

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 4th JULY 2006

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

QUESTIONS

1. Written questions

1.1. WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY SENATOR B.E. SHENTON REGARDING THE PUBLIC EMPLOYEES CONTRIBUTORY RETIEMENT SCHEME

Questions

1. Would the Minister inform members why he reported to members that the Public Employees Contributory Retirement Scheme (PECRS) deficit as at 31st December 2004, had fallen to £17,400,000, whereas in his reply to my written question on 6th June, 2006, he acknowledged that the deficit calculated under recognised reporting standards was in fact £158,441,000 - a difference of £141,041,000.
2. The notes to the Financial Report and Accounts 2005 state that *'The Scheme is not a conventional final salary scheme in that the employers are not responsible for meeting any deficiency in the Scheme'*. Would the Minister inform members –
 - (a) whether the scheme is now 'stand-alone' and, if so, that the States will not meet the cost of any future deficits?
 - (b) whether PECRS members have been made aware of the possibility of any future dramatic cut in benefits resulting from large deficits to the scheme caused through inflation and poor investment returns?
 - (c) of the past service liability, under FRS17, at the time the States agreed the Public Employees (Retirement) (Additional Contributions – Amendments) (Jersey) Regulations 200- (P.190/2005) on 27th September 2005, which confirmed responsibility for that liability arising from the restructuring of the PECRS arrangements with effect from 1st January 1988?

Answers

1. The actuarial valuation as at 31st December 2004, published in March 2006, values the deficit at £17,400,000.

The total deficit as at 31st December 2005, and calculated in accordance with FRS17, is £158,441,000. The equivalent value as at 31st December 2004, is £213,095,000. Neither of these figures includes pre-1987 debt.

There are two main reasons for the difference between the actuarial calculation and the total deficit calculation. Of these, the more significant is the fact that the two sets of figures are evaluated using different actuarial assumptions. In particular, the valuation position is evaluated using an assumed future rate of return on assets which is set having regard to the asset classes in which the PECRS is invested. In contrast, the total deficit figure is derived from figures produced in accordance with accounting standard FRS17. This accounting standard requires the assumed rate of return to be derived from the corporate bond market, despite the fact that the PECRS invests predominantly in other asset classes such as equities.

Because the returns available on corporate bonds are generally lower than might be assumed on equities, future investment returns are assumed to be lower for the total deficit calculation. The conclusion, therefore, is that a higher level of assets is required to meet the liabilities, and hence the deficiency is shown to be higher than under the valuation calculation.

The second key reason for the difference is that the two calculations are actually comparing different things. The valuation calculation looks at the expected cost of all of the benefit promises made by the Fund, for both service prior to the measurement date and also for service after the measurement date, including the future service for new entrants to the Scheme. This is compared with all assets, including the pre 1987 debt, as well as the expected level of future contributions. The difference between the two amounts gives the valuation surplus or deficiency.

In contrast, the total deficit calculation is a more simple comparison of the expected cost of all promises made in respect of service before the measurement date against the value of all assets, including the pre 1987 debt. This calculation, therefore, excludes the expected costs of promises in respect of service after the measurement date, and expected future contributions.

It should be noted that the total deficit calculation is slightly inconsistent in that the value of the pre 1987 debt taken into account is as certified by the Actuary, rather than calculated using the same assumptions required for accounting purposes. As referred to in the answer to part 2(c) below, the assumptions used to evaluate the debt for certification purposes do not necessarily match those used for accounting purposes. The value of the debt based on the assumptions used for accounting purposes is not readily available. This inconsistency does not alter the central issues discussed above.

- 2(a) The Scheme is “stand alone” and not a conventional final salary scheme. The employers are not responsible for meeting any deficiency in the Scheme other than the pre-1987 debt. Accordingly, the States has no obligation to meet the cost of any deficits in PECRS, which is why it has not recognised a liability in accounts in accordance with FRS17.
- (b) An extensive consultation exercise, including a thorough explanation of the revised benefits and associated transference of risk of moving to the new scheme, was undertaken when existing members were given the choice as to whether they wished to remain under the 1967 Regulations or transfer into the new scheme.

Information provided to both new and existing members of the current scheme includes the following statement on Pension Increases:

“Pensions in payment and deferred pension are reviewed each January with the aim of providing increases in line with the rise in the Jersey Cost of Living Index. Proportionate increases are awarded for pensions which came into payment and for deferred pensions which came into existence part way through the previous year.

Increases in line with rises in the Jersey Cost of Living Index cannot, however, be guaranteed and are subject to the financial condition of the Scheme remaining satisfactory.”

The following information is provided regarding the financial condition of the scheme:

“If, at a future valuation of the Scheme, the Actuary advises that its financial condition is no longer satisfactory, proposals agreed by the Committee of Management may be submitted to the States for members contributions and/or employer’s contributions to be increased and/or member’s benefits to be reduced which may affect pension increases.”

- (c) Calculations in accordance with accounting standard FRS17 bear no relation to the pre-1987 debt calculation. The methodology for calculating the pre-1987 liability was explained by the Minister in answer to a question by Senator B.E. Shenton on 6th June 2006, (part (d)). As it is calculated on a future revenue stream based on 2% of payroll increased by the value of future pay awards, the capital value will fluctuate.

As also stated in answer to the same question (part (a)) on the 6th June 2006, the calculation of the value of the pre-1987 debt at 31st December 2005, was £123,152,000. No equivalent valuation has been calculated as at 27th September 2005, but it is assumed that the figure would have been broadly similar.

It would appear from the questions tabled today, and on 6th June 2006, that because of the undoubted complexity of this issue there may be some misunderstandings that are, perhaps, the source of unnecessary anxiety. It might have been simpler for the Senator to contact me or Treasury officers and to express his concerns, which could then have been dealt with. I remain happy to offer the Senator, or other interested members, the chance to meet and to discuss these complex PECRS issues, in order to assist their understanding and address their queries.

1.2 WRITTEN QUESTION TO THE CHIEF MINISTER BY DEPUTY P.V.F. LE CLAIRE OF ST. HELIER REGARDING FINANCIAL RETURNS FROM THE WATERFRONT

Question

On 3rd February 2004, I put, in part, the following question to the then President of the Policy and Resources Committee –

- (a) *In agreeing the lease to CTP (Jersey) Ltd for the land on which the Waterfront Leisure Complex has been constructed the States agreed a formula for financial returns. Would the President inform members of the sums of money per annum received to date, and give a breakdown of this sum, to indicate how the Waterfront development has delivered financially to the States of Jersey?*
- (b) *Would the President advise members –*
- (i) *of the projections for income, if any, for the future and would he indicate how these will be delivered?*

In order for members to understand the contribution and the amounts paid to date, would the Chief Minister supply members with updated information, including payments?

Answer

Yes, I am happy to supply members with updated information, including payments, and this is set out below –

- (a) As noted in my response on 3rd February 2004, the sum of £620,000 was received from CTP (Jersey) Limited in September 2001, as a cash sum, in accordance with the terms of the

proposition 'St. Helier Waterfront Leisure Complex: Terms of Lease' (P.92/1999), adopted by the States in 1999.

In addition, the States received an overage payment of £450,000 in October 2004. Overage is the residual balance from sale proceeds after deducting the cost of development and the developer's profit, and it represents the value of the land in addition to the payment of £620,000 already received.

As well as these two payments, CTP Limited has been making monthly payments to the States since July 2003. This payment is being made in accordance with the terms set out in the report accompanying P.92/1999, and is intended to cover the estimated trading deficit for the complex (£93,000 per annum in 2004). These funds have been forwarded on to the company responsible for the management of the complex, namely SERCO Leisure, in accordance with the terms of the management agreement.

The initial monthly payments were calculated at £7,750 per month, plus £3,000 for the part month of July 2003. This monthly figure has been increased annually by reference to the increase in the Jersey Retail Price Index, and it will continue for a period of 20 years from the commencement date of July 2003.

The amounts received to date from these monthly payments are as follows: -

July 2003: £3,000 (initial payment for part of the month)

August 2003–June 2004: £85,250 (11 monthly payments of £7,750)

July 2004–June 2005: £95,796 (12 monthly payments of £7,983)

July 2005–June 2006: £98,664 (12 monthly payments of £8,222)

Total monthly payments July 2003–June 2006: £282,710

The total sum therefore received from CTP Limited since July 2003, including monthly payments, is £1,352,710.

- (b) The actual revenue from the public in 2005 was £1,050,000 and this figure is projected to be maintained or increased in future years. The financial projections for the operation of the leisure pool, in terms of how losses or surpluses would be dealt with, were spelt out very clearly in P.92/1999. At the end of each year the amount to be paid or received by the States is determined according to an agreed formula. On current projections, it is envisaged that a subsidy will be paid to SERCO Limited that will be in the region of £190,000 for 2006, and for the foreseeable future it is likely that a subsidy will continue to be paid. The subsidy reflects the fact that the leisure pool is a public facility, and it is considered important to keep entrance charges at an affordable rate. Education, Sport and Culture are working with SERCO to allow for further reductions in future years.

1.3 WRITTEN QUESTION TO THE MINISTER FOR HOUSING BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT REGARDING 'J' CATEGORY POLICY

Question

Would the Minister –

- (a) explain to members, with regard to the recent statement by Population Office regarding ‘j’ category residents, how the new ‘j’ category policy compares with the previous one with regard to safeguarding work opportunities for local people and controlling ‘j’ category staff acquiring residential qualifications over a period of time? and,
- (b) provide members with a financial comparison of the policies, including such matters as education and healthcare ramifications, together with any forecast implications on the housing market?

Answer

- (a) While there were many reasons to change the ‘j’ category contract policy, such as consistency with the Employment Law and Economic Growth Plan, greater equity and social inclusion, this change is also, and importantly, about safeguarding work opportunities for local people. In keeping with the approved migration policy, this is about more emphasis on the quality and scope of training and recruitment programmes for local residents across the business, and then linking this to the granting of consents, rather than compelling business to train a single replacement for a specific post when the consent expires.

To put it very simply and bluntly, an employer who does not recruit and train local residents across their business to a good standard will not receive ‘j’ consents.

On the question of controlling ‘j’ category staff and preventing them acquiring residential qualifications, the new policy takes the view that so long as the staff member remains essentially employed, contributing significantly to the Island, and they perform this for as long as it takes to obtain residential qualifications, then that is reasonable and equitable and promotes the kind of social inclusion and stability in the Island’s population which is desirable.

Clearly, as commented in the report ‘(j) Category Housing Consents: ‘Contract Policy – Report (R.54/2006 re-issue), “...there is a continuous movement of employees in and out of the Island in response to the economic environment generally, so the granting of unlimited ‘j’ consent at the outset does not mean that all will stay and achieve local housing status.” One could go further and state that ‘j’ employees are highly mobile, career orientated individuals, who having been prepared to come to the Island for work, are equally prepared to leave. In light of the above, this change is not expected to have any noticeable impact on the size of the residentially qualified population.

- (b) Given that the number of ‘j’ employees will not increase as a result of this change and no noticeable impact on the residential population is envisaged, the financial implications will be positive, especially on the business community, which has reacted favourably. For these reasons also, the impact on the housing market is expected to be very minimal. The extent of the positive financial impact cannot readily be calculated, nor is it assessed as proportionate to invest time and money in doing so, as such a calculation would be highly subjective given the many variables involved.

Regarding the contribution of ‘j’ category employees, they contribute and generate much more revenue per year than they take in terms of education, health care, and other public services, and will continue do so under this policy. Furthermore, this is not just about economics but also equity in the treatment of those who pay into society over long periods and inclusiveness in ensuring they are part of that society; these are things on which a figure cannot be placed.

1.4 WRITTEN QUESTION TO THE MINISTER FOR ECONOMIC DEVELOPMENT BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT REGARDING THE CONVERSION OF COASTAL FORTS INTO HOLIDAY LETS

Question

Further to oral questions on 20th June 2006, in relation to coastal forts and similar type holiday lets, would the Minister inform members –

- (a) of the confirmed total spend so far on all conversion work involved?
- (b) of the future anticipated spend, if any?
- (c) of the number of properties currently converted for holiday letting and the number planned to be so converted?
- (d) of the costs divided between essential repair and modernisation/fitting out required for habitation for both currently completed units and those planned to be let?
- (e) of the percentage of those properties on mains drains?
- (f) of the percentage of those properties that have mains water supply and, for those without, what provisions are made and what type of waste disposal is provided for sewage/household?
- (g) of the provision made for solid waste collection from offshore forts, if any? and,
- (h) of the anticipated ongoing annual maintenance costs ,if any, differentiated between fabric maintenance and that required as a result of letting?

Answer

As mentioned in the answer to Deputy J.A. Martin of St. Helier on 20th June 2006, the Tourism Development Fund has awarded two grants to the Coastal Forts and Fortifications Project. The first, for which funds have been transferred, was for £250,000, the second was for £340,000 making a total of £590,000. Detailed business plans were presented to the Tourism Development Fund Sub-Committee for both grants and the Sub-Committee was satisfied that the project met the criteria of the Scheme. Both Grants were subsequently agreed by the Economic Development Committee and the total grant was agreed by the Minister for Treasury and Resources.

The initiative is a joint project between Economic Development, Transport and Technical Services, Planning and Environment and the Jersey Heritage Trust. The Jersey Heritage Trust is the project manager.

I would be happy to arrange for the Deputy, and indeed any member, to visit the sites and be given a detailed overview of the project.

- (a) As at 31st May 2006, a little over a third of the project budget had actually been spent. Of the £298,000 which had been spent £206,000 was on building fabric, £41,000 on furnishing and £51,000 on fees. The work to date has been focused on Barge Aground and Fort Leicester, although some modest sums have been incurred in respect of other forts and towers within the programme.
- (b) The expected cost to completion is £500,000 (£798,000-£298,000).

- (c) At present two properties have been finished, namely Fort Leicester and Barge Aground. The Radio Tower, Corbière will be the next to be opened. Of the current scheme nine properties should be available for self catering.
- (d) The split between essential repair and 'modernisation' is very difficult to answer. Essentially properties that have not been used for accommodation for many years are being converted for self catering. For a smaller sum of money they could have been stabilised as ruins, or roofed to protect them but left empty. This project looked at opening them up as self catering accommodation.
- (e) Barge Aground is now on mains drains, but unsurprisingly no others are yet. It is intended that Radio Tower will be on mains drains, as will Lewis Tower, St. Ouen, La Tour Carrée (eventually), Red Tower, Archirondel, and L'Etacquerel. Seymour will not be on drains (as existing) and La Crête Fort and Fort Leicester will have tight tanks (both as existing).
- (f) Mains water is now at Barge Aground and Radio Tower. There is a bore hole at Fort Leicester (as existing), rainwater tank at La Crête Fort and L'Etacquerel (as existing). Mains water will be run to Red Tower, Archirondel, La Tour Carrée and Lewis Tower in due course.
- (g) All solid waste from offshore forts is to be brought back on shore.
- (h) Maintenance as a result of letting, namely day-to-day care and cleaning, will be covered by the lettings management budget. It needs to be assessed how much of the Transport and Technical Services' budget will be allocated to forts and towers in the future and how much revenue from the forts and towers lettings scheme will be allocated to repair and how much to bringing further buildings into the scheme, if any. This needs discussion about future arrangements between Jersey Heritage Trust, Property Holdings, Transport and Technical Services and Jersey Tourism.

1.5 WRITTEN QUESTION TO THE MINISTER FOR ECONOMIC DEVELOPMENT BY DEPUTY J.A. MARTIN OF ST. HELIER REGARDING THE CONVERSION OF COASTAL FORTS INTO HOLIDAY LETS

Question

Would the Minister provide members with –

- (a) a breakdown of the £758,660 that has been spent on forts and fortifications to convert them to letting accommodation, including details of the amounts spent on each project?
- (b) details of which premises have been turned into tourist accommodation and how many people each will accommodate?
- (c) a copy of the Business Plan, if any, that was produced before embarking on the above projects? and,
- (d) details of any future proposals to provide financial support for private sector enterprises from the Tourism Development Fund?

Answer

As mentioned in the answer to Deputy J.A. Martin of St. Helier on 20th June 2006, the Tourism Development Fund has awarded two grants to the Coastal Forts and Fortifications Project. The first, for which funds have been transferred, was for £250,000, the second was for £340,000 making a

total of £590,000. Detailed business plans were presented to the Tourism Development Fund Sub-Committee for both grants and the Sub-Committee was satisfied that the project met the criteria of the Scheme. Both grants were subsequently agreed by the former Economic Development Committee and the total grant was agreed by the Minister for Treasury and Resources.

The initiative is a joint project between Economic Development, Transport and Technical Services, Planning and Environment and the Jersey Heritage Trust. The Jersey Heritage Trust is the project manager.

I would be happy to arrange for the Deputy, indeed any member to visit the sites and be given a detailed overview of the project.

- (a) As at 31st May 2006, a little over a third of the total project budget had actually been spent. Of the £298,000 which had been spent: £206,000 was on building fabric, £41,000 on furnishing and £51,000 on fees. The work to date has been focused on Barge Aground and Fort Leicester, although some modest sums have been incurred in respect of other forts and towers within the programme.
- (b) At present two properties have been finished, Fort Leicester and Barge Aground. The Radio Tower, Corbière will be the next to be opened.

Site	Number of beds
Fort Leicester	6 to 8
Barge Aground	4 to 6
Radio Tower	6
L'Etacquerel	Open Fort

Total project beds not yet known, but probably 47, or more. However, many sleep at L'Etacquerel.

- (c) The Business Plan for the project has been sent to Deputy Martin and a copy can be made available to other members if required.
- (d) On Friday last I met with the newly constituted Tourism Development Fund Advisory Panel. We have agreed that we will hold a Forum for private sector entrepreneurs in the near future. The purpose of this forum will be to look at ideas that could or would benefit from TDF funding or indeed assistance of any other form from the States and I will then be in a position to return to the States with a proposal.

I firmly believe that we should help the private sector realise their ambitions but we must be sure that we have a suitable mechanism in place. To this end we have asked Oxera to develop a Pre and Post project evaluation model to determine and ensure value for money.

1.6 WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING NEW I.T. SYSTEMS FOR G.P.s

Question

Would the Minister inform members –

- (a) of the costs to date of the scheme intended to allow GPs to integrate with the relevant IT systems of the Health and Social Services Department? and,
- (b) when this scheme will be completed and at what cost over and above those already incurred?

Answer

- (a) A major pivot of modern and effective health care is an integrated relationship between GPs and other community health professionals and their colleagues in the secondary care sector. For care to be effective information must follow the patient; as patients present in general practice, then perhaps require an acute surgical or medical intervention, and are then returned to general practice for ongoing care and treatment. The passage of information must be ICT based; and one patient record (transcending primary and secondary care interventions) must exist (rather than having multifarious pieces of paper scattered over the organisation which are then in danger of being lost, or being forgotten, or not being retrievable in time to be useful for clinical decision making). In Jersey, both GPs and consultants have rightly demanded state of the art ICT systems and, indeed, have made it clear that their ability to expand the health system's capacity and capability to manage the Island's increasing morbidity is dependent upon such ICT systems.

The Department of Health and Social Services has been working with representatives of GPs and consultants, representatives of the Social Security Department, and other important stakeholders such as Family Nursing and Home Care to devise an all-embracing 'specification' of service. This specification describes to prospective suppliers the nature of the ICT system which we are seeking to procure. This most certainly will include an ability to transfer timely information between GPs and health and social care practitioners of the Health and Social Services Department, (for the important service reasons detailed above), but it will also provide additional functionalities. These include record storage, the replacement of the Department's ageing and virtually redundant hardware, order comms and result reporting (the internal and external transmission of such matters as pathology and radiology results), and archiving, retrieval and storage facilities of such data as X-Ray, MRI and CT results.

The specification of service includes all of these important functionalities. In due course, this specification will be submitted to prospective providers who, through a competitive process, will have to demonstrate how they would provide such a comprehensive range of services. This is the modern way of procuring ICT systems, relying upon the ability of the procurer to exploit the experience and track record of established suppliers in coming up with innovative and workable solutions. For this reason it is not possible to separate out the cost of integrating GP and HSSD ICT systems from the rest of the functionality. To labour the point, the functionality is an integrated single product.

In this context, £85,000 has been spent in facilitating a number of workshops with the above mentioned stakeholders, researching the latest generation of systems, and what they can deliver, and writing the specification of service.

- (b) As the above makes plain, the procurement of such a comprehensive ICT system is at an early stage. There is something of a race against time underway. The current systems in the Health and Social Services Department, developed over the past 25 years, are at risk because the current provider and servicing agent for this dilapidated equipment has been 'eased' out of the health ICT market in the UK. Commitments have been secured by which this current supplier will provide technical support until 2008, but it is impossible to secure any further support commitment.

This state of affairs post 2008 is deemed to be high risk and the Council of Ministers has agreed that this is a risk which cannot be afforded. Hence, capital funding has been received for this scheme of between £12.5 and £15 million; the eventual figure being determined through competition as referred to in (a) above. The full scheme will take some three years to introduce and officers and technicians are now working with doctors and other health care professionals to determine how best we can sequence the implementation in such a way that we can guard against the risk post 2008.

1.7 WRITTEN QUESTION TO THE MINISTER FOR ECONOMIC DEVELOPMENT BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING INCENTIVE PAYMENTS AT JERSEY POST

Question

Would the Minister inform members –

- (a) of the additional payments paid to senior management at Jersey Post, such as bonuses and performance payments, over each of the last 5 years?
- (b) of the percentage that these payments form of additional payments throughout Jersey Post over each of these years? and,
- (c) of the percentage that these payments form of the management salary costs over each of the last 5 years?

Answer

- (a) Total additional payments made to senior management (6 posts) at Jersey Post can be broken down as follows:

Year	Total Bonus Payment	Bonus range as % of gross salary of individuals
2001	£26,084	8-10%
2002	£33,454	6-8%
2003	£82,015	10-22%
2004	£113,625	17-26%
2005	£88,627	9-18%

2004 was an exceptional year for performance against profit targets. The Directors remuneration is set by a Remuneration Committee advised by independent market specialists, in line with corporate governance best practice.

- (b) The above payments as a percentage of the total additional payments made to all employees can be represented as follows:

Year	Senior Management additional payments as a % of total

2001	*see note 1
2002	9%
2003	18%
2004	20%
2005	16%

(c)

Year	Senior Management additional payments as a % of total management salary costs
2001	* see note 1
2002	1%
2003	3%
2004	3%
2005	2%

* note 1: Pre-2002, Jersey Post was on the States of Jersey payroll system and the detailed information required for 2001 is not readily available.

1.8 WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING THE 'ZERO/TEN' DESIGN PROPOSALS

Question

Notwithstanding his written answer to my question on 20th June 2006, following the end of the consultation period and finalisation of the 'Zero/Ten Design Proposal', will the Minister undertake to provide a detailed breakdown of which sectors of the financial services industry will be subject to a 10% tax rate and which to 0%, along with estimates of the revenue to be raised by each and the overall revenue to be raised, and will he do so in a timescale which will allow proper examination of the figures prior to any debate of the proposals in the Assembly?

Answer

The sectors of the financial services sector that it is proposed will be subject to the 10% rate have already been outlined in my written answer on 20th June 2006. I can also confirm that those sectors liable at the 10% rate will be detailed in the draft tax legislation on the 0/10 proposals which will be ready for consultation within, it is anticipated, the next 8 weeks. Any sectors not so detailed in the legislation as liable to the 10% rate will be liable at the 0% rate.

I have already given information on the revenue to be raised in my written answer on 20th June 2006. I do not propose to add to States expenditure by incurring the very considerable cost in time and resources that would be necessary to provide the detailed information the Deputy is seeking at

what is an extraordinarily busy time for the Comptroller of Income Tax and his staff, who are already under considerable additional pressure caused by currently shouldering the burden of the normal administration of the Income Tax (Jersey) Law and serving some 95,000 taxpayers, together with the final and full implementation of ITIS, the submission of details under the European Union Savings Directive Bilateral Agreements with 25 EU countries, and the provisional law drafting for the 20% means 20% and the 0/10 corporate tax reforms proposals. There is also time being spent by the Comptroller and his staff, of course, on the proposed Goods and Services Tax.

These approximate figures, which I have already given the Deputy, are quite sufficient to make a reasonable assumption of the likely revenue yield from these sectors in an ever-changing marketplace.

1.9 WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING EXEMPTIONS FOR SHAREHOLDERS UNDER THE 'ZERO/TEN' DESIGN PROPOSALS

Question

In his written answer to my question of 6th June 2006, regarding exemptions on shareholdings, the Minister stated that *'to subject shareholders with a less than 1% shareholding in public companies to the deemed distribution charge and the deferred distribution charge would be legally indefensible'* Will the Minister explain to members why the application of such measures would be legally defensible in the case of shareholders with a 2% shareholding?

Answer

The full text of my previous answer stated that *"...to subject shareholders with a less than 1% shareholding in public companies to the deemed distribution charge would be both administratively onerous as well as being practically and legally indefensible"*.

It has never been my intention to imply or suggest that only assessing an individual with a shareholding above 1% in a publicly quoted company to the deemed distribution charge and the deferred distribution charge was legally defensible.

It is simply that a 'de minimis' percentage has to be chosen to prevent the illogical situation of the Comptroller of Income Tax being forced to assess to tax a minority shareholder in a public company on an infinitesimal proportion of the 'deemed distributable profits' of a publicly quoted company, such as Marks and Spencer, BP or CI Traders, when the shareholder in question has no control of any kind whatsoever over such companies, rather than being assessed to tax, as currently, on the dividends received from these public companies.

No doubt the Deputy will recall that my original proposals relating to this issue set the proposed de minimis limit at between 2% - 5%. It will be a matter for the States Assembly at which level that de minimis percentage should be set to prevent this illogical situation.

2. Oral Questions.

2.1 Deputy G.P. Southern of St. Helier of the Minister for Treasury and Resources regarding the EU Savings Tax Directive:

What calculations and assumptions underlie the Minister's recent statement that the total of £13 million raised by the application of the EU STD (Savings Tax Directive) is broadly in line with expectations? In particular, what figures were used for the total sums held by UK and EU

depositors, and the interest that should have been paid on these sums during the relevant period, 1st July to 31st December 2005?

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

The total of retention tax that it was thought would be lucky to be raised was determined by informal discussions with, and comments made by, those in the financial services industry, and were not based on any formal and detailed calculations. As I told the Deputy in an answer on 20th June there was no indication at all of what the likely yield would be with the provisional £10 million estimates having been made some time ago on the basis of verbal opinion to some members of leading financial institutions. It would have been virtually impossible to have tried to identify every single individual from an EU Member State with deposits in Jersey, and then try to determine whether or not that individual was going to opt for exchange of information or suffer retention tax just to try to reach a calculated figure for retention tax. Any such tax revenue was likely to decline over time and given the above circumstances there is no reason whatsoever why such an exercise should have been carried out.

2.1.2 Deputy G.P. Southern:

Does the Minister not accept that in the period in question there was some £65 million held on deposit by UK and EU based depositors in the Island on which a more reasonable sum to expect in withholding tax should have been something of the order of £107 million?

Senator T.A. Le Sueur:

I accept that a figure of £65 million on deposit is a reasonable figure. Those deposits are made up of deposits by companies, by trusts, and by individuals. Some of those individuals will have been domiciled and not resident. Others would be resident and not domiciled. The same directive only affects a minority of depositors. That is why the amount of revenue is far less than the Deputy's question might suggest.

2.1.3 Deputy G.P. Southern:

Does the Minister similarly accept that the figures suggest that only 12 per cent of monies held in deposit in Jersey are subject to EU STD (Savings Tax Directive), or that substantial tax avoidance, to put it at its best, is taking place?

Senator T.A. Le Sueur:

I agree that of the money on deposits in Jersey only about 12 per cent is subject to the same directive for the reasons I have just given. That is not tax avoidance. That is just complying with the European Savings Directive.

2.1.4 Deputy G.P. Southern:

Is the Minister satisfied that the figure he produces of some 30 per cent complying with the EU Savings Tax Directive is an adequate figure for the reputation of this Island?

Senator T.A. Le Sueur:

No, Sir, I do not see where the Deputy gets his figure of 30 per cent complying. The Island is complying with a directive and all those people who have not opted for disclosure are liable for retention tax, and that tax has been collected, and has been paid over to the relevant authorities in something like 20 different countries.

2.2 Deputy G.P. Southern of the Minister for Economic Development regarding the draft Trusts (Amendment No. 4) (Jersey) Law 200-:

Would the Minister provide Members with details of the public consultation that took place in advance of the draft Trust (Amendment No. 4) (Jersey) Law 200-, being debated and adopted by the States on 25th April 2006? In particular whether any responses expressed concerns over powers reserved by settlers as provided for under Article 9(a), and if so, what these concerns were?

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

A full public consultation took place in relation to the draft Trusts (Amendment No. 4) (Jersey) Law 200-. The consultation paper was issued on 18th November 2004, published on the EDD (Economic Development Department) web site, and was open for a period of 3 months, closing on 18th February 2005. The amendment was also lodged 6 weeks prior to debate before the States. To my knowledge no concerns were raised during that time or during the States' debate on the draft law.

2.2.1 Deputy G.P. Southern:

Does the Minister accept that the powers reserved in Article 9(a) allow the settlor of a Trust to reserve to him or herself the grant of a beneficial interest in the trust property, thereby rendering the trust effectively what is called a "sham" trust?

The Connétable of St. Lawrence:

Could I ask the Deputy to define what he means by a "sham" trust?

Deputy G.P. Southern:

Yes, one whereby you have the appearance of giving away your property to a trust, whereas in fact you retain an interest in that particular property.

The Connétable of St. Lawrence:

No, I do not accept that. The law as adopted by the States allows a settlor to retain some reserved powers to him, or herself. A "sham" trust only occurs if a settler does not actually settle assets and continues to control those assets him or herself. That is not the case with reserve powers which are restricted in the way specified in the trust deed. So, there is no problem on that. It is a specialist area, and of course it is important that the trust deed is drawn up properly by lawyers who are specialised in this area.

2.2.2 Deputy G.P. Southern:

Furthermore, does the Minister accept that the powers reserved in 9(a) allow, and I quote: "To the trustees; to give directions to the trustee in connection with the purchase, retention, or sale of trust property? To give directions for the trustee for the distribution of trust property, and to restrict the exercise by the trustee of some of its powers of discretions" effectively, rendering the trustee a nominal trustee.

