, of activity, the volumes and rates of abstracting the water. We have been led to believe that licences will be around about £100 to £150. I am concerned that licences could be several thousand pounds depending on the volume abstracted but I wonder if there is an upper ceiling on the charging or not. Thank you, Sir.

7.32.2 Deputy P.N. Troy:

I would just like to reiterate the concerns that Deputy Baudains has about clause 25, the charging of the whole function because it says that: "In prescribing charges under this Article, the regulator shall have regard for the amounts that are needed to meet the regulator's expenditure in carrying out functions under this Law" and then it goes on in point number 3 to say: "These functions include the consideration of applications relating to licences, the granting of licences, the monitoring of activities undertaken by licensees and the variation transfer, suspension and

revocation of licences.” A considerable number of activities, Sir, which I am sure are going to require a considerable number of staff to do all this. The Minister has previously said that his department is under resourced. Where is he going to get these funds from? He is charging the consumer basically and the consumer has no choice but to pay up because the levels will be set at rates which the consumer has no control over; the departments can just charge whatever they want for the service to recoup all of their fees and they can load up their staff if they so wish.

The Bailiff:

I call upon the Minister to reply.

7.32.3 Senator F.E. Cohen:

I may not get these quite in the right order. The department has no intention of loading up the department with extra people. I have made it very clear that the main appointment is the hydro-geologist. I have made it an absolute necessity to employ a hydro-geologist if we are to deliver our obligations in relation to proper water management. That is the only key appointment. Remember, when we are dealing with the revenues derived and the funding of the hydro-geologist and the testing that I previously mentioned, that 90 per cent of the funding comes from the Jersey Water Company, so providing the Jersey Water Company continue to pay their approximately £90,000, that is a pretty definite source of income. The proposals for licence fees are not in the thousands of pounds. They are presently envisaged to be £50 to £150 and the majority of them are going to be at the lower end of that scale. As far as metering is concerned, as I have explained on a number of occasions, the intention in this Law is to administer it with a light touch. That means that we will not be seeking to require borehole owners or operators to install expensive meters. You can make perfectly reasonable assumptions about the capacity and usage of water from examining the pump specifications and simply multiplying-up. It is not necessary to know precisely every location, precisely exactly how much water is abstracted to the litre. There will be quite a lot of averaging. That complies with the concept of a light touch, so please do not envisage meters being required. Thank you, Sir.

Senator P.V.F. Le Claire:

I ask for the Appel, please.

The Bailiff:

I ask any Member in the precinct who wishes to vote to return to his or her seat and I ask the Greffier to open the voting on Articles 15 to 25.

POUR: 30	CONTRE: 9	ABSTAIN: 1
Senator L. Norman	Senator B.E. Shenton	Deputy G.C.L. Baudains (C)
Senator F.H. Walker	Connétable of St. Peter	
Senator W. Kinnard	Connétable of St. Martin	
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 S.S.P.A. Power (B)		
Connétable of St. Ouen	Deputy S. Pitman (H)		
Connétable of St. Mary			
Connétable of St. Clement			
Connétable of St. Brelade			
Connétable of St. John			
Deputy J.J. Huet (H)			
Deputy of St. Martin			
Deputy C.J. Scott Warren (S)			
Deputy R.G. Le Hérissier (S)			
Deputy J.B. Fox (H)			
Deputy S.C. Ferguson (B)			
Deputy P.J.D. Ryan (H)			
Deputy of St. Peter			
Deputy J.A. Hilton (H)			
Deputy P.V.F. Le Claire (H)			
Deputy D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy A.J.D. Maclean (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

The Bailiff:

I ask the Minister to propose Articles 26 to 30.

7.33 Senator F.E. Cohen:

Article 26 deals with drought orders. This article provides the regulator with the power to make drought orders where, among other things, there is a serious deficiency of supplies of water in any part of the Island. The regulator will, of course, be required to consult with Jersey Water before taking any action under this article. Article 27 deals with the duration of drought orders. This article provides that drought orders will operate for a maximum period of 6 months. Article 28 deals with terms of drought orders. This article lists the various controls that the regulator will be able to impose by means of drought order, in particular, to limit or prohibit the extraction of water from source of supply such as a particular stream, to limit or prohibit the consumption of water supplied by Jersey Water including, for example, the use of such water for the filling of swimming pools or the washing of motor vehicles. I hasten to add that such restrictions could, of course, only be imposed when the Island, or part of it, is suffering from a drought situation. As I previously mentioned, the need for these provisions was supported by the Shadow Scrutiny Panel. Article 29 deals with works under drought orders. This article authorises the regulator or Jersey Water, as the case may be, to enter on to lands and carry out, on that land, any necessary works under a drought order and Article 30 deals with breaches of drought orders. This article deals with 2 matters; namely it makes it an offence for anyone to contravene the requirements of the drought order. It provides the regulator with the necessary default powers in the event that someone is failing to comply with the requirements of the drought order. Thank you, Sir.

