

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 15th JULY 2008

QUESTIONS.....	9
1. Written Questions.....	9
1.1 DEPUTY S.S.P.A. POWER OF ST. BRELADE TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING COSTS INCURRED BY THE JERSEY HERITAGE TRUST FOR THE AMPHIBIOUS VESSEL SERVICE TO ELIZABETH CASTLE:	9
1.2 DEPUTY S.S.P.A. POWER OF ST. BRELADE TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING CHARGES LEVIED BY AIRLINES AT JERSEY AIRPORT:.....	9
1.3 DEPUTY S.S.P.A. POWER OF ST. BRELADE TO THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING THE CREATION OF A PARISH SOCIAL SECRETARY:.....	11
1.4 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR TO THE CHIEF MINISTER REGARDING 1(1)(k) RESIDENTS:.....	11
1.5 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE USE OF THE GREENFIELDS PLAYING FIELD:.....	11
1.6 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE 'ENABLING DEVELOPMENT' POLICY:	12
1.7 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT HOWARD DAVIS FARM (JESREY) LAW 200-:.....	13
1.8 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR HOME AFFAIRS REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT CUSTOMS AND EXCISE (AMENDMENT NO. 6) (JERSEY) LAW 200-:.....	14
1.9 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT MENTAL HEALTH (AMENDMENT NO. 2) (JESREY) LAW 200-:.....	14
1.10 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT SHIPPING (AMENDMENT NO. 2) (JERSEY) LAW 200-:.....	15
1.11 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT COMPANIES, TAKEOVERS AND MERGER PANEL (JERSEY) LAW 200-:.....	16
1.12 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT LIMITED PARTNERSHIPS (AMENDMENT) (JERSEY) LAW 200-:.....	16

1.13	THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT WATER (AMENDMENT NO. 3) (JERSEY) LAW 200-:	16
1.14	DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING FUME EXTRACTION AT LIBERATION STATION:	17
1.15	DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE PROPOSED SUNKEN ROAD ON THE WATERFRONT:	17
1.16	DEPUTY A. BRECKON OF ST. SAVIOUR TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE JERSEY TOURISM WEBSITE:	18
1.17	DEPUTY A. BRECKON OF ST. SAVIOUR TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE 2007 FINANCIAL REPORT AND ACCOUNTS:	19
1.18	DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TAX RAISED FROM 1(1)(k) RESIDENTS:	19
1.19	DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING INCREASES TO INCOME SUPPORT TO COMPENSATE FOR G.S.T:	19
1.20	DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ANNUAL G.S.T. REVENUE TARGET:	20
1.21	DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING G.S.T. SAVINGS IN RESPECT OF MEDICAL SUPPLIES AND SERVICES:	21
1.22	DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF THE NEW INCOME SUPPORT SYSTEM:	21
1.23	DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE CHIEF MINISTER REGARDING THE POLITICAL ELIGIBILITY OF PUBLIC SECTOR EMPLOYEES:	22
1.24	DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE CONSTRUCTION OF ONE-BEDROOM FLATS IN THE ISLAND:	22
1.25	DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING G.C.S.E. BENCHMARKS:.	23
1.26	DEPUTY A. BRECKON OF ST. SAVIOUR TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE NEW TOURISM OFFICES:	24
2.	Oral Questions	24
2.1	Deputy R.G. Le Hérisier of St. Saviour of the Chief Minister regarding the establishment of a whistle-blowing office:	24
	Senator F.H. Walker (The Chief Minister):	24
2.1.1	Deputy R.G. Le Hérisier:	25
2.1.2	Senator S. Syvret:	25
2.2	Deputy G.C.L. Baudains of St. Clement of the Chief Minister regarding the Managing Director of the Waterfront Enterprise Board:	25
	Senator F.H. Walker (The Chief Minister):	25
2.2.1	Deputy G.C.L. Baudains:	25
2.2.2	Deputy P.V.F. Le Claire of St. Helier:	26
2.2.3	Deputy S.C. Ferguson of St. Brelade:	26
2.2.4	Deputy G.P. Southern of St. Helier:	26

2.3 Deputy K.C. Lewis of St. Saviour of the Minister for Treasury and Resources regarding the removal or lowering of the impôts duty on road fuel:	26
Senator T.A. Le Sueur (The Minister for Treasury and Resources):	26
2.3.1 Deputy G.P. Southern:	27
2.3.2 Deputy G.P. Southern:	27
2.3.3 Senator S. Syvret:.....	27
2.3.4 Deputy P.V.F. Le Claire:	27
2.3.5 Deputy G.P. Southern:	27
2.3.6 Deputy K.C. Lewis:	27
2.4 Deputy S. Power of St. Brelade of the Minister for Housing regarding the number of (j) category residents exercising their right to buy (j) category accommodation in the years 2005, 2006 and 2007:.....	28
Senator T.J. Le Main (The Minister for Housing):	28
2.4.1 Deputy S. Power:	28
2.4.2 Deputy P.V.F. Le Claire:	28
2.4.3 Deputy C.J. Scott Warren of St. Saviour:	29
2.4.4 Deputy R.G. Le Hérisier:	29
2.4.5 Deputy G.P. Southern:	29
2.4.6 Deputy G.P. Southern:	29
2.4.7 Deputy P.V.F. Le Claire:	29
2.5 Deputy S.C. Ferguson of the Minister for Economic Development regarding the impact of the J.C.R.A.'s report on a 3rd supermarket in the Island:	30
Senator P.F.C. Ozouf (The Minister for Economic Development):.....	30
2.5.1 Deputy S.C. Ferguson:	30
2.5.2 Deputy C.J. Scott Warren:	30
2.5.3 Deputy G.P. Southern:	31
2.5.4 Deputy R.G. Le Hérisier:	31
2.5.5 Deputy G.P. Southern:	31
2.5.6 Deputy S.C. Ferguson:	32
2.6 Deputy G.P. Southern of the Minister for Treasury and Resources regarding growth of profits in the Financial Services Industry:	32
2.6.1 Senator T.A. Le Sueur (The Minister for Treasury and Resources):.....	32
2.7 Deputy F.J. Hill of St. Martin of the Minister for Planning and Environment regarding the reconciliation of current planning considerations/restrictions with the agreed incinerator building:	33
Deputy F.E. Cohen (The Minister for Planning and Environment):	33
2.7.1 Deputy C.J. Scott Warren:	33
2.7.2 Deputy G.C.L. Baudains:.....	34
2.7.3 Connétable A.S. Crowcroft of St. Helier:	34
2.7.4 The Connétable of St. Helier:	34
2.7.5 Deputy P.V.F. Le Claire:	34
2.7.6 Deputy S.C. Ferguson:	34
2.7.7 Connétable M.K. Jackson of St. Brelade:.....	35
2.7.8 The Deputy of St. Martin:	35
2.8 Deputy R.G. Le Hérisier of the Minister for Transport and Technical Services regarding the costs associated with the bus texting service and the relocation of buses to the Albert Quay:.....	35
Deputy G.W.J. de Faye of St. Helier (The Minister for Transport and Technical Services): ...	35
2.8.1 Deputy R.G. Le Hérisier:	36
2.8.2 Deputy C.J. Scott Warren:	36
2.9 Deputy P.N. Troy of St. Brelade of the Minister for Health and Social Services regarding toxic emissions from the Bellozanne chimney:	36

Senator B.E. Shenton (The Minister for Health and Social Services):	36
2.9.1 Deputy C.J. Scott Warren:	37
2.9.2 Deputy G.C.L. Baudains:.....	37
2.9.3 The Connétable of St. Helier:	37
2.9.4 Deputy P.V.F. Le Claire:	38
2.9.5 Deputy P.N. Troy:.....	38
2.10 Senator S. Syvret of the Attorney General regarding the electoral intentions of the Connétables:.....	38
Mr. W.J. Bailhache Q.C., H.M. Attorney General:.....	38
2.10.1 Senator S. Syvret:	38
2.10.2 Senator S. Syvret:.....	39
2.10.3 The Connétable of St. Helier:.....	39
2.10.4 Senator S. Syvret:.....	39
2.11 Deputy S.C. Ferguson of the Minister for Housing regarding properties owned by non- residents:	39
Senator T.J. Le Main (The Minister for Housing):	39
2.11.1 Deputy S.C. Ferguson:	40
2.11.2 Deputy S.C. Ferguson:	40
2.11.3 Deputy P.V.F. Le Claire:.....	40
2.11.4 Deputy C.J. Scott Warren:.....	41
2.11.5 Deputy G.P. Southern:	41
2.11.6 Senator S. Syvret:	41
2.12 Senator S. Syvret of the Attorney General regarding investigations into possible child abuse offences at Victoria College during the 1990s:	42
The Attorney General:.....	42
2.12.1 Senator S. Syvret:.....	42
2.13. Deputy P.N. Troy of the Minister for Transport and Technical Services regarding the annual tonnage and toxicity levels of materials currently burned in the incinerator at Bellozanne:	43
Deputy G.W.J. de Faye (The Minister for Transport and Technical Services):.....	43
2.13.1 Deputy R.G. Le Hérisier:.....	43
2.13.2 Deputy C.J. Scott Warren:.....	43
2.13.3 Deputy R.C. Duhamel of St. Saviour:	44
2.13.4 Deputy K.C. Lewis:.....	44
2.13.5 Connétable K.A. Le Brun of St. Mary:	44
2.13.6 Deputy P.V.F. Le Claire:.....	44
2.13.7 Deputy P.V.F. Le Claire:.....	45
2.13.8 Deputy P.N. Troy:	45
2.14 Deputy G.P. Southern of the Minister for Planning and Environment regarding the Island Plan Review: Strategic Options green paper:	45
Senator F.E. Cohen (The Minister for Planning and Environment):.....	46
2.14.1 Deputy G.P. Southern:	46
2.14.2 Deputy R.G. Le Hérisier:.....	46
2.14.3 Deputy R.G. Le Hérisier:.....	46
2.14.4 Deputy G.P. Southern:	47
2.15 Deputy K.C. Lewis of the Minister for Transport and Technical Services regarding the repairs to the breach in the south coast sea wall:	47
Deputy G.W.J. de Faye (The Minister for Transport and Technical Services):.....	47
2.15.1 Deputy S. Power:.....	48
2.15.2 Deputy K.C. Lewis:.....	48
2.16 Deputy P.V.F. Le Claire of the Minister for Health regarding the updating of food hygiene laws:	48

Senator B.E. Shenton (The Minister for Health and Social Services):	48
2.16.1 Deputy P.V.F. Le Claire:.....	48
3. Questions to Ministers without Notice - The Minister for Social Security.....	49
3.1 Deputy P.V.F. Le Claire:	49
Senator P.F. Routier (The Minister for Social Security):.....	49
3.2 Deputy K.C. Lewis:	49
3.3 Deputy G.P. Southern:	49
3.4 Deputy S.C. Ferguson:.....	50
3.5 Deputy G.P. Southern:	50
3.5.1 Deputy G.P. Southern:	50
3.6 Deputy S.C. Ferguson:.....	50
3.7 Deputy C.J. Scott Warren:	51
3.8 Deputy G.P. Southern:	51
3.9 Deputy I.J. Gorst of St. Clement:.....	52
4. Questions to Ministers without Notice ... The Chief Minister	52
4.1 Senator L. Norman:.....	52
Senator F.H. Walker (The Chief Minister):	52
4.2 Deputy P.V.F. Le Claire:	53
4.3 Deputy C.J. Scott Warren:	53
4.4 Deputy J.A. Martin of St. Helier:.....	53
4.5 Deputy G.P. Southern:	54
4.5.1 Deputy G.P. Southern:	54
4.6 Deputy C.F. Labey of Grouville:.....	54
4.7 Deputy S.C. Ferguson:.....	54
STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY.....	54
5. Statement by Connétable D.F. Gray of St. Clement regarding the use of Members’ facilities.....	55
5.1 Connétable D.F. Gray (Chairman, Privileges and Procedures Committee):	55
5.1.1 Deputy R.G. Le Hérisier:	55
5.1.2 Senator M.E. Vibert:	55
5.1.3 Deputy D.W. Mezbourian of St. Lawrence:	55
PUBLIC BUSINESS.....	55
6. Vote of No Confidence: the Bailiff of Jersey (P.107/2008).....	55
6.1 Deputy S. Pitman of St. Helier:	56
6.1.1 Deputy J.J. Huet of St. Helier:	60
6.1.2 Senator F.H. Walker:	60
6.1.3 Deputy G.P. Southern:	61
6.1.4 Senator S. Syvret:.....	62
LUNCHEON ADJOURNMENT PROPOSED.....	67
The Greffier of the States (in the Chair):	67
LUNCHEON ADJOURNMENT.....	67
PUBLIC BUSINESS (continued)	67
6.1.5 Deputy S. Pitman:	67
The Greffier of the States (in the Chair):	68

7. Social Security Tribunal: appointment of members (P.108/2008).....	69
7.1 Senator P.F. Routier (The Minister for Social Security):	69
7.1.1 Deputy R.G. Le Hérisssier:	69
7.1.2 Senator T.J. Le Main:.....	69
7.1.3 Deputy G.P. Southern:	69
7.1.4 Senator S. Syvret:.....	69
7.1.5 Senator P.F. Routier:.....	70
8. Draft Marriage and Civil Status (Amendment No. 2) (Jersey) Law (P.61/008)	71
8.1 Senator W. Kinnard (The Minister for Home Affairs):	71
8.1.1 Senator B.E. Shenton:	75
8.1.2 The Deputy of St. Martin:.....	75
8.1.3 Deputy C.J. Scott Warren:	76
8.1.4 Deputy R.G. Le Hérisssier:	76
8.1.5 Deputy S.C. Ferguson:	76
8.1.6 Deputy D.W. Mezbourian:.....	76
8.1.7 Senator P.F.C. Ozouf:	76
8.1.8 Senator W. Kinnard:	77
The Greffier of the States (in the Chair):	77
8.2 Senator W. Kinnard:	78
The Greffier of the States (in the Chair):	78
8.3 Senator W. Kinnard:	78
8.4 The Deputy of St. Martin:	78
8.4.1 Senator W. Kinnard:	80
8.4.2 Deputy G.C.L. Baudains:.....	81
8.4.3 Deputy R.G. Le Hérisssier:	81
8.4.4 Senator B.E. Shenton:	81
8.4.5 Deputy C.J. Scott Warren:	82
8.4.6 Deputy J.A. Martin:	82
8.4.7 Senator P.F.C. Ozouf:	82
8.4.8 Deputy A.D. Lewis of St. John:.....	83
8.4.9 Deputy I.J. Gorst:.....	83
8.4.10 The Deputy of St. Martin:	84
Mr. Timothy John Le Cocq QC., H.M. Solicitor General:.....	84
The Greffier of the States (in the Chair):	84
8.5 The Deputy of St. Martin:.....	85
8.5.1 Senator W. Kinnard:	86
8.5.2 Deputy C.J. Scott Warren:	87
8.5.3 Deputy G.C.L. Baudains:.....	88
8.5.4 Senator P.F.C. Ozouf:	88
8.5.5 The Deputy of St. Martin:.....	88
The Greffier of the States (in the Chair):	88
8.6 The Deputy of St. Martin:	89
Senator P.F.C. Ozouf:.....	90
The Greffier of the States (in the Chair):	90
8.6.1 Senator W. Kinnard:	90
8.6.2 Deputy S.C. Ferguson:	91
8.6.3 Deputy J.A. Martin:	91
8.6.4 Deputy C.J. Scott Warren:	91
8.6.5 Senator B.E. Shenton:	91
The Solicitor General:	91

8.6.6 The Deputy of St. Martin:	91
The Greffier of the States (in the Chair):	92
8.7 The Deputy of St. Martin:	92
8.7.1 Senator W. Kinnard:	93
8.7.2 Deputy G.C.L. Baudains:	93
8.7.3 Deputy J.A. Martin:	94
8.7.4 The Connétable of St. Helier:	94
8.7.5 Senator P.F.C. Ozouf:	94
8.7.6 The Deputy of St. Martin:	95
The Greffier of the States (in the Chair):	95
8.8 Senator W. Kinnard:	96
The Greffier of the States (in the Chair):	96
8.9 The Deputy of St. Martin:	97
8.9.1 Senator W. Kinnard:	97
8.9.2 Deputy G.C.L. Baudains:	97
8.9.3 The Deputy of St. Martin:	98
The Greffier of the States (in the Chair):	98
8.10 The Deputy of St. Martin:	98
8.10.1 Senator W. Kinnard:	99
8.10.2 Connétable J.L.S. Gallichan of Trinity:	100
8.10.3 Deputy C.J. Scott Warren:	100
8.10.4 Deputy G.C.L. Baudains:	100
8.10.5 The Deputy of St. Martin:	100
The Greffier of the States (in the Chair):	101
8.11 Senator W. Kinnard:	101
The Greffier of the States (in the Chair):	101
8.12 Senator W. Kinnard:	102
8.12.1 Deputy G.W.J. de Faye:	103
8.12.2 Senator P.F.C. Ozouf:	104
8.12.3 Deputy G.C.L. Baudains:	104
8.12.4 The Deputy of St. Martin:	104
8.12.5 Senator W. Kinnard:	105
The Greffier of the States (in the Chair):	105

STATEMENT ON A MATTER BY THE MINISTER FOR HOUSING 106

9. Statement by the Minister for Housing regarding the fire at Broadlands:..... 106

9.1 Senator T.J. Le Main (The Minister for Housing):	106
--	-----

PUBLIC BUSINESS (continued) 106

10. Draft Customs and Excise (Amendment No. 6) (Jersey) Law 200- (P.54/2008): 106

10.1 The Deputy of St. John (Assistant Minister for Home Affairs - rapporteur):	106
The Greffier of the States (in the Chair):	107
Deputy D.W. Mezbourian (Chairman, Education and Home Affairs Scrutiny Panel):	107
Connétable K.P. Vibert of St. Ouen:	107
10.2 The Deputy of St. John:	108
The Greffier of the States (in the Chair):	108

11. Provision of land for lifelong dwellings (for people over 55) and first-time buyers: amendment to Island Plan (2002) (P.75/2008) 108

11.1 Deputy A.E. Pryke of Trinity (Assistant Minister for Planning and Environment - rapporteur):	108
Deputy P.N. Troy:	108
11.1.1 Deputy J.A.N. Le Fondré of St. Lawrence:.....	112
11.1.2 Deputy J.J. Huet:	113
11.1.3 Senator P.F. Routier:	114
11.1.4 Deputy J.G. Reed of St. Ouen:	114
11.1.5 Deputy R.C. Duhamel:	115
11.1.6 Deputy J.A. Martin:.....	116
11.1.7 Deputy C.J. Scott Warren:.....	117
11.1.8 The Connétable of St. Mary:	118
11.1.9 Connétable P.F.M. Hanning of St. Saviour:.....	118
11.1.10 Deputy K.C. Lewis:	119
11.1.11 The Connétable of Grouville:	119
11.1.12 The Connétable of St. Brelade:.....	120
11.1.13 Connétable S.A. Yates of St. Martin:	121
11.1.14 Deputy D.W. Mezbourian:	122

ADJOURNMENT PROPOSED 123

Senator L. Norman:	123
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ADJOURNMENT 123

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

QUESTIONS

1. Written Questions

1.1 DEPUTY S.S.P.A. POWER OF ST. BRELADE TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING COSTS INCURRED BY THE JERSEY HERITAGE TRUST FOR THE AMPHIBIOUS VESSEL SERVICE TO ELIZABETH CASTLE:

Question

Can the Minister confirm the overall invoiced costs to the end of June 2008 for the year 2008 for repairs, maintenance, parts and labour charges incurred by Jersey Heritage Trust to the ongoing running costs of the Charming Betty and Charming Nancy, billed by Deveau Commercials Limited, and any other sub-contractor, mechanic or repair facility hired by JHT for the maintenance of the above two named vessels/vehicles?

Answer

In replying to this question, I think it may be helpful to point out that my department is not responsible for operational matters within the Jersey Heritage Trust. Education, Sport and Culture has responsibility for funding the JHT and for maintaining proper governance arrangements but the Trust is an independent body. I published its recent report on amphibious transport to Elizabeth Castle because I judged that it raised important matters of principle about which members should be properly informed. However, this question does not raise a matter of principle: it concerns operational detail. It should properly be put to the Jersey Heritage Trust. However, on this occasion I have invited the Trust to provide the most up-to-date information available and I am advised that the maintenance costs for the year to the end of May amount to £15,270.

1.2 DEPUTY S.S.P.A. POWER OF ST. BRELADE TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING CHARGES LEVIED BY AIRLINES AT JERSEY AIRPORT:

Question

Is the Minister prepared to obtain information from the individual airlines operating out of Jersey Airport showing the charges levied by them under the following headings:

- a) charges by airlines using a normal bank debit card;
- b) charges by airlines using a normal bank credit card;
- c) any other charges by airlines either per passenger, per passenger leg or per booking.

Answer

Anyone purchasing an airline ticket online is subject to pay any credit card and debit card charges as set out by the individual airline. The practice of charging for debit and credit cards applies not just to services to and from Jersey but across airlines' networks in the UK and internationally.

With the exception of Blue Island Airways, charges are levied by all airlines operating to and from Jersey.

All airlines are obliged to display any charges incurred, including those of credit and debit cards, as well as additional charges such as name or itinerary changes. Therefore, the customer has the option to complete or abandon the transaction.

Further charges may be incurred by passengers wishing to make changes to a reservation post confirmation. Debit and credit card charges may once again be levied over and above any administration charge to alter the booking. Again, charges incurred are up to the individual company and are not just restricted to airlines.

It is worth noting the practice of charging for debit and credit card transactions is not just limited to the airline industry, but is consistent with many policies adopted globally for online transactions.

Charges¹ by airlines using a normal credit card

Airline	Credit Card Fee	Debit Card Fee
Flybe	£2.99 per passenger per single flight Minimum charge of 5.50 per booking	£1.10 per passenger per single flight Minimum charge of £1.99 per booking
British Airways	£3.50 per ticket	No charges incurred
Aurigny	£1.75 per passenger per sector	75p per passenger per sector
Jet2.com	3.75% of total amount payable Minimum charge of £6.99 per booking	1.75% of total amount payable Minimum charge of £1.99 per booking
EasyJet	2.5% of total amount payable Minimum charge of £4.95 per booking	Fixed £1.75 charge
BMI	£4.00 fee per person	No charges incurred
BMI Baby	3% of total amount payable Minimum charge of £4.99 per booking	2% of total amount payable Minimum £1.99 per booking
Blue Islands	No charges incurred	No charges incurred
Air Southwest	£5.00 per transaction	£1.00 per transaction
VLM	£2.00 per person per sector	£2.00 per person per sector

Note 1. Please note that the information detailed above is based on information provided by the individual airlines at the time of preparing this answer. The information can be viewed online on the individual sites. Jersey Airport takes no responsibility for any subsequent change to the costs as detailed.

1.3 DEPUTY S.S.P.A. POWER OF ST. BRELADE TO THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING THE CREATION OF A PARISH SOCIAL SECRETARY:

Question

Would the Chairman undertake to ask the Comité des Connétables to consider the possibility of having either a full-time or part-time social secretary or social committee within each Parish, to harness and maintain the vital link that exists between the Parish Halls/Public Hall and those in need within a Parish so that the parochial knowledge that existed under the previous welfare system is not lost forever?

Answer

Yes, I will undertake to ask the Comité des Connétables to consider the matter.

1.4 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR TO THE CHIEF MINISTER REGARDING 1(1)(k) RESIDENTS:

Question

Would the Minister describe the role of the Migration Advisory Panel in the granting of permissions to 1(1)(k) residents to reside in the Island?

Answer

The Migration Advisory Group exists to steer the new migration policies, and in the interim seeks to ensure consistency in the application and development of the existing Housing (Jersey) Law, 1949, and Regulation of Undertakings and Developments (Jersey) Law, 1973.

The Housing Minister is wholly responsible for the exercise of powers and duties under the Housing (Jersey) Law, 1949, including those in relation to the granting of consent to purchase or lease property, whether under Regulation 1(1)(k) or any other provision.

1.5 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE USE OF THE GREENFIELDS PLAYING FIELD:

Question

Given the under-utilisation of the Greenfields facility, would the Minister agree to the sharing of the playing field with the adjacent housing estate?

Answer

Greenfields is a secure unit and young people who are there have recreation facilities in the Sports Hall and also on a Ball Court within the facility.

The field which has been developed is for use by pupils who are on the Alternative Curriculum. It has always been the intention that when the field is ready for use, it will be available for use by members of the local community in evenings, weekends and school holidays. The field has been sown and it is expected that it will be ready for use from late autumn.

1.6 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE ‘ENABLING DEVELOPMENT’ POLICY:

Question

Following the approval of the Rural Economy Strategy on 19th July 2005, when the then Environment and Public Services Committee was requested to consider the possibility of ‘enabling development’ and to bring forward for debate appropriate recommended changes to the Island Plan, would the Minister state whether such changes will be brought forward for debate by the Assembly and explain the basis for recent decisions?

Answer

The Rural Economy Strategy was approved by the States on 19 July 2005 and introduced the concept of enabling development in support of the Island’s agricultural industry, specifically aimed at aiding the recovery of the rural economy.

In adopting The Rural Economy Strategy in July 2005, the States agreed that the then “Environment and Public Services Committee should review current planning policies, with the aim of facilitating ‘enabling or linked’ development in the countryside, in order to ensure planning gains, environmental improvements and reinvestment in the rural economy, and bring forward for debate appropriate recommended changes to the countryside policies in the Island Plan.”

Enabling or linked development is the term given to development of a site for purposes outside the landowner’s principal business, with the capital so raised being used to fund the construction of facilities which will enhance business performance and/or have a positive environmental benefit. The underlying principles are that the financial gain should not exceed the cost of investment necessary, and that it should not be the automatic ‘first resort’ of rural businesses wishing to fund improvements.

Interim policy framework

When the policy was presented to me on the 4th February 2008, I raised concerns about the adoption of the strategy prior to the Island Plan Review. However the officer advice I received at that meeting still recommended the adoption of an interim policy on the basis that there were two long standing applications then pending involving the proposed strategy, the principle of which was established in 2005 by the adoption by the States of the Rural Economy Strategy.

Following this officer advice, I adopted Supplementary Planning Guidance (Planning Advice note 7 – Enabling Development) in February 2008 as an interim measure. This guidance note states that I will regard the States decision of 19 July 2005 as a material consideration in considering any linked enabling development applications. It provides an interim working framework to consider applications with the principle of linked or enabling development. The intention then was that the

assembly would have the opportunity to consider a full policy in 2009 when the matter is brought back for debate as part of the Island Plan Review.

Island Plan Review

The ongoing Island Plan Review, scheduled for debate towards the end of 2009, will address the changes facing the Island's agricultural industry and the issues concerning the management of the Island's countryside, including Linked or Enabling Development. It will consider the necessary balance between economic stimulation and the conservation of the island's rural environmental and cultural heritage and will provide formal comprehensive policy guidance in response to this situation.

Planning applications

With the Supplementary Planning Guidance interim policy for Enabling Development in place, the Planning Applications Panel and I were able to approach the two long outstanding linked and enabling applications within carefully prescribed parameters. These relate to Woodside Farms (in St Peter and Trinity) and Cowley Farm, St Saviour. At Cowley Farm, the enabling development which will deliver the funding is still being negotiated and no permit has yet been issued, nor will be until the specific enabling development has been agreed and a planning obligation agreement entered into. At Woodside (St Peter) the Planning Applications Panel has agreed a principle that up to a maximum of 10 dwellings can be erected on the site of the existing farmstead (which comprises a large shed, two bungalows, a reservoir and a number of 'Portakabins' used for staff accommodation). However, this application may be determinable within other existing planning policies. I have made it clear that should any enabling development consent be forthcoming the following principles should be applied:

- 1) The development value created should be the minimum required to deliver the investment in the farm unit and that this should be subject to independent audit.
- 2) The number of residential units created should be the minimum number to minimise the impact on the countryside,
- 3) In most cases development should be in the Jersey vernacular architectural genre.

Deputy Le Hérissier's comments

Members will be aware that Deputy Le Hérissier has questioned the validity of these decisions. I have therefore asked for advice from the Law Officers on this issue. As I promised Deputy Le Hérissier when he first raised this issue if the Law Officers advice supports his view and it is shown that the advice I was given was flawed I undertake to immediately suspend the interim policy, publicly consult on a policy and bring a Report and Proposition to the States as soon as possible.

1.7 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT HOWARD DAVIS FARM (JESREY) LAW 200-:

Question

Will the Minister inform members which, if any, Convention rights are potentially affected by the draft Howard Davis Farm (Abrogation of Covenant) Law 200- and the reasons for his view that the provisions of that Law are compatible with Convention rights?

Answer

I have considered carefully all the advice I have received and accordingly have felt able to make the statement, pursuant to Article 16 of the Human Rights (Jersey) Law 2000, that the draft Howard Davis Farm (Abrogation of Covenant) Law 200 is compatible with the Convention rights. I am not aware of any Convention rights which might give rise for concern in this instance.

Members will appreciate that the reasons for making a Ministerial statement of compatibility under the Human Rights Law is not that the Minister's view is determinative of what is a legal question, nor even that it is of any evidential value to a court in that respect. The provisions requiring the statement to be made is there to ensure that Ministers and their officials focus on the need to have regard to the Human Rights Convention in their promotion of legislation for consideration by the States and as a result to ensure that all necessary legal advice is taken.

It is against this background that the statement of compatibility has been made.

1.8 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR HOME AFFAIRS REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT CUSTOMS AND EXCISE (AMENDMENT NO. 6) (JERSEY) LAW 200-:

Question

Will the Minister inform members which, if any, Convention rights are potentially affected by the draft Customs and Excise (Amendment No 6 (Jersey) Law 200- and the reasons for her view that the provisions of that Law are compatible with Convention rights?

Answer

I have considered carefully all the advice I have received and accordingly have felt able to make the Statement of Compatibility, pursuant to Article 16 of the Human Rights (Jersey) Law 2000, that "the draft Customs & Excise (Amendment No. 6) (Jersey) Law 200- is compatible with the Convention rights."

Members will appreciate that the reason for making a Ministerial statement of compatibility under the Human Rights Law is not that the Minister's view is determinative of what is a legal question, nor even that it is of any evidential value to a court in that respect. The provision requiring the statement to be made is there to ensure that the Minister and her officials focus on the need to have regard to the Convention rights in their promotion of legislation for consideration by the States and as a result to ensure that all necessary legal advice is taken.

It is against this background that the Statement of Compatibility has been made.

1.9 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT MENTAL HEALTH (AMENDMENT NO. 2) (JESREY) LAW 200-:

Question

Will the Minister inform members which, if any, Convention rights are potentially affected by the draft Mental Health (Amendment) No 2 Law 200- and the reasons for his view that the provisions of that Law are compatible with Convention rights?

Answer

I have considered carefully all the advice I have received and accordingly have felt able to make the Statement of Compatibility, pursuant to Article 16 of the Human Rights (Jersey) Law 2000. The amendment to the Mental Health (Jersey) Law 1969 does not deprive anyone of anything, nor curtail any person's rights in any way and is compatible with the Convention rights.

The Deputy will appreciate that the reason for making a Ministerial statement of compatibility under the Human Rights Law is not that the Minister's view is determinative of what is a legal question, nor even that it is of any evidential value to a court in that respect. The provision requiring the statement to be made is there to ensure that the Minister and his officers focus on the need to have regard to the Convention rights in their promotion of legislation for consideration by the States and as a result to ensure that all necessary legal advice is taken.