The Connétable of St. Lawrence:

No. A trustee, a proper trustee, is never a nominal trustee. No matter what powers are reserved in the trust deed the trustee has still to act fully in relation to the trust law and his or her duty as a trustee.

2.3 Deputy R.G. Le Hérissier of St. Saviour of the Minister for Planning and the Environment regarding regulations on energy efficiency:

Would the Minister state whether comprehensive regulations embracing energy efficiency in construction will be introduced and if so when?

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

It is recognised that with climate change fears and rising energy costs that my department has an important part to play to ensure that buildings being constructed today are as energy efficient as is reasonably possible, and I am pleased to say the building by-laws which set standards for the construction of buildings already impose a number of requirements to achieve this. Those requirements are indeed comprehensive, and include ensuring a high standard of insulation to the external fabric of buildings which are newly constructed or extended; setting insulation standards for windows which are replaced in existing buildings; setting standards for airtightness to reduce heat loss by air leakage; requirements for commissioning and testing of space heating, and hot water systems, to ensure they operate efficiently; requirements for operating and maintaining manuals to be provided for building owners and occupiers to help them use their services more efficiently; imposing requirements to ensure that energy efficiency lighting is provided in buildings; setting standards to avoid solar overheating, as well as performance standards for air conditioning and mechanical ventilation in non-domestic buildings; setting energy efficiency standards for replacing heating boilers in dwellings. I am already looking at the merits of geo-thermal heating systems. As you are aware I have responsibility for bringing forward an energy policy for Jersey. I anticipate that energy use in buildings will form an important part of that and will make further improvements to by-laws to reflect this. The department will be issuing a consultation paper on proposals to extend the current by-law requirements to further improve energy efficiency in buildings in 2007.

2.3.1 Deputy R.G. Le Hérissier:

Would the Minister identify whether he feels the take-up, for example, of solar panels has been as much as was anticipated?

Senator F.E. Cohen:

I am happy to report that, in general, of buildings that are constructed presently are some 18 per cent more energy efficient than those that were constructed 2 years ago. As far as solar panels and more widely other energy efficiency measures are concerned, clearly there needs to be a great deal more done in this area. This will form a main part of a programme that I am proposing to launch later in the year, at the moment entitled The Environmental Citizenship Programme. This will be designed to harness Islanders' undoubted enthusiasm to embrace environmentally beneficial practices, and to put in place measures to encourage them to embrace these technologies, including solar panels. So, I hope for a significant improvement next year.

2.3.2 Deputy G.P. Southern:

Will the package of measures the Minister outlines extend to the provision of grants to render current housing more thermally efficient?

Senator F.E. Cohen:

This is something I am actively looking at. We need most certainly to provide financial inducements to enable people to improve the insulation levels in their homes, and to embrace more energy efficient measures, and I will be looking at it as part of a comprehensive package.

2.3.3 Deputy R.G. Le Hérisier:

Is the Minister suitably assured that all public housing is built to the highest energy standards possible, and thereby minimising the wasteful use of energy?

Senator F.E. Cohen:

No, I am not satisfied that all housing is built to the highest standards possible, but I am satisfied that the standards imposed at the moment represent a reasonable balance. However, there is room for improvement and improvement will be made as a result of the package that I have previously outlined to be brought forward next year.

2.4 Deputy S. Pitman of St. Helier of the Minister for Education, Sport and Culture regarding the Prince's Trust:

Would the Minister inform Members in connection with the recent decision to work with the Prince's Trust Scheme how many weeks over the course of a year the projects will run, and how many young people are estimated to take part in the Trust's programme annually?

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

It is always a pleasure to answer questions on the Youth Service. As delivery partner for the Prince's Trust, the Youth Service is supporting 3 programmes. The first programme is the Team Programme, which is aimed at 16-25 year-olds. This is a 12-week development programme through which young people work in a team of up to 15. One such programme has already been successfully completed, and there are plans for 2 further programmes each year, resulting in the involvement of around 30 people. With reference to the second programme, planning has commenced with 3 of our 4 11-16 schools to introduce Excel. This is a programme which is aimed at key stage 4 pupils who may have become disengaged. These programmes operate for around 3 hours each week, and at each school up to 24 pupils will be involved. Discussions regarding the third programme, Sound Live, are at a very early stage and at this time the numbers of young people to be involved is not known.

2.4.1 Deputy S. Pitman:

Could the Minister inform the Assembly how much the implementation of the Prince's Trust will cost? How much these programmes will cost? Also will a full or part-time worker be employed to carry out these 36 weeks of the year?

Senator M.E. Vibert:

Perhaps I can say that not the overall costs, but the costs to Education as a partner in this is for ourselves a sum estimated to be of the value of £42,000 a year, but this will be provided as in-kind contribution from the Youth Service and other parts of the Education, Sport and Culture Department. This will cover management support, the use of existing resources, including accommodation, mini-buses, equipment, etc. We are working as part of a team, and details of how this is going to be delivered in detail are still being worked on. I will try to get information about

how it is going to be delivered in detail to the Deputy when this has been finalised with the other delivery partners.

2.4.2 Deputy R.G. Le Hérissier:

Could the Minister tell us, notwithstanding the excellent work performed by the Prince's Trust, but more typically performed in encouraging entrepreneurs in inner-city areas, to what extent and where he sees new programme additions coming from the presence of the Trust?

Senator M.E. Vibert:

I did not understand the question terribly well. What I can say is that we have embraced the concept of the Prince's Trust, along with other delivery partners, and the first programme that the Trust has delivered has proved exceptionally successful and well received. Following on from that we have had a number of self-referrals, and referrals from the Probation Office and so on, for the second programme which is aimed at engaging and developing people who have previously fallen through the net, so to speak, and are having difficulty getting employment and being fully involved in our society. I think that this is a very welcome development and one that should be applauded by all Members of this House, and the public in general, because it is a programme designed to reach young people which we previously had great trouble reaching.

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

I think the Minister has in fact just answered the brunt of my question, but perhaps he could advise the House how those young people who have fallen through the net will be reached?

Senator M.E. Vibert:

Yes, those young people as I mentioned, we have had 30 enquiries about the programme, with referrals coming from Probation, Social Service, youth workers based in the different communities, and young people referring themselves. I think this has highlighted the demand for such programmes, and I would like to thank the media for the publicity they gave to the initial programme which has really encouraged others to be aware of it and become involved. It is leading to the success of meeting this gap in our provision.

2.4.4 Deputy D.W. Mezbourian:

I would suggest that not all young people read the *Jersey Evening Post* or listen to local radio stations. Is there any scheme in place whereby perhaps this scheme is made available to the young people who register at Social Security?

Senator M.E. Vibert:

It already is, and we try to make it available through every outlet we can where such young people will be able to access it.

2.4.5 Deputy S. Pitman:

Sir, I do not believe the Minister answered my question regarding a worker. Will he be employing a youth worker, and how much will this cost, and will it be for the 36 weeks?

Senator M.E. Vibert:

I said we were part of a delivery partnership and we are in discussions with our other partners over exactly how we are going to develop the Prince's Trust in future. We have set aside some funding which will be referred to later, and we hope that we can go about ensuring that the programme is delivered in the best possible way. As I said, I will give details to the Deputy and if the States wish those details to be given in this House, and another question is asked, I am quite prepared to do so. We are developing these programmes. We are trying to set them up for the coming year. It is a very new and young programme and we are looking forward to it being a very successful programme, and we will do whatever we need to in the terms of staffing it to ensure its success.

2.4.6 Deputy R.G. Le Hérissier:

Would the Minister not acknowledge, again notwithstanding the excellent work of the Trust, it seems very strange that he should now be aware of the hard to reach young people. Would he not acknowledge that this is an integral part of Youth Service work and Youth Services are moving more and more, as they have to, in this direction? Also has this realisation just dawned upon him recently, or has he ensured that the Youth Service is constantly dealing with this group?

Senator M.E. Vibert:

What a depressing question. The Youth Service has been dealing with this group. We have been aiming to them. We have had detached Youth Worker Projects. What we are trying to do is improve the offering we can give to these groups and to all groups all the time. This programme has proved particularly successful in the UK. We have seen its success and we have had an opportunity to introduce it into Jersey. We have done so to improve the offer. That is not to say we were not doing what we could before, and always seeking to improve the offer to these young people.

2.4.7 Deputy G.P. Southern:

I will put it as simply as I can. Is the Minister intending to add to the staffing quota? Is he going to employ another youth worker in order to deliver this particular scheme?

Senator M.E. Vibert:

I do not know how many times I can say the same answer. We are working with our delivery partners to ensure that we deliver this scheme in the best and most effective way possible.

Deputy G.P. Southern:

Is that a "yes" or "no"?

2.5 Deputy A. Breckon of St. Saviour of the Minister for Housing regarding 'j' category housing consents:

With regard to the Minister's recent statement what are the total numbers of time - and non-time limited J category consents, and how many granted in 2005 involved public and private sectors and by employment category? What percentage is envisaged for the significant proportion of J categories that will be without time limit and which Articles of the Employment Law are inconsistent with time limited J categories and Y?

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

Approximately 1200 J category employees were recorded in the 31st December 2005 manpower survey; of these 10 per cent were not time limited. In the future it is expected this will increase to about 60 per cent. In 2005, 271 J consents were processed. In addition to this consents are

processed on a delegated basis by Health and Education, and they granted 31 permanent J consents for medical professionals and 17 for teachers in 2005. The public sector accounts for 38 per cent of J consents. Of the private sector Js processed in 2005, 27 per cent were in the legal and financial sector, 18 per cent in banking, 13 per cent in services and transport, 12 per cent were accountants, and the remainder in a variety of areas. The policy content of the contract policy was not considered consistent with that of the Employment Law. Under Article 62(1)(b) of the Employment Law the non-renewal of a contract, including a J contract, is a dismissal. This dismissal may or may not be fair, but it was considered that dismissing on housing grounds was not something that should be supported within Housing Policy. Further, it was considered that such a position would be confusing for employees and employers. Given that the change will not create any more J consents in total, it was considered appropriate to remove this inconsistency.

2.5.1 Deputy G.P. Southern:

Based on last year's figures if he does increase the ratio of non-time limited J consents in a like manner to last year that will according to my calculations produce an additional almost 400 people given a permanent '(j) category', or associated with permanent (j) category, thereby increasing population.

Senator T.J. Le Main:

It will not increase population one bit. All these people, these time limited people, are living in J category properties. It will not increase, apart from the slight increase that this House has agreed on the increase in the working population of 1 per cent. All these people are now currently living in J category accommodation, and it will just cover those.

2.5.2 Deputy A. Breckon:

The Minister has also given a written reply to a question from Deputy Baudains of St. Clement today on the same subject. In there the Minister has said: "Furthermore this is not just about economics, but also equity, treatment of those who pay into society over long periods and inclusiveness in ensuring that they are part of that society that these are the things on which the figures cannot be placed." I would like flowing from that to ask the Minister how this is consistent with those residents who might have lived here for 6 to 12 years.

The Bailiff:

Pause a moment, please. I would implore any Member with a mobile telephone in his pocket, or her pocket, to turn it off. Perhaps you would be good enough to start the supplementary question again.

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

I am sorry, it was me, and I did turn the beast off. I do not know how it has managed to let me down, but it has. I do apologise.

The Bailiff:

In other places, Chief Minister, these implements are confiscated and only returned on payment of a fine [Laughter].

Deputy A. Breckon:

I was referring to a written answer that was given to Deputy Baudains of St. Clement today and it said: "Furthermore, this is not just about economics but also equity in the treatment of those who

pay into society over long periods and inclusiveness in ensuring that they are part of that society, these other things on which a figure cannot be placed.” My question flowed from that, which is, how is this statement consistent with long-term residents of 6 to 12 years who are not J category?

Senator T.J. Le Main:

The issue is that this Island has an international reputation, worldwide, of stability, of “know your client” and a very high standard of regulations that we impose on our finance industry to make sure that the kind of business is the kind of business that everybody wants to deal with. It is quite clear, That there has been, over a period of the last 3 or 4 years, great difficulty with the businesses, including the public sector, nursing and education, in being able to find highly qualified staff for their operations. It is quite clear, that the turnover of staff that has been going on for years and years (a 5-year J would have to be replaced after that person had built up a reputation to, in fact, “know your client” on a worldwide basis) is not conducive to good business to the Island. What we are saying is that the J category licences that we are talking about are those of our existing, always-will-be-Js in this Island, the people we need to run our highly professional business activity. There will not be another J apart from the increase that this Assembly has given by increasing the working population by 1 per cent. It is making it far more equitable.

2.5.3 Deputy A. Breckon:

My question, which the Minister has not answered, was about equity because it was referring to equity in the treatment of J categories with other residents. My question referred to how was this consistent in housing terms with other long-term residents who were not J category.

Senator T.J. Le Main:

The issue is, Sir, that these people will not get their housing qualifications until they have done a 10-year period, as previously before. It has been equitable for a number of years, so if people are highly professional and needed to come to the Island, then of course they are needed for this Island and, as I say, they will have to do 10 years before they get qualifications in their own name.

2.5.4 Deputy G.P. Southern:

The Minister says that this will not result in an increasing population. Does he not accept that a time-limited 5-year J category goes, usually, after 5 years and that a non-time-limited J category is likely to stay, thereby increasing the population?

Senator T.J. Le Main:

I do not think the Deputy understands what I am saying. There are so many ‘(j)s’ on this Island. Turned on a 5-yearly, 3-yearly, 7-yearly basis of those extensions and is not conducive to good business. It is not fair to employers; it is not fair to employees. It will not, on the evidence before us in the Housing Department, the Population Office, bring extra people into the Island. It means there will be less turnover of staff that are required to run this Island.

2.5.5 Deputy F.J. Hill of St. John:

Would the Minister not accept the fact the whole purpose of ‘(j) category’ was initially to train local people to do the job? How can it be conducive to give someone a permanent (j) if they will not be training someone to take their place because those people are there all the time?

Senator T.J. Le Main:

The new policy will insist far more on what has happened in the past on training local people, and the issue is that a greater emphasis will take place. I mean, we are very pleased to see now that Health, for instance, are back in the role of training nurses in Jersey now. We believe that far more emphasis should be placed on employers to train local people to take up some of these positions.

2.6 Deputy S.S.P.A. Power of St. Brelade of the Minister for Health and Social Services regarding respite and long-term care at Overdale:

Given the acknowledged excellent standard of service and care provided by the staff at Overdale Hospital and the general interest of the public in this facility, would the Minister undertake to review plans for the closure and break-up of Overdale and explore the option of retaining it or expanding it so that it continues to offer States-controlled respite and long-term care?

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

The Deputy is correct to refer to the high standards of care provided by the staff, but I must correct the Deputy in his incorrect assertion that Overdale is being broken up and closed. The site contains and will continue to contain numerous services including the recently opened, state-of-the-art Westmount Rehabilitation Centre. It also contains the Meals on Wheels food collection and delivery service, primarily for the elderly, the Poplars centre which provides assessment and day care for up to 45 older people suffering from a mental disorder and includes the outpatients' centre for the consultant psychogeriatrician memory clinic, Community Psychiatric Team. These are all services for elderly people. It also includes the William Knott Centre which deals with speech and language therapy (that provides services for all age groups), the Neurocare Team that serves all age groups. Community-based social work and occupational therapy staff are also located here. The Hearing Resource Centre, the Child Development Centre, the Psychology Department as an outpatients' centre (all age groups including the elderly), Community Alarm Service and Wheelchair Repair and Maintenance Centre, storage, resources equipment for the Pathology Laboratory, Pharmacy emergency equipment. This list is not exhaustive. All of these services will continue functioning as normal on the Overdale site after the closure of the Leoville and McKinstry Wards. In terms of future options, may I point to the Draft Strategic Plan, references 215, page 21 that states that Health and Social Services Department will, by 2008, develop a concordat between the private, the voluntary and charitable and public sector as a means of building capacity for the care of older people who require residential accommodation.

2.6.1 Deputy S. Power:

My question was related to long-term care and respite care, and I was going to ask the Minister for Health that when you have a valuable staff resource such as you do have in those 2 areas that I specifically raised in my question, is it not better to keep that resource ongoing and look at keeping some States' control in long-term care?

Senator S. Syvret:

The staff resource is certainly valuable. There will be no staff positions lost. The staff will be redeployed to other areas of Health and Social Services. The States will retain control. We, as the contracting department, will retain control over the standards of care delivered to our public sector clients. I do not agree that it is worthwhile trying to keep these 2 present buildings open. They are basically hospital ward-style environments that do not deliver the appropriate degree of privacy and high standard of living environment that people effectively in permanent care require. These people need to be living in a home-style environment as opposed to a hospital ward-style environment. Even if we were minded (and we might well be at some point in the future) to reconstruct States-

owned and run continuing care facilities, there is no provision in the States' capital programme for this at the moment. The money is simply not available.

2.6.2 Deputy R.G. Le Hérissier:

I wonder if I can ask the supplementary, notwithstanding the fact, Sir, that the Minister cannot reveal actual offers being made to private homes in terms of what is paid per individual. Could he inform the House what is the total budget that has been put aside in order to pay for provision in private homes?

Senator S. Syvret:

As I have explained before, I am not prepared to discuss the figures publicly. If the Deputy wishes to contact the department, they will give him the figures. The fact is the States, through the Health and Social Services Department, is putting these services out to tender at the moment, and we hope to get a range of competitively priced offers back to us. Once we have done that, we will consider whether they are worth taking up or not and make the appropriate decisions. It is not in the public interest to discuss these kinds of contracting arrangements and the potential value of them in the open forum while the contracts have yet to be finalised and signed.

2.7 Deputy R.G. Le Hérissier of the Chief Minister regarding funding for the Prince's Trust:

Would the Chief Minister clarify where the States' funding for the Prince's Trust will be coming from and inform Members how, if at all, this will impact on States funding for other voluntary organisations?

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

The Prince's Trust will be obtaining funds from both the public and private sectors to support his programme in Jersey. The States' element of the funding is estimated at £122,000 a year for the duration of the programme, which will run from 2006 to 2011. The States' funding for the programme will be found within existing departmental budgets and it will therefore not have any additional resource implications for the States, nor will it have any impact on States' funding for other voluntary organisations. I am pleased that the Prince's Trust will be extending its range of activities in Jersey as it has a successful track record of working with disadvantaged young people. Their work is very much in line with the core objectives of several States departments including the Education, Sport and Culture Department and the Probation Service, and it is also in line with the objectives of the States' Strategic Plan.

2.7.1 Deputy R.G. Le Hérissier:

I wonder if the Chief Minister understands that other voluntary organisations like the Citizens Advice Bureau (CAB) and Family Nursing have had to take a gradually reducing amount of money from the States because of continuous cuts. Does he not think a very inconsistent picture is being put out? Secondly, in terms of the numbers that have been dealt with, could he state (and I realise the Minister might have been better placed to answer this) how much it is costing per person in terms of that £122,000?

Senator F.H. Walker:

I cannot give the answer to that latter question; the Deputy is quite right, but either I or the Education Minister can certainly find out. I have to say I am disappointed and amazed at the

negativity involving this fantastic addition to the Island's social services [**Approbation**]. I can only assume the Deputy has not, as I have, met with the team of young people who went through the first 12-week course and seen the considerable value it added to the lives of young people with very numerous and very deep-rooted difficulties. I also assume he has not spoken to the representatives of the Youth Service who ran or were deeply involved in the running of the first course because their enthusiasm too was notable. I am astonished that this should be met with such negativity from wherever it comes. It is an extremely welcome and valuable addition to the care we offer young people who, in one form or another, are disadvantaged. We should be proud of it.

2.7.2 Deputy S. Pitman:

Well, I may be able to answer the Chief Minister's question as to why there is so much negativity. While I would not belittle the Prince's Trust, as I myself have been a beneficiary. However, despite all his rhetoric that youth must be priority, why is it that the Council can support a project costing £42,000 a year out of the Youth Service budget reaching 30 young people when a youth service has been left running year on, year out, unable to sufficiently deliver its educational programmes for thousands of young people through lack of funding for frontline staff? This is not another expensive PR stunt for the Chief and his Ministers.

Senator F.H. Walker:

That is frankly a scurrilous suggestion. I had nothing to do personally, originally, with the setting up of the Prince's Trust. We were approached by the Prince's Trust who wanted to extend their operations into Jersey. To dismiss it as a PR stunt, frankly, all the Deputy does is convey her own total lack of understanding of what the Prince's Trust can and will do for our disadvantaged young people. I have also been informed during the course of the Deputy's question that an additional £240,000 has been added to the Youth Service budget.

2.7.3 Deputy R.G. Le Hérisier:

Would the Chief Minister not accept that notwithstanding the excellent work of the Prince's Trust that there is also excellent work under enormous financial constraints done day after day by people in the CAB, Family Nursing, ACET (AIDS Care, Education and Training) and bodies such as that, and can we assume that his fulsome praise is also directed to them?

Senator F.H. Walker:

Gladly and of course. The questions I have been answering have been specifically about the Prince's Trust, but I echo the Deputy's sentiments in that respect.

2.7.4 Deputy S. Pitman:

Does the Chief Minister not recognise that the Youth Service has been consistently understaffed for years? Why is the Council not supporting this? Does he not understand that the Youth Service does try to reach hard-to-reach young people but it cannot in its current situation? I ask where this £240,000 is going? Is it going to frontline staff, because that is where it is desperately needed and has been desperately needed for years?

Senator F.H. Walker:

I think the last part of the question is better directed to the Education Minister and, indeed, it is the Education Minister who has informed me about the additional funding that has been put into the Youth Service. I wonder if the Deputy has indeed taken that into account. Even so, to seek to

suggest that the Island should not be supporting the excellent work of the Prince's Trust (that is the effect of the question) is to my mind irresponsible and fails to understand the needs of these young people and how the Prince's Trust, with its proven track record in the United Kingdom, a record of extreme success, is best situated and best capable of helping them.

2.8 Deputy A.E. Pryke of Trinity of the Minister for Health and Social Services regarding the transfer of patients from Overdale:

Further to information given to Members regarding the patients in long-term care at Overdale Hospital, would the Minister inform Members whether discussions are taking place with nursing homes or residential homes and, if so, what these have concluded, what criteria, if any, these homes will have to meet in the care they offer, and whether transferred patients and/or their families will have a choice in the home and transfer time?

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

We are in discussion with various homeowners who responded to the invitation to make an application to provide beds. Therefore, the department is in a commercially sensitive situation, so we would not wish to release information that could impact on any negotiations. Nursing and residential homes are regulated by the Nursing and Residential Homes (Jersey) Law 199-, the Nursing Homes and Mental Nursing Homes (General Provisions) (Jersey) Order 1995 and the Residential Homes (General Provisions) (Jersey) Order 1995. These set specific criteria that homes must meet for registration. Furthermore, the law permits an authorised officer of Health and Social Services the right to inspect homes to ensure that homes are complying with the law. Thus, any homes used will have to, by law, comply with the necessary high standards. Before any individual patient is placed in an independent home, they will have a comprehensive health and social care assessment to ensure the most appropriate placement. Each patient's personal and social circumstances will also be taken into account. Furthermore, I can relate that in each case we are meeting with all of the patients and their families once each patient's assessment is completed to discuss the situation. A placement will be made taking account of all of these factors and available capacity, ensuring that the patient's care needs are met.

Deputy A.E. Pryke:

The last part of the question was not answered, about transfer time.

Senator S. Syvret:

I think I did answer it. We will be negotiating with the clients and their families and, as far as is practicable, transferring people according to their wishes. There is no escaping from the fact that it simply is not possible to give everyone in Jersey who needs to go into either residential care or nursing home care an absolutely free choice of where they go and when they go there. There simply is not the capacity in the market. Were that the case, we would have most people who require such care, for example, on the waiting list waiting to go into places like the Limes or Sandybrook. So there does have to be a degree of realism about what is available in the marketplace.

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

Could the Minister let us know what the time schedule of the arrangements with the private homeowners is, given that the families of many people who are connected with those either at Leoville or McKinstry were told at a meeting some months ago that arrangements would be concluded by the end of June and there is a certain amount of disquiet among those people?

Senator S. Syvret:

Yes the Connétable is correct. There is some disquiet among some of the families because they and their loved ones who are in care do not want to continue to be living in a hospital-style ward. So there is a degree of urgency for many of the patients and their families to move into better quality care. That is undeniable. I do think we are slightly behind schedule. The Connétable is absolutely correct; we did say the very end of June. I think concluding the negotiations with differing private sector institutions is taking a little longer than we expected, but nevertheless we are endeavouring to make sure that it happens as quickly as possible.

2.8.2 Deputy R.G. Le Hérissier:

Would the Minister like to confirm that his department is in fact getting out of the business of providing residential care? While I am considering his invitation to look at the figures, I am a bit wary of looking at them in private. Could he confirm, Sir, that the figures prove that providing care privately is cheaper than providing it through States provision?

Senator S. Syvret:

No I cannot say that the figures prove that, and I have never ever made that claim; quite the contrary. I have always said that there may be a slight additional cost. We possibly expect the exercise to be about a breakeven exercise. It has never been a cost-cutting exercise. It has never been a budgetary-driven exercise. It is about improving the quality of the environment in which these people live, given the absence of available States capital funding for new States build at the present time. To answer the first part of the question, no, I will not confirm the Deputy's wholly incorrect assertion that Health and Social Services are looking at getting out of residential care. We run a number of residential care environments. Some of the more recently purpose-built ones are of the very, very highest standards and they will continue to be run by Health and Social Services.

2.8.3 Deputy D.W. Mezbourian:

I am not sure if I missed whether the Minister said that all care homes in the Island have been approached with regard to moving patients to them, and perhaps if I did miss it, perhaps you could confirm whether all care homes have been approached. If they have not, would he tell the House why they have not because by implication it would seem that perhaps they do not necessarily come up to the standards that we would expect?

Senator S. Syvret:

The Health and Social Services Department has advertised the fact that this service is required and we are inviting tenders on it. Therefore, the option to tender for providing this degree of care is open to all of the Island's care homes and all of the Island's nursing homes. It is up to them whether they wish to apply and make a bid for the contracts or not. Some have, some have not. It is entirely a commercial decision for them. In the final analysis, in any event, we will be making a decision as to which institutions we contract with, based on a range of issues including cost but perhaps even more particularly quality of care and standard of environment provided.

2.9 Senator B.E. Shenton of the Minister for Economic Development regarding the Jersey Competition Regulatory Authority:

Is the Minister completely satisfied with the performance of the Jersey Competition Regulatory Authority (JCRA) to date and, if not, what concerns does he have?

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

I am completely satisfied that the JCRA is performing effectively the statutory responsibilities which the States has entrusted to it. In telecommunications, it is paving the way for the introduction of exciting competition and advanced services in the mobile sector. Islanders are already seeing the benefits of these efforts in Telecom's recent price reductions and plans to introduce advanced mobile services. In the postal sector, it has played an invaluable role in putting in place, for the first time, the framework for the regulation of Jersey Post (JP) which started 2 days ago. In the 8 months since the competition law came into force, the JCRA has achieved a number of notable successes for Jersey consumers, for example, in the abolition of uniform fees for conveyancing, dentistry, electrical, plumbing and building services, and a lot more. There is a new culture of competition which the law and the JCRA are affecting. It is being reflected in greater competition and lower prices, for examples such as milk and petrol and others. I believe that the Island will have an increasing need for the JCRA's work. The JCRA will have a crucial role to play in the future of the harbour, the airport and ferry services to and from the Island. I am satisfied that the current JCRA board have both the necessary specialist expertise and experience as well as an understanding of Jersey's particular circumstances to target its resources most effectively.

2.9.1 The Deputy of St. Martin:

The Minister was present, as indeed were a number of other States Members, at a meeting last week when concerns were raised by a particular body. Could the Minister inform the House what mechanism is in place to deal with complaints that are made about the actions of the JCRA? Who are they accountable to?

Senator P.F.C. Ozouf:

First of all, I was at that Jersey Telecom States briefing and I heard with interest the comments of the Chairman of Jersey Telecom. It would be a strange state of affairs, I think, for a chairman of an incumbent monopoly to be entirely delighted with the work of a regulator. I think there is a tension that we must understand, and I think we must understand what particular vantage point the Jersey Telecom chairman is coming from. I was, however, a little disappointed with some of the comments he made. All of the decisions of the JCRA are appealable to the Royal Court. There is the standard human-rights-compliant appeal process that is in force. In addition, there is, I suppose, no such thing as complete independence. The JCRA, just as the Financial Services Commission (FSC), is an independent body. I meet with the chairman and the executive directors of both of those organisations on a monthly basis. I understand we have discussed budgets; we have discussed the performance of their activities. So, in some way, they are effectively accountable in a political sense, to the extent that that is possible, to the Economic Development Minister. I enjoy a very regular contact with them.

2.9.2 Senator B.E. Shenton:

I am delighted if the Minister for Economic Development is 100 per cent happy with the JCRA because they have been described as a Frankenstein's monster, a sledgehammer to crack a nut, and various other things. If he was not happy with it, is it not the case that there is nothing he could do about it because a regulatory authority that did succumb to political interference would be worthless?

Senator P.F.C. Ozouf:

That is absolutely right but, of course, the JCRA is a body funded by the States. The Minister retains certain powers of direction on corporate governance and other arrangements. Indeed, in the

hands of the Minister are also various different powers in order to, for example, exempt certain categories of business that will be exempt from certain provisions of that competition law. So, there is a relationship with the Minister. We have set up an independent authority, and I think that politicians generally should stay out of the individual decisions that the JCRA is making. There is one opportunity which I am aware that an application is being made of in respect of an exemption under public policy arrangements. That is something that the Chief Minister, because it concerns something I am conflicted in, is going to make a decision on.

2.9.3 Deputy C.F. Labey of Grouville:

Could the Minister confirm if the JCRA will be taking into account the points made in a recent lecture by a professor from the University of Israel in that monopolies will sometimes be the way forward in an Island this size as, in some cases, we do not always have the economies of scale?