The Bailiff:

Articles 26 to 30 are proposed and seconded. **[Seconded]** Does any Member wish to speak; Deputy Baudains?

7.33.1 Deputy G.C.L. Baudains:

This particular Part 4 - drought measures - is to my mind the only part of this draft Water Resources Law that is necessary and the Minister will no doubt be happy to learn that it is the part that I can endorse.

7.33.2 Deputy P.J.D. Ryan of St. Helier:

I would just like to ask the Minister if he would just clarify something for me. If we were to have a drought now before the operation of this Law - before this Law is in place - do we not have some alternative method of ensuring equivalents of drought orders as per this Law? I feel sure that there is something that we currently use at the moment, is there not?

7.33.3 The Connétable of St. Ouen:

Just one short question, Sir. Under 28(b), would the Minister confirm that does not include rainwater which has been stored?

The Bailiff:

If no other Member wishes to speak, I will call upon the Minister to reply.

7.33.4 Senator F.E. Cohen:

I can confirm that, yes, there are existing mechanisms to deal with a drought situation in the unlikely event that one occurs before the Law is implemented. I am also able to confirm that the measures do not apply to rainwater that has been stored.

Senator P.V.F. Le Claire:

I ask for the Appel, Sir.

The Bailiff:

I ask that Members in the precinct who wish to vote to return to their seats. I ask the Greffier to open the voting which is for or against Articles 26 to 30 of the Bill.

POUR: 32	CONTRE: 6	ABSTAIN: 0
Senator L. Norman	Senator B.E. Shenton	
Senator W. Kinnard	Connétable of St. Peter	
Senator T.A. Le Sueur	Deputy R.C. Duhamel (S)	
Senator P.F. Routier	Deputy J.A. Martin (H)	
Senator M.E. Vibert	Deputy S.S.P.A. Power (B)	
Senator P.F.C. Ozouf	Deputy S. Pitman (H)	
Senator F.E. Cohen		
Connétable of St. Ouen		
Connétable of St. Mary		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. John		
Deputy A. Breckon (S)		
Deputy of St. Martin		
Deputy G.C.L. Baudains (C)		
Deputy P.N. Troy (B)		
Deputy C.J. Scott Warren (S)		
Deputy R.G. Le Hérissier (S)		
Deputy J.B. Fox (H)		
Deputy P.J.D. Ryan (H)		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy D.W. Mezbourian (L)		

Deputy of Trinity			
Deputy A.J.D. Maclean (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

The Bailiff:

I ask the Minister to propose Articles 31 to 36, please.

7.34 Senator F.E. Cohen:

Article 31 deals with ancillary powers. This article provides the regulator with the necessary powers to enter on to land and to carry out associated works and operations in connection with its functions under the Law. May I draw the attention of Members to the safeguards for landowners that we have incorporated into this article. The requirement for the regulator in normal circumstances is to give a minimum of 48 hours notice before entering on to residential property and the requirement to provide the landowner with a full explanation of the reasons for the entry on to his or her land. Article 32 deals with warrants. As Members will appreciate, this article is a fairly standard provision found in legislation of this nature. Article 33 deals with the co-operation by owners and others. This article makes provision for an authorised person under the Law to require some other relevant person to render appropriate assistance. Article 34 deals with access to documents and records. This article very importantly provides the regulator with the necessary powers to inspect records that are relevant to the management of water resources on the Island. At this juncture, may I record my appreciation to the Shadow Scrutiny Panel for drawing our attention to the importance of the regulator being able to inspect, in particular, borehole records. Article 35 deals with obstruction. This article makes it an offence to obstruct those persons who are authorised to carry out functions under the Law and Article 36 deals with injunctions. This article enables either the regulator or Jersey Water to apply to the Royal Court for an injunction in order to enforce compliance with the requirements of the Law. Thank you, Sir.

The Bailiff:

Articles 31 to 36 are proposed and seconded. **[Seconded]** Does any Member wish to speak on any of those Articles?

7.34.1 Deputy P.J.D. Ryan:

Just one other question for the Minister, if he would not mind. Those domestic users that are exempted although they are registered, do they require records to be kept? Is it a requirement that records are kept for those people?

The Bailiff:

I call upon the Minister to reply.