The Mental Health (Amendment No 2) (Jersey) Law 200- relates to the remuneration of Mental Health Tribunal members' fees and expenses, it is against this background that the Statement of Compatibility has been made.

1.10 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT SHIPPING (AMENDMENT NO. 2) (JERSEY) LAW 200-:

Question

Will the Minister inform members which, if any, Convention rights are potentially affected by the draft Shipping (Amendment No 2.) (Jersey) Law 200- and the reasons for his view that the provisions of that Law are compatible with Convention rights?

Answer

I believe that no rights under the European Convention on Human Rights are affected by the amendment.

I have considered carefully all the advice received. Accordingly, I have confidence in the Statement of Compatibility, pursuant to Article 16 of the Human Rights (Jersey) Law 2000, that the draft Shipping (Amendment No 2.) (Jersey) Law 200- is compatible with the Convention rights.

Members will appreciate that the reason for making a Ministerial statement of compatibility under the Human Rights Law is not that the Minister's view is determinative of what is a legal question, nor even that it is of any evidential value to a court in that respect. The provision requiring the statement to be made is there to ensure that the Minister and his officials focus on the need to have regard to the Convention rights in their promotion of legislation for consideration by the States and as a result to ensure that all necessary legal advice is taken. It is against this background that the Statement of Compatibility has been made.

The changes are mainly concerned with raising the monetary amounts to which ship owners can limit their liability in the event of a maritime claim against them. The basic limitations are already imbedded in international maritime law and have not, to our knowledge, been subject to any Human Rights challenge.

Furthermore, 29 other jurisdictions, including the UK and the Isle of Man, have already implemented these changes and have not considered them incompatible.

1.11 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT COMPANIES, TAKEOVERS AND MERGER PANEL (JERSEY) LAW 200-:

Question

Will the Minister inform members which, if any, Convention rights are potentially affected by the draft Companies (Takeovers and Merger Panel) (Jersey) Law 200- and the reasons for his view that the provisions of that Law are compatible with Convention rights?

Answer

The aim of bringing this draft law before the States is to place the Takeover Panel on a statutory footing which will provide firmer safeguards for investors in Jersey companies. The intention is that the body appointed will have the same powers in Jersey as it does in the UK. As a result the Law mirrors the UK Act closely. The UK Act has been declared to be Convention compliant by the UK parliament.

I took advice as the draft Law could potentially affect the Article 6 Convention right to a fair hearing, since the Panel will determine civil rights and has a power to impose sanctions, potentially including financial penalties. However, Article 12 of the draft Law provides safeguards in relation to hearings by the Panel, including a right of appeal to an independent body which removes any potential for incompatibility.

1.12 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT LIMITED PARTNERSHIPS (AMENDMENT) (JERSEY) LAW 200-:

Question

Will the Minister inform members which, if any, Convention rights are potentially affected by the draft Limited Partnerships (Amendment) (Jersey) Law 200- and the reasons for his view that the provisions of that Law are compatible with Convention rights?

Answer

Based on the advice I received I believe that there are no human rights issues in relation to the draft law. My view is that the provisions in the Law are compatible with the Convention rights.

1.13 THE DEPUTY OF ST. MARTIN TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE HUMAN RIGHTS STATUS OF THE DRAFT WATER (AMENDMENT NO. 3) (JERSEY) LAW 200-:

Question

Will the Minister inform members which, if any, Convention rights are potentially affected by the draft Water (Amendment No 3) (Jersey) Law 200- and the reasons for his view that the provisions of that Law are compatible with Convention rights?

Answer

I have considered carefully all the advice I have received and accordingly have felt able to make the statement, pursuant to Article 16 of the Human Rights (Jersey) Law 2000, that the draft Water (Amendment No. 3) (Jersey) Law 200- is compatible with the Convention rights.

Members will appreciate that the reasons for making a Ministerial Statement of Compatibility under the Human Rights Law is not that the Minister's view is determinative of what is a legal question, nor even that it is of any evidential value to a court in that respect. The provisions requiring the statement to be made is there to ensure that the Minister and officials focus on the need to have regard to the Convention rights in their promotion of legislation for consideration by the States and as a result to ensure that all necessary legal advice is taken.

It is against this background that the Statement of Compatibility has been made.

1.14 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING FUME EXTRACTION AT LIBERATION STATION:

Question

Would the Minister advise of the capital cost and annual maintenance of fume extraction from the new bus station?

Answer

There are eight number extract fans fitted in the new bus station. The fans cost £60,000 to install and were fully funded by the developer as part of the base build of Liberation Station.

Annual running costs are difficult to predict as the fans are activated by air quality sensors which only operate when air quality falls below specified standards. However, manufacturer's estimates of annual running costs are £5,000 per year.

1.15 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE PROPOSED SUNKEN ROAD ON THE WATERFRONT:

Question

With regard to the proposed sunken road at the Esplanade Quarter, would the Minister advise whether the annual maintenance and running cost of the fume extraction equipment is budgeted for within the suggested £500,000 annual spend, and would he further advise whether the fumes will be filtered before release into the atmosphere and, if so, the annual cost of so doing?

Would the Minister further advise precisely where, and what height, the fumes will be released?

Answer

The estimated energy and routine maintenance costs for the tunnel ventilation plant are included in the suggested figure of £500,000 per annum for the total operating costs for the tunnel.

There are no plans to filter the air exhausted from the tunnel. The pollution extract system will move the air through the tunnel prior to it being discharged at the tunnel portals. The air will not be filtered prior to discharge.

1.16 DEPUTY A. BRECKON OF ST. SAVIOUR TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE JERSEY TOURISM WEBSITE:

Question

Would the Minister give details of the arrangements for the website for Jersey Tourism, including:

- (a) whether a tendering process took place and if so, how, where and when it was advertised;

Answer

Seven companies who had been identified by the Department as being able to undertake the development work were invited to make a written submission for the jersey.com project. From the written submissions a short list of two, which consisted of a joint proposal from two local companies and one external company were invited to make a presentation to the selection team (which consisted of officials and the Chairman of the Tourism Development Fund) from which the final choice was made. Each of the finalists had previously undertaken successful on-line projects for the department.

Question

- (b) whether a Service Level Agreement exists with the existing operator;

Answer

The project brief was to design and deliver a website to a given specification. The question of a Service Level Agreement does not arise as there is no ongoing maintenance arrangement for this work and it was always envisaged that this would be integrated with existing service contracts for other States web projects. There was of course a contract for the work carried out on the new website.

Question

- (c) for what periods, if any, the website has been inaccessible to the public and when;

The website was never unavailable as it was possible to revert to the former site immediately once the problems occurred with the new site. **At no time was the jersey.com service unavailable.**

Question

- (d) whether any compensation or reduction in payment has been or is being negotiated?

Answer

The final cost to the States is the subject of ongoing negotiation with the contractor. The Chief Officer of the Economic Development Department, in full consultation with the Director of ISD is personally handling the negotiations.

I have asked for an independent report on lessons learnt.

1.17 DEPUTY A. BRECKON OF ST. SAVIOUR TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE 2007 FINANCIAL REPORT AND ACCOUNTS:

Question

In the 2007 Financial Report and Accounts (Creditors falling due within one year), Income Tax receipts in advance show £13,369,000 in 2006 and £22,847,000 in 2007 – could the Minister explain the reason for this increase of over £9 million?

Answer

Receipts in advance are largely payments made by ITIS payers (employed taxpayers) who are paying on a current year basis, i.e. they cannot be formally served with a Notice of Assessment to tax until the following year when their Income Tax Return is received. They are paying tax on a current year basis, as they earn their wages / salaries. The first year that this happened was 2006 and all 2006 ‘new taxpayers’ that year paid their current year tax rather than the previous years tax. In 2007, both 2006 ‘new taxpayers’ and 2007 ‘new taxpayers’ paid their current year tax, hence the increase of over £9 million.

This was one of the planned benefits of ITIS, and the extra interest to the States from improved cash flow was built into the predicted yield from the Fiscal Strategy approved by the States.

1.18 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TAX RAISED FROM 1(1)(k) RESIDENTS:

Question

Would the Minister provide members with updated figures for the number of, and the tax raised from 1(1)(k) residents?

Answer

- The number of 1(1)(k) residents who were liable to Jersey income tax for the year of assessment 2006 is 135.
- The amount of Jersey income tax payable for the year of assessment 2006 both personally and through any companies, trusts or settlements in which they have a direct connection is approximately £8 million

1.19 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING INCREASES TO INCOME SUPPORT TO COMPENSATE FOR G.S.T:

Question

Following the Minister’s response to question number 3981 of 1st July 2008, when he stated that the average sum allocated to compensate those on Income Support (IS) for GST would be £318 per annum, will he now advise how this figure has been derived, given that a first-order estimate of this sum (total GST payment £1.75 million/number of IS households 8,079) would be £217?

Answer

The figure of 8,079 households quoted by the Deputy refers to all households receiving income support or protected payments and includes individuals in residential care. The value of £318 per annum represents the average annual increase in components for the 5,327 households that are eligible for Income Support at present.

1.20 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ANNUAL G.S.T. REVENUE TARGET:

Question

In answers given to members on 1st July 2008, the Minister advised that the yearly GST bill paid by the average household will be £626, but as this would only yield approximately £23 million if multiplied by the 37,500 households in Jersey, will he explain to members how he expects to reach the GST revenue target of £37 million excluding the finance sector?

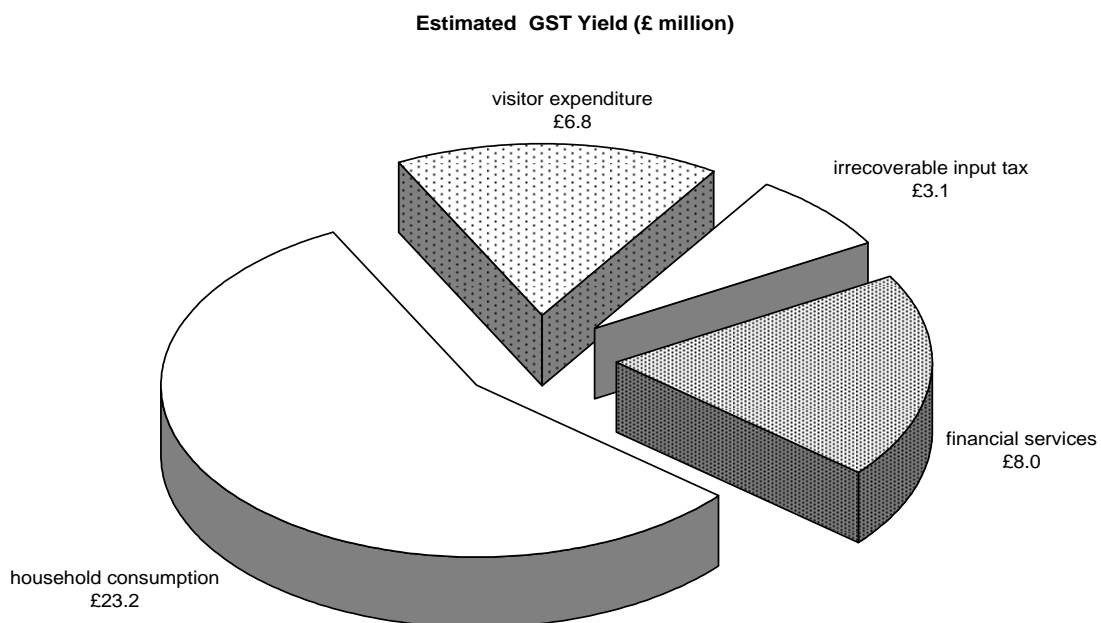
Answer

The explanation is relatively straightforward, and the model used for the GST revenue projections has been in the public domain since early 2005. The Crown Agents final report issued in February 2005 provided the methodology, key assumptions, limitations and projected revenue yield for a simple GST system.

The report can be downloaded from [http://www.gov.je/TreasuryResources/Tax/Tax Proposals](http://www.gov.je/TreasuryResources/Tax/Tax%20Proposals).

This first model has been revised and refined each year since to take into account any changes in tax liability (approved by the States) and the availability of more relevant/recent data. It can be seen that the total GST yield is derived from a number of sources and not just the two (domestic consumption/households and financial services industry) that have been identified above.

This is perhaps easier to understand from the illustration below:-



This current model shows an estimated total GST yield of £41.1 million and takes into account the most recent data available from the Income Tax Office (2006 reported incomes) and the Tourism Department (2007 visitor expenditure).

I should add that the original estimate of between £40 – 45 million which was based on the simple GST design concept has been adjusted to take into account a reduction of the tax base as a result of further exclusions (mainly exemptions) which have subsequently been debated and approved by the States.

1.21 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING G.S.T. SAVINGS IN RESPECT OF MEDICAL SUPPLIES AND SERVICES:

Question

Will the Minister inform members how much GST the average household will be saved as a result of the exemption on medical supplies and services?

Answer

When the issue of excluding medical services and products was first proposed in 2006 (under Proposition 86/2006) I provided in my report an estimate of the total revenue likely to be lost. This estimate in October 2006 was £800,000 per annum and I also stated that the impact on voluntary compliance and cost of administration would in each case be low.

Based on the current exclusions in the GST Law under Schedule 5 that relate most closely to the description of supplies you have provided above the total annual revenue loss would be in the region of £700,000. Using the latest adjusted household expenditure figures the estimate of GST saved by the average household will be around £19 per annum.

1.22 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF THE NEW INCOME SUPPORT SYSTEM:

Question

Will the Minister agree to release the raw anonymised data to the Income Support scrutiny panel to enable further analysis to be undertaken to assess the impact of Income Support on the delivery of benefits to recipients, particularly in terms of After Housing Costs disposable incomes?

Answer

The analysis of raw Income Support data is a specialist task requiring detailed knowledge of the architecture of the data base and the rules surrounding the storage of data.

If the Scrutiny sub panel wish to appoint a specialist advisor to undertake this work, the department will make available the necessary anonymised raw data files.

1.23 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE CHIEF MINISTER REGARDING THE POLITICAL ELIGIBILITY OF PUBLIC SECTOR EMPLOYEES:

Question

Does the Chief Minister consider it to be a discriminatory condition of employment that a “politically eligible” States employee could be permitted to campaign for a candidate other than himself using normal holiday entitlement but is not able to do so under the same conditions if standing for election himself and, if so, will he seek to get this rule changed to better deliver the spirit in which the eligibility rules were recently liberalised?

Answer

There is clearly a significant difference between someone who campaigns for another person who is seeking election to the States and someone who is actually standing for election.

Under the relevant regulations, a “politically eligible” States employee is required to take unpaid leave of absence from the date of his/her official nomination until the election is over. I have been advised that this requirement does not contravene any other legislative provision.

In the United Kingdom Civil Service, employees, even those classified as “politically free,” are required to resign from their employment if they wish to stand for election to Parliament. In UK Local Government employees who wish to stand for election to the Authority for which they work in paid employment are normally required to resign before they do so. We have stopped short of that requirement but nevertheless require such employees to take unpaid leave of absence when electioneering in order to avoid any conflict of interest (whether real or perceived).

1.24 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE CONSTRUCTION OF ONE-BEDROOM FLATS IN THE ISLAND:

Question

Will the Minister inform members what number of (under 55) one-bed flats are under construction or have planning permission for 2008 and 2009, given that this was an area identified as over-supplied in the most recent Housing Needs Survey?

Answer

Unfortunately, at this time, the requested information on 1-bedroom units either under construction or with planning permission is not readily available and the provision of accurate figures would require recourse to original source material. This would involve considerable time and resources. The required figures will, however, be made available to States Members as soon as possible.

The 2007 Housing Needs Survey, and the resulting assessment of needs, states that there is predicated to be, in five years time, a potential surplus (supply over demand) of 1-bedroom units, in most qualification and tenure categories, based on a nil net migration scenario and the current 12-year housing qualification rule. It estimates that this overall potential surplus of 1-bedroom units will be above 1,300 units and that some 65% of these (890 units) will be in the qualified private rental sector, with most of the remainder being in the non-qualified sector.

It is important to note that the 2007 Survey does not say that there is at present over-supply of 1-bed flats.

The potential surplus is based on predications, that might or might not actually materialise. It is driven in large part by potential supply from existing private rental units in the qualified and non-qualified sectors, which would be released by occupiers wanting to move into the owner-occupied sector, or moving to larger homes in the rental sector. This reflects the aspirations of some 2,270 such households at the time of the 2007 Housing Needs Survey. These aspirations represent a snapshot in time and may well change in response to changing economic and social circumstances over the next few years. Furthermore, the potential surplus of 1-bedroom units is dependent on the complementary availability of larger accommodation so that the households in question can move in.

As Minister for Planning and Environment, and primarily through the Island Plan Review process, I will seek to ensure that an adequate supply of suitably located land is available to meet the requirements of Island residents over the next 5 years and beyond. This will include providing opportunities to allow for addressing identified potential shortfalls in 2-, 3- and 4-bedroom owner-occupied dwellings.

I am, of course, able to directly influence the number, type and size of housing units to be developed on States' owned land and sites specifically zoned for Category A housing purposes. However, the largest proportion of new housing units come forward (and will continue to come forward) on private 'windfall' sites, as part of the normal planning application process. In such circumstances, the size of the units proposed is essentially dictated by the private market. As Members know, we are considering, within the Island Plan Review process, ways in which the Minister can ensure there is a better 'fit', by type and tenure, between housing demand and the supply of homes.

Clearly, if we are to ensure that the Island's housing needs are being met, we must continue to carefully monitor and review the housing situation at regular intervals and respond to changes in circumstances as necessary. The present 'Planning for Homes' process, overseen jointly by the Minister for Housing and myself, has been established to help achieve these ends. It is presently anticipated that the next 'Planning for Homes' document will be released in the first quarter of next year.

1.25 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING G.C.S.E. BENCHMARKS:

Question

Will the Minister inform members what comparative figures he has to show student performance in Jersey and UK benchmark authorities in terms of:

Grades A – C in 5 or more GCSEs excluding English and Maths

Grades A – C in 5 or more GCSEs including English and Maths?

Answer

GCSE	Jersey	UK	Buckinghamshire	Kingston	Sutton	North Yorkshire	Harrow
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% Passing 5+ A* to C disregarding Math & Eng	68.2%	61.5%	69.3%	69.6%	73.6%	65.6%	66.3%
% of entries achieving 5+ A* to C inc Math & Eng	53.0%	46.7%	60.3%	61.7%	62.4%	54.2%	56.1%

1.26 DEPUTY A. BRECKON OF ST. SAVIOUR TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE NEW TOURISM OFFICES:

Question

Is the Minister aware that P.22/2005 relating to the relocation and lease of the new Tourism Office states that the “relocation of Jersey Tourism into the new offices to be carried out at nil expense to the Public” and, if so, would he give details of how the ‘one-off costs of £325,000’ were incurred as outlined on page 8 of the ‘Financial Report and Accounts for 2007’?

Answer

The move to the new offices at Liberation Place was completed in October 2007, and resulted in two sections of the Economic Development Department, Tourism and the Regulatory Services Directorate being relocated in the new building. Subsequently, the Ministerial and Chief Officer's Secretariat moved into the building.

The combined rental for the new building, storage facilities in St John, and 3 parking spaces for States owned vehicles located in the Waterfront car park remains at £109,300 which is the same rental paid for the previous Tourism building in Liberation Square.

The negotiated cost for the move as stated in the Report P.22 / 2005 referred to the rental and base costs. In the intervening period between the original agreement in 2002 and 2007 there were changes to the business operation of which account needed to be taken in the final fit out. The cost of these tenant variations, new furniture for each of the four floors, new retail display units for the retail area, internet access units, blackout blinds, AV systems and fees associated with the project management of the move comprised the one off cost outlined on page 8 of the financial reports and accounts.

As a consequence of the move, at nil rental increase, Jersey Tourism has a State of the Art office building comprising 6,650 square feet at a rental of £16.43 per square foot, which is significantly below current market value.

2. Oral Questions

2.1 Deputy R.G. Le Hérissier of St. Saviour of the Chief Minister regarding the establishment of a whistle-blowing office:

Following his response to a question on 11th March 2008, does the Chief Minister intend to bring legislation establishing a whistle-blowing office to the Assembly and, if so, when?

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

In my response to Deputy Le Hérissier in March I said that my department’s Business Plan for 2008 includes an assessment of the need for an independent person or agency to receive approaches from persons raising serious concerns. I can confirm that work is progressing on the review of the

policy on reporting serious concerns to ensure that the avenues for raising those concerns within the Civil Service reflect best practice and provide a timely response for resolution of issues. Work is also continuing on the consideration of whether the several avenues whereby members of the public can raise concerns about serious issues are adequate. I have today published Professor Robert Upex's report which contains some useful information which needs to be considered in the formulation of an effective approach to whistle-blowing. I intend to publish a report to the States at the start of the next session which will contain a proposal to improve the way such matters are handled. In my response to Deputy Le Hérissier in March I said that I could not give a specific answer to the question of the date that proposals will be brought to the States as that presupposes that the outcome of the assessment would be that such proposals are necessary. My response has not changed and, therefore, I cannot confirm that legislation will be brought to the Assembly to establish a whistle-blowing office, nor can I at this stage confirm the timescales.

2.1.1 Deputy R.G. Le Hérissier:

Would the Minister confirm, in light of his answer of 11th March, that the work will be completed in July 2008 and, secondly, Sir on a scale of one to 10 - 10 being very enthusiastic - where does his feeling lie for this office?

Senator F.H. Walker:

I cannot answer the second part of the question because I do not have all the information as yet, but I can confirm that the work will be completed in July and, as I said in my answer to the question, I would propose to put a paper to the States in September.

2.1.2 Senator S. Syvret:

I have given notice to the Greffier and a draft proposition that I am going to be tabling which will ask the agreement of the Assembly to introduce a U.K. (United Kingdom) type Public Interest Disclosure Act. Will the Chief Minister give his assurance that he will consider this matter carefully?

Senator F.H. Walker:

Without giving any assurance as to the final decision upon it, yes, I will give that assurance.

2.2 Deputy G.C.L. Baudains of St. Clement of the Chief Minister regarding the Managing Director of the Waterfront Enterprise Board:

Would the Chief Minister state whether he continues to have confidence in the Managing Director of the Waterfront Enterprise Board.

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

The answer is yes I do.

2.2.1 Deputy G.C.L. Baudains:

Can the Chief Minister then confirm that he was satisfied with the situation this Assembly found itself in during and following the debate on the Waterfront because was that not a result of the information supplied by the Managing Director?

Senator F.H. Walker:

Yes, Sir, I have already made reference to that on more than one occasion in this House and at public meetings elsewhere. There was an issue with the Managing Director of W.E.B. (Waterfront Enterprise Board). He did not give me the information he should have done at that time for which he has since apologised. But the reason I can say I retain confidence in him is because he has done, in my estimation, a thoroughly good job in the work that W.E.B. has put in to the preparation of the Masterplan for the Waterfront. His contribution has been significant. It continues to be significant.

I would prefer to judge him on his continuing work on behalf of the Island in that respect than on one, albeit serious, slip.

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

We have not heard or at least I have not heard any news yet about the position of the Chairman in respect of these recent developments. Could the Chief Minister update us please?

Senator F.H. Walker:

Discussions are continuing. I would hope to be in a position to inform Members of the planned position in the very near future.

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

I wonder if the Chief Minister could tell us who in fact owns the copyright of the Masterplan to the Waterfront?

Senator F.H. Walker:

It is not a question that would normally be directed to me but my understanding is that the copyright to the Masterplan is owned by the Minister for Planning and Environment on behalf of the States.

2.2.4 Deputy G.P. Southern of St. Helier:

Yes, Sir, I am interested to hear the words “planned position” with respect to the Chairman of the Waterfront Enterprise Board. Was the Minister not instructed to inform W.E.B. that the Chairman was sacked forthwith?

Senator F.H. Walker:

The Deputy has misunderstood my answer. The Chairman has gone. There is no question about that. I interpreted the question of Deputy Le Claire as being what is happening next and who will be the next Chairman of W.E.B. to which I do not yet have an answer, but the previous Chairman has left the office.

Deputy G.P. Southern:

All is clarity.

2.3 Deputy K.C. Lewis of St. Saviour of the Minister for Treasury and Resources regarding the removal or lowering of the impôts duty on road fuel:

Further to his response to an oral question on 1st July 2008, would the Minister consider removing or lowering the impôts duty on road fuel to prevent transportation and food prices rising still further?

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

It is my duty each year as Minister for Treasury and Resources to review the level of all duties and taxes as part of the annual budget process. In doing so, I have to weigh up the revenue needs of the Island against the economic, social and other implications of all such taxes. An example in recent years has been the policy of above average increases in tobacco duty to dissuade people from smoking although that may well have an adverse revenue effect as purchases decrease. As I indicated in the previous reply, any reduction in fuel prices is probably best achieved by freezing or reducing the level of duty applicable. I will, therefore, be examining fuel duty along with other such taxes at the time of the budget. I would, however, remind Members that we already have made provision through Income Support to protect those on lowest incomes and the scale of those benefits has also been under regular review.

2.3.1 Deputy G.P. Southern:

Will the Minister for Treasury and Resources please inform Members what estimates he does have now for the March 2009 R.P.I. (Retail Prices Index) figures; the figures that will reflect the impact of G.S.T. (Goods and Services Tax) on the annual R.P.I. changes?

Senator T.A. Le Sueur:

The rate of inflation seems to be a constantly moving matter. At the present time I have no realistic estimates of the R.P.I. at March 2009 or any other future date.

2.3.2 Deputy G.P. Southern:

In that case will the Minister hazard a guess that it will be more or less than 5 per cent?

Senator T.A. Le Sueur:

Any guess I hazard, Sir, would be totally meaningless and would simply perhaps give a false sense of credibility. I leave much of the R.P.I. to the Statistics Unit who are far more competent at these matters than I am.

2.3.3 Senator S. Syvret:

Will the Minister instead agree with me that the tax on transport fuel or motoring fuel should not in fact be reduced? We are entering an era where the cost of motoring is invariably going to rise and the most painless thing we could do is to try and wean society off of it to some extent.

Senator T.A. Le Sueur:

As I have said, Sir, it is part of the duty of a Treasury Minister to balance up the revenue implications of duties on fuel against the social and economic and environmental impacts of such taxes. I take on board very much what Senator Syvret says about dissuading the excess use of carbon fuels and that will be one factor influencing my decision as to what level of duty to recommend in the budget.

2.3.4 Deputy P.V.F. Le Claire:

The duty on fuel would be ideally placed in many people's views towards an environmental tax. What proposals in the future will the Minister for Treasury and Resources make in this regard in transferring this duty into a set-aside environmental tax?

Senator T.A. Le Sueur:

We have just published the Business Plan today and Members will see the difficulty we have in achieving our desires within the spending envelope we have been permitted. Any transfer to the duty revenues through environmental taxes will reduce the money available for other services. If the Deputy is suggesting that we increase fuel duty and apply that money to environmental taxes that is a different proposition which again can be considered at the due time in the overall context of environmental taxes.

2.3.5 Deputy G.P. Southern:

In the light of the recent publication of the Business Plan 2009, will the Minister agree to seek estimates of the inflation rate for March 2009 from the Stats. Department in order that we may see how much of a cut in our quality of living most people in the Island are about to take?

Senator T.A. Le Sueur:

I can certainly ask the Statistics Unit to do that work, Sir, but as I say it is such a constantly moving target that it is not really particularly productive.

2.3.6 Deputy K.C. Lewis:

My reference to the price of road fuel, Sir, was not to encourage more people to use their cars but its consequential knock-on effect to food prices. Does the Minister not agree that this must be kept as low as possible?

Senator T.A. Le Sueur:

As I have said on a couple of occasions this morning, Sir, it is a matter of balance. While I appreciate that the impact of transport costs does impact on fuel prices, that has to be weighed-up against other considerations. That balance will be struck and Members will have the chance at the time of the budget debate to put an alternative point of view.

2.4 Deputy S. Power of St. Brelade of the Minister for Housing regarding the number of (j) category residents exercising their right to buy (j) category accommodation in the years 2005, 2006 and 2007:

Can the Minister confirm how many (j) category residents have exercised their right to buy (j) category accommodation in the years 2005, 2006 and 2007 following changes to housing policy allowing them the right to buy property in Jersey immediately?

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

Yes, Sir, housing policy was not changed to introduce the right to buy. What has taken place is a change in administrative practice whereby employers are no longer compelled to buy a property for their employee with the employee then paying the mortgage and profit from the sale of the property. Instead the employee can now buy a property through their own holding company. This new practice more closely reflects the reality of private arrangements and reduces the burden on employers. As such it is also an element in encouraging the most skilled workers in Jersey supporting economic growth. The figures are as follows. In 2005, 1,700 purchase consents were issued of which 84 were for (j)s. In 2006, 2,000 purchase consents were issued of which 149 were for (j) s. In 2007, 1,900 purchase consents were issued of which 138 were for (j)s. Sir, it would be fair to say that numbers of (j)s purchasing has increased but they still remain a minority with over 90 per cent of properties being purchased by locals. Furthermore, the main reason for more (j)s purchasing is that more exist because of recent economic success and the expansion of public sector provision, and I say this, in particular; health and social services, healthcare, private residential care for the elderly and home care.

2.4.1 Deputy S. Power:

Does the Minister have any concerns about the effect the purchase of 371 houses in Jersey by (j)s and does it affect the price of housing in the Jersey market? Does he have any concerns?

Senator T.J. Le Main:

No, Sir, the average price I am trying to find but I think the average price at the moment for (j)s in 2008 is just under £700,000. We keep an eye on purchase prices, *et cetera*, but certainly any market competition does, I suppose, have an element of affecting the market but we do not believe in these cases this materially affects, as 90 per cent of the purchasers are still local people.

2.4.2 Deputy P.V.F. Le Claire:

The answers that the Minister gave us were interesting. I just do not know what the first numbers exactly mean: "Purchase consents issued." In 2005, 1,700; 2006, 2,000; 2007, 1,900. Could the Minister for Housing please explain exactly what they are, and if they are just houses being sold in general could he tell us if he has any information about the mean prices of those, given that he has given us the mean prices of (j) category?

Senator T.J. Le Main:

The purchase consents are consents in a person's name by either purchasing a property, allowed to buy property in a company name, or purchasing a flying freehold property.

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

Will the Minister accept that there is some pressure on house price inflation because the (j) category people who have purchased houses in the last 3 years have not had another house to sell, therefore, they have been coming out of rented accommodation straight to buying a property? Can the Minister see that is causing house price inflation?

Senator T.J. Le Main:

Yes, of course there is an issue there but at the end of the day this Island is in a very fortunate position. We have been able to increase the funding considerably for health and social services. We have expanded our residential and home care for the aging population on this Island. We have a huge workforce and issue with family nursing and places like that. We found that by increasing the services provided for the people of Jersey that we have to bring specialised people. The issue is quite honestly that if you want increased and better healthcare and if you want economic success then the issue is that we need the skills to go with it. Yes, the issue is at the moment there are not enough homes in the marketplace generally to meet the needs and aspirations of a lot of people.

2.4.4 Deputy R.G. Le Hérissier:

Would the Minister identify, although he has given the average, in which particular sector of the market the (j)s are most active in buying properties? Which sector of the market?

Senator T.J. Le Main:

It is quite a mixture, Sir. Surprisingly there are quite a lot of (j)s in homes and apartments. It is quite a mixture at the moment but the majority of the (j) cats. are buying in the very high prices in the market on houses.