Senator P.F.C. Ozouf:

I was delighted that Dr. Gal came and addressed the Chamber of Commerce meeting. I have read her book when she published it. It is one of only, I think, 2 academic works on the competition arrangements of small countries. Indeed, I think, much to the chagrin of a couple of questions at the Chamber of Commerce, she was, I think, broadly supportive of the JCRA and our support of the competition policy. Certainly, competition policy in small places is different. The competition law is not against monopolies. It is against the abuse of dominant position and the abuse of somebody who is in a position to be able to set a price without reference to a market. It is not against monopolies. Good monopolies have a special role in a place like Jersey.

2.9.4 Deputy R.G. Le Hérissier:

I wonder, Sir, apropos Jersey Telecom and similar quasi-monopolies, could the Minister inform us what kind of budgetary control there is on the kind of charges made to monopolies for JCRA services, so to speak, and which are ultimately borne by the consumer?

Senator P.F.C. Ozouf:

I think States Members heard the issue, for example, of the licence fees that are involved in Jersey Telecom. There was a frontloading of those fees. There is a lot of work being done to understand it and, indeed, I am led to understand that, for example, Jersey Telecom's fees are falling this year by the JCRA. The JCRA set their own figures and I think that is absolutely right, but the JCRA is a public body and it is accountable for the operations and we have responsibility for their corporate governance arrangements. It is not only consumers that necessarily will pay for those. It may be taken out of margins. It may be taken out of shareholders.

2.9.5 Deputy G.P. Southern:

Is the Minister aware of significant delays in the publication of the results of an investigation into GP out-of-hours charges conducted by the JCRA?

Senator P.F.C. Ozouf:

I am not aware of a significant delay. The Minister is not always aware of the investigations (rightly so, may I say) that the JCRA is undertaking. I am not aware of a delay and maybe he would wish to take that up with the JCRA directly.

3. Questions to Ministers without notice – Minister for Economic Development

3.1 Connétable D.J. Murphy of Grouville (of the Minister for Economic Development):

This is really a lead-on from the last question. The Minister said when he replied to the question that the JCRA is funded by the States. Is that correct?

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

It is indeed funded to the extent of approximately £595,000 for full budget year of 2006. That is for their work on the generic competition policy. In addition to that, they will be receiving fees from the 2 entities that they regulate directly but which are Jersey Telecom's and Jersey Post's. It is the intention to further extend their specific brief for the regulation of electricity and, I hope, in various different other monopoly areas and so they will accrue fees for that basis too.

3.2 The Connétable of Grouville:

Would you agree with me that it is incorrect to say and give the impression that it is wholly funded by the States?

Senator P.F.C. Ozouf:

I apologise if it was indeed part-funded. The JCRA is effectively 2 bodies. In other places and at bigger places, one would have a competition commission and a separate "OF-regulator" of some description. We have one organisation because it is more efficient. They are funded by the States in respect of their generic competition law. For the regulatory work, they are funded by individuals. Indeed, for mergers and for when seeking permission for mergers etc, they also receive fees for that. It is certainly part-funded and a significant amount of funding comes from the States.

The Bailiff:

I should have announced at the commencement of the question period that at the request of the Privileges and Procedures Committee, I am instituting a new practice by allowing Members who wish to ask a supplementary or follow-up question to the Ministers to do so. I hope that Members will not use that as an excuse for 2 questions, but if they wish to follow up a particular question, they will be able to do so.

3.3 Deputy R.G. Le Hérissier:

When I asked a question a couple of months ago about the scintillating topic of bollards, the Minister said that there was a review taking place on all the internal operations of the airport due to report on 30th June. Would he inform us, on the key outcomes of that review?

Senator P.F.C. Ozouf:

The review in terms of the whole airport has been a subject for discussion by myself and the Assistant Minister, and the Chief Minister has been briefed on it. Work is underway in respect of looking at the whole capital programme, the function of the airport, and that report will be made public within the next 3 to 4 months. Work is underway, but nothing has been released at the moment. It is an internal working document.

3.4 Deputy R.G. Le Hérissier:

I am afraid I find that answer unacceptable because I was given a promise there would be a report by 30th June. Would he tell us what the key outcomes were of that report?

Senator P.F.C. Ozouf:

The review is looking at the capital programme and the timing of it. We have a new airport director and I am very confident with the work that the airport director and his team is doing. I am afraid to say that I am not prepared, in public, to release something which has not been completed by the appropriate department.

3.5 Senator L. Norman:

As the Minister responsible for the development of a marine leisure industry, would the Senator give his view on the threat as he understands it of the introduction of a tax on fuel used by leisure craft?

Senator P.F.C. Ozouf:

My view is to remain united with the Council of Ministers' policy. The Council of Ministers has not discussed that. I am aware of the consultation which has been issued by the Treasurer and Resources Minister. I have received a further 2 letters from people within the industry which I will pass on to the Minister, and no doubt the Council of Ministers will discuss this. I want to understand and get a full understanding of the whole issue of marine fuel. I do understand (and I only have sketchy information but I intend to find out some more information about this) that despite the fact of an absence of a duty on marine fuel, marine fuel in Jersey is quite expensive. We seem to have a similar problem, potentially, in marine fuel that we had in other petroleum markets. That is something which I will also be sharing with the Treasury Minister so that we have a full appreciation of the whole subject of the petroleum market for marine.

3.6 Deputy G.P. Southern:

Is the Minister aware of renewed pressure from the Forum for Private Business in the UK brought on locally-owned e-commerce businesses in the Island, and what steps will he take to robustly defend the Island's reputation in e-commerce?

Senator P.F.C. Ozouf:

I believe that we have been successful in defending the reputation of the Island in some quarters on popular measures that I announced a couple of months ago. I am sure the Deputy is aware that there has been a report by the National Audit Office on the whole subject of VAT collection etc, and Jersey's position has come out extremely well. The fact is that we collect an awful lot of VAT and indeed, I believe that as a result of that, Jersey will be held up as a model of jurisdictions collecting VAT. I will continue to defend very vigorously the good Jersey business which we have encouraged and, indeed, the numbers so far this year are up.

3.7 Deputy G.P. Southern:

Does the Minister feel that his defence of the reputation of Jersey was not helped by his use of the word "sham" business in his policy?

Senator P.F.C. Ozouf:

I do understand the use of the word "sham". It was from a departmental briefing. I understand that, and I understand the consequences of using that word "sham". However, it has to be said that we were unhappy with the types of business that were being undertaken in Jersey without Regulations of Undertaking approval, and I am looking forward to his Scrutiny Panel review on the whole subject.

3.8 Deputy S. Power:

I welcome the new retail strategy that the Minister announced last week in proposing to allow a number of larger retail units on the Island at some future date. Can the Minister clarify as to why, after 4 days of discussing and debating the Strategic Plan, there was no direct reference to this in the Strategic Plan?

Senator P.F.C. Ozouf:

I am not sure that I can answer the fact that it was not in the Strategic Plan, but the fact is that the retail work has been underway for some time. The previous Economic Development Committee of the day commissioned the Experian Report. People are well aware of that. It created quite a lot of discussion and indeed there has been a great deal of work by my own department and the economic advisor in relation to the formulation of this plan which I believe strikes an appropriate balance. I believe very much in the words of the editorial of the Jersey Evening Post that this was a carefully balanced report which was designed to get the maximum benefit for consumers but without causing problems in the retail harbour town.

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

I am sorry to return to the airport. I understood that it was a separate consultant's review of the airport done by outside consultants, and it was going to be circulated to us. Does this mean that this particular report has been ditched and is not going to be circulated to Members?

Senator P.F.C. Ozouf:

Not at all. We are extremely satisfied with the work of the new airport director and indeed the external consultants which have been reviewing. There are a number of important issues which have come to light in respect of the airport which we are addressing. It is not something that is in a fit state to publish publicly. I am perfectly happy to share with Members if they request, under normal confidentiality of information with Members, and certainly the Scrutiny Panel may well want to take an issue of that. There are some important issues with the airport which we are getting to grips with, and I will share in public and with Members as soon as I am able to do so.

3.10 Deputy S.C. Ferguson:

The *Jersey Evening Post*, when it was reporting on the retail report by Experian, mentioned that airport land was possibly going to be utilised for a retail area. Has the Jersey Evening Post got this correct? Is this a correct thing, because certainly the traders up at Les Quennevais and Red Houses are really quite concerned?

Senator P.F.C. Ozouf:

I am happy to confirm that the retail study, rightly so, does not identify and has not considered any issues concerning sites. Those likely are going to be a matter for the Planning Minister to consider. Of course, we are looking at the whole of the airport estate. We have tough targets to meet in relation to landing fees etc. It is not something new but, at some point, we will be looking at commercial opportunities at the airport. However, there have been no discussions whatsoever at this stage concerning any re-emergence of a retail issue. The Deputy may remember that a number of years ago, I understand, there was some talk, but there has been no recent talk of it. I think that is pure speculation on the Jersey Evening Post side. I do not criticise them for that though.

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

With reference to the retail study, would the Minister confirm his support for both the comments by Chris Shepley in the Supplementary Planning Guidance in which he says that he does not believe the waterfront is the place to make up for lack of floor space and a supermarket would be a mistake? Also, does he confirm that he supports the Island Plan where it says that St. Helier town centre, as defined in the town map, is the most appropriate location for any new major food retailing development?

Senator P.F.C. Ozouf:

I think Mr. Shepley wrote an excellent report and I think his conclusions were extremely valid in not only that respect but in a number of respects. I would express the hope that the Constable would be extremely relieved to see the retail study. It is significantly less additional retail space than the Experian Report had recommended, and I think it is designed to achieve a continued vitality of the much-appraised retail environment of King Street and Queen Street. We want to continue for that to happen. However, there is a need to have some additional competition which is set out clearly in the report. Any new retailing of a larger scale may well be considered, but whether or not that happens in St. Helier is entirely a matter for the Planning Minister.

The Connétable of St. Helier:

I am sorry, I did ask if the Minister could confirm that he supports the Island Plan's view that the town centre is the most appropriate location for any new large food retailing outfit.

Senator P.F.C. Ozouf:

I would say that the Island Plan is under review and that those conclusions are currently enforced. They are the policy. If they change, that is going to be a matter for the Minister to bring forward for this Assembly's consideration.

3.12 Deputy A. Breckon:

I wonder if the Minister would like to comment on the recent report and recommendations about Jersey having a financial services ombudsman scheme, and would he say whether his comments are positive or negative?

Senator P.F.C. Ozouf:

Briefly, positive. The Deputy is aware that I support the need for that, and I am going to do all I can in order to achieve that. There are cost issues that need to be addressed, but he can get my absolute assurance that I will be pushing ahead with that. I welcome his comments on that.

3.13 Deputy A. Breckon:

Could I just have confirmation that that is actually what the report says?

Senator P.F.C. Ozouf

I support a financial ombudsman.

Deputy A. Breckon:

Is that what the report says? I asked if that was what the report said.

Senator P.F.C. Ozouf:

Well, the Deputy would have read the report. It sets out a number of options, but for the avoidance of doubt, I think there is a need, I support one, and I am going to make it happen.

3.14 Senator B.E. Shenton:

The Minister has said that he intends to toe the party line with regard to the fiscal strategy. Does this mean that businesses are wasting their time talking to him with any concerns that they may have?

Senator P.F.C. Ozouf:

I am not only a Minister. We have worked together with colleagues. We discuss it internally on the Council of Ministers. I was the Vice-President of the Finance and Economics Committee of the day. It would be a curious state of affairs if I did not support the retail strategy. If he is dealing with inclusive pricing, the fiscal strategy, I support the fiscal strategy, always have done, think it is great for Jersey, and confidence is building as a result of the wise decisions this Assembly took last year.

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

As car parking charges have just increased at the airports, in the current economic climate, does the Minister not agree that this is counterproductive?

Senator P.F.C. Ozouf:

I do not agree that it is counterproductive. The airport, in fact, was a little late, if anything, in introducing the same car parking charges that the previous Environment and Public Services Committee enforced last year. By the way, that has also been sent off to the JCRA for review and the JCRA did not have a problem with it either.

3.16 Deputy C.H. Egré of St. Peter:

Would the Minister confirm that cash has been set aside to pay compensation to those people who have been affected by the PFOS contamination from the airport fireground?

Senator P.F.C. Ozouf:

I am aware of recent developments in that regard which the Assistant Minister is dealing with. I cannot comment about actual money set aside, but the States' legal liability in relation to any of these things will, of course, be met. I know that there are discussions ongoing with a number of individuals at the moment.

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

The Minister in the past has made overtures to having greater co-operation with the States of Guernsey such as, for example, a single utility regulator. This and other initiatives, are they progressing? Has he made any steps further forward with such ideas?

Senator P.F.C. Ozouf:

I remain absolutely convinced that it makes sense for a single utility regulator across the Channel Islands. I would dearly hope for the competition law, as recommended by Dr. Gal, to be a competition law which is across the Channel Islands. It seems, however, that Guernsey is not quite ready to adopt the, in my view, very sensible provisions that we have within the competition law. That is a shame because it is confusing for businesses. They will be operating in one environment

in Jersey and one in Guernsey. I support it. I hope it is going to be on the agenda for the Council of Ministers meeting that we are going to be having very shortly, and I am off to Guernsey again to talk about fishing in the next few days.

4. Questions to Ministers without notice – Chief Minister

The Bailiff:

That completes the first question period. We now come to the second question period, and I invite questions of the Chief Minister.

4.1 Senator J.L. Perchard (of the Chief Minister):

Is the Chief Minister satisfied with the efforts made of late by the Minister of Transport and Technical Services to find an alternative site to that of La Collette for the composting of green waste?

Senator F.H. Walker (Chief Minister):

Yes. [Laughter].

4.2 Senator J.L. Perchard:

Does the Chief Minister have a personal view with regards to the proposal to locate a large composting facility at La Collette? If so, would he share it with Members?

Senator F.H. Walker:

The Chief Minister is in the position, I think, of most other Members, and as the Minister for Transport and Technical Services announced last week, awaiting further work on the issue. I have no problem with a large composting site at La Collette providing it is enclosed as planned and providing it conforms to latest modern standards. But if there are better solutions, then clearly these have to be taken on board.

4.3 Deputy S. Pitman:

Prominent political figures, including the Chief Minister himself, I believe, have claimed that ministerial government would be more democratic than committee government. A symbol of democracy is the enabling of the people to vote for its leader. Does the chief agree that the people of this Island should be able to vote for their Chief Minister and will he support any moves towards working towards a more democratic government in this way?

Senator F.H. Walker:

No, and no.

4.4 Senator B.E. Shenton:

If one of the Ministers were censured by the States Assembly, would the Chief Minister expect him to resign?

Senator F.H. Walker:

I think that would depend on the circumstances, but in all probability, yes.

4.5 Deputy C.J. Scott Warren of St. Saviour:

Does the Chief Minister agree that the continuing inequity in residency rules for entitled persons, licensed J category employees and registered employees will only continue the present social inequality and division within our community?

Senator F.H. Walker:

No, Sir, I do not. I believe that the policies adopted by this House in the Migration Strategy last year will assist in that respect. Having said that, it is not the total answer; there is no doubt about that. I believe it is a step forward, but we do need to give and we are giving greater consideration to divisions in the community. The Council of Ministers have set up a very high-level social policy strategy group, and one of its main aims is to address divisions in our society. We take it as a major priority.

4.6 Senator L. Norman:

How does the Chief Minister reconcile the promise he made during the introductory comment of Strategic Plan that no new taxes, as already agreed, would be introduced during the life of the plan, with the threat to introduce a new tax on fuel used by leisure craft?

Senator F.H. Walker:

I said that there would be no new taxes introduced other than in the fiscal strategy. The fiscal strategy very clearly talked about environmental taxes. However, having said that, when it comes to taxes on marine fuel, I am conflicted and therefore cannot take the debate on that any further.

4.7 Senator L. Norman:

As the Minister is concerned about the environmental taxes, could he say why aircraft fuel has not been included in the consultation exercise?

Senator F.H. Walker:

There are good reasons why aircraft fuel is not included in the consultation exercise. This is an argument that has some way to run, and the House heard earlier from the Economic Development Minister in this context. So I do believe it would be wrong of me to comment further on this particular aspect.

4.8 The Deputy of St. John:

Can I ask the Chief Minister if he is aware of the national press coverage at the weekend given to continued concerns expressed by business groups about the draconian Extradition Act? Furthermore, has the Minister yet received a response from the Attorney General to my question posed some 5 weeks ago asking whether Jersey will consider review of the current extradition laws?

Senator F.H. Walker:

Yes, Sir, I have, and I owe the Deputy an apology. I could and should have got the answer from the Attorney General to him before now, but I do undertake to do so within the next couple of days.

The Deputy of St. John:

If the Minister would like to see the press articles, I have them.

4.9 Deputy R.G. Le Hérisier:

There is continuing frustration by the group who have stamped in their passport an inability to live or work in the European Union (EU). While, in some people's eyes, this is a diminishing group, they feel very sore about this. Has the Minister taken any sounding with the British Government or the European Union to see, short of unscrambling Protocol 3, to see whether a greater sense of justice can be brought into this particular situation?

Senator F.H. Walker:

No, I have not and I am very reluctant to do so. In reality, we have debated this matter or certainly discussed in question time this matter on the floor of the House before. In reality, it is more a problem of perception than a problem of reality in terms of whether or not people subject to that statement in their passport can work in the European Union. I believe Members are well aware of a number of people who have done that or are doing that and the problem is not so great. Given all the other major issues that we are constantly discussing and negotiating with the UK Government and the EU, I do not believe, frankly, that this is a sufficiently important issue to raise at this time.

4.10 Deputy R.G. Le Hérisier:

Is the Minister suggesting that when people present their documents that somehow, by a slight of hand, they do not have to admit their actual status within a country such as France? Is that what he is suggesting?

Senator F.H. Walker:

I am suggesting nothing of the sort. I am merely suggesting that Jersey people who have that statement in their passport have successfully and are continuing to successfully work in the European Union. Therefore, the disadvantage to them is more perception than reality.

4.11 The Connétable of St. Helier:

Would the Chief Minister join with me in commending the Minister of Home Affairs for the proactive and professional way in which the police dealt with the disturbances on Saturday after the World Cup game? Would he further agree with me that the Honorary Police also performed a major role? Finally, would he agree with me that the actions of a small minority of individuals (not just young people because we know that older people were involved) should be deplored by this House and all steps possible should be taken to bring them to justice?

Senator F.H. Walker:

I could not agree more with all those statements. I think I have made my views clear through the media to the public about the behaviour of the limited number of people and expressed the view that if found guilty, the courts will deal with them very severely. I maintain that position. I do absolutely applaud, I think, the excellent work done by both the States Police and the Honorary Police in preventing what could have been a very much nastier situation. I have, in fact, already conveyed my thanks and congratulations to Chief Inspector Sean Duval and to the Home Affairs Minister [Approbation].

4.12 Deputy S. Power:

The Chief Minister may remember that I have expressed concerns about the future loss of the Esplanade car park. It is an 875-unit car park and it has major ramifications for the 5 western parishes. Can the Chief Minister show the Assembly that he will work with the Minister for Transport and Technical Services and the Minister for Planning to find a similar replacement capacity car park and keep the Assembly informed as the project evolves?

Senator F.H. Walker:

This is very much within the remit of both the Planning Minister and the Transport and Technical Services Minister who, I am sure, will keep the Deputy and the House fully advised. Of course, there is every intention to provide alternative parking to that lost during and following the development of the Esplanade car park. I have no doubt that Members will be kept well-informed.

4.13 The Deputy of Grouville:

It was to take up on Deputy Le Hérissier's question about the discrimination against Jersey people with the stamp in our passports. I am one of those people who have the stamp in my passport and I have never had any problem with it, I have to say. I would like Protocol 3 and the Chief Minister's Department to look at Protocol 3 to turn that on its head to see if we could use the stamp in our passport, the discrimination against Jersey people, to set up some form of border controls for undesirables.

Senator F.H. Walker:

No. Interesting suggestion though it is, I do not believe that that is workable at all. As for seeking to renegotiate Protocol 3, I would caution against any such move, certainly at this juncture. Protocol 3 carries quite a significant number of advantages to Jersey as well as some disadvantages. Of course, if we seek to negotiate the entire protocol, we may well lose the advantages at the same time as we might gain on one or 2 other areas. I think that is something that should be approached with enormous caution.

4.14 Deputy G.P. Southern:

Following figures released by his Housing Minister earlier today, does the Chief Minister accept that with J categories becoming 60 per cent non-time-limited, this will result in between 150 and 160 individuals being given non-time-limited J categories, permission to work and live in Jersey and, with their dependents, this will amount to some 400 people per year coming to the Island with non-time-limited permission to live and work here?

Senator F.H. Walker:

As the Housing Minister, I think, said, the Deputy clearly fails to understand the situation. The fact is that non-time-limited J category employees will continue and their families will continue to live in the same type of property (J category property), as current J category employees do. The only difference is that we will keep individuals' expertise longer, rather than having to terminate contracts and employ new people every 3 years or every 5 years. It is a real benefit to Jersey. The Deputy's suggestion that it will add to the population is quite wrong.

4.15 Deputy G.P. Southern:

Does the Chief Minister not accept that the granting of non-time-limited J categories makes it more likely that people will stay here for 10 years, gain qualification and ultimately retire here, while fresh J categories have to be imported to do the work, thus increasing the population?

Senator F.H. Walker:

No, and if that was to happen, it would be in very limited numbers indeed. Again, I say the Deputy's insistence that this policy will lead to considerable increase in numbers is just not correct.

4.16 Deputy A. Breckon:

I seek an answer from the Chief Minister about the quality of some information in regard to what statistics the Chief Minister has regarding the age ranges and gender of the working population.

Senator F.H. Walker:

The statistics I have about the age ranges and gender of the population are, I think, available and have been made available to all States Members. They surely are part of a recent release from the Statistics Unit.

4.17 Deputy A. Breckon:

If that is the case, could the Minister circulate copies because it is, I believe, significant for a number of forward planning issues? If he is able to produce them, then I would be pleased to receive them because so far I have hit a brick wall.

Senator F.H. Walker:

I am surprised to hear that but, certainly, I will look at that. I will work on that, and I will provide the Deputy with all the information that is available.

4.18 Senator J.L. Perchard:

I am delighted to come back towards the end. The Chief Minister seems a little more chatty now [Laughter]. Will the Chief Minister agree to undertake a study to examine the benefits and disadvantages of Jersey moving to central European time and to produce a report for public consultation that includes comments from each of his Ministers on the effect such a move may have on their departmental activities and responsibilities?

Senator F.H. Walker:

Yes. [Laughter].

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

5.1 Senator F.E. Cohen (Minister for Planning and the Environment) regarding deep ground water investigations:

I wish to update States Members on the figures I gave them on 23rd May in respect of the experimental drilling investigations to establish the existence or otherwise of a deep groundwater connection with mainland Europe. The estimate figure I gave of £50,000 has subsequently been revised to £61,073 following precise identification of the drilling sites and the receipt of actual quotations. This cost covers drilling experimental boreholes at 2 sites in the east of the Island at La Rocque and St. Catherine's, technical supervision of the construction, analysis of water samples for isotopes and age, and expert interpretation and report. I can confirm that a contribution of £20,000 by Jersey Water towards the experimental costs will be obtained. In addition, I feel I should also explain that in addition to this figure, a further sum of £9,531 has previously been expended in support of the activities of the Deep Groundwater Advisory Group from their inception in

November 2005 and prior to the inception of this experiment. The 2 sites involved have been identified as the best opportunity to find incoming water from mainland Europe by the well drillers who were given a completely free choice of site. Technical supervision, sampling analysis and interpretation of results will be jointly undertaken by the British Geological Survey and Entec. Entec were the consultancy engaged by the Scrutiny Panel when they examined the Draft Water Resources Law last year. The boreholes will be constructed in such a way that there can be no ingress of water from surface, lying or shallow groundwater to ensure that the water being sampled is from the deepest point only. The water samples will be tested for isotopic composition and also aged. Aging is necessary to rule out the possibility that the borehole has struck fossil water that fell in a previous era and has been trapped underground for millennia. The science of isotope testing is the analysis of the water molecule consisting of H₂O. The sample isotopes of hydrogen and oxygen have identical chemical properties but have slightly different physical properties. During rainwater events, the heavier hydrogen and oxygen isotopes tend to fall out as rain at a higher rate than the lighter isotopes. Thus it is possible to make maps of the isotope composition of water and use this to determine the area where groundwater originally fell as rain. I am pleased to report that all members of the Deep Groundwater Advisory Group have signed up to this experiment as being the definitive resolution of this matter. I am very grateful to Deputy Duhamel and Deputy Ferguson for all their hard work on the group and the support they have given me to ensure that this important agreement has been concluded. By test-pumping the boreholes, we will be able to determine the maximum obtainable yield. This will add to our knowledge of the Island's overall water resource.

5.2 Senator W. Kinnard (Minister for Home Affairs) regarding policing of on day of World Cup quarter final:

Firstly, I am grateful to the Connétable of St. Helier for his earlier comments and for the active part that he himself played in the events of last Saturday. Further, I would like to thank and congratulate all police officers for their effective and responsible policing on Saturday night during and after the World Cup quarterfinal match between England and Portugal. I also endorse the message of the Chief of Police to honorary officers in giving sincere thanks to all of the Honorary Police who assisted on Saturday and in the operations which followed. I am aware that St. Helier bore the brunt of a difficult situation and I am also aware that other parishes assisted greatly by maintaining a presence and a service on their own ground while States of Jersey Police and St. Helier honorary officers were preoccupied elsewhere. I would also like to draw attention to the assistance given by the local media in giving publicity during the build-up to the game and the regular adverts on Channel 103 which stated clearly that any disorder would receive a deterrent response. Unfortunately, this was in contrast to some reports in the national media which were inaccurate in their reporting of the scale of the problems. In fact, no arrests were made during the game, but by 9.00 p.m., 19 people were in custody, mainly for public order offences. However, more arrests are likely once the CCTV footage has been analysed. Football fans were successfully kept away from Minden Place Car Park and rival groups of supporters were prevented from engaging with each other. The Public Order Team was made up exclusively of officers from the States of Jersey Police. While there is always a tendency to focus on specific problematic incidents, I should report to the Assembly that crowds were mainly good-natured with no major disturbances and that Portugal supporters celebrated their win in a good-natured way. Sadly, the mindless actions of a small minority gave rise to disproportionate adverse publicity which, in the modern world, can be observed from afar and damages Jersey's reputation. The important thing is that public disorder of this kind is dealt with firmly within the law. The aim is to seek to prevent and deter disorder, and if disorder occurs, to deal with it positively and effectively. I support police action in taking any lawful measures to ensure that outbreaks of this kind of disorder are firmly dealt with. In this instance, the States of Jersey Police had an effective plan in place to deal with any disorder that might arise and I pay tribute to their foresight and expertise in executing it in such a way that incidents were defused and the public protected [Approbation].

PUBLIC BUSINESS

6.1 Island Plan 2002: Policy H2: Fields 848,851,853 and 854 (P.48/2006)

The Bailiff:

Now we come to public business, and the first item on the order paper is P.48 Island Plan 2002 Policy H2: Fields 848, 851, 853 and 854. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act dated 11th July 2002 in which they approved the Island Plan 2002 and, in particular, in which they approved the zoning of land for category A housing listed in Policy H2 of the plan including Fields 848, 851, 853 and 854, Bel Royal St. Lawrence, and to request the Minister of Planning and Environment to bring forward for approval by the Assembly an amendment to paragraph 8.71 of Island Plan 2002 which relates to the above fields so that the words “The site could accommodate approximately 97 homes with 1.5 acres (3.4 vergées) of public open space/landscape area as part of the development” in the said paragraph be amended to read “The site will accommodate a maximum of 97 homes (comprising 2, 3 or 4 bedrooms or any combination thereof) with 1.5 acres, (3.4 vergées) of public open space/landscape area as part of the development.”

6.1.1 The Connétable of St. Lawrence:

Thank you, Sir.

The Bailiff:

I beg your pardon. I have just received a note from the Greffier and I wonder, Connétable, if you would defer to the Minister to make a short statement before you begin.

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

I think it is appropriate for me to make comment at the start of this debate as the site to which the Connétable’s proposition refers is the subject of a current planning application. This is an application for a large development in Jersey terms, and as I have stated in my written comments, it has been a controversial proposal. Accordingly, I have decided that it is appropriate for me rather than the Planning Applications Panel to determine the application. Because I intend to determine the application, members of the Applications Panel are consequently free to speak in the debate and vote as they see fit. It would, however, be inappropriate for me to comment on the content of the current proposals in this debate and I will abstain in the vote. Although submitted under the Island Planning Law 1964, the application falls to be considered under the Planning and Building Law 2002 which came into force last Saturday. Ordinarily, applications under this law will be heard by the Planning Applications Panel in public. The law also allows me to consider applications in this way, and it is my intention to hear representations from the representatives of the objectives and applicants in open session before delivering my decision on the application. I must point out that the application falls to be considered under the policies that were enforced at the time it was submitted. Nevertheless, the debate and the voting on the proposition will act as a barometer of the feelings of this Assembly and to that extent I will weigh today’s decision carefully when I determine the application. With that, Sir, I have nothing more to add and will listen carefully to what is said in the debate.

6.1.3 The Bailiff:

Before I call upon the Connétable to propose the proposition, I think I should also draw to Members' attention that the Bailiff is *ex officio* the Chairman or President of the Tenants de la Commune ou Marais de St. Pierre in St. Peter, which is associated with this prospective development. The Bailiff, I hasten to add, derives no personal financial benefit from this position and having drawn it to the attention of Members, I propose to remain in the Chair.

6.1.4 Senator W. Kinnard:

My husband is the secretary to that esteemed group, Sir, and is also a tenant and I think he has 1/65th or something share. So there is a pecuniary interest. Whether or not it passes the actual threshold, I suspect it does not, but I think I would feel more comfortable, Sir, with your permission, if I were able to withdraw from the Chamber on this point.

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

If I could declare my wider family inland in the vicinity of the development, there is no direct or financial interest and accordingly I will be speaking and voting on this matter.

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

I should declare that I am currently the chairman of the Tenants de St. Pierre, the same body to which you refer, and also a member of the Applications Planning Panel. The Minister has somewhat pulled the rug, I think, firmly from under our feet a few moments ago in that surprise announcement. Nevertheless, where my own position is concerned, I am to be guided by yourself. Sir, but I would point out that there is a distinct difference because we have the separation of the perquage and, in effect, the body to which I am chairman of has no control on the St. Lawrence side of the land. It is the land that is in the parish of St. Lawrence which is currently the subject of this decision.