7.34.2 Senator F.E. Cohen:

Other than the initial registration form which will be very simple and can be filled in online or by other means, there is no requirement on domestic borehole users to keep any other records. Thank you, Sir.

The Bailiff:

Any Member who wishes to vote should return to his or her seat. I will ask the Greffier to open the voting on Articles 31 to 36.

POUR: 28	CONTRE: 6	ABSTAIN: 1
Senator W. Kinnard	Senator B.E. Shenton	Deputy G.C.L. Baudains (C)
Senator T.A. Le Sueur	Connétable of St. Peter	
Senator P.F. Routier	Connétable of St. Martin	
Senator M.E. Vibert	Deputy R.C. Duhamel (S)	
Senator F.E. Cohen	Deputy A. Breckon (S)	
Connétable of St. Ouen	Deputy S. Pitman (H)	
Connétable of St. Mary		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Brelade		
Connétable of St. John		
Deputy of St. Martin		
Deputy P.N. Troy (B)		
Deputy C.J. Scott Warren (S)		
Deputy R.G. Le Hérissier (S)		
Deputy S.C. Ferguson (B)		
Deputy P.J.D. Ryan (H)		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy D.W. Mezbourian (L)		
Deputy of Trinity		

Deputy A.J.D. Maclean (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			

The Bailiff:

I ask the Minister to propose Articles 37 to 52.

7.35 Senator F.E. Cohen:

Article 37 deals with applications for protection of trade secrets. This article deals with applications to the regulator for certificates of confidentiality in respect of trade secrets and as such, is a standard clause in a Bill of this nature. Article 38 deals with information that is protected. This article basically provides that where a certificate of confidentiality has been granted under the Law, the information will be duly protected from disclosure. Article 39 deals with information that is not protected. This article provides for a very limited exception to the non-disclosure provisions in Article 38 which we have just considered. Article 40 deals with appeals. As we have passed through the Bill, I have drawn the attention of the Assembly to the various appeal provisions. This particular article sets out the machinery that will apply in relation to such appeals. Article 41 deals with compensation. This article provides that compensation should be payable by the regulator or by Jersey Water in respect of the exercise of their respective functions under the Law that involves entry on to land and the carrying out of associated works. Article 42 deals with interference with apparatus. This article makes it an offence to interfere with any meter or any other apparatus installed under the provisions of the Law. Article 43 deals with false information. Likewise, this article makes it an offence to give any false information to the regulator under the various provisions of the Law. Article 44 deals with criminal liability. As Members will immediately recognise, this is a standard provision in legislation of this nature and in effect ensures the company directors, *et cetera*, will not be able to hide behind the veil of incorporation in the event of offences being committed by them under the Law. Article 45 deals with remedies to be cumulative. This article makes it clear that the regulator can take both criminal and civil proceedings under the Law against the same person in respect of any wrongdoing on his or her part. Article 46 deals with evidence. This article is a standard provision in legislation of this nature. Article 47 deals with limitation of liability. This article provides, in effect, a statutory defence for the regulator where it is carrying out its regulatory functions under the Law. Article 48 deals with service of documents. As Members will recognise, this is the standard provision that is inserted into legislation providing for service of documents. Article 49 deals with subordinate legislation. This article, which again is a fairly standard provision in legislation of this nature, will enable the regulator to make orders for the purposes of the Law. Article 50 deals with relationships to other enactments. This article makes it clear that even though a person may hold a water resource licence under this Law, nevertheless, he or she will, of course, be required to comply with other relevant legislation, for example, a developer wishing to erect a factory would require planning permission as well as a water resource licence if he needed to abstract water from a borehole on the site. Article 51 deals with the implementation of international obligations. This article, which is a useful facility, would enable the States by Regulations to amend the Law in order to give effect to any international agreements or obligations that are binding on Jersey. Article 52 deals with application to the Crown. This article, which has been agreed by the Lieutenant Governor, provides that the Law will apply to the Crown. Thank you, Sir.

The Bailiff:

Articles 37 to 52 are proposed and seconded. **[Seconded]** Does any Member wish to speak on any of those Articles; Deputy Le Claire?

7.35.1 Deputy P.V.F. Le Claire:

I would like to ask if the Minister could just give us an example as to why, in this Law, we have issues relating to trade secrets and the protections for companies under 36. This is taking a bit of a commercial steer and the Law is being proposed for environmental reasons predominately and I would just like to have an explanation, for the record, as to why these types of considerations are featuring in this Law.

The Bailiff:

I call upon the Minister to reply.