2.4.5 Deputy G.P. Southern:

Will the Minister confirm that he now accepts that the impact of (j) cats does have on house prices? Will he also confirm that while the average price might be £700,000 plus, that that reflects significant numbers below that around the £500,000 mark?

Senator T.J. Le Main:

No, Sir, I do not. As I say, it is a minimal impact on the market because ... the Deputy seems to know better all the time, Sir. He is always right of course. But the figures are quite clear. It is under 10 per cent of (j)s buying in the marketplace; 90 per cent still purchase. The majority of the homes are being sold well over the £500,000 mark.

2.4.6 Deputy G.P. Southern:

A supplementary if I may, Sir. Does the Minister not accept that any increase in demand without an increase in supply causes house price inflation?

Senator T.J. Le Main:

The Deputy does not listen. I said that a minute ago that, yes, any competition in the marketplace whether it be (j)s or otherwise or loads of young people getting married and leaving school, if you do not have enough supply in the marketplace it will cause some disruption. We are looking forward that the new Island Plan that has been proposed will identify and be able to put into the marketplace, as we hope, many more homes in the next few years.

2.4.7 Deputy P.V.F. Le Claire:

The numbers that came out this morning which the Minister for Housing has given us may be of interest to Members generally. Would he be willing to share any information and detail he has in

relation to those answers, particularly in relation to the purchase consents and the breakdown of those in the larger categories? Just as a piece of information for those of us who do not understand - we do not always know everything unlike some people - when somebody buys a flying freehold and they buy a flat in the middle of a building, what happens to the ownership when the building is knocked down? How do you sell on or own something that is no longer there?

Senator T.J. Le Main:

I do not understand that question at all, Sir. I do not know if anybody else did but I certainly do not. But all I can say is that I have and I continue to offer officers to work with Members. If any Members such as Deputy Le Claire would like some information on some of the figures here then they are more than welcome to go to the department, but I am not prepared to release figures that could compromise or, in fact, that would effectively identify individuals.

2.5 Deputy S.C. Ferguson of the Minister for Economic Development regarding the impact of the J.C.R.A.'s report on a 3rd supermarket in the Island:

Will the Minister explain what level of importance he is attaching to the report on the third supermarket by the J.C.R.A. (Jersey Competition Regulatory Authority) in view of the criticism by the Jersey Chamber of Commerce?

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

The J.C.R.A. was set up to perform the important duties of the role of a Competition Commission and Office of Fair Trading, outlawing for the first time price-fixing and anti-competitive behaviour. Their reports are published, transparent and evidence based. Their report on a third supermarket operator or rather a retail issue focused on consumer welfare and economic considerations. The original retail strategy underpinning that was promoted by the former committee. I think there is a misnomer, Sir, that the reason was that we were seeking out a third supermarket operator. That is not the case. We have had applications under Regulation of Undertakings and Development for a new supermarket and they must be determined under the law. J.C.R.A. advice is one issue which we factor into our considerations. Others are economic matters, inflation, allocation of scarce resources having regard to environmental and planning issues, competition. I would say that the Chamber of Commerce, while being respectful of them, are a business lobby. They are promoting the interests of their shareholders. This Assembly and I need to have regard to that but also consumer welfare too.

2.5.1 Deputy S.C. Ferguson:

Is the Minister aware of the flaws in the J.C.R.A. report? They have based their comparison on the results of a local company - and I have the accounts - showing that company is losing money, has been for some years, does not pay a dividend, is geared up to the hilt and is trading on a gross margin of 0.6 per cent. Does the Minister still consider that this is a valid successful company that is a useful comparison for Jersey?

Senator P.F.C. Ozouf:

I am not going to comment on the accounts of a company in the Isle of Man but certainly I have reviewed that situation and I will repeat to the Deputy that the J.C.R.A. report is one factor that shall be taken into account. The Isle of Man market is a relevant market but I would repeat to the Deputy; where is she getting her information from? Is she getting it from the lobby business community within Jersey who are going to be arguing naturally against competition? We need to balance the issues of our economy and consumers. Is there an issue with food and grocery prices in Jersey? Yes, there is and I hope she would agree.

2.5.2 Deputy C.J. Scott Warren:

Does the Minister still favour a third major supermarket and, if so, could he give Members his reasons?

Senator P.F.C. Ozouf:

That is an incredibly important question. I would remind the Deputy that I am faced with needing to discharge my duty as an Economic Development Minister in determining applications for new supermarkets in the Island. I have confirmed to the Assembly we have had applications from French supermarkets and interest from the U.K. too. I must determine those but what I believe is that we need a competitive marketplace. I do think that we need a discount supermarket. There is much talk in the U.K. with rising food costs about the need for buying cheaper groceries, *et cetera*. That is the one that I particularly favour. There is still an ongoing debate to be had about the benefits of a big third supermarket on an existing site or otherwise.

2.5.3 Deputy G.P. Southern:

Does the Minister not accept that the narrowness of the terms of reference that he set the J.C.R.A. rendered their report virtually useless?

Senator P.F.C. Ozouf:

I am astonished by Deputy Southern's comments in this regard. Deputy Southern purports to stand in this Assembly and represent the less well off and those people less fortunate than others.

Deputy G.P. Southern:

Will he answer the question?

Senator P.F.C. Ozouf:

Those members of the community are currently suffering, as other people around the world, rising food prices. Does he not want to join with me in trying to find a policy to ensure that our community can make their money go as far as possible by buying affordable household goods and food? Would he not want to agree in a constructive debate about this with me?

2.5.4 Deputy R.G. Le Hérissier:

On a scale of one to 10 [**Laughter**] - with 10 being very enthusiastic - would the Minister lay his cards on the table and tell us what his degree of enthusiasm is for a third supermarket?

Senator P.F.C. Ozouf:

It depends on the definition of a third supermarket operator. Competition authorities across the world have determined in other markets, large and small, that you need 3 players in order to have effective competition. There are a number of ways that you can do that. I note with interest that Sandpiper has recently set up Iceland, a discount food retailer. They are providing value to consumers. I welcome that. There are a number of ways we can deal with this issue, but I want a competitive marketplace in which Jersey families can allow their money to go as far as possible in a rising food price economy. That is what I want. If it is a third supermarket operator in some way or form and that will deliver it then, yes, I am in favour.

Deputy R.G. Le Hérissier:

Is it a 10?

Senator P.F.C. Ozouf:

I cannot really answer that. In terms I have explained the background of what we are trying to achieve.

2.5.5 Deputy G.P. Southern:

The Minister seemed to imply that the Chamber of Commerce were in some way misleading people by the information they were putting in the market. Can the Minister confirm that in fact he has faith in the goodwill of the Chamber of Commerce to bring proper, relevant facts to this debate?

Senator P.F.C. Ozouf:

It is an interesting world in which I am on this side of the Assembly arguing for consumers and Deputy Southern is arguing for the interest of the Chamber of Commerce. **[Laughter]** **[Approbation]**. We cannot both be wrong then. Of course I listen to the interests of the Chamber of Commerce but it is important to know where they are coming from. Is the Chamber of Commerce wanting more competition? Probably not. Do I want to listen carefully to the views of the Consumer Council, the Women's Institute and other consumer organisations? Yes, I do too.

Deputy G.P. Southern:

Is the Minister saying that he does not wish to listen to the Chamber of Commerce?

Senator P.F.C. Ozouf:

I did not say that, Sir. I said the Chamber of Commerce are an important organisation but one has to remember that they are a business lobby organisation and know where they come from and that is fine. That is a researched and properly good situation to have but you have to know where your directions are coming from.

2.5.6 Deputy S.C. Ferguson:

The Minister seems to think that I am merely a mouthpiece for the Chamber of Commerce. I do happen to have the accounts of the underlying company that is mentioned in the paper and I have done my own research. But does he not pay attention to the work of people like Lady Cranbrook who has found that preserving the small shops means that the elderly remain independent and it is also essential for food tourism because it keeps the essential significant different things? Also a third supermarket will not pay local tax and will reduce the local tax base because it will kill off local businesses.

Senator P.F.C. Ozouf:

I recently was away for a week and I read a number of books on the whole supermarket issue and the arguments for in favour. I certainly understood that there is a paralysed debate. I want a vigorously competitive retail environment in which small shops ... I congratulate the Co-Op on taking the Maufant store back to provide local community. **[Approbation]** We want farm shops. We want local shops. We also want households and families in Jersey to be able to buy competitive groceries and household goods. There is an evolving debate about how to achieve that. I would urge the Deputy if she wishes to come into my department to discuss the issue of the Isle of Man report, all is not clear from a set of accounts of a private company which do not necessarily give the whole picture. But I am happy to have her into the department to discuss that so that we can move forward on the common agenda.

Deputy S.C. Ferguson:

As a matter of fact, Sir, it was not a private company. It was quoted on A.I.M.

2.6 Deputy G.P. Southern of the Minister for Treasury and Resources regarding growth of profits in the Financial Services Industry:

In the light of the results of the most recent survey of financial institutions, does the Minister consider that further growth of profits in the financial services industry with consequent increases in tax revenues is probable this year - and I think the question should say - and next?

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

When corporate profits increase then all things being equal one would expect tax revenues on those corporate profits to increase. As Members will appreciate things are not always equal. While it is likely that there will be an increase in tax revenues this year, it may not be directly proportional to the increase in profitability. That is because of the basis on which tax is calculated. However, in broad terms I accept that an increase in corporate taxes this year is probable and next year probably also. Those to a large extent have been built into our future projections. However, with the advent of the Zero/Ten corporate tax structure which is now operational for all new companies and which will become operational for all existing companies from 1st January next year, overall tax revenues for such companies will in future fall quite considerably, as I have already made clear on several occasions. One should not, therefore, rely on such increases in revenue for future years.

2.7 Deputy F.J. Hill of St. Martin of the Minister for Planning and Environment regarding the reconciliation of current planning considerations/restrictions with the agreed incinerator building:

How will the Minister reconcile current planning considerations/restrictions with the agreed incinerator building, particularly with regard to size and appropriateness of site without frustrating its development?

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

This Assembly approved the location of the plant at La Collette. Outlined planning permission for the E.f.W. (Energy from Waste) plant at the La Collette was granted in October 2007. The outline permission established a building envelope that defined the maximum permitted size of the building. The plant approved by the States last week requires a building that is smaller than the building envelope allowed for. The outline planning determination took into account all relevant planning circumstances including the likely impact of the scale of the building. Many details of the building were reserved in the consent and these require determination. Transport and Technical Services will have to make a further submission now that they have the approval of this Assembly. The building envelope will be designed or critiqued by Hopkins Architects and I will be insisting on the very high standards of architecture and construction. Hopkins who last week received 2 further major architectural awards for the National Tennis Centre at Roehampton would not allow their reputation to be risked by submitting a detailed application for anything less than an architecturally exemplary building. Furthermore, I will be requiring T.T.S. (Transport and Technical Services) to appoint a landscape architect of renown to mitigate the impact through creative landscaping. While this building is always going to have a significant impact, it can still be a good building and be a positive contribution to our building environment. However, the delivery of this will require the determination to allocate sufficient funds for the construction of the building envelope. Cost-cutting in this area may lead to failure in terms of public acceptability of the building.

2.7.1 Deputy C.J. Scott Warren:

I would like to ask the Minister, is it usual for Hopkins to act as architects for such buildings as an incinerator? Is this a one-off? Is this the first time they have ever been asked to act in that capacity?

Deputy F.E. Cohen:

They are certainly not specialists in designing Energy from Waste plants, however, as I explained during the debate, the design is an evolving design that began to some extent with Glyndebourne and with one of the other industrial buildings they designed. It is a proven design in principle and has been very successful and the winner of a number of awards. That is the principle of the envelope. What goes inside the envelope does not matter whether it is an incinerator or a storage building. It is the envelope that Hopkins are interested in.

2.7.2 Deputy G.C.L. Baudains:

I have no doubt that the building will be architecturally outstanding, Sir. Presumably it will all be in granite. But what I am concerned about is the conflict that the Minister may find himself in is that the building will have to be certain size and a certain size in order to be an envelope large enough to house that which this Assembly has agreed to build. What is the Minister's position should he find that such a building is larger than he would prefer to be built on the site? Surely there is a tension here.

Deputy F.E. Cohen:

Firstly, the building will not be built of granite. It would be an entirely inappropriate material for this type of industrial building, particularly based on this design concept. The building envelope is already approved and was approved, as I have said in my answer, in October 2007. The envelope now proposed is smaller in size than the in principle approval.

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

Would the Minister give us his views on whether a public inquiry would be appropriate as is taking place in many parts of the world before new E.f.W. plants are commissioned? We are aware that the Minister has asked that the Waterfront be the subject of the first public inquiry in Jersey. Should the E.f.W. plant not be the subject of a second?

Deputy F.E. Cohen:

I have already given my view on this matter in 2007. It is my view that a public inquiry is not warranted on this application, particularly now as the envelope has been approved in principle.

2.7.4 The Connétable of St. Helier:

A supplementary please, Sir. The Minister will be aware that under the current Island Planning Law, a public inquiry is appropriate where there is a significant departure from the Island Plan and where the proposed development will have a significant impact on a large proportion of Jersey people. Does he not feel that notwithstanding his decision last year this current proposal still meets the requirements of the current Island plan?

Deputy F.E. Cohen:

No, Sir, I do not.

2.7.5 Deputy P.V.F. Le Claire:

Given that this site is going to be so close to the Fuel Farm, and given that we have so many residents in that area, our experience yesterday I am sure shocked many Members of the Assembly including residents as to the extent of the smoke that was prevalent during yesterday's fire. Will the Minister take extra efforts, given the resulting smoke that we witnessed yesterday, in the consideration of the sizing of this building and the adequate protections from the environment and for the evacuation of those vulnerable people that may be living in that area should we witness something of a similar nature that would extremely impact upon a large residential neighbourhood? Would he care to comment?

Deputy F.E. Cohen:

I think I need to be a little careful in my answer to this primarily because of my duties to remain impartial and to determine an application at the stage an application comes in, but a number of the factors that Deputy Le Claire has raised are of significant importance and will merit consideration at the time of determination.

2.7.6 Deputy S.C. Ferguson:

Has the Minister given any thought to decorating the incinerator housing in the same manner as the Viennese one which is now a tourist site?

Deputy F.E. Cohen:

The decoration of buildings is a very interesting subject. I am not sure that this is a matter for determination at this stage. There is great merit in decorating buildings in a variety of forms from graffiti to formal decoration. What would be appropriate for this building I think is a matter to be determined at a later date and of course depends on the principles of design evolving from the architects.

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

Given that it is very difficult to make a silk purse out of a sow's ear, would the Minister confirm that the involvement of Hopkins in the incinerator construction has been good value? Would he feel that perhaps their continued involvement is only adding additional unnecessary cost to the detriment of other aspects of the Transport and Technical Services' requirements?

Deputy F.E. Cohen:

This is a very interesting question. I am glad to have the opportunity of making this absolutely clear. It is my view that if we are to build a building of merit that Islanders do not detest, that we need to build a building of architectural merit. That requires architects of competence. I believe investment in architecture and investment in quality of materials and high standard of construction is absolutely paramount in this case and in the case of other large buildings. Quite honestly, if it costs a bit more that is an investment for our future generations.

2.7.8 The Deputy of St. Martin:

I am grateful for the Constable of St. Brelade's question because mine is very much akin to that. The Minister has mentioned about Hopkins. It would appear that Hopkins is going to do everything down there. Can I ask what consideration has been given to other people having an opportunity maybe to lend their skills and expertise in developing that area?

Deputy F.E. Cohen:

It is not for the Minister for Planning and Environment to choose the architect. All I have said is that I have chosen Hopkins to critique the scheme on my behalf. That is my decision. I am perfectly satisfied that they will do an excellent job. They have the reputation and have delivered fine buildings all over the world. You could always go to other architects. You could have gone to any number of major architects in the U.K. and in Europe but while the cost of the architecture is not a matter for me to consider, I have found so far that the work Hopkins have done for the Planning Department has been very good value. I am quite surprised at how low the cost has been.

2.8 Deputy R.G. Le Hérissier of the Minister for Transport and Technical Services regarding the costs associated with the bus texting service and the relocation of buses to the Albert Quay:

Are the costs associated with the bus texting service and the relocation of buses to the Albert Quay incorporated within the renewed contract entered into with Connex and, if not, who bears these costs and how much are they?

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

The short answers are no and yes. As previously advised to the States, the annual cost of the text messaging service is £25,200. This is being funded from within the Transport and Technical Services revenue budget because it was a T.T.S. initiative which piggybacked on the back of the electronic stand allocation system which was required at Liberation Station. As previously stated, it is hoped that advertising revenue will in due course offset some or all of those costs. In respect

of the Albert Pier facility, the first year cost of utilising that is estimated at £76,000 and this has been incorporated into the contract with Connex. In answers to my questions to the Deputy on 1st April I advised him of payments to Connex relating to the original contract for the scheduled services, the newer schools leisure service and also additional payments relating to the operation of Liberation Station which includes the Albert Pier facilities. The extended contracts include all those elements.

2.8.1 Deputy R.G. Le Hérisier:

When the Minister promoted the new contract or the extension of the contract with Connex he mentioned about £100,000 repayment. Is this a case, Sir, of the good Lord giveth with one hand and taketh with another? Are we getting a net benefit or is this £100,000 somehow being subsumed in other costs that Connex is bearing?

Deputy G.W.J. de Faye:

The Lord moves in mysterious ways and indeed this may have the hand of the Lord upon it but, in due course, no, Sir, this is not about taking money back with one hand. This will see total net deliveries to the public. Indeed it is only this week that we have seen the first full benefit of the extension of the contracts which is that previously relief services on key commuter routes in the Island are now permanent scheduled services and in due course will appear in the timetable. So we are already seeing the benefits.

2.8.2 Deputy C.J. Scott Warren:

Can the Minister tell Members whether there is a provision for any incentives for Connex built into the new contract with them for improved services, for instance?

Deputy G.W.J. de Faye:

I have explained this to the Assembly before but clearly not in an adequate way. There are incentives within the contract itself where Connex notably achieves much higher passenger levels revenues, but essentially the main control over the operator is a series of effectively penalties or disincentives such that if buses are arriving outside an agreed envelope, the department is able to mount penalty points over a particular period of one year. There is a list of what constitutes penalties. I would be very happy if the Deputy would like to come and see what those are. That is really how the operation is administered.

2.9 Deputy P.N. Troy of St. Brelade of the Minister for Health and Social Services regarding toxic emissions from the Bellozanne chimney:

Given the Medical Officer of Health's concerns regarding Bellozanne emissions, would the Minister explain why he has not requested the Law Officers to consider prosecuting Transport and Technical Services under existing Health Laws, why directives have not been issued to curb the input of metals and other toxic materials into the incinerator to reduce toxic emissions from the chimney and what action, if any, the Minister proposes to take?

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

The Deputy will no doubt appreciate the fact that the Bellozanne facility has not been fit for purpose for a number of years. In this context Health Protection Officers from my department have been working closely with their colleagues in Transport and Technical Services Department to manage both the failing incinerator and the incessant levels of waste which Islanders require to be disposed there. The cornerstone of this joint working has been the use of best practice and this has been achieved through both departments working together through the Waste Steering Group. The philosophy which underpins the work of the Waste Steering Group is that of least harm. There are 2 streams of waste that are deposited at Bellozanne and the recycling centre. The first is waste

from the public community - waste deposited at Bellozanne by Islanders themselves - and this waste has removed from it components which can then be sent to the mainland for recycling. Televisions and fridges are examples of this. Wood products are also removed and recycled. The second is waste collected from the Parishes and public services more generally. This waste is not separated nor can it be safely separated with the current processes. What the Deputy implies in this question is that Jersey needs a new incinerator and a new recycling regime which of course the States voted for last week.

2.9.1 Deputy C.J. Scott Warren:

Does the Minister and his department have any concern that the slightly higher rates of cancer in Jersey could be directly linked to the current continuing incinerator emissions?

Senator B.E. Shenton:

The department has concerns about a number of issues in Jersey and, of course, Jersey is an Island largely built on granite which in itself has certain cancerous implications. The department is very keen to close down the incinerator as early as possible and obviously they were delighted that the States voted to build a new incinerator so that we can do that within the next few years.

2.9.2 Deputy G.C.L. Baudains:

While it might seem logical for both departments to be working together, Sir, nevertheless I am concerned because it does seem to me that if there is a solution to the problem arrived at between the 2 parties then they both have ownership of it and that would preclude his officers being able to prosecute under the law. Would the Minister comment on that?

Senator B.E. Shenton:

I realise that working together is not something that the Deputy is familiar with. It is obviously better if you do have a problem if everyone works together to provide a solution that causes the least harm until a better solution can be found.

Deputy G.C.L. Baudains:

When he has time, Sir, I wonder if he would like to answer my question. I enjoyed his humour to start with but he forgot to answer the question.

Senator B.E. Shenton:

Was the question whether there is a conflict between the interests of the department?

Deputy G.C.L. Baudains:

Yes, Sir, to put it simply, if 2 bodies are working together they have come to a common solution, how is it possible for one of those parties to then prosecute essentially themselves?

Senator B.E. Shenton:

I would assume that if that co-operation stopped... and obviously our department will be making recommendations to Transport and Technical Services for them to implement; if they refuse to implement those recommendations then you could get into a position where you could end up suing Transport and Technical Services. But I do not think it is in anyone's best interest to deliberately endanger the population of this Island and obviously we are trying to work towards best practice. The sooner we can close down the incinerator the better.

2.9.3 The Connétable of St. Helier:

The telltale word in the Minister's answer was the word "colleagues" I thought. Could the Minister explain why with the new plant at least 3 years away his Health Protection Unit is not asking the Constables, for example, to remove plastics from the waste stream that they collect which would make the emissions from the existing incinerator that much cleaner?

Senator B.E. Shenton:

I think as I said in my answer, there is a question mark over processes regarding the removal from general waste. I do notice that Deputy Troy has another question further down the order paper which asks the Minister for Transport and Technical Services specifically this type of question. It may be better for him to answer on that basis. Certainly from a health protection viewpoint what we do not want is to have no incinerator and waste dumped all over the Island with the vermin and the disease and other factors that we have to take into account.

2.9.4 Deputy P.V.F. Le Claire:

This question is about toxic emissions, and obviously those are a consideration. What comment does the Minister for Health and Social Services have in regards to yesterday's incident which obviously has had an effect although it may not be known yet? Would he care to comment about yesterday's incident at this stage?

Senator B.E. Shenton:

Obviously I have not seen any of the pictures of yesterday's incident but I am aware that there was a lot of storage area of gas propane and a skip operation nearby. I think probably as an Assembly we have to have a look at our environmental laws to make sure they are tough enough to make sure that we are not storing liabilities in the countryside and other areas.

2.9.5 Deputy P.N. Troy:

Does the Minister accept that he, as the Minister responsible for health, is failing the people of Bellozanne in that his department is not objecting very strongly to metals and plastics being placed into the incinerator, and does he not feel that he has maybe got too cosy a relationship with T.T.S. at the moment and that if he does take his responsibility seriously - which is the health of the public - that he should be actively objecting to the materials being put into the incinerator?

Senator B.E. Shenton:

I can assure the Deputy wholeheartedly that I do not have a cosy relationship with Deputy de Faye. This is a case of working to best practice, working with what you have, trying to make the best of a bad job so to speak. If anything the failure was with previous politicians not putting into place contingency plans for an incinerator that is well past its sell by date. Perhaps if anyone should be sued it should be the politicians ourselves.

2.10 Senator S. Syvret of the Attorney General regarding the electoral intentions of the Connétables:

As this is the last States meeting before the summer recess, will the Attorney General inquire of each Connétable their electoral intentions and inform the Assembly of those Connétables who are retiring, those who will be standing down to seek re-election and, if relevant, any Connétable who will not be standing down and will instead be continuing their present term of office?

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

The transitional provisions contained in Article 8 of the Connétables (Jersey) Law 2008 provide that a Connétable may - which is permissive - on or before 15th August 2008 deliver to the Attorney General notice of his resignation in writing. If the Connétable does not do so then he remains in office for his existing term unless that term expires in 2008. As far as I am aware I have not received yet any resignations in writing pursuant to Article 8 of that Law. Although, Sir, it is the Attorney's statutory function to receive the resignations and then to make representations to the Court for elections to be ordered, I do not think the function extends to pressing the Connétables on their electoral intentions.

2.10.1 Senator S. Syvret:

Does the Attorney General then consider the law adequate given that at the last meeting of the Island's Parliament before the summer recess preceding an election the public and this Chamber remain in a state of ignorance as to whether certain seats will be facing elections or not?

The Attorney General:

The law is what the Assembly adopted.

2.10.2 Senator S. Syvret:

Could the Attorney General say whether he advised the Assembly in respect of that deficiency in the law?

The Attorney General:

I have not agreed that it was a deficiency. It is a matter for the Assembly.

2.10.3 The Connétable of St. Helier:

Would the Attorney General comment on the fact that there are 6 Senatorial positions which could be resigned before the next elections and presumably we will not know until the day of the nomination meeting whether those 6 sitting Senators are going to resign?

The Attorney General:

I would much prefer it, Sir, if the political Members of this Assembly have fun themselves rather than involve me. [Laughter]

2.10.4 Senator S. Syvret:

Would the Attorney General accept that the 6 Senators - and I am quite happy to say that I will not be standing down - will he confirm that it is not the case that the Assembly has agreed a law change to enable the equalisation of the terms of office of the Connétables so the 2 situations are not comparable?

The Bailiff:

I do not think that is a matter for the Attorney General, Senator.

2.11 Deputy S.C. Ferguson of the Minister for Housing regarding properties owned by non-residents:

Has the Minister yet obtained the figures for properties owned by non residents?

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

Yes, Sir, the Population Office has conducted a sample test on a range of share transfer properties using the housing consent system which has illustrated that approximately 16 per cent of selected purchases of new share transfer properties whereby persons who do not have their residential qualifications. I appreciate that the Deputy has suggested that this information could be obtained from the Jersey Financial Services Commission as well. This is true. We have just sample-tested 8 new share transfer developments incorporating 184 flats and our findings show that 73 per cent of these properties are owned by locally qualified individuals and a further 12 per cent by local residents who do not yet have their housing qualifications. Only 15 per cent or 27 units are owned by non residents or companies and of those a high proportion relate solely to one recent specific development marketed outside the Island. The sample is taken from the housing consent system and the Jersey Financial Services Commission produced similar results illustrating some issue at the margins at around 15 per cent or 16 per cent of the share transfer market but primarily relating to specific developments. This would seem sufficient for confirmation that a substantive issue does not exist. Certainly no information whatsoever has been provided that non local ownership is a

more widespread issue. Of course when the land transaction tax is operational, more complete and systematic information on this will be available.

2.11.1 Deputy S.C. Ferguson:

Thank you, Sir, can I ask a supplementary? Like other Members I understood that the Gloucester Street developments were the basis for entry level housing for the young as well as helping to make the town a desirable place to live. The indications from the figures I have from the Jersey Financial Services Commission do not agree with the Minister's figures. Does the Minister consider that an ownership of 59 per cent buy to let and 41 per cent owner/occupier is fulfilling the policy of affordable housing for first-time buyers?

Senator T.J. Le Main:

I do not agree with that at all. My officers have given me quite clear information. We looked at the Spectrum development some time ago and those figures certainly do not correspond with the Deputy. Things may have changed in the last 12 to 18 months. I am not aware but certainly I have not looked at it very recently but I promise that if the Deputy would like to forward any information to my department then I will come back to her.

2.11.2 Deputy S.C. Ferguson:

Certainly, Sir. I obtained the share registers for 2008 from the Jersey Financial Services Commission. The work took me about half an hour. The collation took slightly longer. I will be delighted to give the Minister the figures. I would query why the Minister and his department have not got the figures from the Jersey Financial Services Commission themselves and cross-checked it.

Senator T.J. Le Main:

That is wrong. It was checked, as I say, about 18 months ago to 2 years ago, when it was first built when these references were made to a huge amount of ownership from outside the Island. The Deputy is now talking about 2008. I am sure my department have not looked at this specific development in the last month or so. But I have to say, Sir, that you must remember that we do need investment in accommodation in this Island by landlords who are prepared to let the accommodation out to locally qualified people. The more accommodation that is in the marketplace for rental, the prices remain static or in some cases are reduced. It is a good thing that there is some investment in residential property which can only be occupied by locally qualified people.

2.11.3 Deputy P.V.F. Le Claire:

I was going to ask a question that would draw out the feelings of the Minister for Housing in regard to his views in relation to the ownership of property by non-residents and whether or not, given Jersey has only got 50 per cent home ownership, this is another part of a policy that really supports the landlords over the owners in Jersey and those that would wish to be owners. It just repeats and reinforces to those that do not have their own homes that there is more opportunity and more future for landlords in Jersey. Given there is only 50 per cent home ownership in Jersey, is it not time to rethink these issues and to think about stopping as other jurisdictions do the purchasing of property for people that do not live here?

Senator T.J. Le Main:

When I first became the President of the Housing Committee in 1999, if anyone wants to go and have a look at the *Jersey Evening Post* on that day in the advertising for accommodation, there were about 4 properties to rent in those days. There was a huge, huge shortage of accommodation for rent. There is a large amount of people in Jersey that want to rent and do rent and there is a large amount of property that is unlettable because of the condition and the age and where they are situated. Some investment by investors in residential property which, as I say, carries conditions

like it can only be occupied by locally Jersey-born people or people with housing qualifications is a great part of the overall supply and maintaining decent homes for people at affordable prices.

2.11.4 Deputy C.J. Scott Warren:

Does the Minister accept that this 16 per cent of outside ownership of properties is denying home ownership to local people and is not equitable with the way Jersey still treats the non-qualified sector of our community?

Senator T.J. Le Main:

Absolutely no. I disagree with that totally. 16 per cent is nothing more unusual than has been happening for years and years and years. Outside investors have invested in this Island for the last 100 years in property - in commercial property, in residential property - and nothing has changed. Outside investment in an Island that does business with the world and, in fact, is creating now a market where people can have decent accommodation is no bad thing.

2.11.5 Deputy G.P. Southern:

Will the Minister accept that whether his figures are correct showing possibly up to one quarter of households owned by (j) cats or non-local residents, or the Deputy of St. Brelade's figures are correct, showing 50 per cent, we do have contrary to his opinion, a substantive problem? Will he commit himself to further investigate this situation and return to the House with a report in September?

Senator T.J. Le Main:

No, I will not because the figures quoted by the Deputy are wrong. He is saying that one quarter of the population are occupied by (j)s. That is incorrect.

Deputy G.P. Southern:

I did not say that. I said up to 10 per cent (j)s and 15 to 16 per cent non-locally qualified.

Senator T.J. Le Main:

I have no intention of coming back in September with a report. Everybody knows that I have said this time and time again, the figures... and if any Member needs any information to go and discuss it with the Population Office, and I am very happy that Members go and talk and have a full insight on the issues.

2.11.6 Senator S. Syvret:

Could the Minister for Housing say how he squares the percentage of ownership by non-local residents with the assertions that were being made in the recent Homebuy debate in connection with the fact that such purchasing did not, in fact, dominate in a way that would affect inflation in the property market in Jersey? Will he also explain why, when he has admitted in his answer this morning that some of these properties are bought by companies, he was asserting in the very same debate that it was, and I quote "untrue" that companies were buying these properties?