The Bailiff:

Connétable, you have very properly declared an interest in the subject matter of the proposition. It is for you to decide whether you have a direct financial interest in the proposition, in which case you ought to withdraw from the Chamber for the duration of the debate. From what you have said, I would not have thought that you have a direct and a financial interest arising from the proposition, but it is a matter for you.

The Connétable of St. Peter:

Well, not any more than any other member of that same body, Sir.

The Bailiff:

It is not a question of whether you derive any financial benefit, I think, from the Commune de St. Pierre. It is a question of whether the matter which is the subject matter of debate, that is to say the extent of the development on this land, is likely to affect the position of the Commune de St. Pierre and I do not know the answer to that question.

The Connétable of St. Peter:

The answer is yes. So in that event, I think it would be wiser to withdraw from the debate.

The Bailiff:

Very well. The Connétable of St. Peter declares an interest and withdraws.

6.1.7 Deputy P.N. Troy:

Can I just declare that I am a director of a building and development company. I have no interest in this actual site at all; no benefit in the site, but I just thought I should declare that so I am able to stay within the debate and hear the comments of Members and decide on how I vote.

6.1.8 The Connétable of St. Lawrence:

Well, I am pleased to hear at least a few of us will be able to talk among ourselves **[Laughter]** on this issue. To be a little more serious, I do not bring this projet lightly. I bring it because I believe it is essential. I would stress that I have the full support of both the Deputy of St. Lawrence, the Deputy of St. Peter and others in this House. This projet is about people, people who need new homes and people whose homes and lifestyle will be adversely affected by this new development. There is little doubt that if we had unlimited land for development in the Island, we would not even be contemplating a development on the very edge of a marsh which regularly floods, in an area which experiences the distress of high density traffic, an area which has a noisy industrial site next door, and an area which has little facility for schooling the newly resident children close by. I first became aware of the plan to develop this area near Goose Green Marsh when I attended and raised concerns at a consultation meeting on the then proposed Island Plan back in, I think it was, in 2001, well before I became a Member of this House. It was immediately obvious to me, as a layman, that this was a difficult site and subject to all sorts of potential problems. When I was visiting all the houses in the vicinity during my election campaign in January 2003, particularly along La Route de la Haule which backs on to Goose Green Marsh, almost everyone, and I repeat almost everyone, had concerns, and grave concerns, about potential flooding problems from the Marsh. In some cases flooding had already reached the front door step. The Island Plan 2002 has already been challenged since on numerous occasions in this House, particularly with regard to the numbers indicated in the plan for each site. I can remember several major debates with regard to developments in St. Brelade, St. Clement and St. Peter. These debates mainly focussed on the number of houses in excess, sometimes vastly in excess, of the numbers indicated in the Island Plan. I welcome the recognition by the Council of Ministers of the need to review that plan. This they have undertaken to do in the Strategic Plan during 2006/7. Unfortunately, that may be too late for this site. The contention has always been that the numbers in the Island Plan were only indicative and should not be relied upon. However, if a number is quoted at all those numbers should at least be close to realistic as not everyone will read the small print. Some of you were here in this House when the plan was approved. I suspect that many of you and our colleagues of 2002 did not read the small print and relied on the numbers shown, as would any reasonable person. For example, in relation to this site we are discussing, if one was to quote an approximate number of houses on the development one would, perhaps, quote 90 or 100 or possibly 95 but not 97 which was quoted. To most people, this would be a pretty clear indication of the precise numbers or that it was unlikely to vary by more than 1 or 2. However, the first proposal was for 150 houses, then reduced to 140 houses, and currently to 129 houses. Do any of these figures bear a relationship to the 97 in the Island Plan? No. All consultation on the development in the early days, including comments and serious concerns from the parish, were clearly based on 97 houses. In other words, if the numbers are significantly different most of that consultation will be virtually worthless. Let us just consider a few of the major problems with the site. Flooding. We are told, by the well respected specialist employed by the developer, that a series of holding tanks and pumps will cope with the additional run off caused by covering a large part of this marshy area with concrete and tarmac. Indeed, we are told that the risks to the existing residents will possibly be reduced. However, other specialists in their field have challenged the data used in the model as being inappropriate for the site in question. Also, concerns have been expressed about the reliability of the pumps and the

certainty that they will not become blocked and inoperable from time to time. Flooding risks are very real to those affected and I well remember the following graphic description: “Just put yourself in this position. Can you imagine coming home from a hard day’s work and relaxing in front of the television, and then finding to your horror that water is bubbling up through your floorboards and you are unable to do anything about it? This is an unstoppable act of nature. Would you like this to happen to you? Would you like to live in an area where your post code indicates that your house is no longer insurable?” This is not imaginary. It happened to one of my parishioners. Traffic. We have recently been made aware in this House that developments of properties throughout the Island, but in this case particularly to the west, have not previously been immediately available to the planners and therefore not to the traffic planners either. It is, therefore, quite worrying to think that we are unsure that the many developments to the west of this Island have been properly considered in relation to this development, which is at the point of the 2 main arteries into St. Helier from the west, being the coast road via Beaumont and St. Peter’s Valley itself. The St. Peter’s Valley Road then leads along St. Aubin’s Road past the recently completed Britannia Pub development; the Magnolia development, 40 plus units; the Millbrook Crescent development, 21 units; La Folie Estate at the bottom of Le Mont Félard; Le Petit Aumont Apartments; and I can name some other developments which are likely to happen in the future not so far away; and yet all this without the planners having to hand details of all recent developments coming on stream in the west of the Island. Schooling. We have recently been told by the Minister for Education, Sport and Culture that it is estimated that some 160 plus children living in the new development can be expected to require schooling. We also know that St. Lawrence School is virtually at capacity, and I have personally spoken to the Head Teacher of Bel Royal School, which is in any event a special needs school and already above capacity, who confirms that they will have virtually no additional capacity for the foreseeable future. This means that nearly all these 160 plus children will have to travel to other schools, which will put even more strain on the peak time traffic. Environment. The development is alongside the Perquage we have heard, and immediately on the other side of that perquage to the west is the Jersey Steel works. Some work has been done on assessing the noise factor and the average noises generated by the steel works. However, to my mind it is the maximum high-pitched noise at the top of the range which should be assessed. We all know what the high-pitched noises are like which are generated by cutting and grinding steel. There are bound to be complaints by new residents and yet that company has been operating successfully on the site for many, many years. Other Concerns. There are other concerns about this development such as the general lack of garages, proposed size of rooms, et cetera. However, I will not go into these as they should be capable of being addressed if we do not exceed the original 97 homes. It is now vital for us to stand up and be counted. There are a number of issues that need to be addressed in the Island Plan, and I know the Minister of Planning and Environment recognises this, as does the Council of Ministers. It is time to call a halt to the errors and methodology of the past and to properly consider our future, our environment and future generations to come. Sir, I make the proposition.

The Bailiff:

Is the proposition seconded? [**Seconded**] The proposition is open for debate.

6.1.9 Deputy C.J. Scott Warren:

Think of a number. 97, 129, 150. Why stop there? 200. Why did this H2 site give the number 97 in the Island Plan 2002 if it meant over 100? Were the numbers given for each site just there to confuse Members or to falsely reassure Members? What is the reasonable interpretation of the number 97? I believe that it signifies to the reasonable thinking man and woman just under 100. I question what was the purpose of indicating 97 if it has no bearing whatsoever on the planning applications? We have to ask what is the right number of houses for this site. What number

constitutes an over development of this site? Are we considering all the important issues of sustainability that we have signed up to endorse completely in the Strategic Plan last week? I urge Members to support this proposition. Thank you.

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

I think that what we are talking about today is numbers. The Connétable of St. Lawrence has not tried to bring a proposition to the House to stop this development altogether, but merely to point out that in a previous States' decision it was certainly indicated as to what number of houses would be on this site. If Members look at the comments of the Minister of Planning and Environment on P.48, comment on the back page, the Members will notice that of all the sites which were considered in the Island Plan, the A housing sites, all of them, other than the Le Mont du Jubilé site, have more or less come out at the figure which was indicated on the plan. If I look at the site which I know best, which is the one at Westview, St. Ouen. If we were to have the same size site then Westview would have produced 123 houses on an equal area to what we are considering in St. Lawrence. I say, that having seen the development completed at St. Ouen, that it is too dense. The people of St. Ouen who have commented to me about the development, that is the one comment they have made. They are not unhappy about having the houses in St. Ouen. They were very much needed. They are not unhappy about the quality of the build, but everyone says that the houses are far too close together, that there is insufficient community amenity available around them. So, I think that the Connétable of St. Lawrence is quite right in pointing out that 97 was the figure which, I think, we all expected to be the figure approximately used, and that if it goes up to 129 it is going to produce a site which is overdeveloped. I think that we need to be aware that if we are going to have development - and we urgently need development, nobody questions that - I think that we need to be aware that there is a figure beyond which we step into over development.

6.1.11 Senator T.A. Le Sueur:

I am not going to try to determine whether 97 or 129 or any other figure is the correct figure for this. That would be a matter for the Planning Minister to determine. I look at this with my Treasury Minister's hat on so this planning application has to be determined in accordance with normal planning principles. I think, if we put a constraint on this development, on these proposals, in the manner that the Constable suggests we will impose an artificial constraint on the developers, on the applicants, at a time when they have been led to believe that they could use the Island Plan and the principles contained within it. I think to try to say that 97 is the only figure when on the summary that we have from the Minister of Planning and Environment, we see that other applications have been determined with numbers different from that on the indicative yield, it is clear from precedent that 97, the indicative figure, cannot be used and then turned into a compulsory figure. The reason I make those comments, is that because if the States impose that condition then, without being a lawyer, I would believe that there are good grounds for the applicants having a successful appeal that they had been misled, and that will inevitably lead to financial implications. The financial implications under the new regime means that those implications would have to be borne by the Planning and Environment Department. There are no spare funds in general reserve anymore, and that would inevitably lead to a significant deterioration in the ability of the department to deliver proper service. That would be to the detriment, not just of people in St. Lawrence and St. Peter, but to the detriment of the people in the Island as a whole. I have to say I have a certain sympathy with the residents of St. Lawrence and St. Peter. I think that this site is not ideally placed for over development, and it may well be that the density on that site needs to be lower because of its particular geographical limitations and potential to flooding. Nonetheless, we are, I believe, constrained by the Island Plan as it is and that, at this stage, to change the Island Plan in the middle of an application simply invites litigation at our expense.

6.1.12 The Deputy of St. Peter:

I am pleased to speak after the last speaker because it would appear in what he is saying is that this Assembly, and as a result, the people of Jersey, have lost control of the planning process. I brought a projet to this House in 2004 very similar to this one, and on that particular occasion in St. Peter we were looking at a figure of 68 and there were huge variances. We started with 54, got to 68 in the Island Plan, then it went to 87 on the formal plan, and finally ended up at 72. The arguments that were put forward during that debate were well heard and the final vote was 28 pour and 13 against. Regretfully, we found out after the debate that the Planning Committee of the day were unable to change the figures to the requirement set down by this Chamber. It was based on the fact there could be a legal implication in changing those figures because of the presumptions that have been given to the developers. One of the major features as a problem, in my view, is that a development brief that is set up for a major site is passed on to the developers and discussed very closely with the officers from Planning. In our particular case in St. Peter, and I am sure it applies to St. Lawrence, in the development brief one can understand why a developer will go for the big number. If I can quote from the development brief you will see the problem because on the brief of St. Peter, paragraph 2.8 it says here: "The theoretical yields specified in the Island Plan for the various zone sites are entirely national and based on a common average density of 70 habitable rooms per acre. The achievement of higher densities will be made easier by employing the principle of urban design, greater use of flats and terrace developments and relaxations in the normal car parking provision referred to in part 2 of the brief. Furthermore, good urban design will be essential if the development is to be successful and so avoid future problems related to social behaviour and human interaction generally." I would term that in part as a development charter or a developer's charter. The problem is that this particular development brief, and the one in St. Lawrence, is taken out to the developer before we go to public consultation and before it is heard by the committee of the day who is going to allow for that development. Yet there is already apparently a legal presumption on behalf of the developer that he is being given a green light to go ahead no matter what, and this is how we end up with the differing numbers where we started with 68 and ended up with 72, having got to 87 and the variance in numbers that are coming in St. Lawrence. But having said that, Sir, I also feel that we have lost our way once the developments are started, and this is the point again I am making about losing control of the process. We also have, very close to this development, the L'Hermitage development. That site has caused me, as the Deputy of St. Peter, great problems for the people who live locally. There were conditions applied by the committee of the day which, quite clearly, have been broken, and if I can give 2 examples; one was that the granite wall on Rue de Beaumont was to be retained and made good where necessary. They knocked it down. There were to be no entrances on to Rue de Beaumont from the houses for obvious reasons, because people who live in that area are already aware that Rue de Beaumont is cluttered with traffic. However, post planning approval, officers allowed the developers to put 6 entrances from cottages out on to Rue de Beaumont, front doors, very short little gardens, coming out on to the road. This means that traffic will naturally stop outside the houses even if it is just for a short while to deliver something. As a consequence, traffic congestion will build up there very quickly as has already been seen when an odd person already does that at the cottages that already exist. I am also concerned about the quality of development. You will find on your desks a picture which I put there this morning. If you look at that picture you will see on one side quite a pleasant Victorian building. It shows reasonable balance in both design and dimension. However, when you turn over that paper, on the other side you will see the development that sits directly opposite that particular building on Rue de Beaumont, and this is part of a new development. I mean, comments have been made to me that this is the sort of thing you would expect from a kindergarten in design, a big square block with small windows, not put out in balance. I have to say, when I showed this particular photograph last week to the Minister, he looked at one side and he said those words: "You cannot be serious!" and I certainly am. That is true. Sir, we have to regain control of what is going on. We have to make sure that public consultation and representation takes place prior to giving developers the green light. One of my major concerns here is that perhaps that green light has already been given, but this Assembly today has to take very, very careful note and, as the

Minister suggested, give a very clear direction for him as to how we move on now and in the future. Sir, I suggest that we all think very carefully about the problems that have come to our attention in our times in this House and support this application.

6.1.13 Deputy J. Gallichan of St. Mary:

It really does not seem like 5 minutes. It is probably just 7 days that I stood up in this House and I said: “Look, we have got a plan before us. We should support it under scrutiny later on.” Well, here we have a plan. We are working to a plan that was adopted some time ago but I have one fundamental problem with this. In the foreword to that very plan, the Island Plan, Senator Qu  r  e said: “The new Island Plan presents both a vision and a framework”, and I have heard those words recently: “which will enable an holistic approach to planning and development including housing, schools, recreational areas”, I go on, and then public transport, the motor car. We are faced with a development here under the guise of the Island Plan when we are told that the schools cannot support the development. We know. I mean, I live up St. Peter’s Valley. I know that the roads cannot support the development. It is time really that this be looked at, that the whole plan, in this particular area, is called into question. Certainly I have fundamental worries that what was envisaged by the Island Plan will be countered by this development if it goes ahead in the numbers that are proposed. The previous speaker said there seems to be a developer’s charter, almost a development by stealth if I am right. We are putting the future of this particular element of our Island’s environment down to a game of poker it seems to me. I mean, what shall I do? I will start high. I know I will not get through but, you know, I will start high and then when I go lower with my number the people will feel that they have been engaged and some will be assuaged and probably will not make anymore fuss. Then I will go in low. Okay. It is still more than I thought I would get to begin with but the public now think that I have really taken my aim down and I will go for fewer houses. The Constable of St. Lawrence said that it was time to stand up and be counted and I completely agree with him on this. Absolutely! To simply limit this to the amount of houses envisaged by the Island Plan seems to me entirely reasonable. We are not being asked here to reject the development entirely, just to keep it to within realistic limits envisaged by the plan. The Housing Minister has already indicated some time ago, in a direct response to a question by Deputy Mezbourian, that he would be happy with 97 units, and we are here looking at ways of housing people that need housing. If the Housing Minister is happy is there any further need for debating it? I do not see that there is anything unrealistic about this proposition at all and I certainly will be supporting it, Sir, thank you.

6.1.14 Deputy K.C. Lewis:

I will not be talking about the actual development itself. I think my St. Lawrence colleagues will jump in on that one. What does worry me is any potential flooding in the area. I am not an engineer but I am a keen walker and I have seen the area in full flood, and it is quite scary. My question is I understand there is going to be a large pumping station built. Will the pumps be operational at high tide? Will there be standby generators? I understand at certain times of the year that the water comes over the sea wall, which is colloquially known as overtopping. If the developers are so sure, that there will not be any flooding whatsoever, will they underwrite any future claim of flooding in the Goose Green area?

6.1.15 Deputy J.J. Huet:

I cannot remember what the saying is but it is something like, do you feel that we have been here before and we have seen this once before, because I am beginning to feel like this. I have great sympathy and I shall say why. As you know I am from St. Helier and we have a plot of land at the top of Mont l’Abb   by the cemetery, and the figures are nearly identical, Sir, to this one in St. Lawrence. Originally, a few years back they started off in the 60s, the amount of houses, then it

went up to 90 and that was the amount mentioned in the Island Plan on the main page. When the developer finally got there it was 150. Now, eventually, it came down to 125 and I have got great sympathy because they are going through exactly what we went through. We have 125 houses up a hill, it is dangerous, you cannot walk down this hill, it is a parish road so it is not as if it is going to cost the parish a fortune to try and do anything because we have to buy land owners out. Where I feel that St. Lawrence has been let down in exactly the same way, it is quite a serious thing to say, but I feel that I was misled in this Chamber when we discussed the Island Plan. I really feel I was misled because I stood up and said: "Goodness gracious, 97 houses. Now, okay, that is all adults." So, I was working on 2 cars per family so I said: "That is going to be 200 cars coming out from that estate with 97 houses every day, either to come down New St. John's Road, or down Tower Hill," and I was assured that we could take 200 cars. But where I felt I had been misled is when it came back and it was 150 houses. That was going to be 300 cars. But I was told in this Chamber that it could take 200 cars, so I did not misread that plan and I was being assured on that plan when we passed it in this House that there would be 200 cars, i.e. 97 houses. But then we were told: "No, no. You have got it all wrong. That was just an indication." So, it is an identical thing that is now happening in St. Lawrence. Now, again we were told that: "No, you cannot go back on it because it is going to cost you an arm and a leg otherwise." But I have great sympathy for St. Lawrence. I do not know if I can vote with them because I have to think of how much it is going to cost the Island as a whole in money, cash terms. I have got great sympathy because I think we were misled in St. Helier for the last one.

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

Listening to the Connétable's opening remarks it sounds as if the residents of St. Lawrence are beginning to wonder if they are living in St. Clement. **[Laughter]** We have been told that the development brief creates a presumption which may, indeed, be the case. However, surely it must be a rebuttable presumption. This, I believe, is the purpose of this proposition. If the presumption is not rebuttable then why have the developers already moved from 150 down to 129? This is a numbers issue. To my mind, 97 is not approximately 129 nor is 129 indicative of 97. It seems only an Enron employee would consider 129 **[Laughter]** to be approximately 97. 129 is virtually a third more than 97. That is without my calculator **[Laughter]** I look forward to the Island Plan review. In the absence of that review I support this clarification of the Island Plan.

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

I was one of those Committee members that was on the Planning and Environment Committee at the time of the Island Plan, the new planning law and everything in that era that was being discussed. A lot of work went into the Island Plan, the new planning law. There was a meeting in virtually every, if not every, parish hall going through the intricate detail and the recognition at the time was is that there was obviously going to be conflict, the conflict being is that our young people and not so young are wanting homes to live in, good quality homes to live in, and we needed social rented housing again of a quality nature, but at the same time naturally no one wants it in their back garden. Of course, the conflict that arises has reappeared ever since then and that is the numbers game. Now, when you are looking at a site you are not looking into every detail, you do not know what precise measurements a particular development is going to contain in design and houses. That is up to the architects, the owners, planners and, of course, the developers. Some are smaller and some are larger, and some are 2 bedroom and some are 3 bedroom, and a block of flats, et cetera, et cetera. All has meaning. The one thing you will guarantee though when you sit on a Planning Application Sub-Committee for 3 years as I did, and of course there are people that still are in that thing, is a developer will try and utilise as much of the land as possible to maximise the number of units and per se obviously the return that he gets on the investment. That is inevitable, and inevitably what happens is that they will start off at the top and slowly it comes back with advice as

opposed to being turned down and reapply until it gets to the level that is economically acceptable to the developer but also acceptable to the planning process. Usually, at that stage it either wins planning approval or it does not because of whatever arrangement. The problem is that when you are standing in the States here and you have got a series of figures, and 97 sounds very specific as opposed to a round figure of 95, 90 or 100 or whatever, but inevitably the system at the present time allows for this to occur. Now, we go back to the old days when we purchased the land and then we did the developments and then sold them to the first time buyers, social rented or housing, you can control it. There could be a very good argument that we might have to in the future do that type of investment, because now I am told, and certainly when I was on Planning was told, on numerous occasions that the individual has a human right and so does the property developer. Yes, we have heard it today that a planning process means that if the States make a decision it could, through the Royal Court, cost the States a lot of money if it intercepts the planning process. So, regardless of what decision is made today there are occasions in the past that the planning process has not concurred with the decision of the States, which has usually created protest from States Members that this is the highest process of democratically elected people and a department of the States should follow what the States wishes are. But that does not necessarily follow because sometimes you can open up a can of worms that you set a precedent that could affect the whole Island. So, the Minister in this case of Planning and Environment has a responsibility as does his sub-committee and therefore I will be quite frank with you here, I am inclined to go for this proposition because it is not saying do away with it, it recognises that we do need homes. It recognises the social rented, et cetera. What it is doing is it is yet again identifying that we have got a short fall in the process of the system that has to be reviewed if we are not going to end up with this continuously repeating itself and coming back. We do need quality homes. We do need them for our people. Yes, we need the facilities that go with them. We want to protect our countryside so there inevitably is going to be a conflict or, indeed, a compromise. I think that the priority is not going to happen today. The priority has got to happen, and I would beg the Minister to put it on his priority list to have a review of finding a better way forward. I suspect we might have to look back into the past and talk to the Treasury Minister nicely about advancing some money so that we can control the situation, which might provide a long-term solution to this impasse that we have got at this time.

6.1.18 Deputy S. Power:

If ever there was an issue that was uniting Islanders it is the discontent that is felt out there by some of these residential developments that have popped up across the Island. From St. Clement in the east to St. Brelade in the west, to St. Mary in the north, our parishes are assaulted by what is perceived as over development of these sites. The recently produced document that Planning produced, Planning Advice Note 1, refers in its first few opening pages to the mediocrity in design that has occurred in this Island for the past generation. This mediocrity refers to density, elevational treatment, interior design, amenity space, car parking and room sizes. This debate - and I congratulate the Connétable of St. Lawrence and my fellow Deputies in St. Lawrence and St. Peter - is symptomatic of the flaws in the 2002 Island Development Plan. It is my personal opinion that these development briefs that have been written since 2002 are the root problems of why we are here, and it is my view that these development briefs are a blot on the Jersey landscape. We have heard reference today to theoretical yields, notional yields. It all comes down to the one thing. It is an attempt to achieve higher density and is laid out in some of these development briefs. Members will be aware of the attempt by the former Deputy of St. Clement, Deputy Harry Baudains, to attempt a reference back in the 2002 Island Plan and unfortunately he was not successful. We have heard in this Chamber in the last 2 to 3 years Deputy Gerard Baudains express concerns about St. Clement, Deputy Gorst is now saying the same thing. Last year we have heard Deputies Hilton and Ferguson fighting on behalf of a site at La Rue de Noirmont. We have seen this proposition being brought today by the Connétable of St. Lawrence and ably supported by Deputies Le Fondré and

Mezbourian. In my own situation we are also fighting a similar situation in St. Brelade, and I am fighting a rear guard action with exactly the same issues that we are dealing with in St. Lawrence. We urgently, urgently, urgently need a review of the Island Plan. Finally I would like to refer to a few points that the Constable of St. Lawrence made. The critical one, I think, if we accept that we all agree on the issues of traffic, the issues of schools, the fact that there is almost no capacity at Les Quennevais School and that the other primary schools are at capacity, there is no provision in any of the capital estimates for extensions to Les Quennevais or any of these schools, the real issue here appears to be flooding. If any of you have looked at Deputy Le Fondré's supplementary information that he has circulated, it is predicted that we are going to have more rainfall in the future, and that area, that flood plain, is actually going to have to absorb more water. I will agree with the Constable of St. Lawrence that this engineering solution to construct a series of interlinked holding tanks and pumps raises issues about that type of technology, the reliability of those pumps, and the obviously serious threat of blocking of these pumps. We have all seen photographs of these fields flooded. I have had a parishioner of St. Brelade show me a photograph taken in 1962 I think it is, maybe 1963, of people ice skating on it, so there is a serious constant recurring issue with flooding on these fields. I would advise all Members who have concerns about the way that this Island Plan is going to support this proposition.

6.1.19 The Deputy of St. John:

I have some sympathy with the proposition that the Constable is proposing here. In St. John we have had similar issues with dense developments. Density is a big issue but there is a bit of a trade off here. For many, many years the States and the Island as a whole have felt that the policy that should be followed is if you find a piece of land for development put as many houses on it as you possibly can because that means that less land will be developed around it or near it. Now, there is a bit of dichotomy here. People do not want green fields to be developed. They do not want density either, and they do not want high-rise on the waterfront either. Yet we still have got to house our people. So there is big debate here to be had. Perhaps not today. We will be here for several days if we did but there is a bit of dichotomy there. I urge Members to think about that. I would like to know from perhaps the Treasury and Resources Minister if he can give us any indication as to what claims a developer might have against the States if we were to support this projet. Also could the AG give some indication as to exactly what the legal process would be and how many knots have we tied ourselves up in here, that Members such as myself that are new to the Assembly have not agreed to the Island Plan, but we have written it, how can we get out of it? How can we avoid some of the compensation issues? I would like those answers to those questions. We do have the opportunity here also to drive the price of land down. The reason why the price of land is so high in Jersey is because we are allowing developers to put so many properties on one small piece of land. That is why property prices and land prices are so high. We have an opportunity here to revise our Island Plan and prevent that from happening in the future so we can have lower cost housing for our people. Also, looking at a development that occurred in St. John recently I took the Planning Minister and showed him the development in question. There were 12 houses on a site, a very, very small site, and he took one look at it and said: "Why are we allowing urban development," which is what the Deputy of St. Peter referred to: "in the middle of the countryside? That is not Jersey." We have fields all around this development that were not farms anymore that could have been used for the purpose of garden area, recreational area, for that particular development but the policy is have a piece of land and put as many properties on it as you possibly can. Does not matter what is around it. Just get that urban development on that tiny, tiny plot. What do you end up with? Suburbia in the countryside in Jersey. That is not what I think Jersey should look like and I am sure that is what many Members would not like Jersey to look like in the future. That is what you end up with on this site if you allow developers the kind of density that is being proposed. It should not be allowed to happen and we do need to revise policy so that does not happen. But we still need to be mindful that we have a lot of residents we need to house and we have a limited supply of land. It is a

dichotomy. It is a problem, but I am sure that other solutions can be found to overcome it. I would like to know from the Planning Minister, either today or on some other occasion; I have asked the question before and I have not had a straight answer. When will the new Island Plan be published? When will there be public consultation on it? What is the time scale on that? I would like to know the answer to that. I have not had a straight answer. In answer to the proposition, though, I would, before I can vote for it, like some indication to what the liability for the public would be in terms of the cost of being effectively sued by the developers. I would like to know that. It is difficult to make a decision without that information, but I wish the Constable good luck with this. I have a lot of sympathy. I think all the Deputies in rural parishes have the same sort of sympathy, as, indeed, of course does the Deputy of St. Clement because issues are similar in that more urban parish as well.

6.1.20 Senator P.F.C. Ozouf:

The Deputy of St. John asked for legal advice from the Attorney General and I was going to do the same because I think there is some advice that the Assembly needs to have at hand. Would it be appropriate in order to ask the Attorney General to respond to the Deputy of St. John's questions? I would also potentially suggest that that may well have to be 'in camera' because the Attorney General may wish to share with us advice which a potential litigant could use.

The Bailiff:

I do not know whether the Attorney General is ready to give advice or whether he would like to have notice of some of these questions and give his advice after the luncheon adjournment?

Mr. W.J. Bailhache (HM Attorney General):

I would very much appreciate doing it after lunch.

The Bailiff:

Very well. If Members are content I think the debate is likely to recur on this afternoon.

The Deputy of St. John:

I also challenged the Treasury and Resources Minister on the likely cost of such litigation. Does he actually have an idea of that, or is it as long as a piece of string?

Senator T.A. Le Sueur:

I have already spoken, but the answer is as long as a piece of string is as far as I am concerned.

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

I have not been in this Chamber as long as many but I have been in longer than some, and it never ceases to amaze me how many States Members develop an acute expertise in planning matters, while at the same time, given this extraordinary wealth of ability within the Chamber, how few wish to put themselves forward to work on the Planning Committee or the Planning Panel or even to be the Planning Minister. I am sure there is a lesson for us to be learnt there somewhere. I have yet to determine precisely what it may be. Unlike other Members I want to devote myself to the proposition. Obviously, I look forward to a review of the Island Plan. I would want to take some issue with the Deputy of St. Peter who indicated in his view the people of Jersey have lost control of the planning process.

The Deputy of St. Peter:

Just a point of clarification, it was through the States Chamber that I made that comment, through the States Chamber.