7.35.2 Senator F.E. Cohen:

I have already given one example which I will repeat. If, for example, a grower obtained a licence to abstract water for the purposes of developing a tomato that he was modifying to require less water and to sell the product to others, he certainly would not want anyone knowing exactly how much water he is abstracting because his competitors would then know how far he had got with his development of the tomato. So, in that case, there is an example of where trade secret legislation would apply. Thank you, Sir.

The Bailiff:

Appel? Any Member who wishes to vote, please return to his or her seat. I ask the Greffier to open the voting on Articles 37 to 52.

POUR: 31	CONTRE: 6	ABSTAIN: 1
Senator L. Norman	Senator B.E. Shenton	Deputy G.C.L. Baudains (C)
Senator W. Kinnard	Connétable of St. Peter	
Senator T.A. Le Sueur	Deputy R.C. Duhamel (S)	
Senator P.F. Routier	Deputy A. Breckon (S)	
Senator M.E. Vibert	Deputy S.S.P.A. Power (B)	
Senator P.F.C. Ozouf	Deputy S. Pitman (H)	
Senator F.E. Cohen		
Connétable of St. Ouen		
Connétable of St. Mary		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Brelade		

Connétable of St. Martin			
Connétable of St. John			
Deputy J.J. Huet (H)			
Deputy of St. Martin			
Deputy P.N. Troy (B)			
Deputy C.J. Scott Warren (S)			
Deputy R.G. Le Hérissier (S)			
Deputy J.B. Fox (H)			
Deputy S.C. Ferguson (B)			
Deputy P.J.D. Ryan (H)			
Deputy of St. Peter			
Deputy J.A. Hilton (H)			
Deputy P.V.F. Le Claire (H)			
Deputy D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy A.J.D. Maclean (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy of St. Mary			

The Bailiff:

Minister, will you propose Article 53 and Schedules 2, 3 and 4.

7.36 Senator F.E. Cohen:

Article 53 deals with consequential amendments and transitional and other provisions. This article provides that certain associated legislation is consequently amended. The Law is to have effect subject to certain transitional provisions. I would now invite the Assembly to consider Schedules 2 to 4 which specify the necessary details. Schedule 2; consequential amendments. This schedule lists the various minor consequential amendments that are made to other legislation as a result of the enactment of the Water Resources Law. Schedule 3; transitional arrangements for water resource licences. Basically, this schedule provides that if a person has abstracted water from a source of supply at any time within 3 years before the Law is brought into force, before an Appointed Day Act is passed, then he or she will automatically be entitled to a licence from the

regulator to continue that activity on a similar basis for a further period of 5 years from the date that the offence provisions in the Law come into force. Schedule 4 deals with operations by the regulator. This schedule, in effect, creates a special regime that will apply while the regulator is also an operator. As the Assembly will recognise, I, in my capacity as Minister for Planning and Environment, act as the regulator under the Water Resources Law but I also carry out operational functions wearing my non-regulatory hat. While that situation continues, the abstraction empowerment of water by my department will be subject to the issue of a water resources certificate, for example, where the department abstracts water for certain fisheries purposes. At this juncture, may I draw the attention of the Assembly to the specific safeguards that have been incorporated into this Schedule under which either an objector to the issue variation or variation of a water resources certificate or the Attorney General, can apply to the Royal Court to have the regulator's decision reviewed. Thank you, Sir.

The Bailiff:

Article 53 and those schedules have been proposed and seconded. **[Seconded]** Does any Member wish to speak on the Article or schedules? Deputy Baudains?

7.36.1 Deputy G.C.L. Baudains:

The query I have about the Article 11 and Schedule 3 has been previously clarified. One thing I come back to... and I raised this issue when Scrutiny looked at this draft Law some years ago and I addressed it again this morning. Under Schedule 3, part 1(a) and (b), this presumes that abstraction of water is on a fairly continuous basis. It is every day or once a week or once a month. I am not able to understand how it might apply - admittedly in rare cases - to irrigation of farmland where there may be several years when it is not required and then, I gave the example this morning, in my view, a particularly dry period when a farmer is wishing to lift his potatoes, the ground is too dry for the digger to work but he maybe has not used his reservoir for 5 or 6 years. I am not sure how a licence would work in these circumstances. I hope the Minister might be able to assist me there.

7.36.2 Deputy P.V.F. Le Claire:

I am asking just for Members' awareness and for the Ministers' awareness; I am asking for the Appel on these motions because during the speeches, especially by the Chief Minister, it was described as a vital, repeat - and this is transcript - vital piece of legislation. I was very disappointed to see a number of the Ministers out of the Chamber at the beginning of the appealing process and the Appel has kept a lot of them here.