Senator T.J. Le Main:

The Senator knows very well ... he is trying to mislead the Assembly because he said in his speech on the Homebuy debate that large swathes of property were being purchased by companies, and there is no evidence at all about this at all and I have asked the Senator to provide the evidence. He makes that assumption again this morning. Provide the evidence that there are large swathes of residential property being bought outside companies.

Senator S. Syvret:

May I refer the Minister to the answer he gave earlier for that evidence?

Senator T.J. Le Main:

No, I did not say that.

Deputy C.J. Scott Warren:

May I ask ...

The Bailiff:

No, I am sorry, Deputy. It was, indeed... but you have asked a supplementary already, if not more than one supplementary. We have had 10 minutes on this question and in the light of what is on the Order Paper I think that is enough. We come now to a question by Senator Syvret of the Attorney General.

2.12 Senator S. Syvret of the Attorney General regarding investigations into possible child abuse offences at Victoria College during the 1990s:

Will the Attorney General inform the Assembly whether the police have referred papers to him relating to a recent investigation into possible offences relating to the failure to protect children from abuse and the risk of abuse at Victoria College during the 1990s and, if so, whether any such possible offences should have been investigated and prosecuted at that time?

The Attorney General:

As elected Members are sensitive to the need for checks and balances in the exercise of power, this is a surprising question. The police and the prosecution are, operationally, independent of each other and of politicians and it is not for elected Members to concern themselves with decisions taken in individual cases. However, reserving my right to decline to answer inappropriate questions in the future, I will add this. As far as I am aware, no papers have been referred to me by the police relating to any recent investigation into the matters raised in the first part of the Senator's question. As a result, the second part of the question is otiose.

2.12.1 Senator S. Syvret:

A supplementary. Originally, my question which was not allowed by the Bailiff originally posed the question: "Would the Attorney General confirm that the police have been recently investigating such matters?" Would he say whether the police have been investigating such matters? That is a different matter to whether they have been given any papers.

The Attorney General:

I cannot answer for what the police are or are not investigating.

Senator S. Syvret:

I think the answers are pretty self-evident.

The Bailiff:

Is that a supplementary question?

Senator S. Syvret:

It is a statement of fact.

The Bailiff:

Members should not make statements of fact when we are in question time, Senator, as you well know.

2.13. Deputy P.N. Troy of the Minister for Transport and Technical Services regarding the annual tonnage and toxicity levels of materials currently burned in the incinerator at Bellozanne:

Will the Minister undertake to circulate a list of materials being put into the Bellozanne incinerator to Members listing annual tonnage and grading the toxicity levels of each type of materials and suggest which toxic materials could be withdrawn from the incinerator input process within 6 months? Will he detail the current procedures for the disposal of ash and fly ash from the incinerator and provide the frequency of toxicity testing?

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

As I am sure Members will appreciate, a list of materials being put into the Bellozanne incinerator would run to many thousands and I see that such a list would be entirely unhelpful to Members and I do not intend to provide a list based on that particular request. However, what I can say is that toxicity levels are, unfortunately, not available for each component part of the waste stream as materials differ from one manufacturer to another for even very simple products, and it would not be practicable to undertake individual chemical analysis of each particular product. However, in the past year, significant progress has been made in removing numerous items from the waste stream that are known to have toxic elements within them. This relates primarily to waste electrical and electronic equipment such as computers, D.V.D.s (Digital Versatile Disc), hi-fi equipment and televisions, and in the next 6 months further work will be undertaken to ensure that as much as practicable of these materials will continue to be removed from the incineration stream and sent to specialist recycling centres. With respect to ash, incinerator-bottom ash and fly ash are separated at the Energy from Waste plant and are stored separately at the plant. Then, each type of ash is transported in covered vehicles to the lined ash pits at La Collette.

2.13.1 Deputy R.G. Le Hérissier:

Would the Minister confirm that the large number of television sets will be recycled in an appropriate manner, albeit given the current difficulties? Secondly, are all rubber tyres being removed from the waste stream if at all possible?

Deputy G.W.J. de Faye:

Yes, I can give an assurance that all those elements that we classify as waste electrical and electronic equipment where we have recovered them will be properly recycled, although I am sure the Deputy may be aware following a recent media article that we do not have the funds available at the moment to send them to the recycling plant so those materials are being stock piled. In respect to the tyres, I think I did make reference to this during the recent debate. Some tyres are shredded but it has been a determination the department has given that many of the current opportunities to so-call recycle them... in fact, they end up being sent to cement kilns where they are burned, anyway. It is the current position that any excess we will burn as at least we are producing electricity from the incinerator from these burnt products. However, we would hope to address that situation over time.

2.13.2 Deputy C.J. Scott Warren:

In view of the fact that Europe would not allow our Bellozanne incinerator to operate were we within the European Union, has the Minister considered whether, under the Barr Convention, it might under these circumstances be possible and permitted for us to ship waste to the coast of France, for instance, to the incinerator at Le Havre, in the interim period?

Deputy G.W.J. de Faye:

Those types of investigations have already been conducted by the department and we have had a response, as I have indicated, from the United Kingdom indicating that our opportunities to ship our

waste to the U.K. were extremely unlikely. I have not had an opportunity to have a response from the French but I have to advise Members that, clearly, the response is likely to be the same.

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

The waste strategy indicates that roughly half of the waste electricals that are being sent to Bellozanne will be recycled as far as possible. Will the Minister confirm that it is still his intention to incinerate the other half?

Deputy G.W.J. de Faye:

I thought that was a fairly obvious conclusion. I have said what we can recover we will stockpile and what we cannot recover will, obviously, have to go into the incinerator. I do say, I am very pleased to see so many former members of the Public Services Committee of the year 2000 finally, after 8 years, taking such a great interest in the emissions coming out of the Bellozanne incinerator. Just a shame they did not do anything earlier.

2.13.4 Deputy K.C. Lewis:

During last week's incinerator debate, the Minister informed Members that the incinerator chimney at La Collette would have state of the art cleaning of flue gasses equipment. As I pointed out in last week's debate, the prevailing winds are south-westerly which will still blow over St. Helier, St. Saviour and St. Clement. Will the Minister assure Members that when the new incinerator comes on line, that no toxic metals will be admitted to the plant?

Deputy G.W.J. de Faye:

I am afraid I cannot possibly give that assurance as I am sure the Deputy well knows, and if he would like to come down to the incinerator I would be very pleased if he could see the operations and he will probably have a fuller understanding about why I cannot give that assurance. It is not possible for either me or any member of Transport and Technical Services Department to investigate every black bag that arrives via the rubbish collection facilities from all the Parishes. Consequently, it is a matter of total impossibility to know quite what is in those bags but the department, of course, will take every step over time to eliminate those types of toxic hazards.

2.13.5 Connétable K.A. Le Brun of St. Mary:

As we have just heard that only 50 per cent of the black sacks or the stuff within the material ... is the Minister going to put added pressure on the Minister for Treasury and Resources for ... not only is he most willing to spend £105 million plus in the future but it seems every time we hear about more recycling, there is no money to do it. Is he confident that there will be more money to do more recycling so that the 50 per cent that is still going in the incinerator will be taken out before it goes to the incinerator?

Deputy G.W.J. de Faye:

Yes, I am hugely confident in getting more resources for recycling because I know I have the full backing and active support of the Environment Scrutiny Panel in that matter.

2.13.6 Deputy P.V.F. Le Claire:

It would be interesting to see when the Minister will come back requesting money to support the strategy for the new incinerator which did talk about the increase in recycling. In the interim, while we look forward to supporting that as we supported the previous proposition to give him more money to recycle, will he undertake with his officers to investigate whether or not more could be done to encourage building suppliers and wholesalers that provide the public with a large portion of material for the building trade - paint, timber, *et cetera* - whether or not they could establish recycling facilities at their depots to encourage the public, when they return to purchase more, to bring their recyclables, to bring their empties and work in harmony with the eco-active programme

that has been championed by the Economic Development Department for businesses in this respect with the building industry?

Deputy G.W.J. de Faye:

In answer to what I think was the question, yes, I agree. It will be interesting to see what proposals that I will be bringing forward on recycling and if the Deputy would care to refer to the very large documents that he has received today in respect of the Draft Annual Business Plan, he will see the sort of requests that I have already put forward.

2.13.7 Deputy P.V.F. Le Claire:

He did not really take up my suggestion that, perhaps there could be an approach taken by his department to begin negotiations with the building companies that supply materials to the residents of Jersey to initiate recycling and bring-back centres of their own. Would he be willing to investigate that with his officers to help us achieve a greater level of recycling without necessarily cost to the people that are not profiting from the producing of this material?

Deputy G.W.J. de Faye:

As the Deputy as I am sure is aware, the department already carries out very extensive relations with not only schools but local businesses precisely on the matter of recycling, which is why we employ a very hard working recycling officer. I should also remind the Deputy, as he was very profuse with his congratulations, that we have the brand new £150,000 reuse and recycling centre at Bellozanne which includes specific facilities for people engaged in such activities as building and decoration to dispose of things like old paint and paint pots. So, we are already doing this sort of thing.

2.13.8 Deputy P.N. Troy:

I am advised that a large batch of computers recently went into the incinerator in the last couple of weeks. Does the Minister feel that by not withdrawing metals and tyres and plastics from the incinerator process that his department are endangering the health of residents of Bellozanne and that might be reckless in itself in that he has no regard for the health of the residents of the district. Can he not seriously consider a proper way of dealing with metals? It just needs proper extraction methods to take them out of the process and does he acknowledge that his department is not doing enough in this area? It has a blatant disregard for people's health.

Deputy G.W.J. de Faye:

If the Deputy seriously thinks that the Transport and Technical Services Department and myself - who, as it happens, is a representative of the constituents of St. Helier No. 3 who live around the Bellozanne area and La Pouquelaye where the emissions from Bellozanne chimney are falling on top of them on a constant basis... If the Deputy is suggesting that I do not take this issue seriously, he is very, very misguided indeed. Indeed, I would say to the Deputy and the Members of the Environmental Scrutiny Panel who have been so critical, that under my leadership and thanks to the previous work of Senator Ozouf as President of the Environment and Public Service Committee, something has now been done about the emissions at Bellozanne. They will come to an end when we build the new incinerator and I would ask some other Members to reflect on just what actions they have taken when they had responsibility.

2.14 Deputy G.P. Southern of the Minister for Planning and Environment regarding the Island Plan Review: Strategic Options green paper:

Is the Minister satisfied that the Island Plan Review: Strategic Options Green Paper contains open rather than leading questions and will he advise what bodies were involved in drafting the questions?

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

Offering an opinion on the wording of questions in a public consultation exercise is, to an extent, a specialist task. Some time ago at a Ministerial meeting, I expressed my wish to have the questions validated by an independent group to ensure they were fair and balanced. Officers began the process by seeking the opinion of Involve on the proposed questions. Involve are a leading, non-partisan organisation specialising in delivering transparent consultation and they regularly carry out such work for the U.K. Government. They were central to the Imagine Jersey consultation which has been criticised by the Deputy. While Involve were consulted on the early draft, they were not consulted on the very final version of all the questions as officers simply ran out of time as the text was being refined right up to the deadline. One question has already been amended at the Deputy's suggestion. I am very happy to go through the questions with the Deputy together with officers to determine if further questions would benefit from rewording. If the Deputy does not wish to do this, I would be prepared to have the questions independently audited. Moreover, should any current questions be found to be leading, they will be disregarded in the analysis and the consultation responses. I can assure Members that the intention is to ask balanced questions which are not in any way regarded as leading.

2.14.1 Deputy G.P. Southern:

Does the Minister withdraw the statement made at the meeting with States Members where it was said that the questions had been passed before the Stats. Department and, when asked, the Stats. Department said they had never seen the questions before in their lives?

Senator F.E. Cohen:

I am not sure that I made that statement and I certainly was not aware whether they had been to the Stats. Unit or they had not been to the Stats. Unit. All I can tell you is that the questions were considered by the Corporate Management Board. I can do no more than to make the offer that I have just made to the Deputy. I am very happy to sit down with him, go through the questions with officers. I am not qualified for particular reasons to offer an opinion on it and if we find that the questions need rewording, they will be reworded. I do not see you can ask for anything more than that.

2.14.2 Deputy R.G. Le Hérissier:

Would the Minister not contend that the real issue is not necessarily whether question A or B is utterly impartial but that these exercises are seen as futile by a lot of people because of the increasingly bland conclusions to which they lead people and which alienate an awful lot of people from what they see as a totally meaningless exercise?

Senator F.E. Cohen:

I do not really have the answer to this and it is a very difficult area. If you consult, you are accused of not been firm and if you do not consult you are accused of being too prescriptive. I can tell Members that, from my perspective, I would want nothing other than an open, transparent process and conclusions that represent the view of the community. Whether the current mechanism will deliver that... I certainly hope it will. Whether it can be improved, I am sure any mechanism can be improved. If the Deputy has any particular suggestions, I am more than happy to accommodate those suggestions.

2.14.3 Deputy R.G. Le Hérissier:

A supplementary. While I am prepared to put ideas forward, would the Minister for Planning and Environment therefore confirm that the current method lacks excitement and it lacks involvement?

Senator F.E. Cohen:

I am not sure that I can say it lacks excitement and it lacks involvement. I cannot say that looking at a Strategic Options Paper is something that will excite every member of the community and we need to really see what level of responses we receive. It is quite a lengthy document and expecting someone, unless they have a special interest, to go through every question may be asking too much. But I am afraid I do not think there is any other answer. What we have done is we have put in place a mechanism where you cut through all the questions and simply write in a box: "I do not like any of the questions and I think you should do the following." Whether this will excite the community, I do not know. There is an awful lot of consultation out there at the moment and to some extent, the community is over-consulted.

2.14.4 Deputy G.P. Southern:

Given that this is a major consultation exercise that will dictate the future of the Island, and certainly the Island Plan for the next 10 years, does the Minister not accept that the rejection of already one question and doubts raised about several of the others mean that the exercise has been shoddily performed?

Senator F.E. Cohen:

I would not accept that it has been shoddily performed. It is a well put together document. The Deputy has raised an issue in relation to one question and another issue in relation to another question. The first question was amended on the basis of further examination. The second question was not. You can always improve anything and I know that this particular Deputy - Deputy Southern - comes to this with a particular perspective. He does not like Involve. I have looked into ...

Deputy G.P. Southern:

I have doubts about the work of Involve. It is not a question of liking or disliking.

Senator F.E. Cohen:

He has doubts about Involve. I have examined as much as I possibly can whether Involve are a competent organisation to carry out this work. They are non-partisan. They have no particular interest in driving Jersey in any particular direction and I think that the evidence is that they are a competent organisation. I can say no more. I have offered to sit down with the Deputy, go through the questions, and if any further questions need amending, officers will amend them. What more can he ask? Thank you.

2.15 Deputy K.C. Lewis of the Minister for Transport and Technical Services regarding the repairs to the breach in the south coast sea wall:

Would the Minister inform Members when the repairs to the breach in the south coast sea wall will be complete?

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

In very broad terms, this week. The only major piece of outstanding work is the delivery of ...

The Bailiff:

Sorry, Deputy. I will have to ask you to pause for one moment. I understand ...

Deputy G.W.J. de Faye:

I thought this was the most fascinating question of the bunch.

The Bailiff:

I am sure Members will want to come back to listen to your reply. May I send out a plea to Members in the precinct, please, to return to their seats?

Deputy G.W.J. de Faye:

For the benefit of those Members who may not have heard, the bulk of the works will be completed this week. We are simply waiting on the arrival of some replacement coping stones which have been ordered via a subcontractor from France but I am expecting them, as I say, to arrive this week. There will be an ongoing element of work running through the summer, though, which will involve 2 small mobile scaffolds and they will be carrying out patch-pointing of the cement work along the sea wall from West Park to First Tower.

2.15.1 Deputy S. Power:

Can the Minister confirm that some of the large granite capping stones that he has just referred to that were dislodged in the March storm were damaged and that is the reason why new capping stones were made in France and were to be fitted in the last few days?

Deputy G.W.J. de Faye:

The Deputy is exactly right. In fact, 40 metres worth of coping stones were damaged beyond repair and that is why we have had to seek replacements.

2.15.2 Deputy K.C. Lewis:

Whilst I congratulate the Department of Transport and Technical Services on their speedy working and repairs on the sea wall, first with large sandbags and then with permanent repairs, can the Minister confirm or deny that blocks of granite were removed and/or stolen and the circumstances behind this?

Deputy G.W.J. de Faye:

I can neither confirm nor deny.

2.16 Deputy P.V.F. Le Claire of the Minister for Health regarding the updating of food hygiene laws:

Given that the Medical Officer of Health has called for an up-to-date food hygiene law following several incidents of food poisoning in the Island, what action, if any, is being taken to implement one as soon as possible and will labels on food which indicate “Best before” and “Sell by” dates include such legislation.

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

The Food Safety Regulations required to reduce the incidence of food poisoning in the Island are currently being drafted and it is envisaged they will be with Ministers in the next few months. Once there is an outline agreement with Ministers, then there will be a period of consultation with stakeholders. It can be seen, therefore, that the Regulations are not likely to be in place until early 2009. The new Food Safety Regulations will make mandatory food hygiene training for food handlers. The Regulations will also require food premises to have food hygiene policies in place. It should be noted that “Best Before” and “Sell By” dates should be displayed on all food products under existing Jersey Law.

2.16.1 Deputy P.V.F. Le Claire:

Given that the Medical Officer of Health’s own report says that Jersey had more food poisoning incidents than England and Wales last year, which is not a good signal for standards in this jurisdiction, will the “Best Before” and “Sell By” dates issues be looked at more closely by the Minister? Given his experience, I am sure that he is able to talk to people ...

The Bailiff:

Deputy, unless you can wind up the question very quickly, the Minister will not be able to reply.

Senator B.E. Shenton:

I think that we had 2 very large outbreaks of food poisoning last year. One was to do with some egg white where it was in a Baked Alaska. The other one was more difficult to track down but it was an infection that caused wide-spread disruption among schools and people at Jersey Live and that is the problem with statistics. If you have a particularly bad or large outbreak, it can sometimes push you higher. But we do need to bring our legislation in line with the U.K. because when the U.K. brought theirs in, it did lead to a significant improvement in food hygiene and the health of the population.

The Bailiff:

That concludes the time allowed for Questions with Notice. We now come to Questions without Notice. The first question period is of the Minister for Social Security.

3. Questions to Ministers without Notice - The Minister for Social Security

3.1 Deputy P.V.F. Le Claire:

I am just beginning to look into a particular case ... I will not mention the case but one of the aspects of that case is that a refund was sought from a partner of a deceased person who had been given a full month's support and because the deceased had died prior to the end of that month, the person was not only having to deal with the fact that their loved one had died, they received notice that they would have to refund the department what had been overpaid due to the fact that they had not lived throughout the whole month. Is that not an insensitive policy, if that is in place, and will the Minister not look to extend that situation so at least when people are faced with that crisis in their lives they do not have to start thinking about refunding a couple of days here and there either side of the month that their loved one had died?

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

Yes, I do not believe that is the policy of the department and if that has occurred I do not believe it is something that should have occurred, and if the Deputy wants to let me know what has happened I will look into it.

3.2 Deputy K.C. Lewis:

As this is going to be the last question time before the summer recess, a bit of an old chestnut... I and many of my colleagues on this side of the House and, indeed, the Minister himself, I am sure, are very keen to know if there is any progress regarding insurance for long-term medical care should people in their later life where one partner has to go into long-term medical care and have to sell their house as a result? The Minister was looking at insurance for this. Does he have any news, yet?

Senator P.F. Routier:

Members will be aware that we have been fully concentrating on income support. Our officer who would do the main work is gradually becoming freed-up from income support work, hopefully, but there are more requests about, obviously, income support and that does tend to delay being able to move on to new items. But certainly as soon as that officer becomes free, we will then move on to looking at insurance for long-term care. Just as an aside, I spent some time at the recent cricket match with the Assistant Minister for Social Security in Guernsey discussing their scheme and the more up-to-date thinking with regard to that, and it is useful and I will be meeting again with the Minister and their full committee in the very near future.

3.3 Deputy G.P. Southern:

Will the Minister comply with the request of the Income Support Scrutiny Panel to hand over the raw data on which the panel can calculate 2 factors: the like-for-like change that occurred in January 2008 over income support and the after-housing cost disposal income figures which they believe are important to analyse what the effect of income support was?

Senator P.F. Routier:

I refer the Deputy to my answer 22 today.

3.4 Deputy S.C. Ferguson:

When will the Minister bring forward amendments to the supplementation policy?

Senator P.F. Routier:

A similar sort of response to the question regarding long-term care; the initiatives that are required to that... But we are committed to bring forward some options to the States to enable us to remain within our cash limit for 2009. That is being worked on and, hopefully, I will be able to have it for Members as soon as I possibly can. The department, as I think I mentioned last meeting, is very stretched at the present time and trying to find officer availability with our current resources is very difficult. We are moving to a situation whereby we may have to consider employing more staff in the policy section but that is an area that we are looking at.

3.5 Deputy G.P. Southern:

Will the Minister confirm or deny that there is currently a 4 to 5 week delay on the assessment of income support and changes of circumstances attached to them as is reported by several applicants for income support recently?

Senator P.F. Routier:

I cannot confirm or deny a 4 week delay. What I can say is that each week we have 32 to 40 new applications. We are making about 50 to 60 special payments each week and there are some re-determinations which are ongoing, which is a matter of 6 which are being looked at. As I say, the workload of the department is fairly heavy. I would hope that there is no one having to wait an inordinate amount of time and we are doing our best to respond to people's needs as soon as we possibly can.

3.5.1 Deputy G.P. Southern:

Does the Minister not accept that "hope ... inordinate length of time" is not adequate? This is the bottom layer; this is the final layer and safety net and often after 4 or 5 weeks, lots of families are on their uppers and need emergency payments?

Senator P.F. Routier:

If anybody has any real emergency, they can have an emergency cash payment any day at any time.

Deputy G.P. Southern:

I shall be doing 2 of those this afternoon.

3.6 Deputy S.C. Ferguson:

I am starting to come across a number of instances where there has been a reduction in one of the various illness allowances and this has led to considerable hardship. I have also found people with considerable disabilities experiencing a significant fall in the allowances following the withdrawal of the Disability Transport Allowance to the extent where they cannot get to work because the cost of the taxis is more than the marginal amount of their salaries. Will the Minister review the workings of the various allowances allied to illness?

Senator P.F. Routier:

There seems to be a mixed question there. I think the Deputy was firstly talking about the long-term incapacity benefits?

Deputy S.C. Ferguson:

The illness allowances. I have once instance where somebody has a severe back problem, can only work 2 days a week, and his allowance is £56.

Senator P.F. Routier:

It is very difficult to comment on an individual's benefit. That sounds like a long-term incapacity benefit which, obviously, is a matter for the medical profession to decide on what a person's incapacity is and they are awarded a percentage payment. For a back condition, obviously, that person is able to do certain amounts of things and they would be paid a proportion of the benefit. But as I say, it is a medical issue. It is not a matter for political interference by myself or anybody else. But there is a mechanism for appeal if that person is not satisfied with that award and they can do that through the system which exists. There was a comment, also, about somebody being worse off because of disabled transport not being there any more. Certainly, disabled transport has not been taken away at the present time. Those amounts are protected until 2010. So, I cannot see that people could claim they are receiving a lesser benefit at the present time.

3.7 Deputy C.J. Scott Warren:

The Minister will remember that a few weeks ago I asked about the number of people visiting their doctor compared with before the onset of income support, and I did not say during that but it was due to the fact that I have been told that some families and other individuals are delaying going to their doctor. I would ask the Minister; will he give a commitment to keep under review ongoing figures for doctors visits compared with before the onset of income support and look at this over the next 2 years?

Senator P.F. Routier:

Yes, I can give that commitment. It is obviously a piece of work which the department ordinarily does. It has an ongoing relationship with general practitioners to ensure that the services they provide are appropriate. There is, obviously, a big piece of work to be done in conjunction with the Health Department with its *New Directions* to find a way forward with compliance and to be sure that G.P. (General Practitioner) services are appropriate for patient needs, generally. I hopefully will be able to bring forward any new initiatives within that policy.

3.8 Deputy G.P. Southern:

The Minister some time ago promised that he would reboot, as it were, his communications policies to make sure people were fully informed about what was going on. Is he satisfied that he has done sufficient in the last few weeks to communicate to people who might be recipients of personal care at various levels to ensure that they have the right forms and can fill those in to ensure they receive the right level of support? Secondly, is he content that the one-stop shop approach is successfully working and there are not artificial barriers inside his department between the health zone and the income support zone where people do not know what is happening one with the other?

Senator P.F. Routier:

I think there were about 3 questions there. The first one, with regards communication of personal care allowance, I believe the department are working through each of the individual cases where they possibly can to ensure people are given the correct information. I am sorry, I have forgotten the other question.

Deputy G.P. Southern:

The second one was about internal barriers between health zone, in particular, and income support.

Senator P.F. Routier:

There is, obviously, the co-ordination of all the benefit systems has made it a lot better for communication between the various sections within social security. There is still some work to be done with regards between the health zone and income support but now that we have everybody's records on one system, it is a simpler thing to achieve and we are working to have a better service for the public.

Deputy G.P. Southern:

If I may, a supplementary?

The Bailiff:

I think not, Deputy.

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

Last week this Assembly approved an employment strategy for those with learning disabilities and on the autistic spectrum. One of the proposals in that strategy was the setting-up of a joint working party across departments, the Minister's department being one of those departments. I wonder if the Minister could give a brief outline of how his department proposes to give effect to that strategy?

The Bailiff:

No more than 60 seconds, please.

Senator P.F. Routier:

I have already met with my Chief Officer to ensure that he does take forward the proposals that were approved by the States. Obviously, the proposals will be worked-up and we will be looking forward to the States themselves coming forward and backing the additional money that will be required for that strategy which is needed most urgently.

The Bailiff:

Very well. We come now to the second question period of the Chief Minister, and I invite questions.

4. Questions to Ministers without Notice ... The Chief Minister

4.1 Senator L. Norman:

Two years ago, the States requested the Council of Ministers to consider all options to preserve the headland at Plémont and to recommend a preferred option to the States with the least possible delay. Now that the Minister for Planning and Environment has determined the application for that site, can the Chief Minister say when the preferred option will be presented to the States?

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

I cannot give a precise date in responses to that question. We do await further input from the Minister for Planning and Environment who, in turn, is consulting on and assessing the options.

4.1.1 Senator L. Norman:

Two weeks ago, I asked the same question to the Minister for Planning and Environment who completely washed his hands of the matter and passed it back to the Council of Ministers. Would the Chief Minister recall that question and the Minister's answer?

Senator F.H. Walker:

I do not, and it is news to me and, obviously, I need to have some discussion with the Minister for Planning and Environment, but I will give an undertaking in response to the question to bring the information - the options - to the House at the earliest opportunity.

4.2 Deputy P.V.F. Le Claire:

I have 2 questions, if the Chief Minister would grant me the liberty. I would like to ask if the Chief Minister is trying deliberately - and I mean deliberately - undermine relationships between this Island and our sister Island, Guernsey, by deliberately bowling out for a golden duck their Chief Minister in the inter-Island cricket competition? On a more serious note, and I do wish to be more serious on this matter, given the gravity as I have mentioned in 2 previous questions this morning of the emissions from the fire yesterday. Could the Chief Minister comment at this stage if he was notified, if he was involved, if the emergency procedures that would normally be expected to kick-in at this kind of an incident kicked-in and what his involvement was, if any, in yesterday's occurrence?

Senator F.H. Walker:

Can I first of all say I hope that relations with Guernsey have not been set back by activities on the cricket field. I thought it merely emphasised known superiority of Jersey to our sister Island. [Approbation] So far as the fire is concerned, I was not directly involved last night although I was informed and I remained in touch this morning. I did speak to the Constable of St. Peter earlier this morning to ensure that all have been handled correctly overnight and people who have been displaced, very sadly, have been found alternative accommodation which he assured me they had. My initial assessment, without having any real detail, is that the emergency services, particularly the fire service, reacted as they always do in Jersey, superbly well, to a very serious incident. [Approbation]

4.3 Deputy C.J. Scott Warren:

Does the Minister agree that similarly to allocating sufficient funding for the prison, there are sufficient funds for such items of expenditure on the Annual Business Plan 2009 as the Jersey Employment Trust for Vocational Employment needs, and those with learning difficulties, and to have an equitable system for early years nursery education provision that these are not nice-to-haves but they are only right in an affluent society such as Jersey?

Senator F.H. Walker:

Ideally, yes I would absolutely agree with the thrust of the Deputy's question. The problem is that there are a significant number - many, many - other essentials for the good government of Jersey and the welfare of the people of Jersey which are included in the Business Plan and if any items, no matter how much a government would wish to support them, if any additional items are to be included then the decision will have to be taken, which I think was made clear at the presentation to Members yesterday either to drop other priorities allowed for in the Business Plan or to increase the overall level of States expenditure both of which, of course, have consequences. It will be for this House when the Business Plan is debated to take some tough decisions and, of course, it is open to any Member to bring amendments to the Plan should they wish.

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

I would not want to waste the Minister's officers research. Can I ask him the question: the Minister advised Members whether the definite inward migration figures that the States will be asked to decide from the current scenarios put forward... will they replace the one per cent growth or 500 jobs per year agreed during the migration policy debate P.25/2005, or will both figures run alongside each other?

Senator F.H. Walker:

This Council of Ministers will not be bringing any new proposition to this House and, therefore, the current target and the current States set target of growth of one per cent in the workforce will remain in place.

4.5 Deputy G.P. Southern:

Despite the fact that this Council of Ministers will not be bringing measures, what measures have been under consideration to enforce the 250 heads of household as a potential target given that last year 1,400 immigrants came to the Island?

Senator F.H. Walker:

If one takes the period over the last 5 years, the growth in employment numbers in Jersey is well below the one per cent target figure. There have been some years where it has fallen, other years, as the last 2 years, which has risen reasonably sharply. But over the last 5 years, the figure is below the one per cent. In fact, it sits at 0.7 per cent per annum.

4.5.1 Deputy G.P. Southern:

If I may, a supplementary? What extra measures, if any, then are under consideration to ensure that figures set at 250 plus are achieved in the future rather than hitting and hoping over the rise and fall of the economic cycle.

Senator F.H. Walker:

The Deputy is well aware of the migration policy approved by the States and well aware of the timetable for its implementation. Nothing has changed.

4.6 Deputy C.F. Labey of Grouville:

When the Chief Minister says that a migration policy is not going to be agreed by this Council of Ministers, does this mean it has been factored into the next one making decisions? Because I notice in the Economic Development Department's brief on the Business Plan for next year, one of their key objectives states an increased number of high value-added businesses and individuals migrating to the Island. Is this a desire of this Council of Ministers or will he wait for the next?

Senator F.H. Walker:

No, this Council of Ministers continues to work to the migration policies set by the States, as I said in my earlier answer. The other options are options for discussion and consultation and there are a number of options which will be for the next Council of Ministers to review and to decide its policies upon and to bring those policies to the States. But any change in the current migration strategy will have to be approved by this House.

4.7 Deputy S.C. Ferguson:

In view of the discussions this morning and in the light of the migration policy, will this Council of Ministers be encouraging out-of-Islanders to buy property here in the Buy/To Let markets?

Senator F.H. Walker:

No, we will not.

The Bailiff:

There are no other questions for the Chief Minister. That will draw the questions to a close and we move on to Statements on a Matter of Official Responsibility. I invite the Chairman to make a statement.

STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY

5. Statement by Connétable D.F. Gray of St. Clement regarding the use of Members' facilities

5.1 Connétable D.F. Gray (Chairman, Privileges and Procedures Committee):

As this is the last meeting before the summer recess, many Members will be looking towards the elections in the autumn. The Privileges and Procedures Committee believe it appropriate to remind all Members of the conditions of use of the Members' facilities in the States Building as set out in R.112 of 2007 which was presented to the States on 14th December 2007. As set out in the conditions of use, the facilities are provided at taxpayers' expense and it is, therefore, essential they are not used for electoral purposes or for the benefits of outside organisations. P.P.C. believes it is timely to remind all Members it would be totally inappropriate use of public funds for the facilities such as the photocopier to be used to photocopy electoral material to promote individual candidates or political organisations. As made clear in the report presented last December, P.P.C. will take any breach of the rules very seriously and if P.P.C. is made aware that the facilities have been misused, the Committee will consider withdrawing access to the facilities from the Member or Members concerned for a stated period. The Committee very much hopes that this will not be necessary.

5.1.1 Deputy R.G. Le Hérisier:

Notwithstanding that excellent advice, would the Chairman be able to tell us whether trumpeting Ministerial initiatives will also fall under his wrath?

Connétable D.F. Gray of St. Clement:

They do not fall under my role.

5.1.2 Senator M.E. Vibert:

On a similar vein, perhaps trumpeting through issuing leaflets extolling the virtues of Scrutiny, will that come under it as well? [Laughter]

Connétable D.F. Gray of St. Clement:

I do not think that requires an answer.

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

I wonder if the Chairman would advise the House whether, in fact, this statement has been prompted by complaints or a complaint that has been made about the abuse of the facilities?

Connétable D.F. Gray of St. Clement:

The Committee has not received a formal complaint.

The Bailiff:

Very well. There are no further questions for the Chairman and we move on to Public Business. Members will appreciate that it is, obviously, not appropriate for me to preside at this stage and I shall ask the Greffier whether he will take the chair.

PUBLIC BUSINESS

6. Vote of No Confidence: the Bailiff of Jersey (P.107/2008)

The Greffier of the States (in the Chair):

Very well, the first item of Public Business is the Vote of No confidence in the Bailiff of Jersey and I will ask the Deputy Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of the opinion that they have no confidence in the Bailiff as President of the States and to agree that Her Majesty be requested to dismiss him from office.

6.1 Deputy S. Pitman of St. Helier:

As I am sure fellow Members will be aware, speeches are my least favourite part of this job. Nor are they, I know full well, my forte. For me, expression within the written word comes far more easily. Indeed, I believe that I have set out the reasons underlying the decision to bring this motion of no confidence within the attached report already both fairly and matter-of-factly. As a consequence, I am sure Members will be very pleased to know that I do not intend to speak any longer than necessary but some things, it seems, must be made quite clear. As Members who come to debate this proposition we will, I am sure, hear a variety of reasons put forward by those who will oppose it. All well and good. Their value will be for the House to judge but of far more importance, let us not forget, is the listening public to cast judgment upon for they, the electorate, are the true judges however cosseted some within the House might feel. But 2 reasons put forward as excuses not to support the no confidence vote will not stand up. Firstly, as I have gone to great lengths to outline within my report, this proposition is not a personal attack on the Bailiff, Sir Philip Bailhache. Far from it. It focuses on the Bailiff's actions and within a small community such as ours this, I can accept, can be a difficult thing to separate at first glance. But separate the actions from the man we must for it is the actions alone that I and so many others see as the reason for the Bailiff now continuing in his role being wholly untenable. It has amazed me these couple of weeks that a number of intelligent people do not - or possibly choose not to - understand the point at hand. Even the esteemed President of the Law Society, it would seem, in a recent letter to the *J.E.P.*, this motion does not attempt to deny or even criticise the achievements of the Bailiff throughout his long career. While others certainly may do so, I do not even question this although I would ask the question as to why the Law Society has nothing at all to say in the Bailiff's defence in this particular case. This motion is based solely upon crucial issues the Bailiff has got wrong, terribly wrong, and the fact that 16 years on he has not yet been held to account. Secondly, this proposition is also not opportunistic. To suggest that it is, as some may well attempt I have no doubt, is also to demonstrate the complete lack of analysis on the situation or equally, perhaps, to deliberately seek to muddy the waters in the hope of distracting from the core issues of justice and accountability that are at stake. After all, I ask the House to stop and reflect for a moment. Each and every one of us sitting in this Chamber today have and will again be approached by members of the electorate to take forward concerns of all manner of issues. In this case, I emphasise it again. Members of the public, ordinary men and women who evidently felt the same gut feelings of anger and unease that I felt as the revelations of April and May unfolded. These contacts - some from alleged victims of child abuse, some individuals simply deeply concerned by what they were hearing - these only confirmed to me that my own gut instincts were right. Would any one of us here, today, honestly just turn a deaf ear? What kind of politicians would that make us if we did? I put it to colleagues that any one of us who did so would have no place calling themselves a public servant and, quite honestly, no place at all within the House. I offer the House a quote: "It is every States Member's first duty to their electors to look and research and stand-up and fight for their political agendas. Every States Member has every right to strive to put right with tenacity and public support any part of the way we are governed and the way in which justice is administered." No, not my words. They are the wise words of the highly respected former Senator, John de Carteret, written in the *J.E.P.* in support of this proposition just a week ago: "Strive to put right with tenacity and public support any part of the way we are governed and the way in which justice is administered." This is exactly what I now seek to do by holding the Bailiff accountable, something of which Roger Holland's victims and their families were denied. Who do they have to turn to? I am turning to the States of Jersey and, in doing so, States Members to take that responsibility to deliver that justice, however belated. If we, the Government of this Island do not possess the will or courage to step beyond this place of deference to either the individual or institution, then the impact of democracy

can only be highly damaging. We all make mistakes. This is a fact of life. I have made them. I will make more in the future, I am sure. Indeed, inviting all of those who wish to stamp their feet to now do so, some will have it that I am making a monumental mistake at this very moment. The point is that just as well all make mistakes in different ways; we all must be accountable for these. Do we, the Government, really expect the public who elected us to accept that the Bailiff should be any different? I offer Members a second quote for consideration: "When the public make a mistake they are held accountable. When the Crown Officers make a mistake, to whom are they accountable?" Once again, not my words but those of the respected former Constable of St. Helier, Bob Le Brocq. Further and fuller details relating to the deeply disturbing Roger Holland affair are both outlined within the proposition and elsewhere. I believe it suffices to state that the core fact marking this action on behalf of the Attorney General - the man later to become our present Bailiff - is essentially this. Following on from what must be acknowledged to be a less than glowing example of the process ensuring only suitably safe and trustworthy individuals are accepted into the Honorary Police force, it came to the attention of the Bailiff, then Attorney General, in the summer of 1992, that Roger Holland, sworn in as a Constable's Officer, only hours before had a previous conviction for indecently assaulting a 14 year-old girl who had an assessed mental age of just 10. Incredibly, the Bailiff, as Attorney General, chose to do nothing about initiating the immediate removal of this convicted paedophile from office. Shocking enough in itself, it is the Bailiff's subsequent justification 16 years later that I and, indeed, so many of the member of the public who contacted me hearing the full details of this case for the very first time find a clear, irrefutable indication of his unsuitability to continue in the role. A Bailiff, lest we forget it, who is head of both Jersey's judiciary and legislature. I quote from the Bailiff's statement: "The facts confronting me were a man who had expressed a wish to give voluntary service to his Parish had been honest about his convictions." I put it to Members, this was said of a man who was a convicted paedophile, having abused a 14 year-old girl with a mental age of 10. Just as stunning, the Bailiff went on to say: "I quite understand the reactions of the victim's father as reported on BBC but in context of the facts as known at the time, 1992, when not as much was known about the long-term paedophile tendencies of those abusing children and before the rash of child abuse investigations which took place in the U.K. in the 1990s, I hope the decision seems more understandable." I am truly sorry, Sir, but no. To me, and to the members of the public who have contacted me, that decision is not understandable. Not understandable and not acceptable. It should not be acceptable to this Government. These judgments made by Sir Philip clearly illustrate that by allowing Mr. Holland to continue as an Honorary Policeman was a gross, indeed, a truly staggering error of both judgment and a failure to protect the safety of the Jersey public and, in particular, young women and girls. It is my contention that had the revelation of the original gross error of judgments back in 1992 not dammed him as it surely should, the Bailiff's truly unbelievable contention in April of this year that not as much was known about the long-term paedophile tendencies of those abusing children surely does so. I put it to the House once again, with the reminder that the public, who charge us with protecting their interests, with protecting their interests of their children, are listening. This was 1992. Not 1852. Not even 1952. Just 16 years ago. Does a single Member of this House believe for one minute that the majority of Jersey's public would accept deference to an individual or institution, however honourable or steeped in history, as being more important than protecting the interests of our children? I think not. For any Member to attempt to undermine the staggering seriousness of this issue by pointing to all the admiral qualities or achievements of the Bailiff is, at best, a distraction lacking in any substance. At worst, it is a highly dangerous breach of the public's trust. It has been put to me quite categorically by a number of those who have approached me that the Parish of St. Helier were far from happy at being landed with a time bomb waiting to explode that was Roger Holland. Perhaps that side of the affair has not been given the public airing that it should. Nevertheless, it throws into the spotlight how could the Bailiff, in his then role as Attorney General, possibly overlook the very clear and present dangers of allowing a convicted paedophile into assuming a position of authority where he would, obviously, have opportunities to exploit vulnerable children. I repeat the

words of the former Constable of St. Helier, Bob Le Brocq: “When the public make a mistake, they are held accountable. When the Crown Officers make a mistake, to whom are they accountable?” I ask the question, why did the Bailiff not, at the very least, immediately rescind his decision whenever he became aware of Roger Holland’s past? I come now to the Bailiff’s Liberation Day speech. Few of us within the Assembly will not forget the events surrounding Senator Syvret’s 2007 Christmas address as Father of the House. Although I fully accept some might differ in their views, to me the content of the Senator’s speech is essentially of little relevance to the context of this proposition. However, having ended the Senator’s speech and condemned him for making his point at an inappropriate time, within a matter of just a few short months we then see the Bailiff doing exactly the same, utilising another long-established tradition for his own political purposes, in this case the Liberation Day address, to make a highly political speech promoting his views on the historic child abuse scandal. If Senator Syvret was misguided or wrong in his use of the Christmas address in the Bailiff’s judgment - a view I largely share in several aspects - what utter hypocrisy was this? What double-standards and what ill-judged foolishness? I ask this Assembly to consider, was Liberation Day a date so emotionally locked within the hearts of so many Islanders, brave men and women who suffered then and, in many cases are still suffering more than 6 decades later, really an event where a Crown-appointed official of the highest rank would be expected to show such insensitivity and colossal lack of judgment. I quote for the House: “All child abuse, wherever it happened, is scandalous but it is the unjustified and remorseless denigration of Jersey and her people that is the real scandal.” As has been pointed out by others, this clearly inferred that however appalling the sufferers of the victims of Haut de la Garenne, some undoubtedly sensationalised stories on occasions in the world’s media was a whole lot worse. The Bailiff then further spoke of there being as yet no bodies, no evidence of murder, no evidence of cover-ups by Government. In the most basic sense, this may yet be true, yet for the almost daily discoveries of clear evidence, both physical finds and heart-breaking testaments from an ever growing number of former residents, that within the walls of Haut de la Garenne was clearly not as it should have been but was, in fact, a place of torment for some of those in society who were most vulnerable. Honourable man and distinguished Crown Officer or not, were these the words and actions of a man fit to continue as head of both the Island’s judiciary and legislature? Were these the words to inspire confidence in a public reeling from the shock of what has recently come to light? Perhaps even more tellingly, to inspire reassurance and confidence in those who have been abused and suffered that they will, eventually, receive justice. Yet not so much as an apology has been forthcoming from the Bailiff. Why? I put to Members, here is a man who is the Island’s chief judge, a man who has already been seen to be hugely negligent in allowing a paedophile to become a Law Officer where the individual, Roger Holland, went on to abuse further children. A man who will soon preside over the prosecution of further alleged paedophiles who abused vulnerable children from similar positions of trust. Further, and I fully expect it to be little more than a side show set against the seriousness of the issue of child abuse but to act in a manner seemingly demonstrating a belief that he is above and removed from the same standards he would impose upon politicians such as the Senator in his Christmas address can do nothing other than transmit to the ordinary working people of Jersey a message of arrogance and double-standards. I remind the House once again the public are listening. Where is the accountability here? The public are accountable. We as politicians should be accountable. Yet, once again, thus far, the Bailiff appears accountable to no-one. Can this House really be so untroubled by this fact? If so, I genuinely feel that from the evidence of my own experience, the Government are sadly, disastrously out of touch with the majority of public sentiment. So now I will go on to the Bailiff’s disregard for a political mandate. Sir, for an unelected and uninvited, by the large majority of Jersey people, holder of the senior Crown appointment to again enter the political arena and call comments by States Members “ignorant and unwelcome” is to risk outside interference from Westminster into the Jersey way of life. It is not the Bailiff’s personal fight. It is long overdue for our senior politicians to take aside our incumbent Bailiff and give him a date for retirement. His latest political outburst should be his last. Once again, wise words from the former Senator John de Carteret that also echo the feelings

of many who have contacted me. I have never met the former Senator, Sir, but in reading his letter in the *J.E.P.* I could not help but think how valuable his obvious wisdom would be in the present House where for some strange reason it often appears almost taboo to point out that the mandate of the Bailiff is supposed to be a wholly non-political one. Let us consider the following: what is the Bailiff? He has no political functions or authority. These words, Sir, were not written by a disgruntled politician or some independent review committee such as Clothier but by the Bailiff himself within his keynote address at the Liechtenstein Dialogue on 6th October 2005. Yes, the Liechtenstein Dialogue, a high-profile gathering focused on the highly political issue of the future of international financial markets and taxation strategies. Sir, I am aware that this failing is not as serious as the others already highlighted yet here once again we see the Bailiff failing in his judgment, displaying disregard for protocols and constraints that he would, as President of the States Assembly, be quick to castigate were they made by others. International financial markets and the intricacies of taxation are, beyond doubt, political. The mandate of the Island's Bailiff as is clearly demonstrable was intended not. Is highlighting this factor making a personal attack on the Bailiff? No, of course it is not. It is simply to highlight the present Bailiff's continued disregard for adhering to his designated mandate. As to why this should be, of course, Members will have a variety of opinions. Yet, Sir, this stepping into the political arena goes on and on. In only the past 2 or 3 weeks we have seen a number of further examples. The hijacking of the traditional Liberation Day address for the political means. Perhaps most alarming the truly personal attacks on any politician who dares to try and fulfil his or her mandate by highlighting aspects and practices that are beyond any doubt flawed within the Island's current judicial system such as one individual occupying a dual role as head of both judiciary and legislator. Indeed, the Island having allowed a situation to arise where the brother of the Island's Chief Judge is also the Attorney General. Sir, the Bailiff's role is an apolitical one and should at all times remain so. This was set out clearly when the role first came to be. As far as I am aware, and I make no claim to be a fully-fledged constitutional expert, nothing has come to pass over the following years that has seen this apolitical mandate be refined. If the Bailiff wishes to once again become a politician then let him put himself up for the democratic process of election and seek to become one. This apparent lack of judgment of disdain to adhere to the mandate of his appointed role can only further damage public confidence in the impartiality of his position. In closing, Sir, as I have been at great pains to make clear, I fully accept there will be some who will struggle to separate these criticisms between the actions they highlight and the individual himself. Some may even deliberately do so but separate them we must for as stressed within the preamble this is not a personal attack. The fact remains, however, that while none of us are infallible and we all make mistakes, we all must be accountable; even the Bailiff. In the interests of transparency, justice and public accountability we cannot afford a Bailiff occupying the role of Chief Judge when that judgment has been sufficiently flawed to allow a convicted paedophile to join a police force; nor one who attempts to justify this with such feeble excuses. We cannot afford a Bailiff soon to preside over what will likely be one of the biggest child abuse trials in British history who can make statements such as Sir Philip made on Liberation Day without even the good grace to apologise. We cannot afford a Bailiff who, for all his other attributes, appears to deliberately flout the boundaries set out in his non-political role. We cannot afford a Bailiff whose inappropriate statements, actions and behaviour have both brought his position into disrepute and significantly damaged the public's confidence in its government as a result. We cannot afford to have a Bailiff who appears to be held in such a misplaced deference by many within the Government presently that any questioning of his role or call for him to be held to account is painted as high treason. As such, Sir, I have to ask the House to focus on the facts; upon the actions rather than the man and demonstrate to the public that accountability really does apply for all supporting this vote of no confidence. I make the proposition, Sir.

The Greffier of the States (in the Chair):

Is the proposition seconded? [**Seconded**] Deputy Huet.

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

I know myself that there are a great many facts which have not emerged which I personally believe would have put a completely and utterly different meaning on these matters. Therefore, I have no intention of supporting this projet and I would respectfully ask all similar-minded Members in this Assembly to keep their speeches to the same length of time as mine is and hopefully we can bin this Projet within an hour. Thank you, Sir. **[Approbation]**

6.1.2 Senator F.H. Walker:

I rise to speak with reluctance because, frankly, I do not believe this report and proposition is worthy of debate in the first place. **[Approbation]** However, it is necessary for me as Chief Minister to respond and I do so; I respond on behalf of every Minister, every member of the Council of Ministers who will show their view, their very strong view of this proposition by not - unless the debate does indeed continue at length and raise other issues - speaking in it at all because they share my view that it is not worthy of debate in the first place. This is a hugely important issue and I am astonished at the relatively light-hearted and trivial way in which it has been brought forward. This is a hugely important issue not just for the Bailiff but for Jersey and we need to regard it as such. That is why the Council of Ministers have taken the, I think, unique step of writing to the Bailiff, a copy of which has been circulated to all Members. No individual, as our letter clearly says, is beyond accountability and indeed the Bailiff has acknowledged that the most serious basis for this deeply-flawed report and proposition was the Bailiff's decision on the Holland case which the Bailiff himself has acknowledged, with the benefit of hindsight, could have been done better. But that was in 1992 when he was Attorney General, long before he was appointed to the office of Bailiff. It is the unanimous view of Ministers that the Bailiff has undertaken his duties over an extended period with probity, integrity and impartiality. The proposer raises the question in relation to the Bailiff: "Honourable man or not?" Well, I have absolutely no doubt whatsoever in saying that the Bailiff of Jersey is a deeply honourable man and that question should not be asked. **[Approbation]** Sir, the report and proposition is based on the thinnest of grounds and there is nothing either in the report or the speech that we have just heard which justifies or comes anywhere near justifying, dismissing or asking the Queen to dismiss our Bailiff from his office. Really, I can only imagine the incredulity of her Majesty and her advisers if such a request was sent to her on the grounds laid out in this proposition. It would make Jersey look stupid - absolutely stupid. Sir, let us not be fooled by the proposer into believing that this proposition has the widespread support of the Jersey public. It may have the support of J.D.A. (Jersey Democratic Alliance) members; it may have the support of the Time4Change people. It most certainly does not have the widespread support of the public of Jersey generally.

The Greffier of the States (in the Chair):

May I remind those in the gallery that Standing Orders provide that they must not interfere with the proceedings.

Senator F.H. Walker:

Well, Sir, I wonder who that was and which society they belong to. Sir, this proposition, despite the denials of the proposer, is nothing other than political posturing and it takes no account of the distinguished record of the Bailiff in serving Jersey over a period now of 33 years. It takes no account of the effect on the position of Bailiff generally. It takes no account of the possible effect on Jersey's constitutional position and the things that we hold dear which make us different to the U.K. It is nothing other than a thinly-veiled political attack and despite her denials the proposer virtually confirmed that in her speech. Sir, I will support very much Deputy Huet's view. I hope Members will not dignify this proposition by turning this into a lengthy debate; I hope Members will not dignify it by speaking. I hope, therefore, we can dismiss this debate in the shortest possible time and Members will show their deep contempt for this proposition by not speaking and then by comprehensively voting it out. **[Approbation]**

The Greffier of the States (in the Chair):

Does any Member wish to speak? If not, I will call on Deputy Pitman to reply. Deputy Southern, just in time.

6.1.3 Deputy G.P. Southern:

I had hoped, against hope, that this would not descend into the usual political mud-slinging [Laughter] which so often comes from the far corner on my left, however, I was disappointed. Disappointed to read in a letter circulated - I do not know if it was last night or this morning - by the Council of Ministers and signed by the Chief Minister that such an opportunity could not be resisted even by those at the top of our Government. I have no objection to 6 of the 7 paragraphs contained in that letter. It is absolutely appropriately supportive of the Bailiff if that is what the Council of Ministers wishes to express. However, it cannot resist falling into the trap of electioneering, of politicking and the penultimate paragraph says: "It is the Council's opinion that this proposition is without merit and should be seen for what it is: a tendentious and opportunistic abuse of the States Assembly in the pursuit of political gain before an election." Shame on you, Chief Minister; shame on you, Council of Ministers. That is completely unnecessary, over-the-top and just playing at politics: "The Council of Ministers believes the proposition to be a naked political ploy and will treat it with the disdain it deserves." So here we have today 2 requests for this House to stop doing what it does, which is to debate political principle and political ideas in the fullest possible way so that the people of this Island can be assured that principle and politics is being dealt with. Instead we are told that what we are to do is to have a conspiracy of silence that a proposition brought genuinely and from principle by one of our Members should be ignored and treated with contempt, for that is the word the Chief Minister used. Treat it with contempt. That is a frightening, frightening precedent to set up. It is the place of this House to debate the politics of this Island and as the proposer stated clearly, no one, no one in this Island, should be above this House. This House is the Government of this Island and holds all to be accountable without exception. No matter how long-serving, no matter how well-serving, that accountability is a fundamental, essential principle on which this House is based. Without it this House may as well dissolve itself because that is what we are about. So, let us consider that which has been brought forward. What we have is the decision of the Bailiff when he was Attorney General not to act in the case of the appointment of Roger Holland to be a Constable's Officer. It says in the statement by the Bailiff to the B.B.C: "I became aware of the conviction on my return from the Royal Court when an anonymous letter arrived at the Law Officers' Department. The Parish authorities were asked for their views and responded that the Parish did not oppose Holland's wish to join the Honorary Service." I am unsure at this stage that that is the case. I believe that the Parish authorities thought they were powerless to act and were reliant on the powers above them, i.e. Royal Court, the Attorney General, *et cetera*, to do something about it. They vehemently opposed the appointment of Roger Holland, or many did, but they felt powerless, it appeared, under the law to stop it. It then goes on: "It is unclear what jurisdiction in law the Royal Court could have exercised had these facts been brought to his attention the following week." It is unclear what jurisdiction the Royal Court could have. But the Royal Court surely is the body that accepts or rejects the candidacy of one person or another for a position of responsibility, a position of authority, a position indeed of power in the Island's Honorary Police. Surely that is the body through which that acceptance is either agreed or not. Yet we are told: "It is unclear what jurisdiction in law the Royal Court could have exercised ...". Surely the Royal Court had the power to say in the light of this person's conviction: "He is not a suitable person to take up the position of a Constable's Officer where he can instruct people what to do, accompany me, I wish to come into your house, obey my instructions, a position of tremendous power and authority." Surely it is the position of the Royal Court to sort that out. But anyway, in any case, as Attorney General at the time was it not the duty of the Attorney General to sort that out and establish what the powers were and to act upon them? It surely was. But that fundamental error, which I believe is a serious error,

is certainly one that had it come to light at the time, had it come to light later, in most communities in the world would have resulted in the very swift exit of that post holder. He would have been asked to resign with such an error; a resignation would surely have followed. But here we are 16 years later in the midst of what is called a historic child abuse scandal and this material raises its head again, how does the Bailiff react? He says: "With hindsight, of course, I would rather a different decision had been taken at the time." Notice the passive nature of that sentence. Replace it with some personal responsibility: "I would rather a different decision had been taken at the time." How about: "I would rather that I had taken a different decision at the time." Any admission of error? Any admission of mistake? None whatsoever. Instead, the use of the passive voice: "A different decision might have been taken by me." But in context what is the context of a convicted paedophile? What context is that? "On the facts known at the time, 1992, when not as much was known about the long-term paedophile tendencies of those abusing children, I hope the decision seems more understandable." I am sorry but certainly to me and to many who have read those words - and it is many - that decision does not seem more understandable. It seems like a rather poor excuse for a mistake made - a serious mistake made - that in normal circumstances, in different communities, I believe would have led to a resignation. I hope the decision seems more understandable. Clearly to many it does not seem more understandable. It is completely unfathomable. No hint there of an error made, genuine or otherwise, no hint there - and this perhaps is key that many people were looking for and may have sufficed - of an apology with or without hindsight. No apology: "I let a convicted paedophile into a position of authority in our police force" and there is still, 16 years later, no apology for that act. I believe that is a serious error of judgment on the part of the Bailiff and one which, although an extreme sanction, I believe deserves some sanction and some holding to accountability and this proposition does just that. Then to combine that with the Bailiff's speech on Liberation Day, again, shows a lack of sensitivity and a lack of judgment which is, while on a different level, equally extreme. I turn to the very words used and they were words used, let us remember, not off-the-cuff, not ad lib, a prepared speech, timed probably and deliberate, and I am sure that the Bailiff does this because I have seen his speeches and listened to many of them. He deliberately chooses each and every word and terms the phrases to say exactly what he intends. He has been in the job for 33 years; he does not do it lightly, so deliberate constructed speech where he says: "All child abuse wherever it happens is scandalous but it is the unjustified and remorseless denigration of Jersey and her people that is the real scandal." "All child abuse is scandalous but it is the unjustified and remorseless denigration of Jersey and her people that is the real scandal." That is a shameful statement. To compare a few days or a few weeks' headlines with the systematic abuse of children taking place over decades is, to use one of the favourite words of the Chief Minister, absolutely outrageous. It made many, many of our residents, whether victims of abuse or otherwise, cringe. It upset many. In the days following that speech many people came to me with a sense of complete and utter incredulity and said: "Did the Bailiff really say that? I thought I heard him say that what was important was the headlines. Surely not." I had to look it up because I did not hear the speech live, because I did not believe it either. No, but that is what the Bailiff did. Those are the 2 grounds on which many people in the Island have said: "Enough is enough." Can we have faith in this particular Bailiff? Where is any sense of remorse for 2, I believe, serious errors made, consciously made, but yet to be apologised for. It seems to me, as is often the case, that an apology in both of those cases, in either of those cases, would have done for many of those upset, moved by what has happened, may well have done the business and we could have perhaps laid it to rest but no, no sense of backing down, no sense of apology, no sense even of having made 2 serious errors of judgment. That is the reality. I am glad to be able to second this motion and I leave it to others to continue this debate which I believe is an important one to have and we certainly should not be sitting on our hands and condemning this proposition to a silent death.