Deputy G.J.W. de Faye:

Well, that may be a tenable point of view in the sense that the people of Jersey may feel that their States representatives let them down when the last Island Plan was approved, but nevertheless the last Island Plan was approved, and that is the document with which the planning department has to work. It is a complex document and it is full of questions and problems and formulae. That is why I think this proposition should be thrown out because it is inappropriate for the States to suddenly, having approved the generalised and in fact detailed framework of the Island Plan, to suddenly throw another stone into the pond and say: "Oh, by the way, we just decided that in this particular case we want to insist on the specific number." I simply do not think that is right, and I will go into why that is a bad approach for this House to take in due course. Yes, 97 is a specific number. It is not 100 and it is not 95 or 129, or indeed 150, or 1,000 for that matter, but we have been down this road before. We have had these arguments about what do these numbers mean. Are these housing units? Are these habitable rooms and what are the specific formulae that apply to them? We even discovered in debates not so long ago that the Island Plan maps were not that accurate and that actually we should have taken the numbers associated with development areas with a larger pinch of salt than we thought. But nevertheless, it is important to bear in mind that now a level of flexibility must be accorded to the planning panel. It is wrong to bind them in the same way, as the planning panel has clearly rejected the higher figures for this particular development. We have now cut down to the latest figure of 129. The flexibility has clearly been operating. I think it would be wrong for us to indicate specific figures. On that matter I think the Deputy of St. John does draw up an interesting point, just given that we appear to have given fairly clear indications on a number of housing units to be constructed on this particular site. If the States now changes its mind, as the States is ultimately entitled to do, what is the financial fallout? Well, in round terms if we are going to knock 129 houses down to 97, that is 32 homes. You might assume a £50,000 profit on each one. Well then, we are talking about possibly having to pay £1.6 million to the developer for notional loss of profit. Round figures written on a back of a match box, but it is going to be somewhere around £1 million, plus or minus £500,000 probably. So this proposition carries with it a certain financial liability, and I have no idea whether the Minister for Planning and Environment has the funding to be able to deal with that, but doubtless we shall find out in due course. I was interested to listen to the Connétable of St. Lawrence with his very moving story about one of his constituents sitting in their front room with the water bubbling up through the floorboards. He asked us, you know, how would we feel. Well, I have to say to the Connétable I'd feel a lot happier if I knew there was a big pumping station just 200 yards away that might actually bring the water level down a bit. I think this is a serious point that I understand why the proponents for the proposition seem to be overlooking the key issue here, but flooding has always been going on. This area of the land is generally known as Le Marais de St. Pierre, St. Peter's marshes. Flooding is not a new experience, and where the flooding problem actually occurs is when we have very heavy downpours, torrential rain, that coincide with a very high tide. We must not be under the impression that this is something that goes on all the time, by no means. When the tide falls below a certain level, basically all the water drains out via the sea wall, but of course those pipes that run through the sea wall have swing hatches on them, so that obviously when the tide comes in the sea water does not come in the other way. But if it is a high tide those hatches are blocked, and sometimes the waves will come over the top, and sometimes in extreme circumstances you will have a very heavy build-up of water coming from the inland side as well. Result, flooding. Now, the proposal is to install at the lowest end, the bottom end of the perquage path, right by the sea wall, a very substantial capacity pumping station. I questioned this in great detail with the experts in the department, who have all assured me that the

ability to have that pumping station there will not only protect the site in future, it will make the flooding situation we have up to now improve. In other words, it is overall an improvement having a pumping capability on that site where none exists at the moment. It will deal with the problems that happen now and any future problem better than the current circumstances. So I do not believe we should be wound up too much about the flooding aspect. Having a pumping station will improve that, although I will grant the Connétable, yes, if the pumps do not work then we do have a problem, but the answer is fixing the pumps, not abandoning the development or necessarily limiting the development to a certain number of homes. Now, we've also had a lot of talk about the traffic issue. Actually, the traffic issue is one of the reasons why this is a good site for development, not a bad one. It is one of the reasons why the site probably could accommodate a slightly higher number of homes than you might expect, because its main vehicle release point will be on to the inner road via St. Peter's Valley and not directly on to the difficult Beaumont Bel Royal section. It will also have pretty direct access. Those of its future residents who wish to cycle can very easily cycle southwards and then join the very popular and heavily used cycle path that runs all the way from St. Aubin to St. Helier along the front, so another useful advantage to this particular site. It just also happens to be just to the north by about 150 or 200 yards to the most frequently serviced bus route in the Island with buses running every 10 to 15 minutes at peak times. So it's easy for us to suddenly wander down a concern about traffic issues and overlook the fact that there are some very, very significant advantages to this particular site and there are some probably very good reasons why you could handle 129 homes as opposed to 97, or whatever the final figure might be. I think the concerns about the steel works noise are slightly overplayed. The steel works does operate mainly during daytime. I am not aware of extensive night time operations. I know that the noise problem is recognised, and as such I understand that significant landscaping details are in place to ensure that there is appropriate baffling between the development and the site. But again, that has no particular relevance to the number of units on the site. Again, let us look at that location. Immediately adjacent one can see on the charts of photographic aerial photos so helpfully put it up in the chamber, one can see the logic of putting a substantial development in this location. Right alongside Sandybrook, which is almost a little village in itself with a number of existing facilities and in addition to that we know that there is a school near by, although I understand there are issues about accommodation for pupils in the short term, but I am sure the Minister for Education will be about to comment about that in a much better way than I can. However, my understanding is simply that there will be a certain move around of how students are allocated places. I cannot remember which Member said that, you know, this is an issue that unites Islanders. It strikes me that the one issue that does unite Islanders and it rather disappoints me is NIMBYism (not in my back yard). A constant, constant round **[Laughter]** well, all that moaning indicates just how familiar States Members are with NIMBYism because one after the other they all parade in here with their propositions, stoutly defending their parochial rights of their constituents, who once again are being imposed upon by the rest of the Island to try and take the strain of housing accommodation. We hear it time and time again. It just bounces around from one section of the chamber to another. So let us all remind ourselves that if we do insist on 97 units of accommodation, well, we are going to have to probably find 32 somewhere else, and this just might fall into somebody else's patch. Once again the old NIMBYism issue will pop up again. But I think probably the most important element for Members to understand about how they respond to this proposition, going back to the first thing I said, how excited are you about really studying planning issues in detail? How far do you think planning should fill up your time as a States Member? How much work are you honestly prepared to put in to these very tricky and difficult issues, because make no mistake, if we start supporting these types of proposition, which we have done in the past, then they will keep coming back again and again and again, because a Senator, or a Connétable, or a Deputy will realise that there is a political advantage. Let us not be shy. Let us not have no groaning from the back benches. **[Laughter]** Yes, there is political advantage in standing up and defending your little corner and keeping your constituents happy as long as we can push a bit this somewhere down some other direction. I have done my job. Let us be quite clear. **[Laughter]** There is political advantage in

doing this, but if Members -- I do not believe I am giving way, Deputy Gorst. Well, I will be coming to you about a site **[Laughter]** in a week or so time.

The Deputy of St. Peter:

Is this a retirement speech, Sir?

Deputy G.W.J. de Faye:

No, I have to, in answer to the Deputy of St. Peter, I should confess that while I was on Environmental Planning, I pleaded on my knees with the President not to put me on the planning sub-committee, but that is another story. If Members really want to go through this level of detail in planning applications, fine. Back this proposition, because you will get another one and another one and they will keep coming until you will get so fed up doing planning applications in the States, you might come up with the idea that perhaps we should have a planning panel and a Minister who gets on and does the job on their own with a set of guidelines called the Island Plan. What a good idea that would be. So either we can just push it over that way with a clear framework, some decent guidelines and they can get on with the job, but we will not have to keep wasting our time in this Chamber going over the fine detail and what have we got to look forward to? I am sure you are all thrilling to the idea of discussing Jersey crossings in Mulcaster Street and Burrard Street. I'm disappointed to hear that is going to be put off, because I was very much looking forward to getting my teeth into that one, I can assure Members. I think the final important issue, apart from just how many times this House wants to carry on dealing with this type of debate, the final issue is let us look at the relevant figures. The relevant figures are not 97 or 129 or anything else. It is the density figure on the site, and that is the key to understanding whether this is an outrageous proposition or not. When you look at the density figures, you will find out that at 60, this is coming in as one of the least dense developments that we have had in the last few years. So if this House really wants to make a big fuss about the least dense development we have had in the last few years, about an opportunity to put in a pumping station that will solve the flooding problem in Le Marais marshes for a very, very long time to come, the opportunity to utilise a development that stands right alongside the best public transport service in the Island as well as one of the best used cycle ways and so on and so forth, I strongly say please reject this proposition and let the experts at planning and the Planning Panel and the Planning Minister get on with the job that we expect them to do.

Deputy J.A.N. Le Fondré:

Can I seek a point of clarification, Sir, from the Minister, just before he completes this, having completed his speech. Having extolled the virtues of the wonderful pump and the pumping station, could he confirm, especially for some of the residents whose views we are meant to ignore, who are sitting in the gallery and are welcome here today, that the location of pumping station in the car park between Bel Royal and Beaumont is deemed to be the most effective site for dealing with pumping out against the tidal pressure.

Deputy G.W.J. de Faye:

I'm no hydrologist or engineering expert Sir, but my understanding is that the engineers have selected the most appropriate site that I assume is easily accessed. There may well be a better site somewhere along the sea wall, but I imagine that somebody may well have a house built on it, and as far as I am aware, this is the most conveniently accessible and appropriate site.

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

I am glad to follow the Minister of Transport and Technical Services, because a lot of his points I agree with this time, so he will find that very hard to understand. I feel we have had this conversation many times in this House. I have looked and looked across the Connétables' benches, let us say when we were having the population debate, when Deputy Southern was asking not to have 1 per cent but a half per cent of increase in the population. If you vote for this and for your Deputies, and I know one Deputy, ex-Deputy Dubras, is sitting in the gallery. I know which way you voted in that debate.

The Bailiff:

Deputy, it is not appropriate to refer to people in that manner.

Deputy J.A. Martin:

Oh, sorry, Sir. Ex-Deputy of St. Lawrence, or then both ex-Deputies of St. Lawrence, voted that way. Now, I represent St. Helier, and like Deputy Huet, where are these small urban sites that the Deputy of St. John says keep popping up in the country going to go again. Planning provided us last week, or a few weeks ago, with the breakdown of the building since May last year: 530 in St. Helier, the rest dotted around the Island. Now, we have not had enough because we know a lot more is coming, but we keep getting building and building and promises of town parks, yes, it's coming. Again, another three or four years, but by that time we are probably going to have another 1,000 units of accommodation. I do not ever support St. Clement when they come back with: "Let us make this a little bit smaller." I will not support St. Lawrence, and I really do not believe, I heard that the Housing Minister is quite happy with the houses that he thinks that will be provided for families. When I see the waiting list growing, I know if there was 140 built on here, or the 129, the property developer is not going to build them if he has not got names on the list to buy them. As for the flooding, it is all right to have 97 houses flood, or 129 houses. If we seriously have a problem, planning should be not allowing any houses, but on planning permission, not because there is pressure on the Connétable and the Deputies of that area that the residents do not want it. That, Sir, is always what has happened, but it never happens in St. Helier, it is always push them into St. Helier. Our children, our younger population already have nothing to do, and it is about time, when they brought out the Island Plan, I remember an ex-Deputy of St. Lawrence saying: "Yes, well it does seem a lot going in St. Lawrence, but I will deal with that when we get there." Unfortunately, they are not here now, and it is left for the other people to pick up. Now, you make one policy, you make other strategies and they are all supposed to hang together. You cannot increase your economy. You cannot grow your population even by a small amount, Sir, without providing the homes. This is why I never wanted the Population Office under the Chief Minister, and no disrespect to the Chief Minister, because I want to know there are the houses wherever they are, but as I say, St. Helier has not shrunk into an impossible state where we cannot, unless we provide some good facilities for our youth. We do not just get our youth, we get the Island's youth. We cannot cope, so I will not support this proposition. It is about time some other parishes took the burden, and as I say, I cannot support this proposition and it definitely to me is a NIMBY-based thing.

6.1.23 Connétable M.K. Jackson:

I would like just to make a couple of points. One on which I concur with previous speakers regarding advice from the Attorney General, which I think is fundamental to this whole debate. Coming back to this proposition, I took the opportunity as I was invited to walk around the field in question and I have to say that I was horrified they were being built on at all but, given that decision has been made by a previous House in a democratic sort of way one accepts it, but clearly the House has been bamboozled over numbers. Is it that the Planning Committee lacked guidance in the past? I suggest that may have been the case. Did they lack control? We do not know, but I

feel that the present Minister for Planning and Environment is getting a control over the situation with his Sub Committee and I think that we are moving now in the right direction, but this is a situation which needs some sort of control at this point. We cannot accept this massive increase in numbers for no apparent reason. This is what we are not clear on. In my own mind, I would wish to have to be clear on that before voting against this proposition and subject to the advice of the Attorney General, Sir, I thoroughly support it.

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

I must say, I look at the map and it occurs to me that all we need is a care home located on the marsh between this development and the geriatric ghetto, we would have a new parish which we could probably call St. Dan Dare. What nobody has mentioned also is that a number of the floods do include sewerage. Deputy Huet talked of the cost of this in monetary terms. Well, what about the cost of over development in social terms? If we are not careful, the high density of development that we are getting into will, in fact, mean that we are building the slums of the future. We have got similar problems in St. Brelade regarding development, particularly in view of the 60 per cent increase in the number of dwelling units on the Noirmont peninsula. Some time ago the Deputies and Connétables from the West got together and reckoned that the current increase in dwelling units in the west of the Island will put some 2,000 to 3,000 cars on the road, depending on the constitution of the particular families living in the various developments. These will all be feeding into town through Beaumont and Bel Royal, and they are not all on bus routes. The Connétable of St. Lawrence has demonstrated the lack of joined-up thinking. Not only do we not have control of planning, but in the past have Planning talked to Education, Sport and Culture, or indeed any other committee? Legal costs are put forward as, I would say, an excuse for not forcing a point. I think there is a point where we have got to stand up and be counted. The electors will, in fact, I think, support us in resisting what is an implicit blackmail based on perhaps lack of control in the Planning Department. You know, the authority perhaps has not been defined. Can you take what the actual planners and the development brief says as gospel, or do you just take it as indicative until you have been to the Committee and the Minister? Despite Deputy de Faye's comments, I think that we should stick to the Island Plan. The Island Plan suggests 97 houses. The error in the Plan in previous debates was alleged to be around about 10 per cent, which still does not equal 129. I urge Members to support this proposition.

6.1.25 Connétable R.E.N. Dupré of St. John:

I had intended to rise at the beginning of this debate and say that the Planning Applications Panel would be abstaining in this debate and would be listening to all the arguments. Unfortunately, the Minister's comments first thing this morning came as rather a shock to us. We have had discussion during the break, and it appears there was a mistake made by an officer yesterday, and we realise it is not the Minister's fault. As far as the development is concerned, now that we can talk about it, a lot has been said about the flooding aspect. I think that the dealing with the flooding aspect is an advantage here. The attenuation tank is going to be designed to take all the water from the new development in the event of a flash flood and the attenuation tank will pump that out at a very slow rate. The pumps are to deal with the existing flooding situation, so it is a planning gain, the flooding tanks that are going to pump out over the high water level. The rest of the development leaves me feeling a little bit short because there are problems, and if it had been coming to the panel as a straightforward application, I think we would have probably rejected it, but there is a planning development brief which had been given to the developers and they have complied with it. I think the mistake was made when the development brief was given for the development.

Senator S Syvret:

I wonder if now might be an appropriate time to propose the adjournment, because I think a number of Members are looking forward to the advice of the Attorney General before speaking further.

Senator P.F.C. Ozouf:

Should we agree now that we should return *in camera* to receive the legal advice? The States need to make that decision before we adjourn, and perhaps then the public can then come back when we have dealt with the *in camera* bit.

The Bailiff:

May I suggest, Senator, that the Attorney General be invited to indicate during the course of giving his opinion at what stage he wants the Assembly to move into *camera*, because there are a number of things which I think he ought to say in public rather than in private. Members agree to adjourn until 2.15 p.m.

LUNCH ADJOURNMENT

6.1.26 Deputy S. Power:

Sir, on a point of order, I mentioned this morning in my speech that the former Deputy Harry Baudains had been defeated in his reference back in the Island Plan debate 2002. In actual fact that was incorrect, Sir. He withdrew his reference back.

6.1.27 Deputy R.C. Duhamel:

I was hoping to speak, Sir, but with just one very brief point or maybe two. When we talk about density figures, that is not just the absolute numbers that are important. It is how things are designed. It is how things are laid out. In the past when we have dealt with developments and development plans, in my opinion, Sir, I think a lot of the development has ended up as bolt-on housing estate syndrome. That is a little bit unfortunate, but it does not have to be that way, and if indeed the designs are well thought out, in terms of the facilities that are required for building communities, then I think in absolute terms it might be 97, it might be 105, may be smaller than that. I think really the point I am coming to, Sir, is that I think this House and indeed others can probably become bogged down and in this particular marsh area, that is probably an apt current comment with the overall numbers. As I say, Sir, it is not just about numbers, it is about how you design things. So, providing the overall design is up to scratch and surpasses it in some respects, in terms of community building, then I think we should really be in a position to wait until whether we decide whether or not 97 is the correct number. In those terms, I do not think I am in a position to make my mind up today, and on that basis we will probably have to go against the proposition.

6.1.28 Deputy D.W. Mezbourian:

In supporting this proposition, I am mindful of the many occasions over the years when Members of this Assembly have been accused of being parochial. I note with regret, Sir, but with no surprise, that we three Members for St. Lawrence have indeed been accused of NIMBYism. I refute this allegation. We are here today, as we should be, representing the concerns of many of our constituents. Yet while we are voicing concerns about a planning application in our parish, many of those concerns will be recognised, not only by those within the Chamber, they will be recognised Island-wide, because they are concerns about planning issues that are shared Island wide. Having read the many files on the proposed development of fields 848, 851, 853 and 854, I can confirm the extent of public concern at this application for 129 homes. Letters of objection to this, the largest site zoned by the States for social housing under Island Plan Policy H2, have been received from

people living in every parish of our Island. Not just those living in St. Lawrence but in every Parish. Hundreds of letters received from people expressing genuine concerns felt by many. People who were worried at the proposed density of development at Bel Royal, who have fears for the impact it may have on our infrastructure, our environment and quality of life, for both existing and new residents. While acknowledging the need for the provision of first time buyer homes, the need for well designed homes providing space for families with growing children and the need for suitable accommodation for the elderly, many of us Island-wide have concerns at the proposed density of this development. The Connétable has alluded already to the fact that the Island Plan has been challenged on a number of occasions. In particular, it has been challenged about the number of homes as indicated in the Plan and the subsequent number of homes applied for on the various sites. The Island Plan approved by the House in 2002 gives an indicative figure for this site of 97 homes. We have heard that the current application for the Bel Royal site is now for 129 homes, revised down from a previous application of 140, which was itself revised from 150. This proposition asks that the Minister for Planning and Environment brings forward an amendment to the Island Plan, for the Assembly to approve that the site in question will accommodate a maximum of 97 homes. Members might be surprised to learn that the feasibility study carried out before the land was rezoned for housing purposes did not include the preparation of an environmental impact assessment. They will be aware, though, that if this was a new application, one of the requirements under Article 13 of the new Planning Law now in effect would be an environmental impact assessment as well as a modelling requirement, regrettably too late for this application. We surely will all regret what is maybe the irreversible damage to an area of the last wetlands in the south of our Island, as well as the loss of many mature trees in the natural woodland habitat. We surely will all share the grave worries of nearby residents. Share their worries at the effect that this development for 129 homes may have upon the often severe localised flooding in the area. Their concerns have not been fully allayed by the promise of a surface water pumping station intended to reduce the current risk of flooding to existing properties as well as to the new development. Their concerns have not been fully allayed by a report on flood risk and drainage issues, a report modelled on the site in the UK; a report commissioned and paid for by the developer. I ask Members, Sir, to consider how far forward we as a government should be looking with regard to the likely dangers to us all as the result of climate change. In comments made in 2001, for the former Policy and Resources Committee, Dr. Michael Romeril, then Environmental Advisor, discussed the likely impacts of climate change. He advised that some of the changes will be very significant. The consequences are not always simple, and a range of economic, social and environmental impacts are likely. For example, big sea storm surges likely to occur at present within a 1 in 100 years' frequency will, it is thought, become 1 in 4 years' events. We surely will all share residents' worries that, if flooding is exacerbated in the future, as they fear and as seems likely from these comments, they may not be eligible for future insurance cover. Residents have asked me whether the States will indemnify them? I ask this Assembly, will we, and what are the likely problems there may be in connection with the existing nearby steel factory? The feasibility study prepared before these many fields were rezoned for housing has a section entitled "Conditioning Factors of Sites", in which it refers to the individual comments by appropriate bodies. The section headed "Environmental Health Conditions" shows the words "No comment". I understand that, regrettably, the potential implications of the nearby commercial operation were missed by the officer at the time. The potential implications of the lack of comment was subsequently realised, and health officers raised their concerns with planning officers about the siting of additional housing in that area. I understand too, Sir, that the Health Department has reorganised to ensure that such oversights do not occur again. However, work by the department in the intervening period following complaints from existing residents in the area of Jersey Steel had shown significant noise levels from their premises. Those levels of noise, the close proximity of the proposed new properties and the lack of mitigation which might be available in this instance, and the fact that very little has been put forward by the developer, left officers with the opinion that the site should no longer be considered appropriate for this type of development. This sentiment and

other concerns were conveyed to planning officers in correspondence dated 13th November, 2004. The Transport and Technical Services Minister has told us that he considered the noise issue to have been overplayed. As he has questioned Members' qualifications to make statements on planning issues, I now question his qualifications to discuss noise issues. We all make judgments based on what we read and what we hear, and we listen to the experts. I would submit that if this information from health experts had been known at the time of the feasibility study, it is possible that this site may not have been considered appropriate to be rezoned for housing purposes. I understand that any complaints made by incoming residents to the development would be the sole problem of Jersey Steel and those complainants. Members will need no reminding of the many problems experienced by local companies following the occupation of the new housing development at the Waterfront; problems arising as a result of complaints about noise. They will surely want to consider what effect potential legal wrangles could have upon the long term viability of Jersey Steel, who has 60 years yet to run on its lease. The company has been located on its present site near the proposed development since the 1950s. It is a principal supplier of steel for the local construction industry and it employs 65 people. Though now fully aware of health concerns, if permission is given for this development of 129 homes, the Planning Department would, I understand, be under no legal responsibility for the highly probable noise hazard associated with living next door to a working industrial plant. I leave Members to make their own judgments on the ethics. Without an environmental impact assessment, we may only conjecture whether this large development may be the cause of irreversible damage to a natural wetland site. We know, however, that there may well be flooding problems and noise problems too. These are issues pertinent to the St. Lawrence site, but I referred earlier to Island-wide issues. The projected traffic increase associated with the development for 129 homes would have repercussions on the effect being noticed already as a result of the recent development of sites in St. Ouen, St. Peter and St. Brelade. Members will, of course, recall that only a matter of a few weeks ago the Planning Department were unable to readily supply figures reflecting the true extent of development Island-wide. We must surely then be able to question whether accurate information has been available to those traffic engineers charged with calculating Island-wide traffic flow - those same traffic engineers who advised Planning on the traffic implications associated with the development for 129 homes. In response to questions about this proposed development the Minister for Transport and Technical Services has acknowledged for this Assembly that there are serious traffic problems already in the Beaumont and Bel Royal areas, telling us that if traffic increases, we will need a new road system. With respect to the Minister, if approval is given for 129 homes, although not a traffic engineer, having read the relevant reports I believe I could predict with some confidence that traffic will increase. How long then before his almost throwaway suggestion for, and I quote: "an enormous dual carriageway along the beach or a tunnel" becomes reality. In response to my question about this proposed development for 129 homes, the Minister for Education, Sport and Culture has acknowledged to this Assembly that there are serious concerns about the impact upon local schools within the area. He told us that the total number of pupils in Bel Royal School is currently just over its planned maximum. First Tower School has space for a further 25 children and Les Quennevais currently has a roll in excess of its planning capacity. 129 homes are estimated to bring with them 163 children of school age. For those Members who may have forgotten the Minister's answer, I will quote from it: "We have capacity in the Island. Unfortunately, that capacity does not necessarily match where major building developments are taking place. Those schools will not be able to cope with all the predicted children from the catchment areas. We are always contacted for major development by the Planning Department. When we are contacted we give our best estimate. Those best estimates change nearer the time of the development being completed. If necessary, some young people, some children will have to attend alternative schools. What is important is that if anyone is thinking of moving to a new development, they decide beforehand and find out beforehand the situation regarding schooling as a result of moving into that area." Sir, the Minister has acknowledged unequivocally that there is lack of capacity in local schools for those 163 children who, it is estimated, will move to this new development of 129 homes. I will refer again to

the conditioning factors of the site as quoted in the feasibility study. Although Bel Royal's school is nearby, it may be necessary to phase development or reduce the proportion of family homes on the site to assist in ensuring adequate capacity is available at the school. Sir, many of the issues that I have commented upon have come to light since the adoption of the Island Plan by this House. They are planning issues that must be taken into consideration. They are issues that were simply not considered during the Island Plan debate. Indeed, many were not known. They are issues that will be exacerbated if 129 homes are built on this site. Sir, this proposition asks that the Minister for Planning and Environment brings forward an amendment to the Island Plan for the Assembly to approve that the site in question will accommodate a maximum of 97 homes. We have yet to hear from the Attorney General, but there were some comments submitted by the Minister that legal advice suggests that reducing the number of homes to 97 would be open to legal challenge. Perhaps, in all but exceptional circumstances, we would expect the Minister to go with that advice. However, the question we must ask ourselves today is "what are exceptional circumstances?" I suggest that these are exceptional circumstances. I contend that, when the States agreed to the Island Plan, they were effectively agreeing to the numbers mentioned within it, albeit that those numbers were indicative. Indications may go down as well as up. The design brief for this development gave no indication of the number of homes to be built and therefore the developer has submitted plans to presumably maximise their return. If the Planning Department was to be taken to the Royal Court, for what expenses could it be sued? This has followed a formal planning process, but no plans have been approved, no concrete has yet been poured. The disclaimer attached to this planning brief states: "It is important to note that this document is not binding in itself. It does not restrict the Environment and Public Services Committee from amending or varying such information contained in the brief before a planning application is determined." That disclaimer is not time constrained. It does not apply only to this developer but to all applicants. It is surely Planning's get-out clause. I would remind Members, Sir, that we have been told on numerous occasions that things will change for the better with the new form of ministerial government. Is this not the ideal opportunity for the Minister to prove that this is right and to exercise the ministerial authority and judgment with which he has been empowered? Sir, I ask Members to accord the level of flexibility on the numbers involved here, as the Minister for Transport and Technical Services has so implored. In response to my recent question in the House as to whether he would be satisfied with the building of no more than 97 units of accommodation on the Bel Royal marsh site, the Minister for Housing replied: "Yes, Sir, I would be." Sir, I urge Members today to support this proposition.

6.1.29 Mr. W.J. Bailhache Q.C. H.M. Attorney-General):

I wonder if I might start by saying that there are some very good reasons why the Assembly is not the right place to take planning decisions. The first of those reasons is that the Assembly does not have all the information which the planning authority does have in order to take an informed and appropriate decision in the interests of the whole Island. The Assembly does not have the benefit of having the officials, the planning experts, before it in order that the officials can be asked questions about why they advanced particular views, and what is wrong with another view that might be advanced. The legal advice which the Assembly gets is likely to be qualified and provisional, and there is going to be no real exception in this particular case. So those are very good reasons why the Assembly should not take decisions, and Members may or may not wish to add to those. The sort of reason that Deputy de Faye advanced is that decisions might be taken for political reasons rather than for planning reasons, and it is very important, if one is to have a coherent Island planning policy, that decisions are taken for planning reasons. I say that without apology in the light of some of the speeches which I have heard this morning, that "the Assembly has lost control over the planning process." What I would like to do next is to go into the things which the planning authority is required to do. The first of them is that the Minister is bound to take his decision within a reasonable time, or his lack of action can be reviewed judicially. That reasonable time will

depend, as all reasonable things depend, on the circumstances, and I do not have enough information to be able to say whether time is yet running out for taking a decision in this case, but, as I understand it, the application was first placed several months ago and clearly that must be a factor in the decisions which the Minister has to take in due course, and I think probably a relatively early course. When the Minister takes his decision he must do so having regard to all material planning considerations. These will include the use to which the land is to be put; whether it is to be built upon at all; whether it is to be used for residential purposes or commercial purposes; the type of development; if it is to be built on for residential purposes, whether it is to be for Category A housing or whether it is to be for Category B, more expensive, housing; the density of development. It may be the style which is to be applied; and in considering density, in particular, the Minister is bound to have regard to issues of schools, traffic, of space about the houses, the amenity areas which are available, and so on. There are a whole raft of planning considerations, some of which have been mentioned by Members today, but certainly not all. There will be documents in existence which go to the policies which are to be applied and these can, and they do, have a bearing on whether or not a decision which the Minister takes will be upheld by the court. For example, the Minister will be hard put to depart from planning policies which have been approved by the States, hard put to depart from planning policies which are set out in the development brief which has been published in relation to a particular site. Now that is not to say he cannot ever depart from these things, but he will be hard put to do it. He will have to come up with some very good reasons why it is wrong to grant a consent if the planning policies, the uses approved by the States, are to be ignored. He would have to come up with some very convincing reasons if the planning policies set out in the development brief are to be ignored, and part of the reason for this is that members of the public are entitled to expect that their planning applications will be dealt with in accordance with published policies. In this case now, the Island Plan and the development brief are among the documents which fall within this class of documents I have been describing. The Island Plan was adopted pursuant to Article 3 of the Island Planning Law 1964, and it designated areas of land for use for different purposes. It was quite a sophisticated Plan within the framework of the 1964 legislation. It falls very naturally within the terms of Article 4 of the 2002 Planning and Building Law. There is a written statement of policies with a reason justification, and the really critical things are that the statement of policies must meet the purposes of the laws described in Article 2, which are the general care for the environment and so on, and secondly, must designate land for particular development or use, and so when the States approved the Island Plan, the land which we are talking about here was designated for a particular use. It was designated for Category A housing. It is perhaps very unfortunate that the Plan mentions potential yields from the different sites. Unfortunate, because this took Members' attention away from the exercise which they were then conducting. The exercise was then not "are we approving this land for development for 97 houses approximately?"; the exercise was "are we approving this piece of land for development of Category A housing?". Now, I can well understand why the figures were put in there. They were put in there so, when looking at the totality of the land to be designated for Category A housing, Members had a feel for how many houses were going to be constructed as a result, and therefore whether or not too much land has been designated, or not enough land had been designated, but nonetheless, the purpose of the Plan was designating that area of land for use for Category A housing, and it follows that the approximate description of 97 houses is really not material to what the Plan was about. The Plan was about designating use, and one could say in those circumstances that this particular proposition which is now before Members would mark quite a distinct departure from the concept of what the Plan is about. The Plan is about fixing uses, designating development for particular pieces of land. I would, Sir, now like to go on to say a few things about this particular piece of land which I think, perhaps, it would be better if I said in camera.