The Bailiff:

I call upon the Minister to respond.

7.36.3 Senator F.E. Cohen:

All I can say is that even if you only use your borehole occasionally and you meet the licensing requirements, you will be required to obtain a licence but again, may I stress that this Law will be applied with a light touch, with a reasonable touch, and a view can be taken at the appropriate time and what the Deputy is referring to may be a drought term which may be under drought provisions anyway.

Deputy G.W.J. de Faye:

Could I just raise a point of information which may assist Deputy Le Claire because I did hear what he said? Ministers do also have departments to run and from time to time, we do have to get out of the Chamber in order to communicate with our departments. Fortunately, we can do that by mobile phone and email. That does not mean we are not listening which is why I heard what he had to say.

The Bailiff:

Very well, I ask the Greffier to open the voting on Article 53 and the Schedules.

POUR: 33	CONTRE: 6	ABSTAIN: 1
Senator L. Norman	Senator B.E. Shenton	Deputy G.C.L. Baudains (C)
Senator W. Kinnard	Connétable of St. Peter	
Senator T.A. Le Sueur	Deputy R.C. Duhamel (S)	
Senator P.F. Routier	Deputy A. Breckon (S)	
Senator M.E. Vibert	Deputy S.S.P.A. Power (B)	
Senator P.F.C. Ozouf	Deputy S. Pitman (H)	
Senator F.E. Cohen		
Connétable of St. Ouen		
Connétable of St. Mary		
Connétable of St. Clement		
Connétable of St. Helier		
Connétable of St. Lawrence		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. John		
Deputy J.J. Huet (H)		
Deputy of St. Martin		
Deputy P.N. Troy (B)		
Deputy C.J. Scott Warren (S)		
Deputy R.G. Le Hérissier (S)		
Deputy J.B. Fox (H)		
Deputy S.C. Ferguson (B)		
Deputy P.J.D. Ryan (H)		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		

Deputy G.W.J. de Faye (H)			
Deputy P.V.F. Le Claire (H)			
Deputy D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy A.J.D. Maclean (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy of St. Mary			

The Bailiff:

I invite the Minister to propose Article 54.

7.37 Senator F.E. Cohen:

Article 54 deals with citation and commencement. Basically, this article provides that the whole of the Law will come into force when the States passes the necessary Appointed Day Act, except for the offence provisions which will automatically come into force 12 months later. Thank you, Sir.

The Bailiff:

Article 54 is proposed and seconded. Any Member wish to speak on Article 54? I put Article 54; those Members in favour of adopting it, kindly show; those against. The Article is adopted and you move the Bill in Third Reading, Minister? **[Seconded]**. Does any Member wish to speak on the Bill in Third Reading? Senator Ozouf.

7.38 Senator P.F.C. Ozouf:

The new system of government meant that a number of Ministers inherited some very difficult issues and this for the Planning and Environment Minister was of one of them and I would just like to take this opportunity in the Third Reading to congratulate him on his persistence, his thoughtfulness and diplomacy and, finally, for getting this Bill through.

7.38.1 Deputy G.C.L.Baudains:

Could I, first of all, although I may disagree with this Law, congratulate the Minister for his resilience in getting through this morning and this afternoon? As I said earlier, I agree with the drought order, Part 4. I cannot support the rest of this Law for the simple reason that during the day, I have yet to hear anything which supports the need for this Law. There have been several people who have said: "It is absolutely necessary; it is vital. We must have it" but they have not been able to tell us why. Thank you, Sir.

The Bailiff:

I call upon the Minister to reply.

7.38.2 Senator F.E. Cohen:

I can only say what I have said many times already today. It is about being a responsible jurisdiction. It is about a scarce resource and it is about managing that scarce resource properly for future generations. Thank you, Sir.

The Bailiff:

I put the Bill in Third Reading. Those Members in favour of adopting it, kindly show? Those against? The Bill is adopted in Third Reading. May I draw Members' attention to the time?

ADJOURNMENT PROPOSED

Senator L. Norman:

May I also congratulate the Minister on his almost impeccable sense of timing, Sir and propose the adjournment?

Deputy G.C.L. Baudains:

Before you do that, Sir, when you asked for the vote, I did ask for the Appel, Sir, but I do not think you heard me.

The Bailiff:

I did not. I am sorry, Deputy. There we are. Perhaps you should speak more loudly on the next occasion. I am sorry.

ADJOURNMENT

The Bailiff:

If Members agree, we will adjourn until 9.30 a.m. tomorrow morning.