6.1.4 Senator S. Syvret:

It is well documented that I have never really considered the post of Bailiff tenable as an institution. There does need to be a clear separation of powers, especially in the 21st century, and to have the Head Judge sit in this Chamber as Chair of this legislature is manifestly untenable. But it is not so much the post that we are concerned with today: it is the vote of no confidence against the current incumbent. It is also well documented and well known that I have had a range of disagreements with the present incumbent pretty much throughout my political career, all of the significant ones of which I would suggest go further to the points made by Deputy Pitman as to the essential inadequacy of this individual to deal with a lot of these issues. Before I go into those I really think it should be known that the Bailiff is not in the Chamber today on the Law Officers' Benches in order to defend himself, to answer his critics, to take part in the debate because he chose that it should be so. I would just like to read an e-mail I sent to him on the 9th: "Bailiff, I spoke briefly with the Greffier today in order to inquire as to which procedures will be used in respect of the vote of no confidence against you which has been tabled by Deputy Pitman. Clearly, it would not be appropriate for you to chair the meeting; a similar observation has been made concerning the Deputy Bailiff. I was therefore happy to learn from the Greffier that he would be presiding. I also asked him whether you would be present in the Law Officers' Benches to defend yourself. I was somewhat surprised to learn that you probably would not be in the Chamber for the debate as apparently you do not wish to defend yourself. For my part, I believe that any Member of the Assembly who is subject to some form of critical debate must have the full opportunity to defend themselves. It seems to me that several problems arise in the event of you [this is the Bailiff] not attending. Firstly, it could appear as merely a stratagem to enable the establishment Members to assert that you were not able to defend yourself when in fact your non-attendance would have been entirely your own choice. Secondly, it could most certainly be seen as disrespectful to the Chamber to not attend in respect of a debate and vote which concerns yourself. Thirdly, you will no doubt recollect that following about 6 months' exclusion from the Assembly imposed on me I had a summons served on me at night at my home by which my attendance was going to be compelled to the Assembly. If such an approach was legitimate as far as I am concerned it must, by extension, be legitimate as far as you are concerned." I concluded by saying: "It seems to me that by far the most appropriate course of action would be for you to attend the debate." By not attending the Bailiff has exhibited disrespect for this Assembly, has attempted to undermine the credibility of the debate and has denied the listening public the opportunity to hear his side of events and to hear any explanation and I think his non-attendance here today, in fact, is a further serious black mark against him. It is also worth noting that should people consider my fairly frequent criticisms of the *Jersey Evening Post* too excessive that I did inform the *Jersey Evening Post* of the e-mail I just quoted and the issues of the Bailiff refusing to attend here today some days ago. They printed not one word about the issue, so again another stark example of the utter bias of the *Jersey Evening Post*. But let me turn through to some of the evidenced facts we have against the present incumbent, Sir Philip Bailhache. Firstly, we have the Holland affair. Now, it is claimed by him that a different decision may have been made. Well, that is a statement of fact. It was also asserted in his recent letter in response to the B.B.C. Radio 4 documentary that it perhaps was not known back in 1991, 1992 that paedophiles remained dangerous. That is simply incorrect. It was well documented then and has been for many decades. It is simply a statement of fact. But the remarkable thing about that episode is, again, as has been remarked by Deputy Southern, the complete and utter arrogance, refusal, total unwillingness to hold hands up and say: "I was culpable, I made a mistake, I am sorry." He also asserted at that episode that the courts probably would not have wanted jurisdiction for him to go back to them after Holland's swearing-in to have him removed from office. Well, what an absurd argument. Surely given that the Bailiff then, when he was Attorney General, had become aware that a convicted paedophile had been sworn in as an Honorary Officer, he should have at least attempted to get the court to strip Holland of office. He should have attempted to get the courts to accept jurisdiction and he should have attempted to get Holland stripped of office. Even if he had failed in both of those objectives it would have served the crucial purpose of alerting the public exactly to the issues concerning Holland. The fact that

Philip Bailhache failed to do that I am afraid is simply catastrophic and, it has been remarked, would have led to the dismissal or the resignation of members in virtually any other modern, respectable jurisdiction. But then it is not only as though the Roger Holland affair was the only example of poor performance, poor judgment on the part of the Bailiff in respect of child protection issues. The Victoria College abuse scandal: the Bailiff was a member of the Board of Governors of that institution in the early 1990s at a time when child abuse was being routinely committed. Complaints of it were being received by the school authorities; the authorities chose to ignore those complaints; consequently the abuse then went on for a period of some more years until the abuser was finally arrested and prosecuted and convicted. Again, another stark example of the completely lackadaisical and non-serious application to matters of child protection. But there are other flaws. We get to the Limited Liability Partnership row. Let us remember that I ended up being excluded, quite improperly, because there was no provision in Standing Orders or the States of Jersey Law for indefinite suspension, suspended from the Assembly for 6 months at the directive of the Bailiff merely for pointing out a conflict of interests on the part of another Member. It is quite interesting, I do not think I have discussed this publicly previously, but I was called to remain at a meeting with the Bailiff and the then Greffier, Geoffrey Coppock shortly before the summer recess where I was told by the Bailiff that I would have to withdraw everything I had said concerning the other Member and apologise for it. I said: "Well, why should I do that because everything I said is true and it is evidenced; here is the evidence." He said: "That does not matter, you will have to withdraw everything you said and apologise for it." To which I said: "Well, I am sorry but I am not going to do that because it is true." He said: "Look, you are going to have to withdraw everything you said and apologise for it or there will be very serious consequences for you." I asked him what those consequences might be. He ummed and ahed and said: "Well, never mind about that just take my word for it there will be very serious consequences for you and that would be such a pity as you have such a lot to offer as a politician." I did not really realise it at the time but with hindsight that was probably a criminal offence because even the States of Jersey Law at that time expressly contained a provision that forbade any kind of menace or compulsion to be placed upon any Member in respect of what they may say or do in this Assembly, but we all know how far that complaint to the Crown Officers would have gone in respect of that. The Bailiff then had me excluded via a proposition he put to the Assembly which he allowed nobody to speak in, did not allow me to defend myself, did not allow other Members who wanted to who were attempting to stand up and defend me, to speak on my behalf. I ended up being excluded for 6 months and then after that, as I have already remarked, I was summoned back to the Assembly as described. Then we move on to another example of the paucity of judgment. The just utter inadequacy of this particular Bailiff when it comes to child protection issues. I wrote to him a very angry e-mail, I think it was early last year, following the sentencing by him of a paedophile to 2 years' probation who had essentially been attempting to rape 3 teenage girls by grooming them, plying them with alcohol, money and cigarettes. Two years' probation for a would-be child rapist. You could not make it up. Then we get to his general political interferences and it is often asserted by him and his supporters that the Bailiff does not interfere politically. Well, yes he does. I could not recollect the number of times over the years I have brought propositions, amendments or questions to be dealt with in this Assembly and they have been interfered with, ruled out of order, stopped, sabotaged in some way by the Bailiff. I can give you 3 examples of that off the top of my head. Earlier this year - or it might have even been late last year; I forget the exact date - I submitted a question which was directed to the Chairman of the Comité des Connétables as is allowed and described in States of Jersey Law and Standing Orders and asked him to reveal to the Assembly if any of the Connétables received any additional personal money, pension, benefit, anything of that nature, any kind of further additional remuneration from Parish funds. He simply refused in the teeth of the law and the Standing Orders to permit the question - utterly bizarre. The 2 questions I have asked in the Assembly; firstly the one concerning the election periods for Constables, again, ravingly interfered with by the Bailiff and rendered meaningless and, likewise, the other questions for the Attorney General. So even this morning we have 2 examples of questions which have been

interfered with. Then we get to him stopping the publication of my official comments during the dismissal debate. Cast your minds back to 11th September last year when I was facing dismissal as the Minister for Health and Social Services. A very substantial report containing a hotchpotch of distortions, omissions and, frankly, outright falsehoods had been tabled by the Council of Ministers against me. I prepared some formal comments as Ministers do in response to the propositions and the Bailiff, again, quite unprecedentedly and without any legitimate right, stopped them from being formally printed. It is obvious why he did so: he did it to stop the documentation gaining Parliamentary privilege and to stop it appearing on the States Greffe website because it is damaging to the establishment and indeed to him in some respects. Then we get to him stopping my Christmas speech. I think it is worth just reflecting upon that. We are a democratic Assembly and no Member of this Assembly has to agree with one single word of what I say then or at any other time. But the speech was in order, it broke no Standing Orders, it broke no Code of Conduct, it was therefore a legitimate speech, in order, and no matter if the Bailiff and every single other Member of this Assembly hated and detested every word of it, I had a right to deliver it. His joining-in with the mob-rule and anarchy and switching my microphone off and stopping me delivering that speech is another example of just how profoundly inadequate this man is when it comes to exhibiting some kind of sensible, balanced judgment on issues. That evening after that incident, I was inundated with calls, e-mails of support from members of the public but more significantly I had quite a number of the victims, who I know and I have been trying to help, on the phone to me grieving and angry and in tears. In tears that they just could not believe - could not believe - that the States Assembly could behave in this way. Turning to some of the remarks made by Senator Walker. He described the proposition and the debate we are having on it as "light-hearted and trivial" and that it was instead a deeply serious matter. Well, I do not think there is anything light-hearted or trivial in the report and proposition, nor indeed in Deputy Pitman's speech. It seemed to me that they dealt with very important and significant issues, i.e. the failure to properly protect children from risk and jeopardy at the hands of paedophiles. Now, that might be light-hearted and trivial and not an important matter in the world of Senator Walker but I do not think he is in step with 99.9 per cent of the rest of the population. Then we get to the Bailiff's Liberation Day speech. Well, as has already been remarked, what gross hypocrisy. I am a politician, I have stood in this Assembly giving a political speech and I had my microphone cut and the debate adjourned by the Bailiff. The Bailiff, supposedly not a politician, although some of us would question that, certainly unelected, a public functionary, a member of the judiciary, the head of the judiciary, the judiciary which will be presiding, unless I can do anything about it, over the child abuse cases, making a public speech in which he essentially attacks and denigrates the abuse survivors, the media coverage and essentially those who are campaigning on their behalf. Again, you just could not make it up, it is that extraordinary. The hypocrisy of it was breathtaking. So annoyed was I at that because, again - again - I had to deal with probably about 15 very angry, tearful abuse survivors following that speech by the Bailiff. There was, of course, at the time of the B.B.C. Radio 4 documentary a little while ago his flat refusal to clearly apologise to the parent of a victim of Holland. So, following these I wrote an e-mail of resignation to the Bailiff from the Bailiff's Consultative Panel which I will quote: "I write to formally notify you of my resignation from the Bailiff's Consultative Panel. While I had little confidence in you as a person in any event, both your statement to the B.B.C. and the letter you have issued to States Members today are really the final straw. Quite what '33 years' of service' or 'acting in good faith' have to do with a matter of this gravity I am afraid eludes me completely. You may have been acting in good faith but that is hardly the issue. The fact is your decision to not refer Holland to the Royal Court was gross incompetence. Most of us are accountable for our mistakes. People lose their jobs over far less serious matters. The fact that you are intent on attempting to remain in post in this great peacetime moment of crisis for the Island, a crisis arising from an ingrained culture, a failure and contempt towards vulnerable children simply serves to further illustrate your compound inadequacies. If you possess the faintest understanding of child protection matters as a man in your position should, you would know contrary to the assertions in your letter ..." I will not quote it all but I have already spoken about the fact that

paedophiles remain dangerous. I go on to say: "It is not as though this is the only gross child protection failure on your record; just from my memory 2 others occur." The Victoria College Board of Governors issue and the failure to issue a custodial sentence to the paedophile, again, as I have already spoken about. I go on to say: "Yet another example of your contemptible attitude towards child protection can be found in your decision to side with mob-rule by your oligarchy allies and stop my Christmas speech in which I was attempting to express some recognition and empathy towards child abuse victims. The first time ever a States Member had stood and spoken in acknowledgment of what had happened and you stopped it even though every single sentence of my speech was compliant with Standing Orders and the Members Code of Conduct. The barracking of me by establishment politicians was simply an assault upon democracy, free speech and the rule of law; something you were content to embrace even though your actions had no basis in any recognised democratic procedure. The Speaker of any respectable legislature would have told those Members who were interrupting to sit down and shut up. Any decent Speaker would have told them no matter if every other Member of the Assembly hates and disagrees with the Senator's every word he will have his say. But you instead, as recently as December 2007, preferred to silence an expression of empathy for abuse survivors and again to fail the vulnerable. Even if your claim of ignorance in 1992 could be taken seriously, even if it did not exhibit gross incompetence of the most dangerous type, your recent actions show, I am afraid, that you remain utterly incompetent in matters of child protection. Let me give you some advice: your position is hopeless. Not even the infamous friends at court in Whitehall are going to be able to save you and your colleagues this time. It really would be better for this community and, frankly, better for you if you just went and went now and took your colleagues with you." To conclude I want to return to the speech that the Bailiff gave on Liberation Day. Now, I helped to establish a Jersey Care Leavers' Association. I am not a member of it; I only rarely attend their meetings when I am invited to. It is run by them, for them and overseen and guided by people with similar experiences from the United Kingdom Care Leavers' Association. They had a meeting at a point following the Bailiff's speech and they issued a press statement. I was not present at this meeting, I had nothing to do with this, but I think to finish, it is worth reading out just what the Jersey Care Leavers' Association thought of this matter. It is headed: "Jersey Care Leavers' Association calls on Bailiff to retract claim that media coverage is the 'real scandal'. The Bailiff of Jersey used his speech on Liberation Day to attack the press for their reporting of the child abuse investigation in Jersey. The Bailiff said that 'denigration of Jersey and her people is the real scandal.' The Jersey C.L.A. (Care Leaders' Association) discussed the comments made by the Bailiff at its meeting on Wednesday, 28th May 2008 and decided to release the following statement: 'Whatever the merits of the very different media coverage of the child abuse scandal in Jersey, the Jersey C.L.A. was shocked to hear the Bailiff say that the denigration of Jersey and her people is the real scandal. The Jersey C.L.A. knows that the overwhelming majority of Jersey residents know the difference in seriousness between continuous, contentious press reports that often get facts wrong such as was carried by the *Daily Mail* recently and the fact that to date over 160 adults have come forward to say they suffered abuse while in the care of the States of Jersey over a number of decades. We, the victims of this scandal, are disgusted with the Bailiff's speech. He had weeks to make the statement about the historic abuse case yet chose Liberation Day to try and misinform the people of Jersey. The Jersey C.L.A. also believe that while the police are still to complete their investigation it is becoming clear that abuse did take place in the Jersey childcare system on a huge scale. The Bailiff should retract his statement and acknowledge that the most important scandal is that the abuse took place and remained unchallenged for years. The Bailiff should apologise to the victims of child abuse in Jersey for claiming that the real scandal is media coverage. The Bailiff's comments portray the Jersey establishment as uncaring towards its people and it is this attitude that presents Jersey and its people in a terrible light to the international community who are following the story. The Jersey C.L.A. also believes that an admission of wrongdoing by those involved must be the first step to help those abused accept and deal with their nightmares. We have many friends who have suffered untimely deaths through addiction and suicide. We are fighting for justice for

them too in their memory and we will fight for justice for all care leavers who were victimised in the hope that such justice will help them to finally make sense of their lives.” The statement concludes at that point. Those are the views of survivors; people who have already been abused by the authorities in Jersey, often catastrophically. The Bailiff’s speech was effectively just another load of abuse on top of that which they have already suffered. The care leavers also wrote directly to the Bailiff asking for an apology for the remarks he made in his speech. He has not issued nor given any indication that he is prepared to issue any such apology. Again, I find myself dealing with distressed, wrecked, messed-up victims who just seemingly continue to get trampled into the ground by the system here in Jersey. The Bailiff is manifestly unfit to occupy this particular post on a variety of grounds for a variety of ways. I do not think a more inadequate individual in public administration I have ever met. I will most certainly be supporting the proposition and it is my earnest hope that at least Members will do the public the favour of debating these matters. I move the adjournment, Sir.

LUNCHEON ADJOURNMENT PROPOSED

The Greffier of the States (in the Chair):

The Assembly stands adjourned until 2.15 p.m.

LUNCHEON ADJOURNMENT

PUBLIC BUSINESS (continued)

The Greffier of the States (in the Chair):

Does any other Member wish to speak? I call upon Deputy Pitman to reply.

6.1.5 Deputy S. Pitman:

It would be an insult to the men and women of Jersey who have suffered physical and sexual abuse at the hands of Roger Holland, and so-called previous carers at Haut de la Garenne and other children’s homes, if I had brought this proposition for political gain and electioneering for the JDA (Jersey Democratic Alliance). To use the serious misfortune of others for political gain is something I find abhorrent in politicians who do so and so, Sir, I find it disgusting that the Chief Minister and his Council have accused me of this. Come the election it will be some of his Ministers who will have to use the Communications Unit to promote themselves. Not I, who does actually listen and work - as far as my abilities allow - for the people who approach me, many of whom have either been victims of child abuse, relations of victims, or who have been at the receiving end of a bad decision made by the Bailiff, this Chief Judge. Furthermore, Sir, I do not believe that Senator Walker believes that I am abusing my position for political gain. He is a man, with others, protecting a friend and using my name to do so. Further, Sir, this cunning tactic allows for the Chief Minister and his Ministers to avoid the major issues of justice and accountability - a frequent occurrence of the Council - that these victims of child abuse and their families say rightly are due from this Government. I also believe, Sir, that there are too many Members in this House who stay clear of the taboo that is questioning the Bailiff. Sir, if it can be said that the abusers have to be accountable for the terrible abuse that they have caused 16 years ago, so should the Bailiff. When I ask: “Is the Bailiff going to be held accountable for a decision which led to a man to continue to abuse children within a position of trust - not by this Government, Sir - where do the victims of Roger Holland go to get this justice? Where does this leave other victims who were brought up in these children’s homes? Where does this leave the Jersey public in their confidence in this Government?” Once again, I believe significantly damaged and only demonstrates that

many Members of this Government are significantly out of touch with the people of Jersey. I maintain the proposition and call for the appel.

The Greffier of the States (in the Chair):

The appel is called for. I ask Members to return to their designated seats. The Greffier will open the voting for or against the proposition of Deputy ...

Senator M.E. Vibert:

I notice Senator Perchard has returned after being delayed and I wonder if the défaut could be lifted on him, please?

The Greffier of the States (in the Chair):

The Senator is marked as excused. We have noted he is present and he is able to participate in the vote, thank you. The voting is open for or against the proposition.

POUR: 3		CONTRE: 47		ABSTAIN: 0
Senator S. Syvret		Senator L. Norman		
Deputy G.P. Southern (H)		Senator F.H. Walker		
Deputy S. Pitman (H)		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. Mary		
		Connétable of St. Clement		
		Connétable of St. Helier		
		Connétable of Trinity		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. John		
		Connétable of St. Saviour		
		Deputy R.C. Duhamel (S)		
		Deputy A. Breckon (S)		
		Deputy J.J. Huet (H)		
		Deputy of St. Martin		
		Deputy G.C.L. Baudains (C)		
		Deputy P.N. Troy (B)		
		Deputy C.J. Scott Warren (S)		
		Deputy R.G. Le Hérisier (S)		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy S.C. Ferguson (B)		
		Deputy of St. Ouen		
		Deputy P.J.D. Ryan (H)		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy G.W.J. de Faye (H)		
		Deputy P.V.F. Le Claire (H)		

		Deputy J.A.N. Le Fondré (L)		
		Deputy D.W. Mezbourian (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy A.J.D. Maclean (H)		
		Deputy K.C. Lewis (S)		
		Deputy of St. John		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

7. Social Security Tribunal: appointment of members (P.108/2008)

The Greffier of the States (in the Chair):

Very well. We come now to the Social Security Tribunal: appointment of members, in the name of the Minister for Social Security and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to appoint, in accordance with Article 33A of the Social Security (Jersey) Law 1974, further to a process overseen by the Jersey Appointments Commission, the following persons as members of the Social Security Tribunal for a period of 5 years: Advocate Charles Thacker in the Chair; Advocate Alan Binnington, Deputy Chair; Advocate Marion Whittaker, Deputy Chair; and as panel members: Mr. Andrew Green M.B.E.; Mr. David Moody; Mrs. Sandra Le Monnier.

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

Before I propose the new proposed members of the tribunal, I would particularly like to thank previous members of the tribunal who, for one reason or other, are not being brought forward for re-election or through just straightforward retirement. The Deputy Chair previously was Advocate Michael Clapham, together with panel members Elizabeth Hambly, Mrs. Margaret Le Marquand and Mr. Nick Corbel. I would like to thank them for the contribution they have made to the tribunal in the past and wish them well in anything they do in the future. In saying that, I would like to propose the people that have been named by the Greffier and I propose the tribunal members, Sir.

The Greffier of the States (in the Chair):

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

7.1.1 Deputy R.G. Le Hérissier:

Not relevant, but it is a standard question. Has the Rent Control Tribunal any teeth? [**Members: Oh!**]

7.1.2 Senator T.J. Le Main:

I bought the Deputy an alarm clock the other week to get him up early in the morning [**Laughter**] but obviously it is not working and he is still asleep.

7.1.3 Deputy G.P. Southern:

Just briefly, as the person taking the first case tomorrow, I hope they do have some teeth that you use for smiling rather than gnashing.

7.1.4 Senator S. Syvret:

Yes, Sir, I will be voting against the proposition because it includes Alan Binnington. This is the man who was the legal adviser to the States of Jersey in the Waterfront/Les Pas Holdings debate. This is a man who took a 6-month sabbatical in the middle of a period when he was supposed to be

doing detailed and comprehensive work on behalf of the States of the people of this Island and who was advising the States - the then P. and R. (Policy and Resources) Committee - that their case was good, go off for months and months and months and then suddenly, at the last minute, revised his opinion and saying that it was not.

Connétable of St. Brelade:

Is it appropriate that a person be referred to without being able to defend himself?

Senator S. Syvret:

This is a man who cost the people of Jersey **[Interruption]** many millions upon millions of pounds. Members are saying this is boring, so let the people of Jersey note that; Members of this Assembly think it is boring that we are about to appoint somebody to the tribunal who cost you, the taxpayers, tens of millions of pounds.

The Greffier of the States (in the Chair):

I call on the Minister to reply.

7.1.5 Senator P.F. Routier:

I would like to thank all members, including Mr. Binnington, for allowing their name to go forward. The past service that he has given to us on tribunals has been valued and I maintain the proposition. I call for the appel.

The Greffier of the States (in the Chair):

The appel is called for. Members are in their designated seats. The Greffier will open the voting.

POUR: 3		CONTRE: 47		ABSTAIN: 0
Senator S. Syvret		Senator L. Norman		
Deputy G.P. Southern (H)		Senator F.H. Walker		
Deputy S. Pitman (H)		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. Mary		
		Connétable of St. Clement		
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		Deputy R.C. Duhamel (S)		
		Deputy A. Breckon (S)		
		Deputy J.J. Huet (H)		
		Deputy of St. Martin		
		Deputy G.C.L. Baudains (C)		
		Deputy P.N. Troy (B)		
		Deputy C.J. Scott Warren (S)		

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

8. Draft Marriage and Civil Status (Amendment No. 2) (Jersey) Law (P.61/008)

The Greffier of the States (in the Chair):

We come now to the Draft Marriage and Civil Status (Amendment No. 2) (Jersey) Law and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

The Draft Marriage and Civil Status (Amendment No. 2) (Jersey) Law. A Law to amend further the Marriage and Civil Status (Jersey) Law 2001. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

Before I begin, Sir, I would just like to make it clear to Members that I was personally affected by the lack of choice of surname more than 20 years ago. Although none of the debates today will affect my personal family circumstances, as it was so long ago, I have tried to set aside any personal views I may or may not have and have brought this proposition on departmental advice and in the full knowledge that amendments would always be brought to facilitate a full debate on all of the issues. I am therefore grateful to the Deputy of St. Martin for bringing the amendment so that Members as a whole should be the arbiters of how wide reform should go, according to individual conscience. Moving on, Sir, I should like to begin by explaining the rationale and the principles underlying the proposed amendment to the Marriage and Civil Status (Jersey) Law 2001. Essentially, the amendment is a response to representations from members of the public concerning the present legal position with regard to naming children, whereby a child must be given the mother's maiden name as its surname if the parents are unmarried. This remains the position in common law, the leading case being *Langlois* in 1985 where the court noted: "In our judgment, therefore, it is the maiden name of the mother that has to be declared and registered and an illegitimate child acquires the maiden name of his mother as his surname, unless of course that maiden surname has been abandoned in favour of another name." It is now a common occurrence in the modern age where couples choose not to marry before having children. The issue was brought into sharp focus by the case of *Moran and Kemp v The Deputy Registrar for the Parish of St. Helier [2007] JRC*. However, it is important to note that this amendment was under active consideration by Home Affairs prior to this case which sought a judicial review for the legal

position. On a positive note, this case enabled the issues associated with naming children to be aired publicly and for individuals to express their views to myself or through the media. I have been cognisant of these views in proposing this amendment. The Home Affairs amendment to the Marriage and Civil Status (Jersey) Law 2001 allows parents to choose the surname of their children, selecting either the maiden surname of the mother, the surname of the father, or a combination of the 2. The choice applies both to parents who are married and to parents who are not. In the modern day, many couples choose not to get married before having children. Consequently, penalising children born in partnership relationships is not, in my view, a morally defensible position and this amendment seeks to treat such couples in the same way as those who are married. Where the 2 parents do not jointly make a choice of one of the above options, then a default position prevails as follows: when parents are married to each other the child is registered in the surname of the father. When parents are not married to each other the proposed default is that the child takes the maiden surname of the mother. A number of factors have been taken into account in deciding how to modify the rules surrounding registration of names. Firstly, there is a traditional consideration in the sense that in the time-honoured way, the vast majority of parents will wish their children to receive the family name, either one or the other or both. Very few parents would opt otherwise as it is important to most people to create a sense of belonging to a family unit. The traditions of family life are still strong in Jersey and there seems to be little merit in simply mirroring the U.K. legislation where parents can choose any name, particularly when the U.K. approach is at one end of a continuum and where there are varying degrees of restriction on choice in countries throughout Europe. Secondly, some consideration needs to be given to protecting the interests of the child from the possibility - albeit unlikely to occur frequently - that a desired name would be patently frivolous, having consequences for the child later in life. The approach taken by Home Affairs might be construed by some as "The States know best", but clearly, where the registration of a name at birth is concerned, the child cannot speak up for itself and it is the best interests of the child that is the main driver for the line that Home Affairs is proposing. Thirdly, and linked to the previous reason, it is incumbent upon the State to set a standard. The standard in this case merely reflects what most people would wish to do in registering a name. Fourthly, and perhaps a secondary argument, can be made for some restriction in choice as it would become more difficult in future for families to trace their ancestry. Family history research is becoming much more important to many people trying to establish their lineage and identity. Notwithstanding the above, the Home Affairs Department recognises that the registration issue is one upon which States Members will have very personal views. To that end, should it be the consensus of the States that parents should, for example, have unrestricted choice in the surname of their child, then that would cause no particular difficulty for the department. However, in exercising their discretion on behalf of the public, it would be reasonable to expect States Members to be fully cognisant of all of the issues involved. This is not a simple matter, as is borne out by the comments from the Education and Home Affairs Scrutiny Panel. I will return, Sir, to the matter of choice when we come to the specific amendments and the alternatives which have been proposed by the Deputy of St. Martin. Sir, the Deputy's report makes reference to the non-legally binding Council of Europe recommendation 1271, which: "Seeks to ensure equality between mother and father in the passing on of a surname to their children." I have circulated, Sir, for the benefit of Members, the full text of recommendation 1271. Paragraphs (a) and (b) expand on the recommendation. It is the case, however, Sir, that both the proposition of Home Affairs and that of the Deputy of St. Martin would meet the objective set out in the recommendation. The use of the expression "passing on" in the title suggests that the recommendation does not go so far as the completely free choice of surname; that is a surname other than that of the mother, father, or combination of the 2, as it is difficult to see how you could pass on what you do not have. It suggests that a surname linked to the parents is anticipated. That would not, of course, Sir, mean that a totally free choice is wrong; merely that it is not required by the recommendation. Although a default position is essential for any system, it should be remembered that the child's name is not necessarily fixed for all time by birth registration. Re-registration is possible in some

circumstances under Articles 56 and 57 and there is the possibility of deed poll by parental agreement, or when the child reaches majority. What is being fixed by the proposals is the child's registered birth name, a necessary process in the absence of agreement. Detailed discussion on the possible options for the default position will take place in another part of the debate. In summary, both the proposals from Home Affairs and the Deputy's proposals meet the criteria of the Council of Europe recommendation. In addition, the proposition of Home Affairs has undergone a thorough human rights' audit by the Law Officers and has been deemed compliant. I should now like, briefly, to refer to the comparative work carried out by the Home Affairs Department in reviewing the legislative position in other jurisdictions, particularly in European countries. Members may like to refer to the table just circulated. It is apparent that there is no European or international standard in these matters and the European Court of Human Rights has said that convention states should be allowed a wide margin of appreciation. Furthermore, it is important to note both the letter of the law and the practice, as the 2 are not always congruent. Firstly, at one end of the continuum, there are no legal restrictions on the choice of name in England, Wales, Scotland and Northern Ireland. However, further inquiries in these jurisdictions suggested that either the father or mother's name would be the norm and that registrars often sought to question the intended use of names which were clearly objectionable or frivolous. This occasionally put registrars in the position of having to challenge a parent's choice, which is clearly undesirable. There are varying restrictions on surnames in Guernsey, Ireland, Spain, Switzerland, Germany, Austria, Holland, Portugal and Poland, for example. In Guernsey, the father's name is taken for married couples and, if unmarried, it is the mother's choice. The rule in Ireland is similar to that proposed in the amendment from Home Affairs. While, for example, Sir, in Poland, Sweden, Holland and, indeed, Guernsey, those provisions are more restrictive than the Home Affairs' proposals. I can, of course, explain the position in other countries cited if Members wish, but I will mention particularly the position in Switzerland, which gave rise to an E.C.H.R. (European Court of Human Rights) ruling mentioned in the Home Affairs' report, and because of the relevance to Jersey, briefly, the position in Portugal and Poland. In Switzerland, if parents are married, the child would bear the parents' surname, usually the father's, or the surname that the parents use. If the parents are not married, the mother's name is registered. In the particular case of *G.M.B. and M.K. v Switzerland*, the court drew attention to the fact that the family name posed no inconvenience to the child and that the purpose of the legislation was to unite families under one name. It also acknowledged that there was little common ground among convention states, and that therefore respondent states should be allowed a wide margin of appreciation. The ruling in the Swiss case therefore refutes the argument that restricting choice is not compliant with human rights' principles. I appreciate, however, that States Members will hold individual views as to what freedom of choice should be afforded to parents and what weight should be given to protecting the interests of the child in this matter. It is this balance between the rights of the parents and the interests of the child which will be at the heart of the debate on the amendments to be proposed by the Deputy. Members should also be aware that some of the amendments brought by the Deputy will have undesirable, unintended consequences, which we will get to later. In another example, in Portugal, a child has 2 surnames; the first surname is the mother's and the second is the father's. The child must always be registered with one of the father's 2 surnames and remember that a person usually has 2 surnames in Portugal. Whether the parents are married or not, the child is registered with the father's surname, the normal practice being that the mother's name precedes the father's name. The mother's name is optional, but one of the biological father's 2 surnames is obligatory as the last name. The choice, therefore, Sir, is limited and the child must always have the father's name when it is registered. In Poland, married couples registering a child's name are required to use the husband's name, unless they make a written declaration stating that they wish to use the wife's surname. Where parents are unmarried, the child will have the father's surname, unless the parties agree that the child should have the mother's surname. Where the father's identity is not known, a child will be given the mother's surname. If there is a dispute as to paternity, the court, on establishing paternity, will give the child the father's surname. Again, the choice is not a free one.

At this point I should like to mention how public views have been taken into account on putting together this proposed amendment. As I mentioned before, changing the law was under consideration before the *Moran and Kemp* case became the subject of a judicial review. The case did, however, give rise to extensive media coverage over many months in which the arguments for and against reform were rehearsed many times. Despite the publicity, Sir, only 15 people have contacted me in writing or by e-mail to advocate any view about reform or not reform. Only 3 couples said that they wanted an absolute choice, an unrestricted choice. Given the extensive publicity, the Education and Home Affairs Scrutiny Panel also held a public hearing on the proposed amendment on 16th May. One member of the public attended. For its part, the Scrutiny Panel examined the issues involved thoroughly and these are analysed in their report, but they have expressed no views as to whether to adopt either my position, for the Home Affairs Department, or that proposed by the Deputy of St. Martin. Members will note that the financial implications relate to the Parish of St. Helier, rather than to the States *per se*. Having consulted with the Constable of St. Helier and his staff, there are potential financial implications attached to this amendment which it is proposed should be borne by parents by way of a re-registration fee. However, much will depend upon on the extent of the additional workload on a staff of 2 in the St. Helier Registrar's Office. It is unlikely to affect other Parishes where the number of births registered is negligible. Bearing in mind that re-registration would be permissible as proposed in respect of registrations of births since the introduction of the 2001 Law, and to cater for the possibility that temporary staff would need to be employed, the Connétable of St. Helier would like the fee to be £50. This compares favourably with the typical cost of arranging a deed poll, which can be around £200. A deed poll is a statement on a specific form, signed, witnessed and passed by the Royal Court. The deed poll is then registered at the Judicial Greffe at a cost of £50. Sir, the staff of the Judicial Greffe cannot give guidance, or legal advice, on the possible ramifications of a name change in terms of Wills, ownership of immovable property, and so on, so quite often lawyers are involved. The increased workload for the Registrar of St. Helier will be pretty much the same, whichever option is adopted by the States: either that proposed by Deputy Hill, or that proposed by the Home Affairs Department, except, perhaps, in terms of how far it should apply retrospectively. It is difficult to predict the number of re-registrations that might be requested; however, a 6-month survey was recently carried out by the St. Helier Registrar. Parents registering children were asked whether, if they had a greater freedom of choice, they would be inclined to re-register their child. On the basis of the responses and extrapolating to numbers back to 2002, around 1,000 re-registrations would be requested. Clearly, if the States chooses to backdate the facility beyond 2002, the numbers would increase further. I suspect that were the amendment to be passed the actual number of parents who will apply to re-register their child's surname will be less than the numbers estimated from the survey, but it is impossible to say with any great certainty. The likely effect on such a small staff at the St. Helier Registrar's Office is of concern to the Parish, should the law be made retrospective beyond 2002. Sir, civil registration has a vital role in securing and protecting basic human rights. It provides an individual with a name, an identity within society, evidence of parentage and evidence of entitlement to inheritance. It is for such fundamentally important reasons that I believe that States Members are entitled to debate and weigh-up the arguments about parental rights versus the interests of the child in striving to make our law on birth records contemporary. The position taken by the Home Affairs Department and the amendments being brought by the Deputy of St. Martin will allow Members to decide according to their own conscience. In doing so, Members will want to bear in mind that there is no European or international standard of civil registrations and will take into account the view of the European Court of Human Rights that contracting states should be allowed a wide margin of appreciation in these matters. Sir, I propose the preamble to the Bill.

The Greffier of the States (in the Chair):

Are the principles seconded? [**Seconded**] Just perhaps as I call the first speaker to speak, I could just mention that as the Minister has mentioned, there are a large number of amendments where

most of the issues will be covered; perhaps we do not want to re-run the debate under the principles and again under the amendments. Members are of course free to speak under the principles, but I do hope Members will bear in mind that all of the various options will have to be debated under the amendments anyway.