6.1.30 Senator S. Syvret:

I propose that the Assembly go in camera.

The Bailiff:

Very well. Is that proposition seconded? **[Seconded]** Members agree to go into camera to hear the advice of the Attorney General. Very well. I ask members of the public to withdraw from the public gallery, please, for the time being, and I ask the media to cease broadcasting the debate.

(Debate continued in camera)

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

I wonder if, in supporting the Connétable of St. Lawrence we could send a signal to the Planning and Environment Minister, although our views are not to be taken into consideration when there is a planning evaluation to be taken, the Minister is going to decide anyway on the day as to what will happen based upon legal advice. I have been in this position a number of times before, and I am certain other Members can recall the debates we have had in recent times on Les Pas and also on Trinity infill and things like that. We have had to rely upon the advice of the Attorney General, and it has not always suited many Members of the Assembly, but at the end of the day it always does fall back upon the shoulders of the Planning Minister or, in the olden days, the Planning President and the Committee, and they could, and usually did not, take on board the wishes of the Assembly. I think it is worth supporting the Connétable of St. Lawrence today because I believe if we do, for my part anyway, I could say to the Minister: “Take on board these concerns, and if you find you are unable to apply them in this particular case recognise that the Island Plan is deficient in these areas and bring back the Island Plan for an overall consideration of this issue within the other developments that are on the starter’s blocks”, because to vote for and against this proposition is going to be just more of what we have had in the past - hours of debate, futile debate with the Minister or a President of a committee with his hands or her hands tied behind their backs. Maybe we will be able to stand in front of the electorate and say: “We voted. We did it, but we could not win it”, but it does not do much good. I think if the Assembly sends a signal to the Minister today it may not save this particular issue in the numbers that are concerned, but it may address and send a signal to the Minister that is suggested by Senator Syvret that part of the Island Plan needs to come back and the overall numbers that were first put in the Plan and have been set for the remainder of the Plan and future Plans perhaps need to be set as maximums, otherwise all we will do is sit here shaking out heads in disbelief at speech after speech after speech, because I know some Members do not take much pleasure in my speeches and I certainly do not take much pleasure in other Members’ speeches.

6.1.32 Senator B.E. Shenton:

After the Attorney General’s speech I, too, will be supporting the proposition. I grew up in St. Aubin and spent my youth sitting in traffic jams listening to politicians talk about how they were going to sort it out. Occasionally I even had the radio on. **[Laughter]** They have done something. They have made it worse. When I got married I lived at Parc du Rivage which is a house overlooking Goose Green Marsh. It was a very nice place to live, and we used to be quite amazed by the fact that when you went to bed at night you could wake up in the morning and a small boating lake would have appeared, almost, through flash flooding overnight, so I was a little bit amazed when I heard that they were going to build on the land, albeit they are building towards the back of the marsh on the slightly higher land, although I do feel sorry for the people on the front of the marsh who are much lower down. I was a little bit amazed. I gave up on the traffic eventually and made our move back out west when Deputy de Faye brings out his transport strategy, but I gave up and moved out east, and I was a little bit amazed when St. Lawrence, many years ago, stood up and said: “Well, actually, we could take a few more houses in our parish.” I thought this

was a little bit naïve, because if you give Planning an inch they will take a yard. I disagree with the Attorney General when he says that we do not have a great voice in planning matters. We are the elected representatives of the Island. He is not the elected representative of the Island, and we are, as such, trustees of the Island. What we are asking is for the Minister to stay within the Island Plan where a number of 97 units was indicated. No permissions have been given. Nothing has been revoked. I find Planning in some ways reminds me of a junior school bully. When the little people come up to them they flex their muscles and tell them where to go, but then when the boys from the senior school come up, the developers, the junior school bully turns into a fag and does whatever they want, and it seems to me that if you do have deep pockets and you do flex them with legal action you can more or less do whatever you want on this Island, because we took our backbone out years ago and threw it away. What I say to the House is enough is enough. People do want homes and it is up to Planning to provide homes, but they do want homes and not rabbit hutches. Some of the recent developments have been absolutely horrendous, and there was a picture today of the L'Hermitage site, which is aimed at retirees, or last-home buyers as some call them, and you can see why they are aimed at retirees because you would have to be slightly senile to buy one. [Aside] I think Planning has a lot of work to do, and what I would like the Planning Minister to do is identify within his Department where it has gone wrong, to identify who gave the development brief that was so far out and to have the bottle to do something about it. He obviously has staffing problems and it is about time he sorted them out. His honeymoon period is nearly over, so I will be supporting the proposition, and I hope the other Members of the House are strong enough to do the same.

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

I thought we had removed committees when we moved to the ministerial system, but we now have a 53-man Planning Committee, and I think this is totally, totally wrong. I did declare at the start of this debate that I am involved in property development, but I think the fundamental principle here is that the 53 Members of the States are creating their own Planning Committee, and it really is up to the Minister for Planning and Environment to deal with this issue. I did want to touch on the Connétable of St. Lawrence's assertion that it says that there should be 97 units. This is a definite number; it was not 90, it was not 100, it was not 95. It was a definite number at 97, and quite plainly in the Island Plan it states, and this was touched on by the Deputy of St. Peter, but I think it is worth mentioning again. It states in the Island Plan when it is talking about the short listed sites, I am quoting now: "The theoretical yield of homes from each site has been estimated based upon 10 per cent of the site being public open space and the remaining area being developed at an average of 70 habitable rooms to the acre. The theoretical potential yields have then been estimated based on an average split of housing types according to the overall requirements of different sizes of dwellings identified in the housing requirement study. The figures are only an indication of yield per site, because the mix of site and type of homes will be determined through the development brief process." Now that is in the Island Plan at 8.69, and I think what the Deputy of St. Peter read is from section 2 of the Island Plan, a very similar wording. It is there for all to see, has been there for all to see from the day the Plan was produced. There is nothing that is uncertain in those comments, and quite frankly the Connétable of St. Lawrence is incorrect, and Members must realise that when they look at the Plan. For him to say that these figures are definite is absolutely incorrect, because it is there in black and white as to how the figures have been arrived at and the fact that they are an estimate, and he should have read the Plan when it came out. Now what I think one needs to look at about these developments - any development - is that you do have a housing mix. In the old days all the farmers used to take their potato lorries down to the harbour and you might have 100 potato lorries lined up. Now if today you filled up your Mini Metro with potatoes you would probably have 150 Mini Metros lined up in exactly the same space as those 100 lorries and they would occupy the same amount of space, and this is where the mathematics of the Connétable of St. Lawrence have gone wrong, because quite frankly if one has an assumption that

you will have a number of 3-bedroom units and then you say: “Well, I will not put a 3-bedroom unit, I will put a 1-bedroom unit”, then you might end up with two 1-bedroom units where there is a 3-bedroom unit, and this, Members must understand, is how one can move from 97 units to 120-odd units. There is no more space being consumed, but there are more houses, and it is a fundamental flaw in the argument of the Connétable. To say we will have 97 instead of 123 is quite frankly ludicrous because when you get to the mix of the housing on the site you can have a very different mix on 100 different applications and end up with a vastly different number of units appearing on the site and yet still be occupying the same amount of space. So Members really should reject this motion that one has to have 97 units there. It is a non-starter, something wrong with the mathematics of the Connétable. His proposition also prevents one-bedroom houses being put onto the site because it says the site will have a mix of 2, 3 or 4-bedroom houses. You cannot have any one-bedroom houses with the Connétable. No, he does not want those. I do not know why, he has not said. So, he wants 2, 3 or 4-bedroom houses, but the planning application might be valid including some one-bedroom houses. Perhaps he might explain why he has decided to delete one-bedroom houses? That has an impact of the mix of housing that you would have on the site and, of course, the design and scale of the site is again, it must be the Planning and Environment Minister who takes that decision and as the Attorney General said earlier, he has all of the information before him regarding the application. He has the plans, he has the opinions of the officers who work with him and he can make an informed decision, and the Attorney General made it quite plain that Members today are not making an informed decision. I think also the fact that in the Plan it is mentioned 70 habitable rooms per acre is quite important. I would ask the Planning Minister, when he does get to actually consider the application, that he looks at the habitable rooms per acre rather than the number of houses and so on. The habitable rooms per acre, as I said, when you have a mix in the developments, you could come up with any number of designs for the development and I think that is probably the most important point for the Minister to observe when he is considering the application. I was also concerned that in taking this proposal from the Connétable forward that it would have an effect on all of the other sites that are being considered within the Island Plan. I know I am just raising this as an issue, because it has been suggested that compensation could be payable under certain circumstances, and what Members are doing today is they are fundamentally changing what has been approved in the Island Plan previously, and if you are doing that, that has onward consequences and Members need to be aware of the onward consequences across any number of planning applications. It really is for the Minister to decide. It is not for this Assembly to decide. We do not need a 53-man Planning Committee, and I would ask Members to reject the Connétable’s proposition.

6.1.34 Deputy C.H. Egre of St. Peter:

A point of clarification, if I may. I quoted from a document stating the document was actually the development brief, and if I could just remind the Deputy that it did state quite clearly that: “... the theoretical yields specified in the Island Plan for the various zoned sites are entirely notional and based on a common average density of 70 habitable rooms per acre”, which is a quote from the planning document, but the planning brief went on to say: “... the achievement of higher densities will be made easier by employing the principles of urban design, greater use of flats and terraced development, and the relaxation of normal car parking provision.” That is what I stated.

6.1.35 Connétable of St. Lawrence:

Excuse me, Sir. Just a point of fact and clarification. The Deputy quoted from the Island Plan. He obviously took great trouble to read the Island Plan but he took little trouble to listen to my speech. Maybe he was not in the House at the time, but I certainly did not quote a definite figure of 97, Sir.

6.1.36 Senator L. Norman:

I am pleased to follow Deputy Troy and his party political broadcast on behalf of the developers' party. [Laughter] I rise, Sir, to add my support to the Connétable of St. Lawrence, and it is not a grudging support, as Deputy Le Claire suggested it ought to be, but it is wholehearted and determined. I would also say, if it is not too patronising, I would like to express my respect for all the St. Lawrence representatives on the way they have conducted this campaign. My respect is based on the evident restraint that they have demonstrated. There are echoes here for me, Sir. There are echoes of similar battles which have been fought and lost by, for example, St. Clement representatives, in the past. When I say fought and lost, actually they were fought and won in many cases in this place but lost at South Hill when previous Planning Committees ignored the wishes of the States, and I express the hope that this new regime is somewhat more enlightened. Sir, I spoke about restraint. The St. Lawrence representatives, like the St. Clement and St. Peter representatives and others before them, are not saying no to any development. They are not exhibiting the traditional symptoms of NIMBYs, and I think that accusation this morning was grossly unfair. They are saying that they recognise the need for homes. They are saying they recognise the need for homes on this site, but they are also saying, quite rightly, do not impose urban density standards on a rural community as you have done in other places. That, I think, is what they are saying. They are asking the States, and the Planning and Environment Minister, to stick to the indicative promises of predecessor committees in the Island Plan, and if there is a cost to sticking to the indicative promises performed because of errors made or because of inappropriate decisions, inappropriate design briefs, in my view that will be a cost worth paying to get this development right.

6.1.37 Senator P.F.C. Ozouf:

I listened to Senator Shenton, as I have done on a number of occasions, and I am going to start calling him the "Senator for Cheap Shots". I take great exception, as most reasonable members of society would, to suggestions that people will be senile if they buy at L'Hermitage. I sent a note to him just a few moments after he said that and asked him whether, in fact, he had even been to L'Hermitage? He has not even been. The Senator who speaks from pictures and speaks in emotive terms. When he has got a track record in this Assembly of delivering something rather than just using his seat at the backbenches with cheap shots, then perhaps I will listen to him a bit more. I also take great exception to the fact that he accuses the Attorney General of being involved in political remarks and says that he is not elected. The Attorney General is here to advise us. The Attorney General is here to advise Planning Ministers and the previous Committees, and we have had the benefit of his advice this afternoon, and Senator Shenton would be a bit better politician if in future he listened to some advice when it is being given from the Attorney General. Right, residential rezoning [Laughter], residential rezonings will always be unpopular and I have been involved in - another Member spoke about previous decisions being made; Senator Norman even singled us out for not listening - well I have been involved in some of those decisions. I certainly understand what the law is; I understand the obligations of the Planning and Environment Minister and the previous Committees and we have had to take decisions and we took decisions based upon full and complete advice. It is no disrespect to any Member of this Assembly when people say, whether it be the Attorney General or somebody else, that 53 people do not make a very good planning decision. Planning committees or the Planning Panel or the Minister sitting with officials, there is a 2-way interaction, there is a whole whack of papers that one receives, designs and a whole series of considerations; whether this be officer advice, development briefs, the developers, the objectors, you get the whole story over an extended period of time and this Assembly cannot do that job effectively. Emotion tends to rule the way, rule the argument and we end up with pretty, I have to say, uninformed decisions. I was also in this Assembly in 2002, when the Island Plan was brought forward. There are not that many Members when I look around the Assembly that were there in 2002. I was involved in the move that brought these sites to development. If I can take Members back to 2002 - there was a crisis; we had a Planning and Environment Committee that

just refused to accept the fact, the inevitable need for homes in the Island, and of course, lessons have been learnt. I do not know where other Members were in that debate, but I knew that those numbers were indicative numbers. I knew we were effectively approving a Plan within the region of 70 habitable rooms per acre; that was absolutely clear and I think that it is unfair - having the time again, and obviously a new Planning Minister bringing forward a Plan would probably explain it and put it in bold and say that it is not, as Senator Norman said; a 97 house promise. It was not and if Members get transcripts for those debates, they will know that. However, a number of Members have said that "planning has lost control". That is absolute and utter junk; in fact the planning system is working better as a result of the 2002 Plan and it is getting better. It has gotten better with the previous committee and I have full confidence in this Minister to make it even better from that. The difficulty that the Minister has, in respect of this development, is the fact that there is a development brief that says an indicative yield of habitable rooms per acre. That was approved by the Dubras Committee, that is a fact, and that yield is based upon the number, the amount of land that is being zoned and the number of houses and that is a problem which the Minister is going to have to consider. There have been a number of concerns, and I again pay tribute to the representatives of St. Lawrence; they have been, compared to some of the other Deputies that have been involved in previous campaigns against rezonings, they have been responsible, they have been respectful and they are doing, in my opinion, their job properly. However, we are in a situation where we are not a planning committee and the decision whether it goes one way or the other, I know the Minister is listening, but effectively it is going to be one minor consideration; it is going to have to be one minor consideration in his overall factor. There has been some really emotionally charged information put forward about the drainage issue. Well, I sat on the Committee when we took over from the Dubras Committee and we considered the application initially and I have to say that I believe that I understand the residents' concern about the drainage issues; they are very serious in the area. But as, I think Deputy de Faye and a couple of other people have said, the development will improve the drainage risks in the area and that is a planning gain and I do not think that that has got anything to do with 97, 156 or 42 units. There is an obligation which is put on there, by the way, a really innovative new policy of a previous Committee in respect of putting an obligation on the developer for the first time. I understand peoples' concern about density but actually - and this has been now reinforced by the new Minister in a clearer way than I had concerns about design - density is not the overall issue. You can have density with the most appalling design, you can have high density with fantastic living and a fantastic development. I have never been a particular slave to a habitable rooms per acre which says that 70 is bad and 60 is good; it just simply does not work that way and now with the new Minister, he is going to be focussing, rightly so as never before, and perhaps in a way that should have been done previously, on issues of design. I take by way of example the Spectrum development, which is not too very far away in town, in the Parade; a very high density development with underground car parking, some roof terraces, et cetera and extreme, much, much higher than 70, habitable rooms per acre, of course. It is a development that I think is very successful and is an indication of the extreme where it is good design that delivers good development. So I would urge Members to be cautious about the issue of simply being a slave to density. I will say 2 things in conclusion; the Minister will have to make a decision about the number of units and he will need to be guided by this whole issue of the development brief and what is in the Island Plan. The only thing I would say to the Minister is, potentially there is an opportunity for him to flex the 45/55. Now that that is effectively a tariff which has been put in place, the previous chaotic situation of rezoning category A houses in the hope that somebody might come along and do a social rented development, well - cat in hell's chance - it never happened. But since that tariff was put in place, it has been successful and, despite some real concerns by the previous Housing President and others, it stood the test of time and it has got to be tougher. I take this opportunity of saying to developers that they are going to have to expect some further tightening, or at least I hope the Minister is going to now further build on the tightening issues. With the right to develop comes the obligation of doing things and that means providing affordable homes at zero cost to the tax payer and this whole issue of value is to do with

land value and this is what it is all about. Potentially, if the Minister is of a mind to - and I think this debate is pretty academic in terms of what the Minister could do because I think he is pretty well on the 45/55, stuck with the density development that has been put forward in the development brief and upheld in the Island Plan - that is my own personal view and perhaps the way forward is to flex the 45/55 if he thinks there should be an explanation. Perhaps that is something that he could consider. Perhaps even, he could consider doing some of the development in terms of a shared equity arrangement or something. That may well deal with the issue of - that may find a compromise to the overall issue, if he is persuaded that this site should have a lower habitable rooms per acre than was previously approved by the previous Dubras Committee. I am really confused about how I am going to vote in this debate because we are in a sense, with the greatest of respect to the Connétable and to the Deputies of St. Lawrence, we are kind of wasting our time here because effectively it is the Planning Minister who makes that decision. I have great faith in the Planning Minister to deliver the right decision, to take advice and to make all the sorts of decisions he should be. On that basis I have not decided, it is probably right for me either to vote against the proposition on the basis that it does not matter, or to abstain because I have been on the other side of this issue and I have known what the States' decisions mean; it is one factor to consider but it is, I am afraid, not a planning decision and it cannot be and I do not mean any disrespect to any Member who thinks that this decision is going to be binding; it is not the case.

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

When the Attorney General spoke, one of the things he said was that we would be making decisions with no advice from the expert officers; without benefit of expert advice. Well, to be frank, this Assembly has made that error in approving the Island Plan, quite clearly, because the advice we were given was manifestly defective. I can say now to Members of this Assembly and the public listening, that had it been said to this Assembly, "well it says here and there and whatever, 97, 100, 85, 50 indicative but that could mean yearly one-third more". that Plan would never have been passed by this Assembly, it would never have been passed. That is the reality and what the Attorney General says has, I think, constitutional consequences because we are the democratic body in the Island and we are able to lay down the Island's planning policies and we have every reasonable expectation that when a document we approve and when the public have seen and discussed and they have been consulted on and it has then come here for approval, that where it says an indicative figure of 97, we are entitled to reasonably assume, as reasonable people, that that means about 97, not 129. As Deputy Gorst so rightly said this morning, for the Court frankly to accept that 129 was reasonable and you had no right to assume that it would be about 97, they would have to accept Enron style accounting; it is an absolute absurdity. The Attorney General said 97 units was not material to what the Island Plan was about. Well, I am sorry, but yes it was. An awful lot of the decisions in the Island Plan and past Island Plans and indeed the whole Plan itself, may never have got through this Assembly with those kind of figures in it, being meaningless had the Assembly known it. Let us face it, if what the Attorney General says is correct and binding on the future decisions this Assembly might make in respect of the Island Plan, it means that the public of the Island, the people of Jersey and their elected representatives have no democratic power whatsoever over the scale of development that takes place in the Island. We can either make a decision to rezone this block of land for development, and we cannot stipulate in any way the number of units on it, or we have to say: "No, we are not rezoning it at all because of that." Now, do we really want to move down that path, putting that kind of stricture and inflexibility on the powers of this Assembly? I do not think so. I think it is perfectly reasonable and legitimate for this Assembly, when considering the broad zoning policies in the Island Plan, to assume a reasonable degree of reliability in the numbers that are going to go on certain developments. Now, some people have spoken about the potential risks to the States financially, were the Planning Minister ultimately to say: "Sorry, Dandara it is going to be 97 units." Well, there is, of course, that risk. I would guess, unless the Court is going to adopt Enron style accounting, I would guess they would

come down on the side of the Planning Minister, as the indicative figure is 97 and that is a reasonable assumption. But even if things do not go that way and the development of 129 units does go ahead, would that greatly increase density? Do not think we are out of the woods yet, because there is the Jersey Steel noise issue. There are clearly going to be a vast number of complaints from the future residents of that development, from the noise coming from the Jersey Steel factory. People are rightly going to object to the noise of clanging steelworks going on all week long. They will complain to the Health Protection Department. What will the Health Protection Department be able to do about it? Absolutely nothing. Providing they are employing the best available means, the best available technology to do what they can to minimise the noise from their company, the Health Protection Unit will be able to do nothing and the noise will continue and indeed I can quote a paragraph from a letter from Industrial Noise and Vibration that says, and I quote: "I do not believe it is reasonable to allow a development to take place when it is highly likely that new residents will complain about the levels of impact noise from Jersey Steel. It also seems unreasonable to subject Jersey Steel to costs of noise mitigation measures when the development has been imposed upon them." That is fair; they were there first. So, we do have to be very careful about where this is going to end up in the future, might we be faced one day with the perhaps inevitable consequence of having to buy out Jersey Steel and move them as a bad neighbour because of the intractable legal dispute between them and their neighbours over the noise and, if so, what will the cost of that be? The States, in the past, have agreed, after all, to buy out industrial bad neighbours and move them to industrial areas like Longueville or La Collette. But what will the consequences of that be? Well, Jersey Steel have 60 years left on their lease and I understand that in any event, the amount they pay for that lease is extremely favourable, virtually a peppercorn rent. So the value of that site, to them, is absolutely immense, it is of astronomical value. So we are never going to get away from that, so there are big problems down the road with this development. To summarise, I do believe that it was perfectly reasonable for Members of this Assembly, when the Island Plan was approved, to look at the figures within the document, be they 50, 80, 97 or 140 and to make the perfectly reasonable assumption that those were the figures that the development density was going to be about and if we cannot make that assumption; if we are now being told that was the wrong assumption, that we have got no right to make such assumptions, then we have got big problems democratically.

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

I am somewhat confused by Senator Syvret's bringing into the equation Jersey Steel and what might happen in the future; the time to have brought that to our attention, I would have thought, would have been the time of the original debate when we were rezoning and we got the Island Plan and then we could have decided whether to rezone that issue. It is a bit like closing the stable door after the horse has bolted. I do not think it has anything directly to do with what we are being asked to decide today, which is not whether there should be a development there, but what should be, in essence, our advice to the Minister. The Minister is sitting in front of me and I do not think he or anybody can be unaware of the strength of feeling held by a number of Members of this Assembly on how many homes should be allowed there. The difficulty we have is what are the Connétable and his supporters trying and seeking to achieve with this proposition? The proposition says to request the Minister of Planning and Environment to bring forward for approval to the Assembly an amendment et cetera and the amendment basically is to change: "The site will accommodate approximately" to: "The site will accommodate a maximum of." Now this may, Sir, give some comfort to the Connétable and the Deputies. I think, in reality, it will change absolutely nothing because the Planning Minister will have to make his decision on planning grounds alone, as I understand the law, which was ably outlined by the Attorney General. I do not see any point in doing things just to make ourselves feel better. I also am concerned about doing things that may have an inadvertent consequence in that it may, if this was approved, give a developer, if he was to challenge any decision of the Planning Minister in Court, more material in favour of his challenge

because the States have made such a decision. I think we need to be very careful about making such decisions. I do not think we can reasonably ask the Minister to do what this proposition asks him to do because there is a planning application extant. I say that when I am very concerned about the number of homes that will be on this site and the number of homes that are planned for the west of the Island because I have real concern over school capacity in the west of the Island. I do not intend to go over it in detail because Deputy Mezbourian of St. Lawrence outlined what I said at a previous Assembly very clearly and accurately in what I told the Assembly about the problems and issues we have with school capacity. But I believe that this is one of the planning issues that the Planning Minister can rightly take into account when making the decision he has told us he is going to make himself on this application. Jersey was known as a honeymoon island and I hope that the honeymoon period is not over for our Planning Minister yet. I believe we should all have faith in the Planning Minister; we should all accept that the Planning Minister has sat here and heard the strength of feeling over this issue and that we should allow the Planning Minister to make the decision. I do not believe that whether States Members approve this proposition or not would make any difference, can make any material difference, to that decision which has to be made on planning grounds. I believe the message has been got across. I believe, to force this to a decision, to a vote would only give comfort to any developer who, in the future, may be seeking to challenge the Planning Minister's decision and I think it would be much more sensible having got the message across not to force this to a vote but to allow the Planning Minister to get on with his job and to apply his sense of judgement in making the decision as he is bound to in law, on this decision that is before him, this application that is before him. If, and I think it would be totally wrong, this Assembly wishes to become the body that makes planning decisions, it needs to change the planning law to say that. The planning law, at the moment, says that the Minister is the person who makes those planning decisions. It is wrong of the States to try to force the Minister to make a decision against the law. So if anyone is unhappy with the fact that it is the Planning Minister who makes these decisions, well, bring a change to the planning law saying it should be a committee of 53 of the States who make those decisions. If mistakes have been made in the past, make sure they are not repeated in the future. When we revise the Island Plan, perhaps, in future, it should state a maximum number rather than an approximate number and that would be clearer guidance for the Planning Minister and would mean that if there was to be any change above that, you would have to come back to the States to seek that change, but that was not done. The Planning Minister has to abide by the law. The law is quite clear; he has to take planning considerations into account. I believe that this debate, Sir, has got the message across to the Planning Minister and now we should allow him to get on with his job, Sir.

6.1.40 Deputy J.A.N. Le Fondre of St. Lawrence:

Before I get into full flow, I would like to stress that any comments I make in my speech regarding the Planning Department should not be interpreted as being attributable to any individuals, in particular Senator Cohen who I personally believe is doing a good job in planning, or to any other former Committee members or Presidents. Sir, as we have heard today, there are huge issues that arise from this site and its impact upon local residents and businesses; flooding, traffic, noise and the environment, to name the main ones, and that is before we consider the Island Plan itself. We must remember that the main issue is about numbers of houses and it is about people. Obviously it is existing residents who are objecting to the marsh being developed, but some of the issues do also centre around the quality of life for new residents of the proposed estate. I must admit I am not too sure how far flexing the 45/55 split will impact on the total numbers and the total impact of that estate. I think we are just moving one pot into another pot. To fully explain the consultation process that we as parishioners have been through would take all day - having said that, we have been here all day. We have been consulted so many times and assured that our views would be taken into account that it has almost become meaningless. I hope Members can envisage the sheer anger and frustration that has grown among residents over this whole issue. In July 2002 the Island Plan was

approved and indeed the indicative numbers of houses had been reduced from the draft proposals, which are documented in this particular document, which is: "The Jersey Island Plan - a Consultation Draft Summary", from between 105 to 130 new homes, down to 97. Sir, it is true, as Deputy Troy stated, that the numbers are only indicative because the exact number will be determined through the design brief process. Please also refer to 8.70 of the Island Plan, which I will refer to in my conclusion; but it lays down certain assessments that those numbers are subject to. Please would Members remember the following crucial points from the Island Plan itself, which relate to the site; 97 homes, existing community facilities, flooding, traffic and school assessments and the northern part of the site being retained as a buffer zone. Those are all in the Island Plan. The Plan continues on to say that the development would be a logical extension to the Bel Royal and Beaumont built up areas and would enable a significant public amenity area to be created at the heart of these communities. This was what was approved by the States in 2002. Now, this all sounds very nice and very persuasive, but it does depend on your perspective; Bel Royal to Beaumont is built up on the sea side but if you look at these prints in the corners of the Chamber, you will see that St. Peter's Valley area, or even indeed quite a lot of it, quite a lot of the whole area is green; it is rural, it is agricultural. I would therefore question the logic that dropping a large estate of this size into the area is consistent with any sensible or logical thought process and we believe it drives a stake through the heart of the existing communities of the area rather than enhance it. So now we come to the design brief; that was approved by the panel's sub-committee in May 2004. Again, we as residents and parishioners of both St. Lawrence and St. Peter were consulted. Again, representations were made over the flooding, over the traffic, the numbers of houses and questions were even asked about the school; could it cope? Oh yes, not a problem, we were assured. Even at that time we were raising queries. Sir, we were consulted and we were ignored. Where is the integrity of this consultation process, whereby the final Island Plan is a very precise, so-called indicative number of 97 units and then the developer initially considers applying for 173 units? Even the planners frowned on that one. The first formal application was for 150, which was then changed and now, where we are at the current application, which has not yet been determined, is for 129. Sir, the Deputy of St. Mary has already referred to the foreword of the Jersey Island Plan, the vision, the holistic approach, the major role in the Island's strategic and local planning, which is crucial to the protection and enhancement of the quality of the environment. So here we are, building 97 homes on one of the few remaining wetlands in the south of the Island. The strategic thinking has been such that we heard a few weeks ago the department has not, up until now, been monitoring the level of total development occurring anywhere in the Island and we were told last week that the local Bel Royal school will not be able to cope with the anticipated demand from the estate. So why was this site selected? Well firstly, Sir, there was a willing seller of a large portion of land; this obviously makes it an attractive option and I certainly recognise the right of any landowner to do what they want with their own land, within certain obvious limitations, however I rather think we have been sold rather a lot of swamp land and are now trying to ignore the consequences. The other supposed benefit of the location was that it lies close to, in the words of the Island Plan: "the community, educational and shopping facilities in Sandybrook, Beaumont and Bel Royal." Well, the grocery shop, the hairdresser and the laundrette at Sandybrook have been merged into a stationers, albeit a good one and the school is full. The Britannia Pub has since closed and is being turned into flats. We would rather like to suggest that circumstances in the area have changed. I am going to move on to the development of the planning brief; this was also a rather crucial stage in the whole process, and Members will hopefully have seen that rather large disclaimer, which has already been referred to, on the second page of this document, that the document is not binding in itself and to quote: "It does not restrict the Environment and Public Services Committee from amending or varying such information contained in the brief, before a planning application is determined." We have heard those words a couple of times today already but I make no apologies for repeating them, because, I think, I should stress that we think it is time that this was tested; that we should test the strength of that disclaimer on the brief because otherwise what is the point of having it there? Sir, I urge the Minister and the Planning

Applications Panel, the Minister now, to reject the current application for 129 homes and at the same time reopen the planning brief for further revision and for real listened-to consultation of residents as was previously suggested would happen. It is time to draw a line and to test the strength of that caveat in court if necessary. Now, I do agree with Senator Ozouf that it is all about good quality design although I do disagree with his example of Spectrum, I think. I would like to refer to the brief, which states that it has an aim of providing well designed homes for sustainable living in attractive and high quality developments, which are successfully integrated into the existing built-up area and will engender an innovative and sustainable approach. It even talks about reducing water consumption and mentions the possibility of grey water systems. Unfortunately the reality is likely to be somewhat different and in this particular case, I think they are aiming at the Gerald Ratner level of quality, rather than at the top end. Indeed, the reason that the density figures are quoted as being acceptable, is because at least 78 of the kitchens are too small to be included in the figures. The houses have inadequate parking and few, if any, have garages. These houses are going to be small, with the majority being at, or 0.1 per cent bigger, than the minimum size of the proposed revised spatial standards. This does not compare favourably with, for example Field 1218, which is the site that the Deputy Le Hérissier referred to and which, on the whole is far, far larger. I would like to remind Members that the size of the site that was approved in the Island Plan was 9.5 acres. I do not know if Members have looked at the pack that was on their desks this morning, but we have double-checked this and we have re-measured the area of the site. Our results indicate that it has grown to just over 11 acres and this is broadly confirmed in the comments from the department, which state that the site is 10.9. In other words, Sir, the department has already amended the Island Plan in respect of this site, without returning to this House to do so. Ordinarily, any rezoned site should include all required facilities, including public amenity space and should not expand outside of its zoned area. In this case the southern part of up to 30 homes, a community centre, and additional parking have encroached beyond the original approved zoned area and are located in an area designated as important open space and should therefore be moved. Therefore, is it a question of “has the developer been misled by the Jersey Island Plan” or are we being misled by the developer? In addition, Sir, the Island Plan states that the northern part of the site is overgrown and disused and would be mainly retained as a landscape buffer to the development. If you again look at these diagrams in front of us, Sir, you will see some rather large blue arrows and at the point of that arrow you will see a somewhat dark shady area, which, funnily enough, is an overgrown part of the site. The developer is proposing to clear it, at the moment, and put 18 houses there. So I hope that Members will therefore accept that between the approval of the Island Plan by this House and the approval by the planning brief, of the planning brief in 2004 by the Planning Committee, that the Island Plan has been altered by the department and the direction of policy set by this House has not been respected. I would like to move on to flooding, noise and the traffic issues. Now, Members will hopefully have seen the photographs in the Members’ room, which show the marsh in differing states of submersion. The reason that residents are concerned about flooding is that they are familiar with the marsh. I know residents who moved into that area and have lived there since Liberation Day; that is the Liberation Day in 1945. They have seen what the marsh can do; they have seen it frozen as we have already heard, so that you can ice skate on it and they have seen the water levels change significantly during the course of their lives to the extent that you can canoe across it. In these circumstances, Sir, I do tend to place far more credence on local knowledge than a clinical modelling process which uses standard United Kingdom methodologies applied to a similar standard United Kingdom site in order to calculate the result. Now the planning brief specifically states the developer must be able to demonstrate that the new scheme is not susceptible to future flooding and will not result in future flooding of existing property. The difficulty with that statement is that it depends on the assumptions and the statistics that you use. The flood measures comprise, as we have heard already, large underground storage tanks called attenuation tanks and a pumping station. The pumping station, it is proposed, will be placed in a small car park between Bel Royal and Beaumont on a piece of land presently owned by the States. It has recently been drawn to my attention that this parcel of land was acquired from the

Société Jersiaise in 1962 and is in fact part of the perquage or sanctuary path that is just north of this plot. There appear to be conditions attached to this land, which are still in existence, and which were laid down by the lady who bequested the land to the Société. I would therefore suggest that the condition laid down by Annie Bertram Moonsey that the perquage be preserved as a passage way or sanctuary, according to the ancient customs or the Island, is hardly likely to be in keeping with constructing something the size of a small garage on that piece of land and, therefore, it is possible that the pumping station may not be allowed to be built where it is currently proposed. You may remember I asked for clarification from Deputy de Faye on that matter because in terms of its effectiveness, if it has to move from a different location. Sir, I would direct Members also to recent revisions to flood guidance in the United Kingdom; this aims to steer development from areas of a high risk of flooding to areas at a lower risk of flooding. Although a draft United Kingdom standard, it would seem strange for such sound advice to be ignored. It seems eminently sensible, we should not be building anywhere near a marsh when other alternatives exist. What about the other flood relief measures like the attenuation tanks? It would seem, Sir, that the system as a whole is designed for rainfall levels similar to those of December 1999, which are the photographs with a lot of water on the Members' notice board. But they do not appear to be taking account of the much more extreme rainfall that occurred in 2001, so the point is the attenuation tanks will not deal with any level of water; they will only deal with a certain level of water. As I have said, the photograph in the Members' room that hopefully the Members have seen, demonstrates the flooding that occurred upon the marsh in December 1999, which was the result of particularly severe rainfall. The flooding that took place in 2001 was a result of even more extreme levels of rainfall, so extreme that one point they went off the scale and reports are available, in fact I think the Minister may have had some copies a while ago, from the Société and from the Jersey Met Department. So an accurate assessment of what is technically called the return period for the event of 2001 is difficult; the probabilities that these rainfall events would occur were low, but they have occurred anyway and could happen again at any time from an event which is between the ranges experienced in 1999 and 2001. I would like to quote the words of one civil servant, Sir, who commented that the consultants employed by the developer: "are there to look after the interests of their client and to secure the discharge of the States' conditions at the cheapest option and this is different to ensuring a lasting resolution to various issues." I would further ask Members to bear in mind 2 statements from the consultants; firstly, their own professional caveat on the front of their flood report, whereby they disclaim any responsibility to the client and others in respect of any matters outside the scope of this report and emphasise that any third party, which I would imagine would include the States, relies upon the report at their own risk. Now this is a standard professional disclaimer and should not be regarded as anything sinister. I also quote from a letter from the consultants, where the writer of the letter states that he is satisfied that the modelling represents the most detailed appraisal of flooding, which could be undertaken, given the available data and the time available to undertake the analysis. That is not an unequivocal endorsement of their own work; there are some caveats in there. I therefore submit the developer has not adequately demonstrated that the site is not susceptible to future flooding. In addition, nearby residents are very concerned, as we have heard already, about increased flood risks to them, as a result of the proposed development and whether they will continue to get insurance. While the States probably do not have any legal obligation to these residents, is there not a moral obligation? Is it not our responsibility to ensure that existing residents are properly protected or will we simply wave our hands in the air and say: "We did not know. How could we have realised this was going to happen? It is not our fault." At what point do we take responsibility for consequences of our decisions, especially when winter rainfall is predicted to rise as a result of global warming? The reports accompanying the proposition already refer to Jersey Steel, which has been at its location, as we have heard, since 1950 and it has been there without much concern to existing residents as most of the noise is directed out over the marsh. The measurement of noise at the eastern extremity of the site is, according to Health Protection, about 60 decibels and it reaches 99 decibels close to the shed. One of the things I have learnt about noise is that it depends upon how you measure it; you

can measure it as an average of sound levels over a period of, say, 5 minutes and that was how the developer initially measured it, and you can measure it to note the loudest sounds recorded as subsequently measured by Health Protection. It is this latter measurement that is relevant to a site, which involves dropping very large lumps of steel at fairly frequent, but irregular intervals. Jersey Steel has 60 years left to run on its lease and it hardly seems reasonable to knowingly build homes in an area which could be directly affected by these noise levels. When the complaints from the new residents undoubtedly arise, it would seem unjust that it is Jersey Steel which will be detrimentally affected. On this point, it has been suggested that Jersey Steel could put shutters on the doors of their shed. However, this remedy will cause new health and safety issues, concerning the build-up of heat and noise in a now enclosed shed. So while it is my understanding we will not have any legal responsibility to the company, in the event that its activities are restricted as a result of our actions, I would have thought we would have had some form of moral responsibility to the company and its 60 employees. It is my understanding there has even been some form of discussion over the provision of a States indemnity to the company in the event that problems arose. So it does beg the question; are we setting ourselves up for a long term liability to avoid a short term problem? Are we setting ourselves up for another situation, but far worse, as happened recently on the waterfront, whereby the new residents were complaining about the noise from the harbour? You cannot really move the harbour terribly easily; it is far easier to move a private company. Sir, in terms of traffic, the one site alone will have a significant impact. Again, as we have heard, models predict increases in traffic delays by as much as 129 per cent, arising from this one site on a main road quite a way from the site itself. I have not made up those figures; those figures are taken directly from the files at Planning. These figures do not take account of traffic generated from any other development, whether in the Island Plan or not, in the west of the Island as the developers have argued that this would be unreasonable. Representatives of the western parishes have identified that since the beginning of last year approximately 1,100 units are being built in the west of the Island, or are about to come on stream. The figure of 129 per cent excludes any impact from these developments and also excludes any additional journeys from the development itself, due to the loss of the community facilities, including the lack of space at the school. I really cannot see many people wanting to pop to their local stationers to buy a pint of paperclips every morning. With apologies to Deputy de Faye, his own Department have written that, given these other sites will be developed, predictions for congestion would therefore be considerably worse if these vehicle numbers were added to the modelling. In conclusion, there is little or no spare capacity at peak times. It is not possible to say that 97 units is acceptable and 129 is not as both can be accommodated off peak and neither can be accommodated during peak times. Now this letter is at odds with the conclusions of the report by the consultants employed by the developer, which stated that the proposed development will not result in excessive additional congestion above a scheme of 97 homes and that proposes, as a result, in little additional queuing or minimal queuing at particular junctions. This is the language that comes out of 'Yes Minister'; it is not inaccurate, it is just not the whole picture and these consultants are the same ones that performed the noise and the flooding assessments. Sir, I now believe I have probably demonstrated why residents have little faith in these various reports that have apparently been independently produced and, I would add, I am not saying do not build in St. Lawrence; we do have to and are taking our proportion of development. In the last year and a half we have had at least 130 homes built in the southern part of the parish alone. This excludes slightly earlier developments such as the Hotel Magnolia site, which was another 48 flats. Indeed, there is a site immediately adjacent to the marsh which has garages upon it. It is my understanding that this is also scheduled for redevelopment and, given that it is a brownfield site and provided existing tenants are treated decently, and that is important, it would seem a far more logical extension to a built-up area than this site could ever be. Now, I think I have covered most of the salient points in this scheme. To summarise, I believe that the process that has been followed is questionable; the physical area of the site has increased since it was zoned by the States. The Island Plan has already effectively been amended. I think it was Shakespeare that wrote: "What is in a name?" The area is called St. Lawrence, St. Peter or Goose Green Marsh depending on who you

speak to. Just because you cannot easily see it, it does not mean it is not there. It does what it says on the tin; it is a marsh, why are we building there? To quote one resident: "Let us not allow one mistake to become 2." Members have now been informed that approximately, I think it was 2 weeks after the Island Plan was approved, the Health Protection Unit commented on the site to the effect that it did not think it was a suitable site for housing. Sir, to me I think the situation now requires a political solution; it is not the developer's fault that he has bought an awkward site. The developer has presumably entered into a contract in good faith, like any developer, tenacious though this one is, he will produce good projects and bad projects. Unfortunately I believe that this site is one of the latter. I believe we will probably need a political solution to this problem in order to extricate ourselves from being between a rock and a hard place, or perhaps I should say in a swamp facing alligators. I believe that we can, with a bit of political will and imagination, find a solution that could suit most parties and I believe that now is the time to try to resolve this matter once and for all but we need to deal with it at a political level rather than necessarily at a planning level. Sir, the Island Plan refers to the density of the site being dependent upon assessment of the implications for schools, transport and drainage and states that an ecological assessment should be undertaken to identify any constraints. It is all very well to say we must be bound by the Plan; I do not think we disagree; I have just quoted from the Plan and we have discussed the constraints and the negative assessment of traffic, schools and drainage all the way through. Those are negative assessments; they do not support the larger numbers of houses on the site. If you add to that the impact of noise and the direct threat to part of the perquage, land which was acquired by the States, under condition that they respected the original request of Mrs. Moonsey and I believe we have sufficient grounds to question the whole principle of designating this as a site for this level of development. The reason this proposition has been brought is because it seeks to cap the size of the site to bring it back to what we consider are the original proposals in the Island Plan. This is an important stage in the debate over the site for residents. At least it starts introducing some honesty back into the process, by bringing us back to what the public understood and what the parish was consulted on. You could view it as starting to re-engage with the public, which is something we desperately need to do. It is in the course of our investigations that the issues that I and other Members have raised, have been identified. These were not known at the time of the original debate back in 2002. I have got no idea what the level of detail that was involved in the initial work done at the time of the Plan. However, it is clear that matters have moved on. I urge the Minister for Planning to reject the present application and at the very least to re-open the design brief, as he is entitled to do according to the very words written on page 2 of the brief. I hope, Sir, that if this proposition is adopted, he will listen, even through the speakers, to the will of the House and will return with an amendment to the Island Plan. Sir, I urge Members to support this proposition, to send a message that enough is enough and to give residents of both St. Peter and St. Lawrence and of the wider area, hope that their views will be listened to and acted upon and I strongly support this proposition.

6.1.41 Deputy G.P. Southern:

The issues are very simple and the issues are those of planning. We are talking about flooding, we are talking about schools, we are talking transport and we are talking noise; all planning issues. I am going to support this proposition; I urge Members to support this proposition and see what kind of a new Minister we have for Planning; is he a man or is he a mouse? [**Members: Oh!**]

6.1.42 The Deputy of St. Martin:

I know Senator Ozouf is not in the Chamber at the moment, but he did refer to the small number of people that appear to be in the House now that were here prior to 2002, when the Island Plan first was discussed. Indeed prior to it coming to the House, the Planning Department did have a road show and they went around all the parishes and I certainly remember them coming around to St.

Martin and the process really was a consultation and they came up with a lot of suggestions and it was down to parishioners to express their views and indeed some of them were taken on board. In St. Martin we had a particular field; field 690A and certainly the parishioners did not want to see this nice green field developed but, however, they also did not want to see a cul-de-sac opened up, they did not really want to see 30 or 40 houses put there either, but being reasonable people at St. Martin, we decided yes, we need some housing, we are going to help out the housing need and we were left with the impression that we were going to get somewhere between 30 and 40 houses. In actual fact, the number was 38 and, given that, we considered that to be fair and reasonable and we came to the House and I gave my consent, I voted for the Island Plan. Now, 4 years on, I am pleased to say we are well into the consultation process now and we are going to have 43 houses, not 38, but we are quite happy; it is a reasonable increase and we will bear that in mind. Also, they are all going to be 3 bedroomed, we hoped to have had a few less but we got 43 and what is interesting is that we are going to have 45 habitable rooms per acre. Bear that in mind - 45. Now, of course, we have got room for a lot more houses, however, and I know the Minister is back in the House and I am pleased, because of the considerations given for the schooling problems, at St. Lawrence the same, because of the traffic implications and because of social implications, we have got 45 rooms, habitable rooms, per acre. Now, I am sure St. Lawrence was the same; 4 or 5 years ago a road show would have come around St. Lawrence and here we have it; we have sought, maybe we had looked, stretched 105 to 130 homes. As a result of that consultation, the number that was used was 97 and the expectation in St. Lawrence was they would have 97 houses, like they were in St. Martin. However, unlike St. Martin, poor old St. Lawrence have had the goal post moved and now, 4 years on, they are going to have 129. It started off like it was at St. Martin, a bit high but it has come down now, 129, well Members, if you have got your comments, P.48/2006, you will see there is a list here, and what I really want to draw peoples' attention to is that making the Minister make absolutely sure that your hands are not tied, Sir. Planning's hands are not tied, because if they look at this they will see there has been a flexible approach being adopted to every application, Sir, nothing cast in stone. You can see there that in St. Martin, Field 690, that is number 7, we have got 45 habitable rooms per acre so there is no reason why St. Lawrence cannot be treated in the same reasonable manner as St. Martin and I hope Members will bear that in mind and support the proposition.

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

I thought Senator Shenton was very unfair on the Attorney General. I think the Attorney General gave this House clear, considered advice and he stated, as a matter of fact and whether we like it or not, it is a matter of fact, that under the law and therefore in the eyes of the Court, this House, having approved the Island Plan, has no great further part to play in deciding upon individual planning issues. I thought he was also unfair on the Planning and Environment Minister. I see Deputy Scott Warren shaking her head, but that is a fact; that is the law and we cannot argue with the law, as we approved it ourselves some time ago. I thought Senator Shenton was also unfair on the Planning and Environment Minister because this position is not of the making of the Minister at all; it is a situation he inherited from a previous Committee and I would like to reiterate that I have enormous faith, personal enormous faith in the Planning and Environment Minister in the way he is conducting his duties and I know he will apply the same degree of integrity and ability to the decision that he does have to take at the end of the day, on this particular issue. So there has also been criticism of previous Planning Committees and all the officers but - and I see where that is coming from - but the fact is that the density shown when we were looking at 129, when it was considered 129 might be acceptable, the density is consistent with other developments that have been approved and again that is a matter of record; it is a matter of fact. We may not like it, and I do not think any of us do like it, but that is a matter of fact. So I do not think any Member, or certainly very few Members would want to see 129 units on this site and, as Deputy Gorst said, there is no comparison between 97 and 129; the 2 figures have no great relationship to each other at

all, but the fact is, the decision is for the Planning and Environment Minister. That is what the law, approved by this House, by previous States has stipulated and I have no doubt he will want to reflect the wishes of this House. I have no doubt about that at all and, if he can do so on planning grounds, and it could be transport, it could be noise, it could be density, it could be education, it could be any one or more of those things, I have no doubt that if he can reflect the wishes of this House on strict planning grounds, which is how he has to take his decision, that he will do so. But he does have to be mindful of the position he finds himself in and we find ourselves in today. He cannot ignore the law under which he is charged to do his job; he simply cannot ignore that law. It is not a question, as Deputy Southern flippantly suggested, of “is he a man or a mouse”, he has to abide by the law, he has to take a decision under the planning law. That is what he is charged to do and the fact is, it has to be, as other speakers have said and I have said, his decision and we should - and I entirely agree with Senator Vibert - we should now, having expressed our views and the views of the majority at least of this House, are very, very clear; let him get on with the job. I agree with Senator Vibert again, it is wrong for the States to seek to bind his hands, to take a decision in this way and I believe, like Senator Vibert, that we should not pursue this, it is a matter for the proposer, we should not pursue this to a vote. The House has had its say, the House has expressed its view but it is for the Planning Minister and the Planning Minister alone, working under the planning law, to take a decision; his decision. I do not believe we should proceed to a vote. Sir, I agree fully with those who call for the Island Plan to be updated and I am sure Members will recall, that is exactly what the Strategic Plan calls for; that the Island Plan should be updated far in advance of the original planned date for it to be updated and that is where, of course, this House exercises its power, that is where we have the ability to decide many things in relation to the planning of Jersey and, of course, in crucial issues such as this, and let us hope we do it better this time. We have got to be determined we do it better this time than it was done last time. But Sir, I very much hope the proposer will consider carefully what I have said, consider carefully that whatever the wishes of this House, it is for the Planning and Environment Minister to work under the law and agree that this House has now expressed its view and this debate need go no further and indeed should go no further.

6.1.44 The Connétable of St. Lawrence:

Well, it has been a very long debate and I feel somewhat guilty at having brought the issue before the States, however, there is little else that one can do in these circumstances and we have heard about this from various Ministers and others during the course of the debate. There is very little one can do; one has to look at this very hard and say: “Well, how do we go about making a difference?” We have got a lot of very unhappy parishioners, not only in St. Lawrence but also in St. Peter, who are very concerned about this development and what do we do? Just sit back and do nothing? That seems to be one solution that has been suggested. We have had, I think, 29 speeches apart from my own, which makes 30 altogether. So, it is probably getting near record-breaking - that is an indicative figure, not to be relied upon [**Laughter**]. The first 2 speakers, I will not go through every little detail, but the first 2 speakers; Deputy Scott Warren and the Connétable of St. Ouen, were both very much in favour and I thank them for their support. I am also interested to hear about the development in St. Ouen and the Connétable feels that even though the development was in accordance with the Island Plan, it was still too dense, as it has turned out to be, so he feels there is an over-development there. Senator Le Sueur did not surprise me in what he said because I have sat through a number of these debates before and I knew the situation. We all knew the situation in St. Lawrence and St. Peter, that we were up against it in terms of the process but nevertheless, you just cannot sit back and ignore the concerns of your parishioners; you have to do something about it. The Deputy of St. Peter referred to the loss of control of the planning process, Development charter, conditions applied to another development, which have been broken. I must say that in all this I do feel that the Minister is making efforts to gain control of the process - if it is being lost he is certainly going the right way about getting control back - of this particular development that we

are considering, and time is of the essence if we are to do anything about it. Deputy Gallichan has recognised that the Plan needs to be addressed and reviewed and, of course, the Council of Ministers is doing that. Yet again, it is not going to be soon enough. No criticism there, but it is just a fact of life. Deputy Lewis is worried about potential flooding and Deputy Huet was not quite sure whether she would support the proposition or not. She is still keeping me guessing so I do not know what she is going to do. Deputy Gorst was very categoric that he would prefer to live in St. Lawrence, is that what he was saying? Oh no, sorry **[Laughter]** St. Lawrence, he thought, was very much like St. Clement, I think that is what it was, but he said there must be a rebuttable presumption with regard to the 129 and the 97. Deputy Fox has experience, obviously, on the Planning Committee, but he did agree that 97 sounded very specific, as it would any reasonable person. Deputy Power was discontented over the site and he was fighting a similar situation in St. Brelade. Had sufficient notice been taken of future predicted levels of rainfall and would the pumps never break down? The chances are, of course, they would break down on a Saturday night when nobody was available to do anything about it. I can just imagine it. I used to get called out occasionally when the alarm went off in the office, and it was always at 2.00 a.m. on a Monday morning, the worse possible time. I hope the Deputy of St. John has made up his mind the right way by now, but he did require some legal advice and he has now got some legal pointers. I was amazed when Deputy de Faye referred to this cosy village atmosphere in Sandybrook where there are all these facilities which, as I recall last time I went down there, which was about 2 days ago, there is a Chinese restaurant and a stationers which is really what everybody wants on a day-to-day basis. **[Laughter]** So, I can see where he is coming from. I hope Deputy Martin will have changed her mind but she said that she would not support the proposition because she was concerned about all the housing that is being introduced in St. Helier. Whereas, in fact, it is quite clear - I had a little note passed to me, which was absolutely right, which says it is not only St. Helier - the new developments are also in St. Lawrence - believe it or not - St. Clement, St. Ouen, St. Martin and St. Brelade. So, it is fairly well distributed. The Connétable of Grouville who has not got any is shaking his head alongside me. **[Interruption]** The Connétable of St. Brelade again wanted advice from the Attorney General. He was minded to support the proposition on the basis of what he had heard so far but he felt that we, or perhaps the States of the day, had been bamboozled on numbers. Deputy Ferguson made the interesting suggestion that a new parish be created in the Island, called St. Dandara, and maybe that is a good idea. Maybe that would be a way of a sort of trade off or something and some negotiation. The Connétable of St. John was very forthright. First of all he was thinking he could abstain because he would be on the Planning Applications Panel, but then felt he had to stand up and say that he felt a mistake had been made when the brief was given to the developers. Now, that comes from the heart of things in the Planning Department so I am very grateful for that comment. Deputy Duhamel was not very sure and thought we ought to wait a bit longer. **[Laughter]** Well, that is what he said. Deputy Mezbourian referred to NIMBYism and rejected the idea, which is absolutely right because surely it is the duty of each one of us to represent our electorate. That is exactly what we are doing this afternoon. **[Approbation]** She also referred to the Island-wide issues and hundreds of letters that have been received, but she also mentioned from every parish in the Island so, we are not talking about NIMBYism, we are not talking about people who live right on the spot who are concerned, but people across the Island are concerned. She talked about climate change. She passed me a note which I can comment from which was just to reinforce some points that Deputy Troy made about the mix of homes on the site and the numbers of residents moving to the area. But, in particular, she asked that I stress again - and this is worth stressing - a point that she made regarding comments from Health, that this site was deemed to be unsuitable by Health and Social Services for housing. That surely is a planning consideration. We had advice from the Attorney General which I would not question at all - but there were a lot of different scenarios put forward which were all a bit hypothetical and you cannot have clear legal advice based on hypothetical situations. So, I felt that the Attorney General was in a difficult position there to try and advise us. He did an excellent job but, at the same time, it is not clear, and until you test the situation you are never certain. Deputy Le Claire recognised the need to

bring back the Island Plan and for us to send a signal to the Ministers. That I think is really what we are doing today if we accept the proposition. Senator Shenton was very much in favour of the proposal. He said he was amazed at the proposal to build on the site which he knows very well. Deputy Troy read the Island Plan very carefully but did not listen to the speech I had made, but I commented on that earlier. I welcome very much Senator Norman's whole-hearted support. Senator Ozouf and Senator Vibert played the party line in the sense that I accept everything they said about the role of the Planning and Environment Minister. We know that, that is not something that is new to most of us in the Chamber. It might be new to some but certainly those who have been through these debates before know the position, know how difficult it is, but you cannot just sit back and do nothing. You have to do something about it and that is what we have been trying to do today. We recognise that the Planning and Environment Minister is in a difficult position and he will be even if we vote in favour of the proposition - which I hope we will - but it will send a clear signal to him and I hope, rather than make his life more difficult, it will help him. I am not sure if it will, but I hope it will. Deputy Le Fondre has done a tremendous amount of detailed research and that came across very clearly in his speech. He is to be congratulated on that; it was a very difficult speech because there were a lot of facts and figures that needed to come out. But it is interesting to note that the pumping station, as we discovered just the other day, is proposed to be built on an ancient sanctuary path and it would also mean, of course, that the pipes leading to that pumping station would have to also go down the Perquage, the ancient sanctuary path. I think that will not be popular with many people. Although Deputy Southern used the phrase "man or mouse" he was saying the right thing in the sense that he said he was going to support the proposition. There was a very interesting comment from the Deputy of St. Martin about the density in the development of St. Martin where it is only 45 habitable rooms per acre and we know - I hope everybody picked up from Deputy Le Fondre - that if the kitchens in the Bel Royal development were just a smidge bigger we would be talking about 80 habitable rooms per acre on the Bel Royal site. Senator Walker felt that the States had no further part to play because we had approved the Island Plan. That I accept entirely but it comes down to saying: "Well, do we just let the thing roll; forget about it?" We have got so many people concerned about it what do we do? Nothing? We have to take action and make our point and the States has to spell out to the Minister for his guidance - we know that he does not have to come back to the States because that is the way the law is drafted - but nevertheless it will be a clear signal to him that that is the feeling of the House if we support the proposition. I therefore reiterate what I said at the end of my speech, that it is now vital for us to stand up and be counted. There are a number of issues that need to be addressed in the Island Plan and I know the Minister of Planning and Environment recognises this, as does the Council of Ministers. It is time to call a halt to the errors and methodology of the past and to properly consider our future, our environment and future generations to come. I maintain the proposition and call for the appel.

The Bailiff:

I invite all Members who wish to vote on this proposition to return to their seats and I invite the Greffier to open the voting. The voting is for or against the proposition of the Connétable of St. Lawrence. If all Members who wish to vote have cast their votes I will ask the Greffier to close the voting. I can announce that the proposition has been carried; 35 votes were cast in favour, 6 votes against and 9 abstentions.

POUR: 35	CONTRE: 6	ABSTAIN: 9
Senator S. Syvret	Senator T.A. Le Sueur	Senator F.H. Walker

Senator L. Norman	Senator T.J. Le Main	Senator M.E. Vibert
Senator P.F. Routier	Connétable of St. Helier	Senator P.F.C. Ozouf
Senator B.E. Shenton	Deputy J.J. Huet (H)	Senator F.E. Cohen
Senator J.L. Perchard	Deputy J.A. Martin (H)	Connétable of St. Saviour
Connétable of St. Ouen	Deputy G.W.J. de Faye (H)	Connétable of St. John
Connétable of St. Mary		Deputy R.C. Duhamel (S)
Connétable of St. Clement		Deputy P.N. Troy (B)
Connétable of Trinity		Deputy A.J.H. Maclean (H)
Connétable of St. Lawrence		
Connétable of Grouville		
Connétable of St. Brelade		
Connétable of St. Martin		
Deputy A. Breckon (S)		
Deputy of St. Martin		
Deputy C.J. Scott Warren (S)		
Deputy R.G. Le Hérissier (S)		
Deputy J.B. Fox (H)		
Deputy G.P. Southern (H)		
Deputy S.C. Ferguson (B)		
Deputy of St. Ouen		
Deputy P.J.D. Ryan (H)		
Deputy of Grouville		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy D.W. Mezbourian (L)		

Deputy of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy S. Pitman (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

6.2 Draft Customs and Excise (Amendment No. 3) (Jersey) Law 200- (P.52/2006)

The Bailiff:

Very well, we come now to Projet 52, the Draft Customs and Excise (Amendment No. 3) (Jersey) Law and I ask the Greffier to read the citation of the draft. May I call Members to order please so that the Greffier can be heard.

The Greffier of the States:

Draft Customs and Excise (Amendment No. 3) (Jersey) Law 200-. A law to amend further the Customs and Excise (Jersey) Law 1999. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

6.2.1 Senator T.A. Le Sueur (The Minister of Treasury and Resources):

It is perhaps salutary every now and again for each of us to have to eat humble pie. I stand here today and admit to this House that in the last Budget debate, in the proposed Finance Law, I got some figures wrong. Although we had agreed to have reduced rates of Vehicle Registration Duty for cars imported more than 3 years old, and that reduced to a rate of 40 per cent, someone pressed the wrong buttons on the calculator and we did not get the right figures coming out. When that was spotted I immediately arranged for an Order to be made that, in fact, the correct duty is now being charged to importers of vehicles of that type, but nonetheless we need to put the law back into order. This draft law will achieve that. At the same time, when we changed the principal law, following the change of ministerial government, for some reason or other the Ministry of Treasury and Resources got charged with more duties of the Customs and Excise Department than was intended, in that I should not have the obligation of controlling the importation and exportation of goods. That remains the duty of the Minister for Home Affairs. So, we have taken the opportunity within this law to bring in 2 totally separate amendments which regularise 2 errors which have occurred in the past. I propose the citation, or whatever we call it.