8.1.1 Senator B.E. Shenton:

I will be brief and I probably will not speak under the amendments. I received a letter from a local lawyer concerning this legislation and he summed-up in 3 short paragraphs what Senator Kinnard has just told us. What I would like to do is just read out these short paragraphs because it gives a good understanding of what we are looking at: “The proposition and amendments deal with the registration of children at birth and, in particular, the surname they can take. The current situation is that the legitimate child must take the father’s surname and the illegitimate child, the mother’s maiden name. The Minister’s proposition attempts to liberalise the position somewhat by allowing the parents to jointly agree that any child, whether legitimate or illegitimate, may take the mother’s maiden name, the father’s surname, or a combination of the 2. It does not allow a woman to pass on her actual surname, rather than her maiden name. Where married parents do not agree, a child will take the father’s surname. Where unmarried parents do not agree, the child takes the mother’s maiden name. Deputy Hill has lodged a series of amendments to the Minister’s proposition. In broad terms, these amendments give parents a free choice of surname, as long as they both agree. It also changes the default position where parents do not agree so that a legitimate child can take both parents’ surnames as a double-barrelled name and that an illegitimate child takes the mother’s actual surname rather than her maiden surname. As a lawyer who often deals with matrimonial matters, I welcome this attempt to liberalise the law and, in particular, Deputy Hill’s suggestion that parents should have a free choice of surname. I can quite understand why parents might wish to have a little more choice and freedom in this area to do justice to their family history.” In other words, I will be supporting the proposition and I will be supporting the amendment.

8.1.2 The Deputy of St. Martin:

In July 2001, the States approved the Marriage and Civil Status (Jersey) Law 2001, which was intended to mirror the English law in relation to the naming of children. Unfortunately, the necessary clause was omitted and the restrictive customary law position has remained in force. Therefore, it could be said, it is not before time that Home Affairs is now seeking to address the omission. I certainly concur with the Home Affairs’ view that proposed legislation is of social importance. In the penultimate paragraph at page 4 of its report, Home Affairs states that its proposed amendment had been under consideration since before the matter became the subject of a court case. Sir, what Home Affairs is proposing will remedy the prolem that arose in the court case. Unfortunately, while Home Affairs’ proposals are welcome, they appear to have been rushed and have not taken the opportunity of addressing a number of issues which will continue to cause a great deal of distress to parents because of unfairness and inequality in the law will continue unless they are remedied. To rectify the unfairness and inequality, I believe that 6 further changes to Home Affairs’ amendments are necessary. When taking my amendments into consideration, we should remind ourselves of our human rights obligation and, in particular, discrimination between men and women. The amendments, in most part, are not amending the present law, but are introducing an additional article to the law which was omitted when the 2001 Law was approved. If the amendments are approved, they will be shown as Article 59A. I note the Minister’s comments which were recently lodged. She takes issue with my comments regarding human rights. Unfortunately, the Minister had not explained in her comments, or in a proposition, why she believes the proposals are human rights compliant. That is systematic of the problem the States have to live with because Ministers do not have to state why the law they are proposing is human rights compliant, albeit I do accept what the Minister for Home Affairs said this afternoon. The amendments shown on page 3 of my proposition can, and probably will, be voted on independently. I hope that Members will support all of them because they offer parents choice and equality, not

only on occasions where they agree, but, just as importantly, when they do not agree. Members will have read the comments lodged by the Education and Home Affairs Scrutiny Panel and it includes a very important comment in paragraph 1(2): “It is evident this topic could lend itself to a detailed review; however, the panel’s work programme does not allow this.” Sir, from my amendments’ perspective, it is unfortunate a review was not conducted because had the panel carried out the research I have conducted, they would have found the evidence to support my amendments. However, the Minister has recently circulated a spreadsheet outlining birth registration procedures in a number of European countries. The spreadsheet is particularly helpful to my amendments because they show how flexible the laws are outside our Island; although not included in the spreadsheet, I would like to include Liechtenstein. I have friends over there and on checking their law I am told it is as flexible as the U.K.s. However, we shall go into those details later. Irrespective of the merits of either set of proposals, they are of great social importance. I therefore ask Members to speedily support the preamble so that we can give due time and justice to both sets of proposals which are rather complex, but are of paramount importance to all parents and children. To assist Members, you will note that the usher has distributed a flowchart which I hope will help Members. Thank you, Sir.

8.1.3 Deputy C.J. Scott Warren:

I welcome the fact that a child of unmarried parents will be able to have the father’s surname with mutual agreement under, I believe, both the proposition and the amendments. To me, Sir, this is one of the most important changes for the child’s sense of identity.

8.1.4 Deputy R.G. Le Hérisssier:

Just on what looks like a minor point, but in fact is not, I notice the Minister wants to make this retrospective. This, of course, is usually a no-no and although I think we all know why this is the case, I wonder if she could put the reasons in the public domain? Thank you.

8.1.5 Deputy S.C. Ferguson:

Just one small clarification, if I might, and with great respect to the Minister, doing a deed poll on a name only costs £200 or £300 if you use a lawyer. It is quite possible to go and see the Judicial Greffe, get the forms and do it all for about £50.

8.1.6 Deputy D.W. Mezbourian:

I welcome the comments of the Minister when she made reference to the Scrutiny Panel’s comments that we ourselves put before the House and I note the Deputy of St. Martin referred to them and the fact that we had not undertaken an in-depth review. I am sure the Deputy knows the pressure that Scrutiny Panels face with their workload. Indeed, I believe he is able to bring such amendments as he has done today, possibly because he no longer sits on a Scrutiny Panel. Having said that, Sir, Deputy Le Hérisssier raised the question of retrospective legislation and that it is normally a no-no. Sir, it is something which is causing me great concern regarding this proposition. The Minister herself mentioned in her preamble that this amendment seeks to treat equally those couples who are married or unmarried, and, indeed, that may be the case, but if this is passed retrospectively to 2002, my question would be where is the equity for those who have not had this choice in the past and for those who may want to have had the choice prior to 2002? I ask the Minister to address that when she deals with the question posed by Deputy Le Hérisssier. I make these points, Sir, while at the same time acknowledging the social importance of couples, be they married or unmarried, to decide for themselves the name that they want to give to their children. Thank you, Sir.

8.1.7 Senator P.F.C. Ozouf:

I was not the rapporteur for the Marriage and Civil Status Law when it originally came to the States, but I was the President of the Committee that was responsible for it. I can tell the Assembly

that I for one was quite clear about the intentions of that original law. What I would say to Deputy Le Hérisier and to Deputy Mezbourian is that I would agree with them and no doubt all Members that, generally speaking, we do not like, and we should not pass, retrospective legislation. I would, with respect - and obviously we are going to deal with the principles of the law later - say to those Members that it is somewhat different. This is permissive; it is not passing a piece of income tax legislation or piece of legislation which changes something. It is a permissive piece of legislation which allows somebody to make an application to register a child in a certain way which they must submit an application for. It is not a coercive piece of legislation like other legislation is. The other absolutely understandable question is why 2002? There may be some case for saying that the original Etat Civil Law was wrong and did not give people the rights that they would. This Assembly changed that situation and, to my mind, there was certainly a lack of clarity in relation to what that meant. What this is doing is it is effectively retrospective in terms of bringing us back to the position that I thought my Committee was bringing forward to this Assembly. It is not quite retrospective in the normal extent to which retrospective legislation. I fully support the preamble and no doubt we will deal with the substantive issues later on.

The Greffier of the States (in the Chair):

I call the Minister to reply.

8.1.8 Senator W. Kinnard:

I am very grateful to everyone who has spoken. Everyone seems to be in favour of some reform. We will get to the extent of the reform, I think, in the substantive debates on the amendments. I was asked a number of questions. Senator Shenton really, I think, asked a number of questions which will be covered in the various debates in relation to that letter, but he ultimately supports both the sets of proposals for reform. The Deputy of St. Martin: I am very grateful to him for bringing these amendments, as I have said in my opening speech. The debate will, as I say, tease-out the extent to which Members wish to go in making that reform. I am pleased that he accepts now that both sets of proposals are human rights compliant. Deputy Le Hérisier asked particularly about the retrospective nature of the legislation and others have made that point too. The reason why Home Affairs are recommending backdating the law to the start of the 2001 Law is twofold. Firstly, there are fewer practical difficulties if backdating is limited to the 2001 Law, and I have taken on board the comments of the St. Helier Parish registrars there. Most importantly, Sir, prior to 2001, prior to that Law, no-one really could have argued that there was any right to register the child with any specific surname because the form of entry in the register provided up to then was for only forenames of the child, whether the child was legitimate or not, to be recorded. It was only after the 2001 Law and after the new forms for registration came into force in 2002 that the situation became uncertain because in the new form there was an entry which included the column headed: "Forename and surname of child." I would also say that I take very much the point of Senator Ozouf that in making this Law retrospective it is a permissive piece of legislation. People are not being forced to do it; it is offering them an opportunity. It is permissive and not coercive. I think, therefore, really it is justifiable in that sense. Deputy Ferguson made reference to the cost of deed polls and, in fact, I made all of those points in my opening speech. Deputy Mezbourian, again, made the point about why are we only going back to 2001 rather than further back than that; I think I have made the point that I do not believe that prior to 2002, when the new forms came into force, that anyone could reasonably have expected that the law was anything other than it was. Sir, just with that, I would say I am grateful for Members' support so far and I maintain the principles so far in my opening speech.

The Greffier of the States (in the Chair):

I put the principles of the Law. Those Members in favour of adopting them, kindly show? Against? The principles are adopted. I understand, Deputy Mezbourian, this matter has already

been referred to your panel, so there is no further referral possible or required. Minister, I wonder if you could propose Articles 1 and 2 just before we come to the amendments?

8.2 Senator W. Kinnard:

Taking Articles 1 and 2 of my amendment to the Law, Article 1 defines the Marriage and Civil Status (Jersey) Law 2001 as the principal law, while Article 2 amends Article 11 of the principal law, so as to reduce from 3 to 2 the number of working days that must elapse between a person requesting the issue of a marriage licence and the marriage being solemnised. This amendment is proposed for purely practical reasons and to help, particularly, couples from outside the Island who come to Jersey to get married. Under the present arrangements, where a public holiday falls on a Monday, couples are required to obtain their licence the preceding Friday and then stay for the rest of the following week before getting married. The amendment I am proposing would allow them to arrive at the weekend, get their licence on a Tuesday, and then marry on the Thursday or Friday, providing for greater convenience and less expense for the happy couple concerned. I propose Articles 1 and 2.

The Greffier of the States (in the Chair):

Are the Articles seconded? **[Seconded]** Does any Member wish to speak? I put Articles 1 and 2. Those Members in favour of adopting, kindly show? Against? Articles 1 and 2 are adopted. Then you propose Article 3, Minister.

8.3 Senator W. Kinnard:

Article 3 inserts into the principal law a new Article 59A entitled: "Surname of the child." This introduces a new entitlement for the father and mother of the child jointly to choose a surname for the child. However, the choice is limited to the father's surname, the mother's maiden surname, or a combination of the 2. If the parents are not married, the father must be recorded in the register as the child's father in order to join in the registration of the surname. There is a default position specified if the parents do not jointly make a choice under paragraph 1. The default position is that a child born to a married couple is registered with the father's surname, and a child born to parents who are not married to each other is registered with the mother's maiden surname. Sir, as there are going to be a number of amendments, I will propose Article 3.

The Greffier of the States (in the Chair):

Is the Article seconded? **[Seconded]** As you say, Minister, there are a number of amendments and, firstly, I think the Assembly needs to take amendment number one. I ask the Greffier to read that amendment.

The Deputy Greffier of the States:

Number one, on page 9, Article 3: in the inserted Article 59A, for paragraph 1, substitute the following paragraph: (1) the father and mother of a child may, on registering or re-registering their child's birth, pursuant to Article 51, 52, 55, 56, 57 or 58, choose the name to be registered as the child's surname.

8.4 The Deputy of St. Martin:

Before I begin, I would just like to remind all Members that we will come to the retrospective part of the Law and part of the fourth amendment, so if we would rather not concentrate too much on that at the moment, I could ask that we would come to that presently. As I say, this amendment deals with parents, whether they are married or unmarried, and agree on the name of their child and it is on the flowchart, first on the left. Under the Minister's amendments a child can only be given a mother's maiden name, a father's surname, or a combination of those 2 names. In my view, the amendment is too restrictive and it should be changed to allow the parents to jointly choose any surname. In the Minister's spreadsheet, Members should have noted there is not one of the

countries listed that requires parents to record their children in the way Home Affairs are proposing. The laws in those countries are similar to what I am proposing. The Minister appears to reject the idea of a free choice because she is concerned that a small number of parents will choose a celebrity or a whimsical surname for their child. In the U.K., the parents have had a free choice of surname for many years and I have been in touch with the U.K. and there is no evidence to support the Minister's fears. In the Minister's spreadsheet, one will note that the Isle of Man records that their office has never known parents to choose a surname which is different from theirs. Furthermore, parents in Jersey are already free to change their child's name by deed poll to any surname and there is no evidence that parents have used this facility to give their children celebrity or whimsical surnames. Even if parents do choose a whimsical or celebrity surname, while some of us might disapprove, there is no evidence it will adversely affect the interest of the child. If parents look outside their own surnames when naming their child, it will be for a good reason. Here are some good examples when parents may wish to have a bit more freedom than is currently being offered by Home Affairs. Firstly, other countries have naming traditions that do not involve passing on the parents' surnames. For example, in Iceland, a child's surname is made of a parent's forename, plus a different suffix for a boy or a girl. Thus, the son of Magnus takes a surname Magnuson. Members may feel that naming traditions in Iceland are a bit irrelevant in Jersey, but I happen to know there are a few people living in Jersey who come from Iceland. To my mind, there is no reason why people from different traditions should not be allowed to follow those traditions, even if their child is born in Jersey. Secondly, sometimes it is just known before a child is born that their natural father will not be the person that brings the child up; this may be because the child was conceived following a rape, or a brief liaison. It could happen where fertility problems cause a couple to use sperm donation. In any of these circumstances, if a woman's partner agrees to bring up the child as his own, I can see no reason why the child should not be given his surname, even if it is not recognised as the father on the birth certificate. Thirdly, where a woman is divorced or widowed, she may still wish to pass on her married surname to her child, rather than her maiden surname. There is something of a perception that when a woman gets married that she takes her husband's name and she is simply borrowing it for the duration of the marriage. That perception is wrong. A woman who is divorced or widowed is entitled to retain her married name for as long as she wants. It is her name as much as her former husband's and she is under no obligation to give it back. A particular reason for a woman keeping her married surname, even after she has been divorced or widowed, is that if she wishes to retain the same surname as her children. In that situation, she may also wish to pass on her surname, either by itself or a combination with her father's surname, to any new addition to her family. If the Minister is truly concerned about family unity then she should support my amendment which will allow all children in the family to share the same surname. The Minister states that her proposal may be construed as: "The States knows best." With respect to the Minister, I believe it is the parents' right to choose the name, not the Minister's or the States to claim that it knows what is best for the child. I submit that the Minister's amendments are based on what she thinks parents are thinking because there is no record of Home Affairs conducting any consultation before lodging this proposition. When the Minister appeared before the Scrutiny Panel and was asked whether she had any evidence to substantiate the perceived problems in the U.K. or elsewhere, she listed a number of unlikely occasions that could arise, but, importantly, was unable to offer any evidence to support the allegations of abuse. Finally, the family history point. At present, parents can change their children's name, or surname, by deed poll. This means that throughout his or her life, a child will be known by the name other than what is on their birth certificate. This discrepancy will only make life more difficult for future generations tracing their family history. As a result, giving people a free choice of surname will reduce the number of deed polls and make their life easier for future generations tracing back their roots. Sir, I propose the amendment.

The Greffier of the States (in the Chair):

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

8.4.1 Senator W. Kinnard:

I will deal first of all with the issue of consultation. Indeed, there was consultation because, in fact, in the helpful chart that I have sent around, the series are undetermined by the data: it both supports, in some ways, what the Deputy has to say; it supports, indeed, what my amendments have to say. I would say, in terms of consultation, it says here that in fact a number of registrars were in fact consulted directly on the matter and a number of them did express some reservations and did give examples of instances where they felt that inappropriate choices have been made. Also, Sir, I did in fact consult, of course, with the Education and Home Affairs Scrutiny Panel, but also, indeed, with the Dean and a number of church leaders. I had correspondence with them, with the Superintendent Registrar, with the Parish of St. Helier and their staff, with a number of members of the public, indeed with Dr. Moran back as far as 2003. Dads 'R' Us, indeed, also communicated and various other people had some reason to consult me on this particular issue. The idea that we did not undertake any consultation is nonsense. The Deputy of St. Martin: I will deal, first of all, with some of the general aspects. He argues that the amendment being proposed by Home Affairs is too restrictive and should be changed to allow parents of a child to jointly choose any surname. I have also heard from, earlier on in the debate, Senator Ozouf, saying what he thought was in his mind at the time when he was the President of the Etat Civil Committee bringing forward this legislation. However, Sir, I do not believe that the States would have allowed the matter to pass without having the intention made clear to it at the time that the intention under the Law was to allow an entirely free choice. I do not think the States at the time would have allowed that to pass by them without having substantial debate on the issue, much as we are having today. I have given some of my reasons already in the preamble for proposing a limited choice. Again, I would add further that the European Court of Human Rights has agreed a wide margin of appreciation illustrated again by the circulated table, because it does recognise that in each individual contracting state there will be a particular relationship between law, history, common practice, and what are thought to be community values. I have to say, Sir, that perhaps half a dozen couples have contacted me over the issue, most wanting to choose the father's name, where they were unmarried. Only 3 couples have expressed a desire for the law to allow a complete freedom of choice, although they indicated that even then, they themselves were likely to choose either the father's name or joint names of the mother and father. In deciding how to vote, Members will need to weigh-up in their minds what weight to give to a minority of cases, versus what Members consider what the wider community values and expectations might be. Some of the criticisms that have been expressed to me about the option of giving complete freedom of choice for the surname have included potential administrative and legal hurdles, or difficulties for the child with a name which might be unrelated to the parent, a potential for the child to begin to perhaps suffer something of an identity crisis when children begin to question their roots if their name is unrelated to the family, and the possibility that where names are unconnected, that this may contribute to an eroded sense of family solidarity and unity within the community. The idea of allowing a free choice of surname does open up the possibility of children being given surnames on an impulse, or because of a particular craze. The Registrar could be faced with an instruction by either parent to register any name and he could not refuse under this amendment. Every child in the family could have a different surname, parents could invent surnames or choose, indeed, the names of celebrities. In every case, the Registrar would be bound to register. In the Deputy's amendment, the discourse in respect of human rights is centred very much on the rights and freedoms of parents and it reflects the view that somehow children are owned by their parents. I think that we not only need to focus on parental rights, we also need to think about parental responsibilities. The United Nations Convention on the Rights of the Child, Article 3, has as one of its underlying principles that the best interests of the child must be a primary consideration in all actions concerning the child. Although we often act as if parents normally know what is best for their child, that is not an absolute. There are a number of circumstances when society does limit parental freedom for the good of the child, such as in child protection, the compulsory education of children until school-

leaving age, and the employment of children. Not only should we be on our guard against the State abusing the rights of citizens, it is also important to recognise that rights may be abused by individuals against other members of society. This can be particularly true of children because they lack autonomy and their lives are substantially circumscribed by the adults who have responsibility for them. There is an onus on the States of Jersey to have regard to their best interests. It seems to me, Sir, that Members must vote according to their conscience, bearing in mind the reasons that I have given, and the fact that there is no European or international standard in these matters and, taking into account, what the European Court has said, that States should be allowed a wide margin of appreciation. Sir, the Deputy also referred to a particular example where he said that why could a woman not pass on the name that she is using if she wishes to choose to do so? Sir, that particular issue will come up again in the amendments, so I will not go into detail there. I think, Sir, the point is well made. We are being offered here, as Members today, on behalf of the community, to decide whether to allow an absolute free choice in the choice of surname, or whether to choose one of 3 options: mother, father, or a combination of both. That is all I have to say on the matter for the time being.

8.4.2 Deputy G.C.L. Baudains:

I find myself agreeing with much of what the Minister for Home Affairs has just said, Sir, and I made a note while she was speaking of some of the main points: children are not being owned by their parents, parental responsibility, rights of the child, possibility of a large family with the children all having different names. I must say, Sir, I have a problem not only with this amendment but with the proposition as a whole, Sir, amended or otherwise, because it seems to me that a birth certificate should be a statement of fact, not a fashion statement. It does occur to me, Sir, that under the Deputy of St. Martin's amendment - which just goes to prove that we do not vote as a party along this bench, Sir - **[Laughter]** parents could choose any name, Sir: Marlina Dietrich, Harry Worth, or whatever. **[Laughter]** You could even have Muddy Waters there as your name, yes. It raises 2 issues: will that name still be fashionable when the child grows up? More importantly, how will researchers in the future, which could very well be the children themselves, ever be able to trace ancestry or construct a family tree or anything of that nature? It is hard enough already. As I said, Sir, there are a number of changes proposed and I really do not think I can go with any of them as I said when I started out, the amendments or, indeed, the main proposition because, in my view, whether a child takes the father's name, the mother's name, or a combination, it is not the issue. What I am concerned about is not changing the system because, to me, it is all about roots. In today's fragmented society, surely the last thing we need is yet more disconnection, Sir. I am against the entire thing.

8.4.3 Deputy R.G. Le Hérisier:

I reached entirely the opposite conclusion to Deputy Baudains and I was very surprised to hear the Minister for Home Affairs - card-carrying liberal that she is - writing an editorial which would have sat very nicely in *The Daily Mail*. I thought the kind of issues she brought up, Sir, about almost social breakdown if people did make a free choice, when all the evidence from other jurisdictions is that, for the most part, people stayed within very traditional parameters, I thought was totally scare tactics, quite frankly. I am very surprised that she should have been using arguments that fitted more comfortably with my colleague in the back here, Sir. As far as I am concerned, I will be supporting the amendment to the amendment. I think these are total scare tactics. The notion that the whole structure of the family, of society, and, indeed, world civilisation is going to break down because people are given this choice is just preposterous.

8.4.4 Senator B.E. Shenton:

I just want to reiterate what Deputy Le Hérisier said. There is absolutely no evidence to suggest that people will pick stupid names for their child. I think without the amendment this is just restriction for restriction's sake. I think you do have to have legislation in the best interest of the

child. I went to school with 2 individuals, one from the U.K. and one from the Mediterranean, both had double-barrelled surnames, both taking their grandmother's maiden name and their father's surname because of tradition. I think there should be complete freedom for the parents that should not be imposed by the Government.

8.4.5 Deputy C.J. Scott Warren:

The one concern I do have about the amendment is that in the unlikely, but still possible, event of parents choosing, as it says here, objectionable or rude surnames ... I notice it says: "Forenames", but how much would the Registrar ... how much say, how much influence, if any, could he or she have? Thank you, Sir.

8.4.6 Deputy J.A. Martin:

Just briefly, Sir. I think I am absolutely 100 per cent going to support the amendment. I just want a clarification because I think it has all been indicated. I do think sometimes we treat the general public with contempt and comments about fact of statement on what is on a birth certificate, well, are we D.N.A. (Deoxyribonucleic acid) testing everybody now? I do not think so. People who choose names for their children normally do it with the best intentions. My question is, if we do not follow the amendment, a married woman has 2 children and they take the married surname, obviously, if agreed, under the Law as it stands today and under the amendment; if the amendment is not passed, the married woman then separates and divorces husband and goes on to have a, say, brief liaison or even something that does not work out and has another baby. I think if we do not pass the amendment, automatically, that child must then take the mother's maiden name. I am sorry, but that child will then ... you will have 2 whatever and a third child, or even a second child who will not be able to have the name because there will be no agreement with the father. The default position, as I understand it, without the amendment, would be that the child would have to be registered in the lady's maiden name, although, for the last 10 years she had been known by her married name, the same as her 2 children. I think we are making heavy weather of this, as we always do. When we passed the Marriage Law, and I did miss this one - I really should have brought an amendment - we still do not allow people to come to Jersey and get married on a beach. The explanation then from the Solicitor General was they might not be able to find them on the beach. I am sorry, this is about ... I will bring back an amendment because I really do think people would love to get married on some of our beautiful beaches. I will support the amendment. As I say, the way I read it, it is discrimination against people who have children from different fathers and that is the right of the child to have the same name as its siblings. Thank you, Sir.

8.4.7 Senator P.F.C. Ozouf:

I am delighted to follow my fellow, friendly Deputy, who is obviously having the same liberal views as I do. She is absolutely right about the need to evolve legislation and the Marriage and Civil Status Law - not a matter before this Assembly - does need evolution. I do not criticise Senator Kinnard for opposing these amendments; she is right to point out to the Assembly that the original intention - we thought - of this Assembly was to give a limited choice of the name of the father or of the mother for unmarried couples. We are given the opportunity, with the Deputy of St. Martin's amendment, to widening that and that is a perfectly legitimate thing to do. We do evolve; legislation, custom and practice does evolve. Maybe back in 2001, when this legislation was debated, the whole concept, dare I say it, to single-sex relationships and marriages would not be acceptable; now, the world has changed. I am not saying that I agree in the marriage issue, but certainly single-sex relationships - stabilising relationships - the world is changing, but we are becoming a more accepting, a more liberal place. In my family, Sir, there is a tradition of having the eldest son named, in the first name, of either Philip or Francis. There is no legislation for that. Should there be? I am not a card-carrying liberal, but I am a liberal. I generally think that there should only be rules of Registrars and other intervention where there is a proper case. We are a multi-cultural Island; we should be proud of that. We have different people from different

traditions and I do not think that crafting a piece of legislation that simply gives what the Minister was proposing is wide enough to allow individuals from different cultural backgrounds to adapt and have those different surnames. The Deputy of St. Martin cited Iceland; we do have some Icelandic residents. There are other nationalities that have different traditions. There should only be an interventionist arrangement when there is a good case. Is there a good case? I think, with respect, those people that have argued against it are engaging in slight scaremongering. There is no evidence from other places that people have abused the ability to choose the surname of a child. For that reason, I will be supporting the amendment to the Deputy of St. Martin. I do not know whether he said originally, but I was prepared to bring these amendments myself. In relation to the final issue of Deputy Baudains and whether or not you should work out whence you come from, in terms of your parents, I am not sure the Deputy has visited the Registrar in terms of doing any family history arrangements. It is perfectly possible to understand who your parents are because it is on your birth certificate: your mother, and your father, and their profession. Irrespective of the name you are given, you do not need a family tree. I will be supporting the amendments.

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

I was interested to see that the grumpy old man party behind me was split on this, Sir. [Laughter] No insult intended, Sir. I think Members must recognise that what the Minister was attempting to say, and said very eloquently, it is the welfare of the child that is paramount here, Sir. I think there have been arguments given on both sides in favour of that and I do accept that. I have to say that the middle ground that the Minister is attempting to take here is most definitely in favour of the welfare of the child, which I believe firmly is paramount. I am sure all Members would agree the same. Also, the majority of jurisdictions do have some form of restrictions, Sir, and there is a good reason for that. They would not have done that frivolously; they would have done their own research too. Society often does have legislation in place to protect children that some could accuse as being a nanny state and I do not really believe this at all, Sir. I think this does take the middle ground. My own family, Sir, we have the tradition of including my mother's maiden name within my children's name but as middle names, and that can be done too, Sir. There are other ways of doing this within the legislation. It does have some flexibility. I would urge Members, Sir, to consider very carefully this amendment because it is open to abuse. All we are simply attempting to do here, Sir, is take the middle ground, protect the welfare of the child and ensure that everybody has a fair and reasonable say over the naming of their child. Thank you, Sir.

8.4.9 Deputy I.J. Gorst:

Some of those speaking who have been supporting the Deputy of St. Martin's amendment have been saying: "If we do not support it, it will not really be the great collapse of Western society, and therefore we must just get on and allow freedom of choice." That is quite right, Sir. I do not believe that it will be a great collapse of Western civilised society. What I do think it will be is another small chip away at both family life and community cohesion. We already live in a society where Christian names, or first names, have very little meaning. What we will be doing by accepting this amendment is doing exactly the same and removing any meaning also from surnames and from family names. The proposer said that we, or my interpretation of what he said, should change our tradition to allow for others who might move to our Island to carry on their tradition, in effect, allowing other traditions to subsume our own traditions. Sir, I do not, for one, believe that we as a society should do that. We should be proud of our traditions; yes, allow other traditions within our society, but certainly not subsume our traditions to theirs. Sir, I cannot support this amendment. I believe that it would allow for frivolous surnames and it would, in my opinion, remove another small part of family life and community cohesion. Therefore, I will not be supporting it. Thank you, Sir.

The Greffier of the States (in the Chair):

Does any other Member wish to speak? I call on the Deputy of St. Martin to reply.

8.4.10 The Deputy of St. Martin:

I thank all those who have spoken for - particularly those who have spoken for - and those who obviously have not posed a view. I think, as the Minister said, what we have got this afternoon is choice; people voting as they feel fit. What I would ask, at the end of the day, is that we are trying to be as open and flexible as we can to meet a modern age. I will just pick off a few of the comments that were made. When I was referring about the consultation with the Minister, I was saying there was nothing recorded in the comments and in the proposition, when I was talking about consultation. Obviously, as a result of her presentation this afternoon, we have now heard about more consultation. Again, I have got to come back to this identity crisis. We have been creating the worst scenario. If those people who are speaking against this are looking for things, I have got to say, it is always possible. As Deputy Scott Warren has said: "It is always possible, but highly unlikely." I will just read out what I have got here from Guernsey. It says: "In answer to your question on chosen surnames, none of us can recall a parent ever requesting a surname for a child other than that of the parents." I can say the same thing for the U.K. They talk about 700,000 births; however, it says: "However, I do not have any problems with children being given celebrity surnames." There is not a problem there. We have got the Isle of Man. I accept that the proposition does allow for it, but, again, the evidence is there to show that it hardly ever happens. I have got to accept - I would be wrong if I did not - there is always that outside possibility, but there is very little evidence to support it. I thank Deputy Le Hérisier, because he is quite right; we should be not concerning ourselves with scare tactics. My colleague, to the right - my former colleague to the right - talks about the worry about family searches. I think that was really answered by Senator Ozouf. It is not that difficult. It is better to be in the register than probably having a deed poll. Again, I support Senator Shenton. Again, thank you for reminding us; no evidence of abuse. Deputy Scott Warren probably asked the only question that needed an answer: how much influence from the Registrar? In the U.K., if there is a case where someone may well come up to us with a name which may not be in the best interest, that is then referred to the Central Office. Again, I can only produce the evidence showing that it hardly ever happens anyway. At the end of the day, if the Registrar is that concerned, to my mind - maybe the Solicitor General can assist me on this - if, indeed, a Registrar refused to name someone because he or she thought the name was being frivolous, what are the bounds for the Registrar? Could I ask whether it is possible to give us an answer on that? Would he be bound to register a name even though it may well appear to be frivolous?

Mr. Timothy John Le Cocq QC., H.M. Solicitor General:

I am afraid I would need a little bit more notice of that particular question to give a definitive answer, but the statutory changes that are proposed in the Deputy's proposition for an amendment do not anticipate any discretion resting with the Registrar and I do not think that there would be a discretion in those circumstances, taking the statute at face value. I am not aware of any residual discretion staying with the Registrar.

The Deputy of St. Martin:

I am grateful. The Deputy of St. John, as one would expect, as Assistant Minister for Home Affairs, would be supporting his Minister and he talks about middle ground. Okay, we will have that when they debate the Home Affairs proposal, should this one fail. To Deputy Gorst, what an old man. I thought we had someone... **[Laughter]** I say, the fellow Deputy of St. Clement, well, I never. I thought we had someone here looking for multi-cultural... looking to the future. Here is a man with great Jersey traditional roots and ... **[Laughter]** Never mind. I thank everybody and can I ask for the appel, Sir.