The Bailiff:

Citation of the draft, Minister. Is the citation seconded? **[Seconded]** Does any Member wish to speak on the principles of the Bill? Well, I put the principles. Those Members in favour of the document kindly show. Those against? The principles are adopted and I now have to invite the vice-chairman of the relevant scrutiny panel to state whether or not the Bill should be referred for scrutiny.

6.2.2 Senator J.L. Perchard:

No, Sir, we have no requirement for that.

The Bailiff:

Very well. Well, then I can now invite the Minister to propose the Articles.

6.2.3 Senator T.A. Le Sueur:

Although they are 2 totally separate subjects, Sir, I will take them en bloc and then invite any questions.

The Bailiff:

Well, the Articles and the Schedule are proposed and seconded? **[Seconded]** Does any Member wish to speak on the Articles or Schedule? Well, I put the Articles and Schedule. Those Members in favour of adopting them kindly show. Those against? The Bill is adopted in Second Reading. Do you move the Bill in Third Reading, Minister? Seconded? **[Seconded]** Does any Member wish to speak on the Bill in Third Reading? Well, I put the Bill. Those Members in favour of adopting it kindly show. Those against? The Bill is adopted in Third Reading.

6.3 Draft Act declaring that part of a taxation draft known as the Customs and Excise (Amendment No. 3) (Jersey) Law 200- shall have immediate effect (P.67/2006)

The Bailiff:

The Assembly comes now to projet 67, the draft Act declaring that part of a taxation draft known as the Customs and Excise (Amendment No. 3) (Jersey) Law 200- shall have immediate effect and I ask the Greffier to read the draft Act.

The Greffier of the States:

Draft Act declaring that part of a taxation draft entitled The Customs and Excise (Amendment No. 3) (Jersey) Law 200- shall have immediate effect. The States, in pursuance of Article 19 of the Public Finances (Jersey) Law 2005 have made the following Act.

6.3.1 Senator T.A. Le Sueur:

Although, as I say, the correct rates are now being applied it is customary when new taxation measures are brought in, that they are brought in with this system of immediate effect. This draft Act therefore only deals with Articles 1, 3 and 4 of the law we have just passed. They relate to taxation matters. Article 2 of that previous law will get done in the normal way. So, I propose the Act.

The Bailiff:

Is the draft Act seconded? **[Seconded]** Does any Member wish to speak on the draft Act? Well, I put the proposition. Those Members in favour of adopting it kindly show. Those against? The draft Act is adopted.

6.4 Draft Employers Liability Insurance (Amendment No. 3) (Jersey) Law 200- (P.53/2006)

The Bailiff

We come now to the draft Employers' Liability Compulsory Insurance (Amendment No. 3) (Jersey) Law 200- in the name of the Minister for Social Security and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Employers' Liability Compulsory Insurance (Amendment No. 3) (Jersey) Law 200-, a law to amend further the Employers' Liability Compulsory Insurance Law 1973. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

I would like to have my Assistant Minister be the rapporteur for this. He has been dealing with this matter for me.

6.4.2 Deputy P.N. Troy (Assistant Minister for Social Security):

The draft amendment arose from a request by the former Education, Sport and Culture Committee to the former Employment and Social Security Committee to include students undertaking work experience within the definition of an employee under Jersey law. Henceforth, the protection of an employers' liability insurance will be afforded to students undertaking work experience at a workplace as students will now be included within the definition of employees under the employers' liability legislation. This would include students on formal training schemes, such as Project Trident, and where students are placed with employers on extended training placements, but would not apply to students who attended a course run by an educational establishment such as Highlands College. This is an enhancement of existing legislation and I propose the amendment.

The Bailiff:

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

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

Briefly, Sir, if I may to thank Social Security for ensuring we have got braces as well as a belt to make sure that any young person on work placement is covered by the relevant insurance.

6.4.4 Deputy P.N. Troy:

I would like to thank the Minister, Sir, and just say that of course we at Social Security are pleased to work with all other ministries and I thank him for his support.

The Bailiff:

Well, I put the principles of the draft. Those Members in favour of adopting them kindly show. Those against? The principles are adopted. I must now ask the Chairman of the Social Affairs Scrutiny Panel whether he wishes to have the matter ...?

6.4.5 The Deputy of St. Martin:

No

The Bailiff:

Very well. You wish to propose the Articles en bloc.)

6.4.6 Deputy P.N. Troy:

I propose en bloc, Sir.

The Bailiff:

The articles are proposed en bloc and seconded? **[Seconded]** Does any Member wish to speak on the articles of the Bill?

6.4.7 Deputy S.C. Ferguson:

I am sorry, yes I should perhaps have brought this up at the preamble stage. Is there any likelihood that employers who give the opportunity to the youngsters, are going to incur extra expense? What sort of arrangements are being made to cover this? You know, if you have an insurance and you have people coming on and off your policy there is sometimes an extra cost to business. I would be grateful if the rapporteur could indicate whether this exists and whether any special arrangements have been made.

6.4.8 Deputy P.N. Troy:

An employers' liability insurance applies to all employees who are defined as employees. This would now mean that students would be defined as an employee for a period and so any policy in existence would cover that person as they take on that post.

The Bailiff:

Well, I put the articles. Those Members in favour of adopting them kindly show. Those against? The articles are adopted and do you move the Bill in Third Reading?

Deputy P.N. Troy:

Yes, Sir.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the Bill in Third Reading? Well, I put the Bill. Those Members in favour of adopting it kindly show; those against; the Bill is adopted in Third Reading.

6.5 Draft Health and Safety (Work Experience) (Jersey) Regulations 200- (P. /2006)

The Bailiff

We come next to the Draft Health and Safety (Work Experience) (Jersey) Regulations 200- in the name of the Minister for Social Security and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Health and Safety Work Experience (Jersey) Regulations 200-. These States, in pursuance of Article 1 of the Health and Safety at Work (Jersey) Law 1989 have made the following regulations.

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

My Assistant Minister, Deputy Troy, will be rapporteur.

6.5.2 Deputy P.N. Troy :

Yes, Sir, this is as a consequence of that which we have just approved we now need to make a slight amendment to the Health and Safety at Work (Jersey) Law 1989 and Regulations. These Regulations again afford additional protection under the law to students and complement those that we have just approved. I propose the Regulations, Sir.

The Bailiff:

The principles are proposed and seconded? **[Seconded]** Does any Member wish to speak on the principles of the draft?

6.5.3 The Connétable of St. Brelade:

If I may briefly. Can I just ask the rapporteur whether this in fact applies to Project Trident youths who very often work in various establishments in the Island? Certainly I would say from my point of view, Sir, working on the piers we had a situation where Project Trident people were not allowed to work within 2 metres of an edge, which meant they could not walk down the pier at St. Aubin **[Laughter]** could the Minister confirm that this situation will be rectified?

6.5.4 Deputy P.N. Troy:

Project Trident students would now be covered by the employers' liability insurance. I was not aware that these students could not walk down the pier at St. Aubins. Now they can but I would advise them to take extreme care, Sir. **[Laughter]**

The Bailiff:

Well, I put the principles. Those Members in favour of adopting them kindly show. Those against? The principles are adopted and, again, no scrutiny? Do you propose the Regulations en bloc?

Deputy P.N. Troy:

En bloc please, Sir.

The Bailiff:

Very well, Regulations 1 to 4 of the Regulations are proposed and seconded, Minister? **[Seconded]** Does any Member wish to speak on any of the Regulations? Well, I put the Regulations. Those Members in favour of adopting them kindly show. Those against? The Regulations are adopted and you move the Regulations in Third Reading, rapporteur? Seconded, Minister? **[Seconded]** Does any Member wish to speak? Well, I put the Regulations. Those Members in favour of adopting them in Third Reading kindly show. Those against? The Regulations are adopted in Third Reading.

6.6 Tevielka, La Rue de la Haye du Puits: deed of arrangement (P.56/2006)

The Bailiff:

We come next to Projet 56 Tevielka, La Rue de la Haye du Puits, deed of arrangement and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) to agree that a deed of arrangement should be passed between the public as the owner of Tevielka: La Rue de la Haye due Puits, Grouville and Tiptree House Grouville Ltd as the owner of Tiptree House, La Rue à Don, Grouville to agree the boundary between the 2 properties with each party to bear their respective costs in connection with passing the contract before the Royal Court, the 2 properties being shown for information on drawing no. 1413/06/100 and (b) to authorise the Attorney General and the Greffier of the States to pass, on behalf of the public, the necessary contracts.

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

I had hoped that under the new, improved, government system we need not bring propositions as trivial as this to the House. Unfortunately, the law is deficient in that respect and deeds of arrangement were not covered in the original legislation. Hence, I have to impose this proposition on States Members. The report I think is self-explanatory, it simply clarifies the boundaries line between 2 properties, one of which is owned by the States, and I make the proposition.

The Bailiff:

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

6.6.2 Senator P.F.C. Ozouf:

A question to the Minister whether he will ask PPC to change the rules? This is crazy.

6.6.3 The Deputy of Grouville:

Could I ask, now that the States have acquired this property, what plans if any they have for it?

6.6.4 Senator T.A. Le Sueur:

I am not aware of any change of plans for the ownership of this property. This proposition simply refers to a boundary line, but I can certainly enquire for the Deputy what long-term plans there may be. As to long-term plans to change the law so that we need not bring this to the House, if it is PPC's responsibility I will ask them. If it is my responsibility I will undertake to do that myself but either way it is clearly unnecessary for this sort of thing to come to the House in the normal course of business. I maintain the proposals.

The Bailiff:

Well, I put the proposition. Those Members in favour of adopting it kindly show. Those against? The proposition is adopted.

6.7 Draft Employment Relations (Amendment No. 2) (Jersey) Law 200- (P. /2006)

The Bailiff

We come next to the draft Employment Relations (Amendment No. 2) (Jersey) Law 200- in the name of the Minister for Social Security and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Employment Relations (Amendment No. 2) (Jersey) Law 200-, A law to amend further the Employment Relations (Jersey) Law 2000. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

Well, this amendment makes 3 important changes to the draft Employment Relations Law. Firstly, it widens the current definition of a collective employment dispute to include a dispute about whether a code of practice on union recognition is being observed. Secondly, it gives the Employment Tribunal the jurisdiction to make a declaration that a trade union is recognised for conducting collective bargaining with the employer about pay, hours of work and holidays. It can also specify a method of conducting a collective bargain. Finally, it limits the extent to these new provisions to employers who have 21 or more employees. I have to say my intention for the Employment Relations Law was to provide a simple framework that is appropriate to a small community. The Tribunal was intended to be able to make a declaration rather than have the coercive powers that this brings into place. That was our intention in the first place. It was also to promote a dispute resolution approach and to provide a clear process for handling disputes, to reduce conflict and support good industrial relations in the Island. The outcomes of collective disputes are generally more positive where voluntary dispute resolution processes have been used. So, the initial stages of resolution are voluntary until all possibilities for a resolution have been exhausted. JACS (Jersey Advisory and Conciliation Service) are there to help this process by providing independent assistance with conciliation and negotiation. The draft Code of Practice deals with issues relating to appropriate bargaining units, balloting of Members and sets out what is a reasonable procedure for each of the parties in the event of a union seeking recognition. I do, however, recognise the concern that an employer could continue to refuse to recognise a union for collective bargaining purposes, despite the procedures in the recognition Code of Practice having been met, and I think that it would be appropriate to allow disputes to be referred to the Tribunal in defined circumstances. In the UK the Central Arbitration Committee may issue a declaration that a union is recognised or not, and may enforce a method of collective bargaining, but only relating to pay, hours and holidays. This amendment provides an equivalent, but simpler, mechanism by which Jersey's Employment Tribunal may perform a similar role. If Members approve this amendment, the Code of Practice will still be the key element in the event of a union seeking recognition and the Tribunal will look at whether the criteria set out in the Code of Practice have been met in reaching its decision on whether a union should be recognised or not. The Tribunal might also specify a method for conducting collective bargaining on pay, hours and holidays where a method cannot be agreed by both parties. It is anticipated that few will apply to the tribunal for statutory recognition as the emphasis will be on achieving voluntary recognition wherever possible and the effect of this amendment only applies to employers with 21 or more employees. Given that 93 per cent of local employers employ fewer than 21 employees, the small business exemption is proposed to avoid the negative effects of having collective bargaining rights forced upon small employers, irrespective of the size of the bargaining units. In conclusion, I will continue to advocate the importance of seeking voluntary recognition agreements through the Code of Practice and assistance from independent conciliation and negotiation. However, this amendment is within the spirit of the law and reflects the UK position on recognition. It provides the necessary definitions, the tribunal jurisdiction and the small business exemption, which should make the proposals for recognition work in practice. I propose the amendment.

The Bailiff:

The principles are proposed and seconded? [**Seconded**] Does any Member wish to speak on the principles of the draft?

6.7.2 Deputy G.P. Southern:

If I may briefly welcome this initiative and this proposition - this amendment. Despite the fact that 93 per cent of employers employ fewer than 20 members of staff, the fact is that this will extend a right to recognition to over 22,000 employees on the Island. That right to be represented by a union and to be recognised as a union is one of 2 that the Employment and Social Security Committee of the day set out to achieve in 1998 when it set out its document *Fair Play in the Workplace*. I am very pleased to see that the Minister has come round to a compromise position on what was basically my undertaking to bring this right into force by going for the UK parallel of over 20 employees in the companies. The fact is that, while we are a small island, and while we can rely on Codes of Practice and voluntary mechanisms, there comes some point at which one has to go for something stronger to put into the law, the teeth to make a thing work. In conversation with JACS a fortnight ago they were saying exactly the same thing. We need some teeth there to make sure the thing moves. If you wait for voluntary actions you might wait a long time, you certainly wait longer than otherwise. Finally, I remind Members that this is one of 2 rights set out in the 1998 document, the other one was the right to representation which unfortunately fell by one vote recently. Just to say that I will be bringing a matching right back to this House again in the near future - a right to representation - and I hope that when I do the House will support that matching right. Right to recognition; right to representation.

6.7.3 Deputy P.N. Troy:

I would like to acknowledge that Deputy Southern has put in a great deal of work on the employment law and he has had numerous discussions with the Minister and the department and this, as he said, is a compromise that we have managed to reach with him after quite a considerable period of negotiation. So, I would just want to say that his work is acknowledged and I believe the unions are also now are content with the amendment to the 21 principle and I am prepared to give it my support.

6.7.4 Deputy J.A.N. Le Fondré:

Yes, unfortunately because, as Members might have noticed, we have been doing rather a lot of work on certain other matters which has taken up our business for quite a lot of today, I have not unfortunately given this a full matter of consideration. All I do know is that in the last week I have had about 3 representations from a lawyer, the chairman - I think it is - of the IOD (Institute of Directors) and the chairman of the Small Business Group Sub-Committee. They were all expressing reservations at the proposition being brought to the House today, particularly I think - and which I find slightly odd - is that it has not impinged on their radar screen at all up to now. My understanding, from reading the report briefly, is that the report accepts that the original intention was for the Codes of Practice regarding recognition of unions was going to be voluntary. This proposition will give the Tribunal power to say that the employer must recognise a union where the terms of the statute are met. Therefore we are moving away from a voluntary scenario to a mandatory scenario without any evidence that the recognition of unions in Jersey is an issue. There is also no evidence as to why the number of 21 employees is an appropriate number, again within the Jersey context - and bearing in mind I am particularly concerned about the small business impact here - at the end of the day it is totally right and proper for the larger business to have the union recognition. Now, I understand that the level of the proposition has really come in from direct negotiation between the States of Jersey - presumably the Minister - and the Transport and General Workers' Union. Obviously the States is a large employer and, rightly, recognises unions and it is not clear from the report whether the same level of recognition is appropriate to the majority of businesses within the Island. I would just like to quote from 2 emails I have had, Sir. One is from the Small Business Group Sub-Committee which says: "We in the Small Business Group see this law as yet another attempt to increase the amount of red tape which is increasingly

becoming the bane of our daily lives. Businesses that employ only 20 people do not have the luxury of a human resource department which is what would be required should they have to deal with a unionised workforce. For many managers this would simply be a case of the straw that broke the camel's back. We fear that being forced to recognise unions will also remove the flexibility" (and I think that is pretty key) "to the success of small businesses". Sometimes there is a need for an "all hands on deck" approach and it is simply impractical to have to waste time negotiating with union members as to whether this is in order or not. That is the harsh reality of running a small business in a competitive market place." The email goes on: "We already have a good working employment law and in JACS a conciliation service that helps employees who feel unfairly treated. In addition we have full employment, so an individual can easily find alternative employment if they are dissatisfied with their treatment at work." The Institute of Directors says that they have had some limited discussion on the above and that the issue seems to be one of determining the appropriate size of the business at the de minimis level, at which point employees would have the ability to form a union upon a certain percentage of them being in agreement. To the extent that the legislation is appropriate or warranted in respect of larger businesses - which they obviously do not want to deal with in the email - the key question is therefore what the number should be that defines a small business which would mean that they were outside the scope of the legislation. So, we are purely talking about the level that is being set and is it appropriate? I understand that the proposed number is 21 and that has, to an extent, been brought across from the UK. They also make the point that the necessity in the successful operation of a small business is for certain staff to be able to put their hands to many tasks, some of which will not be in their formal job description or terms of employment. This flexibility is essential, as their size does not warrant them being able to employ appropriately skilled people for all operations. It just would not be cost effective. Now their concern is that the legislation could be detrimental to the success of small businesses if the number is set too low. They also point out - and it is something I am slightly sympathetic with, although again I do not know if it is appropriate - that in accounting terms a small business is one that is defined as having 50 employees, not 21. So, they call and say: "We therefore believe that more time is required to ensure that small businesses are properly made aware of this proposed change in the legislation and that their views were sought in order to identify the appropriate number." All I can say, Sir, is those are the comments that I have received. All it does is raise a question mark in my mind as to what level of consultation has been held with the small business/IOD sector. It is absolutely right and proper that the unions have expressed their views, but, to me, we need to get the balance and just check the impact on a small business. In no way do I want it to be portrayed as anti-union because I am fully aware and I do have a direct knowledge of circumstances where they have, and particularly the Transport and General Workers Union, has strongly and correctly represented its members in particular circumstances where the employer - and it might have been us - was not backing up their rights. So, what I am concerned about is, is it appropriate to set the level at 21 or, for example, would somewhere between 30 and 40 be better? You have made the comment that it will impact upon 20,000 employees. That is a large number and if we are talking about economic growth and trying to get the small business sector going, is it appropriate? I would welcome the Minister's comments on it. It is more, a case of has the Minister spoken to the employer bodies and agreed the level? On that basis, depending on the comments from the Minister in summing up, I may not be able to support this particular piece of legislation at this time, but would welcome anything it brought back, even at the same level, once he has spoken to the employers.

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

In response to that last speech I would make 2 points. Firstly, I think it is not reasonable to assume, as I think the representations that the Deputy quoted do, that giving recognition to a union is suddenly going to lead to lots of labour deployment difficulties, demarcation lines and all the other kind of nightmarish bogeyman back from the 1970s that are hauled out whenever we discuss

employees' rights. I just do not think that is going to happen. The second point I would make is that the figure 21 was chosen because that is the figure in the United Kingdom where there are an awful lot of much, much larger employers than in Jersey. So, if anything in fact, the figure in Jersey ought to be lower. In my view 21 is too high because too many employees will therefore not have available to them a right to their union to be recognised by those employers. So, frankly I think if anything 21 is too high. I think the Minister for Social Security and Deputy Southern are both to be commended for co-operating and coming to agreement on this issue at 21. My personal preference would be for it to be a lower figure.

6.7.6 Senator P.F.C. Ozouf:

The proposition is before the Assembly at 21 and, for that reason, I will be supporting it. I would not in any way have supported Deputy Southern's original proposals. I need to pick him up on one thing. The amount of people that will be affected by this is in fact 25,000 in the private sector. He is right insofar as it is 32,000 but that includes the States as an employer and I understand that they already have a collective bargaining arrangement in place and this will be, for Members' information, covering some 250. Including one-man-bands, there are approximately 5,218 businesses in the Island at the last count. This will be affecting 250 businesses employing over 21 staff. To the small business unit; I am in discussions with the small business group of the Chamber of Commerce on a number of issues. They have a number of concerns on this issue. Sometimes they choose to call a small business slightly less than 21 in some matters and in others slightly more, but certainly I agree with the 21. If it would have been anything else then I would have had major concerns and I would not have supported it. I think Senator Routier's compromise is the right one.

6.7.7 Deputy A. Breckon:

I would like to remind Deputy Le Fondre that this thing has been lodged for 7 weeks and also last year Deputy Southern did bring forward a number of proposals and there was a trade-off with Social Security. So, this has been in the system a long time and I am surprised to learn of the approaches he has had because they have not been to everyone. If some organisations want to lobby States Members then they should not lobby one or 2, they should share the information with us all. Regarding consultation, it has been ongoing for years so this has not been pulled out of any hats. In fact it was a former Industries Committee in probably the year 2000, or even before, that proposed that we should be working on some of these issues. So, you would think an Industries Committee would have contact with the industries of the Island and they would have had a knowledge of that. Indeed, many organisations have contributed, as indeed have individuals. But I should say, Sir, that I should declare an interest. I was a former industrial disputes officer for over 9 years and the 1956 Industrial Disputes Law did not have recognition of trade union or membership as an issue. It could not be dealt with, there was no jurisdiction for the officer and indeed for the law. But one important point, that arises from that, is that previously, by encouraging continuing negotiation when procedures have not been fully exhausted, in the main people got on and sorted things out themselves. There was one tribunal in 9 years and that was over disclosure of information and there was a catch-all Article in the law - I am not sure whether it was Article 7 or Article 8 - which said the officer may take whatever steps to him seem expedient to let people sort it out themselves, and that indeed was what happened. I think in the main, if the legislation is there as a backstop then people, in the main, will sort their procedures out themselves and it is only there as a last resort. If people do have any concerns about this I think they are unfounded and to raise them at this stage I think is scare mongering and is not necessary at all.

6.7.8 Senator P.F. Routier:

I think probably the main points which have been discussed during the debate are really around consultation and the number of 21. Certainly consultation in the early stages - *Fair Play in the Workplace* a number of years ago did address this issue with regard to whether the right to join a trade union and to acquire consultation rights was discussed at that time and it does highlight the balance that has to be struck between employers and employees. The response at that particular time was 42 per cent of employers thought it appropriate that should be the case, there should be the right to consultation as a right. As far as employees were concerned, 76 per cent of employees felt that right should be there. So, even then there is not really a clear indication from either side that this was the right way to go. It was always the intention of my Committee, right from the outset, to have a fairly simplistic consultation process and negotiation and conciliation process. That was always our desire, but we recognise that the unions have put forward a case where they feel they want to push for more powers to go to the union in this case, and that is the position we are at today with this proposition. So we have to recognise that in all of these issues there are the employers' views and the employees' views and it has been my duty to go to find a path through the middle of all this and I have to say it is not an easy task. With regard to the number of 21, it is right that it is the number which is in use in the UK, because it is considered to be a reasonable size as a bargaining unit. That is the figure which is considered appropriate because, if a number of employees wanted to form into a group or join a union and they wanted to have that recognised, it would require 50 per cent plus one - 11 employees - to achieve that. Hopefully, if they approached their employer in a reasonable way to say that they would like to be recognised, the employer would recognise that. That is the process I would hope would go ahead. But with this legislation which is coming forward today it would, if they were not successful in sitting down with their employer and getting their organisation, their grouping, recognised they would then have the ability of going to the Tribunal to have a declaration to say that it should be recognised. I have to say - as I have said all along - that is not my preferred option but that is what we have with us today. In saying that, Sir, I leave it to Members to decide if they wish to support this and, in the knowledge that it is a balance to be struck, I make the proposition.

The Bailiff:

Appel, yes. I ask all Members who are in the precinct who wish to vote to return to their seat and the voting is for or against the principles of the draft Employment Relations (Amendment No. 2)(Jersey) Law 200- I ask the Greffier to open the voting. If all Members who wish to vote have done so I shall ask the Greffier to close the voting and I can announce that the principles have been carried; 50 votes were cast in favour, 2 votes against.

POUR: 50	CONTRE: 2	ABSTAIN: 0
Senator S. Syvret	Connétable of St. Brelade	
Senator L. Norman	Deputy J.A.N. Le Fondré (L)	
Senator F.H. Walker		
Senator W. Kinnard		
Senator T.A. Le Sueur		
Senator P.F. Routier		
Senator M.E. Vibert		

Senator P.F.C. Ozouf			
Senator T.J. Le Main			
Senator B.E. Shenton			
Senator F.E. Cohen			
Senator J.L. Perchard			
Connétable of St. Ouen			
Connétable of St. Saviour			
Connétable of St. Mary			
Connétable of St. Peter			
Connétable of St. Clement			
Connétable of St. Helier			
Connétable of Trinity			
Connétable of St. Lawrence			
Connétable of Grouville			
Connétable of St. John			
Connétable of St. Martin			
Deputy R.C. Duhamel (S)			
Deputy A. Breckon (S)			
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 J.A. Martin (H)			
Deputy G.P. Southern (H)			
Deputy S.C. Ferguson (B)			

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

6.7.9 The Bailiff:

Now, I have to ask the Chairman of the Social Affairs Scrutiny Panel whether he wishes to scrutinise this legislation. No? Minister, you wish to propose the Articles of the Bill?

6.7.10 Senator P.F. Routier:

I propose them en bloc, Sir and I am happy to answer any questions.

The Bailiff:

Yes. The Articles are proposed and seconded? **[Seconded]** Does any Member wish to speak on the Articles of the Bill?

6.7.11 The Deputy of St. John:

I have to say as a previous chairman of the IOD we were consulted widely on this and we accepted *the Fair Play in the Workplace* document and we felt that Senator Routier's department, had done an excellent job in finding compromise and I would like it to go on record that the IOD was consulted and we did feel it was a fair and reasonable conclusion that you came to.

The Bailiff:

Well, I call upon the Minister to reply.

6.7.12 Senator P.F. Routier:

Thank you very much, Sir. [Laughter]

The Bailiff:

I put the Articles of the Bill. Those Members in favour of adopting them kindly show. Those against? The Articles are adopted and do you move the Bill in Third Reading, Minister?

Senator P.F. Routier:

Yes, Sir.

The Bailiff:

Seconded? [Seconded] Does any Member wish to speak on the Bill in Third Reading? Well, I put the Bill. Those Members in favour of adopting it kindly show. Those against? The Bill is adopted in Third Reading.

ADJOURNMENT

7.1 Senator S. Syvret:

I wonder if now might be an appropriate time to propose the adjournment. But before doing so I wondered if I could test the mood of the Assembly by asking whether we might change the running order so that the Sexual Offences Law is taken as the first item tomorrow morning. It would mean some re-jigging but I do think that this is an important matter which we have had before us for some months now, and if we are going to have any chance of finally making a decision on it one way or the other I think we need to begin it first thing in the morning. The Minister for Home Affairs is in agreement with that.

The Bailiff:

Are Members content to alter the order? Connétable of St. Helier?

7.1.2 The Connétable of St. Helier:

That being the case I have a branchage tomorrow and I am concerned that the Aquasplash proposition may get pushed towards the end of the day and I may not be here to propose it. I am quite prepared to take it this evening and be quite brief and encourage Members to be brief as well.

The Bailiff:

Well, it is a matter for the Assembly, if Members are prepared to take -

7.1.3 Senator S. Syvret:

With all due respect to the Connétable, Sir, I do not really consider the Aquasplash issue to be of desperately pressing importance and I think even if the Connétable is unable to be in attendance tomorrow then perhaps it could be put off until the next sitting.

7.1.4 Senator T.A. Le Sueur:

I am quite content for my proposition to step down the order, Sir, it is not -

7.1.5 Senator M.E. Vibert:

Sorry, could I say I am quite happy to deal with the Aquasplash briefly. I think the sooner it is dealt with and put out of the way the better and I would have thought it should stay as the first item tomorrow and we can deal with it very quickly, Sir.

The Bailiff:

Well, Senator Syvret do you wish to propose that the sexual offences matter be dealt with first?

7.1.6 Senator S. Syvret:

Yes, Sir, I would formally propose that the Sexual Offences Law is taken as first item tomorrow morning. It is a far more important subject and I do think we need to get on with it.

The Bailiff:

Is that seconded? Home Affairs Minister? **[Seconded]** Well, I put it to those Members in favour of altering the arrangement of business for tomorrow morning to ensure that the Sexual Offences Amendment (Jersey) Law is dealt with first kindly show. Those against? I am sorry; I think we had better have an Appel. **[Laughter]** The vote is for or against taking the Sexual Offences (Jersey) Law first tomorrow morning and I ask the Greffier to open the voting. If all Members who wish to vote have done so I will ask the Greffier to close the poll and can announce that certain Members have evidently changed their minds. **[Laughter]** The proposition has been carried; 31 votes in favour, 21 votes against. So we will commence tomorrow morning with the Sexual Offences (Jersey) Law.

POUR: 31	CONTRE: 21	ABSTAIN: 0
Senator S. Syvret	Senator T.A. Le Sueur	
Senator L. Norman	Senator P.F. Routier	
Senator F.H. Walker	Senator M.E. Vibert	
Senator W. Kinnard	Senator J.L. Perchard	
Senator P.F.C. Ozouf	Connétable of St. Saviour	
Senator T.J. Le Main	Connétable of St. Peter	
Senator B.E. Shenton	Connétable of St. Clement	
Senator F.E. Cohen	Connétable of St. Helier	
Connétable of St. Ouen	Connétable of St. John	
Connétable of St. Mary	Connétable of St. Brelade	

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

The Bailiff:

Very well, the Assembly stands adjourned until 9.30 a.m. tomorrow morning.