The Greffier of the States (in the Chair):

The vote is for or against the amendment number 1 and the Greffier will open the voting.

POUR: 21		CONTRE: 20		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator L. Norman		
Senator B.E. Shenton		Senator W. Kinnard		
Senator F.E. Cohen		Senator T.A. Le Sueur		
Connétable of St. Mary		Senator P.F. Routier		
Connétable of St. Helier		Senator T.J. Le Main		
Connétable of Grouville		Connétable of St. Ouen		
Connétable of St. Martin		Connétable of St. Clement		
Deputy R.C. Duhamel (S)		Connétable of Trinity		
Deputy of St. Martin		Connétable of St. Brelade		
Deputy P.N. Troy (B)		Connétable of St. John		
Deputy R.G. Le Hérisssier (S)		Connétable of St. Saviour		
Deputy J.B. Fox (H)		Deputy G.C.L. Baudains (C)		
Deputy J.A. Martin (H)		Deputy C.J. Scott Warren (S)		
Deputy S.C. Ferguson (B)		Deputy of St. Ouen		
Deputy of Grouville		Deputy P.J.D. Ryan (H)		
Deputy J.A. Hilton (H)		Deputy J.A.N. Le Fondré (L)		
Deputy D.W. Mezbourian (L)		Deputy of Trinity		
Deputy S.S.P.A. Power (B)		Deputy of St. John		
Deputy S. Pitman (H)		Deputy I.J. Gorst (C)		
Deputy A.J.D. Maclean (H)		Deputy of St. Mary		
Deputy K.C. Lewis (S)				

The Greffier of the States (in the Chair):

Deputy, I think you can propose amendments number 2 and number 5 together, I think they hang together, and I ask the Greffier to read those 2 parts of your amendment, so that is 2 and 5.

The Deputy Greffier of the States:

On page 10, Article 3: in the inserted Article 59A, in paragraph (4)(a) for the words “the father’s surname” substitute the words “subject to paragraph (6), a surname that consists of the father’s surname and the mother’s current surname, in their alphabetical order.” Paragraph 5, page 10, Article 3, in the inserted Article 59A, after paragraph (5) add the following paragraph: “(6) Where either the father’s or the mother’s surname is double-barrelled or otherwise consists of more than one word, only the second or, as the case may be, the last, of those words shall be used for the purposes of paragraph (4)(a).”

8.5 The Deputy of St. Martin:

I think before we came here this afternoon we just discussed the way in which this format would go and we will deal with this one as ... it is the second amendment and it will cover amendments 2, 5, 6, and they deal with the parents who cannot agree; this is where married parents cannot agree. The second amendment, which includes amendments 2, 5, and 6 ...

The Greffier of the States:

Six is consequential, Deputy.

The Deputy of St. Martin:

They will be consequential, yes, Sir.

The Greffier of the States:

Members, we are just debating 2 and 5 at the moment; 6 will be consequential if either 2 or 3 are adopted here.

The Deputy of St. Martin:

This relates to a position where married parents cannot agree upon a surname for their child. Under the Minister's proposal, where parents are married but cannot agree on a surname, the default position is that the child would take the father's surname. In other words, the married man has a veto on the child's surname. I believe in permitting a married father to have a veto is wrong. It would be equally wrong if a married woman had a veto. It is demeaning for the woman for her surname to be given less value than the man's. Her surname is obviously important to her as this problem will only arise where the woman has not changed her name on marriage and, thus, the parents have different names. As far as possible, married parents should be put on equal position. If they cannot agree, which is only likely to happen where they have different surnames and are not on good terms, then the child may take a combination of both surnames in alphabetical order. The mother's surname will be the surname by which she is currently known. In Home Affairs' comments, the Minister says that my amendments: "Would be to inflict double-barrelled names upon unfortunate children whose parents could not decide or agree upon the name of their child." Although this might be a compromise, it results in a couple's child not having the same surnames as either theirs and would not suit parents who have an aversion to the concept of double-barrelled names. I do not know what the Minister knows about people who have an aversion to double-barrelled names, but a number of people choose by their volition to choose to have a double-barrelled name, and I believe her Chief Officer is one of those. In France, parents can choose either the father or the mother's names, or both names coupled in the order they choose, within the limit of one family name for each other. In Portugal, the surnames of a child from married, single or divorced parents can be composed with one, 2 or 3, or to a maximum of 4 surnames of their parents' choice. This means that a child can have the surname of the mother or the father or both; it does not matter in Portugal whether you are married or not. It should be noted that not only do I have written evidence to support my claim, but the Minister has circulated evidence which I believe supports my amendment about the double-barrelled names. It appears that the Minister has no appreciation for the deep feelings that parents experience when they have difficulty with their marriage or their relationship. Unfortunately, parents do become irrational and their children will become part of a game where parents take steps to hurt their partners. At this time of stress, the law should be in place to ensure that neither partner has an unfair advantage over the other. Furthermore, the Minister appears to have no appreciation of the fact that in most cases where parents cannot agree, they probably do not live together. As a child is more likely to live with its mother, it is important that her surname forms at least part of the child's surname. While my amendment may be seen as a compromise, it will at least be fair to both parents and children. My amendment might lead to a combination of both surnames in alphabetical order. The Minister believes that my amendment seemed to run contrary to my general theme of freedom of choice. I could have suggested, of course, that parents toss a coin to decide the order of combination, but I consider the alphabetical order to be the most appropriate. However, I note that the Minister has not suggested an alternative method. Sir, I propose the amendment.

The Greffier of the States (in the Chair):

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

8.5.1 Senator W. Kinnard:

Can I just firstly say I really do not think ... I thank the Deputy for enabling us to have this debate and I think it is right that we do because it does affect all the community. I really do not think that it is appropriate for the Deputy to attribute such personal comments to me about whether or not I have any appreciation for feelings of various members of the community. I will just say that before we get too far down that line; let us just stop that. The Deputy of St. Martin's second amendment does cover the amendments 2 and 5 and it relates to the default position where married parents cannot agree upon a surname for their child. The Deputy asserts that a married father has a veto

and that this is somehow inherently wrong, but I am not sure why the Deputy has singled-out that position with married couples. He could equally have said that in the case of unmarried couples the mother has the veto, in that the child would be registered with the mother's maiden surname, if they do not agree. This assertion seems, therefore, to have little veracity, particularly as the same default practice is common in Europe. The real effect of the Deputy's amendment would be to inflict double-barrelled names upon children whose parents could not decide or agree upon the name of the child and we can disagree about the view about that. Although it may seem to be a compromise, it would result in a couple's child not having exactly the same surname as either of their parents. It would not suit parents who did in fact object to the use of double-barrelled surnames. It may help Members collect their thoughts if I related to them the outcome of an Equality Opportunity Tribunal case heard in New South Wales, Australia, which is particularly pertinent to the problems which can arise when parents cannot agree and there is a need for a workable default position. The case involved conflicting registrations made by the parents in respect of the birth of their child. The tribunal opined that it is important for a mechanism to be devised which will enable a child's birth to be registered with particulars of a surname. This gave effect to principle 3 of the United Nations Declaration of the Rights of the Child, which states that the child should be entitled from birth to a name. It also recognises the child's important right to an identity. Further, the tribunal concluded that the mechanism adopted should be administratively convenient and should not require the Registrar to resolve disputes or exercise his discretion, which is more properly the task of a family court. It was stressed that in the vast majority of cases the choice of a child's surname will be made by agreement between parents. In the case of disagreement, there are a number of ways in which the matter might be resolved with administrative convenience. In this case, 4 options for resolving disagreements were considered by the Tribunal. Option one involved a first-past-the-post principle; that is, whoever gets to the Registry first chooses the name of the child. This would militate against the mother, who may still be in confinement, or otherwise unable to get to the Registry Office before the father and, in itself, could be deemed a discriminatory practice. Option 2 mirrored the default position which the Home Affairs Department is suggesting, which was to register the father's surname if the parents are married, and the mother's if they are not. Although this option offends some people, the tribunal said that it reflected the custom in much of Australian society and provided an administratively easy solution for the very few parents likely to be in dispute. Option 3 was to place no surname on the Register. When the child has acquired a surname by usage, application would be made to add the surname to the Register. This option was not favoured, however, as it would be contrary to the spirit of principle 3 of the United Nations Declaration in that every child has a right to a name at birth. Option 4 was to register as the child's surname a hyphenated combination of surnames used by the parents arranged in alphabetical order. Although he does not specify alphabetical order, this is effectively the solution proposed by the Deputy's amendment. However, this could have the effect of forcing the registration of a surname which neither parent wants and which has no direct relationship to either of the parents' names. Should one or more of the parents have double-barrelled surnames, the proposal of the Deputy may lead to overly complicated surnames for which the child will not thank the parents. By way of example, Miss. Harris-Brown and Mr. Clark-Smith would find their children registered as Brown-Smith, a name not obviously related to either parent. Given the 4 options, the solution is proposed in the Home Affairs' amendment, which, as I say, equates to option 2 of the New South Wales options, seems to us to present a solution which preserves one of the parent's names, does not cause the Registrar to resolve any disagreement, and is administratively convenient.

8.5.2 Deputy C.J. Scott Warren:

I do not believe that alphabetical order of the surnames necessarily provides the best sounding names for a double-barrelled surname; my own excluded. I know of one double-barrelled surname - not my own - where the opposite to alphabetical order is used and, in fact, sounds much

better. It can be that a double-barrelled name which had to be in alphabetical order could sound a completely awful name. Therefore, Sir, I cannot support this amendment.

8.5.3 Deputy G.C.L. Baudains:

I wonder if the Deputy of St. Martin could advise us whether this would be compulsory? It does occur to me that a Mr. Bigger and a Miss. Twit will create a Bigger Twit. **[Laughter]** It does seem to me, Sir, that this amendment also has one common denominator and that is basically a lack of consideration for the child. I would also like to correct a misunderstanding that arose during the previous amendment, Sir, about tracing family trees because at some stage you will need to look up censuses, visit graveyards and such like, and you will be looking for a name and I think that this amendment, in that regard, carries forward the same problem as the previous amendment.

8.5.4 Senator P.F.C. Ozouf:

I am afraid I am not with the Deputy of St. Martin in respect of this issue at all. There are some amendments that I support him on but I do not think he has made a compelling case at all for this particular proposal that he is suggesting. I also wonder why ... and, of course, there will be a compulsion here if the parents do not agree; the Registrar will inscribe the name of the child in the father's surname and the mother's current surname. Of course, one can imagine a situation where the mother's current surname is not relevant to the mother's maiden name as opposed to her maiden name, which ... it may be a marriage break-up or something like that. It seems to me a completely crazy state of affairs to legislate in this way. I think this is overly prescriptive and I would prefer the *status quo* with registration; with, yes, the father's veto and the father's surname.

The Greffier of the States (in the Chair):

Does any Member wish to speak? If not, I will call on the Deputy of St. Martin to reply.

8.5.5 The Deputy of St. Martin:

Can I say to the Minister, no spite was intended about your Chief Officer. I was using that as an example, that people do choose, I understand, to have double-barrel names. I think the thrust behind this particular amendment is one of fairness. It was that if indeed ... again, we are looking at married parents who are likely to live apart. So we are going to have a married mother who is going to go away, possibly looking after her child, who will have a surname for the child that she does not wish for that child to have and looking at a way to overcome that problem was to be fair, given each ... if indeed the parents cannot agree, then the child should have the name of the mother and of the father and a way to resolve the business, without tossing a coin, is to have it by alphabetical order. That seems to me quite a rational way of doing it but, again, we are here this afternoon to make decisions. The purpose, again, behind my proposition was to ensure the man did not have a veto. There was one way of resolving a problem, particularly when parents are using the children at a time of great distress to both. What I was hoping for really is that we would find a way to overcome the problem where the father can ensure that his name remains with a child which he is probably going to have very little to do with in the future and we are then, I suppose for want of a better word, lumbering the child and a parent - the mother - with a name which the mother does not particularly want or has no ownership of that name. What I was trying to do was finally work, to use the Minister's words, to a middle ground. But I will put the proposition, Sir, and I would ask for the appel.

The Greffier of the States (in the Chair):

Very well. The vote is for or against amendments number 2 and 5 of the Deputy of St. Martin. The Greffier will open the voting.

POUR: 21		CONTRE: 20		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator L. Norman		
Senator B.E. Shenton		Senator W. Kinnard		

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

The Greffier of the States (in the Chair):

Deputy, we come now to amendment number 3 and, as your amendment 6 that you referred to earlier is purely consequential now on number 3, perhaps we could propose the 2 together; so we get 3 and 6 in one go. I ask the Greffier to read those amendments.

The Deputy Greffier of the States:

Number 3, page 10, Article 3, in the inserted Article 59A, in paragraph (4)(b) for the words “the mother’s maiden surname” substitute the words “the mother’s current surname.” Number 6, page 10, Article 3, in the inserted Article 59A, at the end of the article, add the following paragraph: “For the purposes of this article, a mother’s current surname is whichever of her maiden name, her surname acquired by her by marriage or a surname acquired by her by deed poll is the name by which she is known.”

8.6 The Deputy of St. Martin:

Again, if I could remind Members what this is about. It is unmarried... and cannot agree and, again, it is very close to the previous amendment. Under the Minister’s proposal, where parents are unmarried and cannot agree on a surname, the child takes the mother’s maiden name. While this involves an element of prejudice against an unmarried father, it reflects a factual reality that unless a mother has agreed to share responsibility for the child with the father prior to registration - in which case there is unlikely to be a dispute over the child’s surname - it is unlikely that the father will be able to require by court order any rights in relation to the child prior to registration. As a result, while the treatment might seem to be unfair to married fathers, it is something which is a practical reality and there is no alternative at this current time. I think we have to take that as read, as being the way it is. There is very little difficulty in changing that. However, what is not acceptable is the Minister’s suggestion that the child should take the maiden surname of the mother rather than the surname by which she is currently known. A woman who is widowed or divorced will often retain her married name. As I have already said, there is no obligation on a divorced or widowed mother to revert to her maiden name. Indeed, a woman will often choose to retain her married surname because she has children of that name. Not to allow a woman to pass on that surname to a child is demeaning against the woman and results in the ridiculous situation of a child being registered with a different surname from the mother. In her comments the Minister says that some women going by their married name may wish to give their maiden name to their child. I do

not believe this is a likely scenario since it would result in the child having a different surname from its mother, father and siblings. However, if a woman wishes her child to take her maiden name, she simply has to revert to her name before the child is born. This does not even involve a deed poll as a divorced woman can revert to her maiden surname with no formalities. Sir, in summary, the default position for unmarried parents should be that a child takes the current surname of the mother. If a woman has never married or changed her name by deed poll, her current surname and her maiden surname will be the same.

Deputy C.J. Scott Warren:

Can I clarify; does this amendment still stand in view of the passing of the first amendment in the proposition?

The Greffier of the States (in the Chair):

Yes, I think it does, Deputy, because this is where parents cannot agree and I think the first amendment was when parents could agree. I think I am right if someone can correct me.

Senator P.F.C. Ozouf:

This is, Sir, the difference between ... I was getting confused last time or perhaps I was not. We were previously dealing with married parents. This is unmarried parents, is it not?

The Deputy of St. Martin:

Yes, unmarried parents.

The Greffier of the States (in the Chair):

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

Senator P.F.C. Ozouf:

I am sorry, Sir, but I am probably a little unclear about exactly what ... and I am thinking probably some Members are unclear. I hate to ask the Solicitor General, Sir, but could he explain what we are deciding on because I am not sure and we do not want to debate on something we do not know what we are doing.

The Greffier of the States (in the Chair):

I am not sure if it is a matter for the Solicitor General or if I can assist. I mean, if I can assist from the Chair, my understanding is that we are debating the change in the inserted Article 59A(4)(b) which currently requires when the parents are not married, and have not subsequently married, the child is given the mother's maiden surname under the Minister's proposal and the Deputy is proposing it should be the mother's current surname, which is then defined by amendment 6 as either her maiden name, surname acquired by marriage or deed poll, by whichever name she is known. It is not a choice. It is the name she is known by at the time. That is my understanding. The Deputy is nodding so I must be nearly there. Does any Member wish to speak on this amendment?

8.6.1 Senator W. Kinnard:

I think there is a problem with this in the sense that this takes us back to the position, I believe, prior to the 2001 Law whereby in this circumstance, if you have to have the child with the name by which you go by, you are put back in this position where, although you are formally married to one man and have that married name, you may have a relationship with someone outside that marriage and have a child with that other man and you, therefore, would prefer not to have the child being named by the name by which you go by, which would be your married name. I think that that would bring us back to the position that we tried to deal with in the changes to the 2001 legislation, so I would not advise Members going back to a position which caused a lot of heartache at the time.

8.6.2 Deputy S.C. Ferguson:

Yes, I would agree with the Minister. It seems grossly unfair that suppose your married name is Smith and you had a child by Mr. Jones and you would then attribute parenthood to Mr. Smith. It seems grossly unfair on Mr. Smith with whom you have parted company. I think this is really a step too far. I see no problem with giving the child the mother's maiden name.

8.6.3 Deputy J.A. Martin:

Sorry, Sir, I do not know if ... I think the Deputy has researched it and I am not sure if the Minister is quite clear. It is the father on the register and the parents do not agree, not who the person who is married to. It is the father who is on the register and if they do not agree it, then goes by the name that the mother is going by. That is my understanding and, as the Deputy has said, if the mother does not want the child to have that name all she has to do before the birth is revert back to her maiden name. The key is the father on the register. The old law used to make it if you were married to Mr. Jones and you were having a baby by Mr. Brown, you had to register that baby as Mr. Jones' baby, even if Mr. Jones had not even been in the country for 2 years because you could not divorce him because of the law. This is not the same, with respect to Deputy Ferguson. It is who is on the register who cannot agree. We were just discussing parents who are unmarried. You will then - as it comes back to what I said before - you will have children who are of a divorced or widowed woman who cannot name ... under this she will have to take her other children... she either has to change all the children she has had by the first marriage back to her maiden name and then change their names. So they could have been known by that name by years. She then goes on to have a third child and she wants to retain the name she has been known by and her children are known by. It is quite simple to me and if I am wrong then maybe somebody can show clarity because I do think we are getting very confused. But it is the father on the register that does not agree, not who somebody may have been married to and is the father of the baby. Thank you, Sir.

8.6.4 Deputy C.J. Scott Warren:

It seems to me, Sir, that the proposal of the amendment probably, instead of putting "substitute the words" should have left "the mother's maiden name or the mother's current surname." In that way there would have been complete ... by substituting the mother's current surname for the mother's maiden name has caused the restriction. It is just imposing one restriction instead of the other. Thank you, Sir.

8.6.5 Senator B.E. Shenton:

I could ask the Solicitor General just to clarify what is meant by "current surname" because I think a lot of Members are thinking it means the married name, whereas, in my understanding, it is just the surname by which the lady is going by.

The Solicitor General:

Obviously the expression "current surname" is distinct from "maiden surname". So, to that extent, it must be the surname that the woman is currently going by, whether it is acquired by marriage or by deed poll.

The Greffier of the States (in the Chair):

I call on the Deputy of St. Martin to reply.

8.6.6 The Deputy of St. Martin:

I must congratulate my fellow cricketer, Deputy Martin for A.G. (Attorney General) or for S.G. (Solicitor General) as she got it in one. If I could draw Members' attention to what I am saying, it is quite clear. What we are saying here really is that instead of the mother of the child having to revert to her maiden name, she should be able to use the name she is currently using. So if she is known by her married name and she has a child by some other man - it may well be she was raped -

and she wants to keep the name of her new child with her current surname, that is what this proposition is about. Otherwise, she will have to name her child by her maiden name. So she will have all her children that she has currently having her surname but the new one will be known by her maiden name. I thought we clarified that situation in one of the earlier amendments. This really was looking at the default system where unmarried people could not agree. So, again, just to clarify what I am asking Members to do; is support the principle that where a woman has a child, she is able to name her child by the current name she is using. She will not have to use her maiden name. However, of course, if she is unmarried and she uses that maiden name, she will use it anyway. I hope that is quite clear. So I will put the proposition, Sir, and ask for the appel.

The Greffier of the States (in the Chair):

Very well. The appel is called for. The matters before the Assembly are amendments number 3 and 6 together of the Deputy of St. Martin. The Greffier will open the voting.

POUR: 21		CONTRE: 20		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator L. Norman		
Senator B.E. Shenton		Senator W. Kinnard		
Senator F.E. Cohen		Senator T.A. Le Sueur		
Connétable of St. Mary		Senator P.F. Routier		
Connétable of St. Helier		Senator T.J. Le Main		
Connétable of Grouville		Connétable of St. Ouen		
Connétable of St. Martin		Connétable of St. Clement		
Deputy R.C. Duhamel (S)		Connétable of Trinity		
Deputy of St. Martin		Connétable of St. Brelade		
Deputy P.N. Troy (B)		Connétable of St. John		
Deputy R.G. Le Hérisier (S)		Connétable of St. Saviour		
Deputy J.B. Fox (H)		Deputy G.C.L. Baudains (C)		
Deputy J.A. Martin (H)		Deputy C.J. Scott Warren (S)		
Deputy S.C. Ferguson (B)		Deputy of St. Ouen		
Deputy of Grouville		Deputy P.J.D. Ryan (H)		
Deputy J.A. Hilton (H)		Deputy J.A.N. Le Fondré (L)		
Deputy D.W. Mezbourian (L)		Deputy of Trinity		
Deputy S.S.P.A. Power (B)		Deputy of St. John		
Deputy S. Pitman (H)		Deputy I.J. Gorst (C)		
Deputy A.J.D. Maclean (H)		Deputy of St. Mary		
Deputy K.C. Lewis (S)				

The Greffier of the States (in the Chair):

Very well. I think, finally, under this Article, Deputy, you have amendment 4 and I will ask the Greffier to read amendment number 4.

The Deputy Greffier of the States:

Number 4, page 10, Article 3: in the inserted Article 59A, in paragraph (5) for all of the words following the words “the surname of a child” substitute the words “who is not of full age and whose birth was first registered before this Article came into force”

8.7 The Deputy of St. Martin:

I must say that I think the Minister and I both said that this particular proposition was of great social importance and I am rather disappointed that 20 Members of the House are missing for this particular debate. It is rather disappointing. [Approbation] I think we are now on to the right to re-register if born after 1st May, Sir. This is the one we mentioned earlier, about the retrospective. The Minister proposed that the joint request for both parents of a child registered after 1st May 2002 can be re-registered. If the Minister’s amendment is approved, the practical effect will be that

only children of the age of 6 and over can be re-registered. I can see no reason why the retrospective effect of the amendment should be limited in this way. I propose that any child can be re-registered with the consent of the parents or, if one of the parents is deceased, the surviving parent as long as the child is under the age of 18 at the date of re-registration. In her comments the Minister states it is more logical to allow the re-registration since 1st May 2002 because that is when the Law came into force and there would be further financial implications if the States approved my amendment. In her evidence to the Scrutiny Panel, the Minister said the results of her poll conducted by the Registrar of St. Helier indicated that about one child in 6 will be registered or about 1,000 children if re-registration is permitted for children first registered in May 2002. It is suggested that the fee for re-registration will be £50. There is no evidence that this proportion will be any different if all children under the age of 18 can be registered or re-registered, given the figure of some 3,000 children. A fee of £50 will generate income of £150,000 which will almost certainly cover the costs associated with the number of children being registered or re-registered so I do not see how this can lead to any particular problems in the Parish but that, Sir, is a matter for the Parishes, and St. Helier in particular, to address and I had gathered that the Connétable of St. Helier was going to speak on the matter and I hope, if he is listening outside, he may well quickly return to the Chamber. I welcome Home Affairs' amendment; however, as for the other amendment, I believe it is too restrictive and I believe my amendment should be supported to allow all children up to the age of 18 to be registered. Sir, I make the proposition.

The Greffier of the States (in the Chair):

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

8.7.1 Senator W. Kinnard:

The practical effect of the Deputy's fourth amendment would be to extend the retrospective re-registration of children up to 18 years back to when the 1842 Law was enforced and I believe it is more logical to allow re-registrations for births since 1st May 2002 when the current Law came into force. There are a number of reasons for this and the first 2 reasons I have really touched on in discussing the backdating in the reply on the principles. But, first of all, there are fewer practical difficulties for the Parish if backdating is limited to the 2001 Law. Also, secondly, prior to the 2001 Law, no one really could have argued that there was a right to register a child with any specific surname. It was only with the changing of the forms for registration, which came into force in 2002, that the situation became uncertain because the new form of entry included a column headed: "Full name and surname of the child." Sir, it was also the view of Home Affairs that if we were going back as far as 18, the child would have got used to using a particular name and would have been known by it, so it would probably be, perhaps, less of an issue than for those that we are wishing and seeking to deal with going back as far as 2002. I think we have answered the issues on the retrospective nature, saying that this in fact is a permissive piece of legislation not a coercive one and so the Deputy and myself are in agreement on that matter. But I think, in terms of how far the retrospectivity should go, I do believe that Members should take into consideration that there will be some further financial and manpower implications of allowing registration to take place from a much earlier date. Although the cost of re-registration will be met by the re-registration fees, I am advised that it would be virtually certain that the Parish of St. Helier would need to take on additional staff if retrospective re-registration is allowed for children up to the age of 18 years. Again, it is for Members to weigh-up the advantages and disadvantages and decide at what level the remedies should be pitched given the effect that it is likely to have on the Parish of St. Helier rather than on the States. As I say, Sir, it is a matter for Members.

8.7.2 Deputy G.C.L. Baudains:

I am slightly confused by this. I am against the idea of retrospectivity anyway on this whole issue but is there a danger it could be abused by making the period longer, I believe it is up to 18? One parent may wish to re-register and the other not and they could wait a couple of years or so until

one of the parents is deceased and then go ahead and do something the other parent did not want. Why limit it to 18 anyway, Sir? If we could make it a bit longer I think I would like to re-register the Deputy of St. Martin. [Laughter]

8.7.3 Deputy J.A. Martin:

Some laws it seems are quite easy to be retrospective, especially when we are rezoning land for housing, but when we are talking about obviously some injustices that have gone back for years and by not adopting that last amendment some will carry on. I think the Minister in her own speech made the case, having consulted with the Constable of St. Helier, that he would need to take on one extra member of staff for the re-registrations, that so much injustice has been done in the last 18 years that we must have it retrospective because I cannot otherwise see a case that we are allowing it only to go back to 2002 but, if we do allow it to go back any further, there will be so much work needing to be done. So which is it? Well, I think it is the latter. I think that if the law was unjust before 2001, as I explained, it does not matter who the father was, it had to be registered, if you were married, in the name of your husband. This happened to me with people I was in hospital with, and that was my middle child and he is only 15 years of age, and they were very, very upset. So was the husband, I must admit, because he did not want this child registered in his name either. So I think it should be retrospective and I think it goes back to the age of 18 and, if it does cost some extra money, perhaps we should have got our act together sooner and made the rights of the child more in keeping with human rights and the rest of Europe. Thank you, Sir.

8.7.4 The Connétable of St. Helier:

First of all I would like to correct the assumption that some Members may have that the Parish is trying to make a lot of money out of this. That clearly is not the case. There were a few grins when the figure of £50 was mentioned. I want to tell Members that the Parish of St. Helier, of course, is in a unique position because all of the births practically and most of the deaths that are registered are registered in St. Helier. That is something which the Parish ratepayers have to pick up. I can advise Members that the net cost per year, and that is after the certificates have been prepared, is about £50,000. So Parishioners of St. Helier have been paying an extra sum for the whole matter of registration of marriages and names and suchlike for years. I am also advised that the problems are very hard to anticipate. There may be a need for more staff, there may not; but the Minister and I have spoken about it and what we want to do is come up with a cost that will remove that net deficit to ratepayers and it is quite right that the Registry Office should pay its way as I believe the other Parishes do with theirs, although the arrangements, of course, are slightly different. I fully agree with Deputy Martin that if there is a case for making this retrospective a bit then surely we have got to go the whole way. It would be completely unfair that this somewhat arbitrary timeline of 2002 is put in place. So I would encourage Members to support this amendment. I think it is an important one. I do not believe practical problems at the Parish of St. Helier Registry Office should deter Members. They certainly do not deter me from supporting it and I do not believe they should deter Members either. Thank you, Sir.

8.7.5 Senator P.F.C. Ozouf:

I think that the word “retrospective” is probably the wrong word to use in this debate. It is not retrospective as it is permissive, and we always do this. This is what legislatures do. It gives people rights that they previously did not have. The question before us is, should parents have a right to register a child in the way which we now think is appropriate. It is not striking-out history entirely. It is basically allowing for a registration and for a name and a birth certificate to be issued in a certain way. It is permissive. I think there is a case for that permission to be given. I do not think that manpower at the Parish of St. Helier should be a relevant factor. I completely agree with the Constable of St. Helier that there should not be any cost to the Parish of St. Helier. That is an issue which he can sort out with the Minister of Home Affairs and, on balance, I think that we should allow this permissive right to parents and we should not get down in the issue of

retrospection because it is not. It is permission. It is giving people rights and that is what legislatures do all the time.

The Greffier of the States (in the Chair):

I call on the Deputy of St. Martin to reply.

8.7.6 The Deputy of St. Martin:

I am grateful again to all those. I think we are almost all ... except possibly with the odd exception of the Minister but I think she would be quite relaxed if it was to go all the way as well.

Senator W. Kinnard:

I think I made it clear whatever decision would cause my department no particular difficulty.

The Deputy of St. Martin:

Yes, thank you. I think what we are looking at ... I think Deputy Martin again hit the word about an injustice and I also would remind Members of those who have read - albeit some time ago now - the Home Affairs Scrutiny Panel's comments. They said that this could be construed as a mistake on the part of the States rather than a fault of the parents. Really what we are doing, I think, is trying to make it fair for everybody rather than just those for the last 6 years, to go all the way and I would ask Members again to give their support for this and I make the proposition, Sir, and ask for the appel.

The Greffier of the States (in the Chair):

The appel is called for. I ask Members to return to their seats. The vote is for or against amendment 4 of the Deputy of St. Martin and I ask the Greffier to open the voting.

POUR: 21		CONTRE: 20		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator L. Norman		
Senator B.E. Shenton		Senator W. Kinnard		
Senator F.E. Cohen		Senator T.A. Le Sueur		
Connétable of St. Mary		Senator P.F. Routier		
Connétable of St. Helier		Senator T.J. Le Main		
Connétable of Grouville		Connétable of St. Ouen		
Connétable of St. Martin		Connétable of St. Clement		
Deputy R.C. Duhamel (S)		Connétable of Trinity		
Deputy of St. Martin		Connétable of St. Brelade		
Deputy P.N. Troy (B)		Connétable of St. John		
Deputy R.G. Le Hérisssier (S)		Connétable of St. Saviour		
Deputy J.B. Fox (H)		Deputy G.C.L. Baudains (C)		
Deputy J.A. Martin (H)		Deputy C.J. Scott Warren (S)		
Deputy S.C. Ferguson (B)		Deputy of St. Ouen		
Deputy of Grouville		Deputy P.J.D. Ryan (H)		
Deputy J.A. Hilton (H)		Deputy J.A.N. Le Fondré (L)		
Deputy D.W. Mezbourian (L)		Deputy of Trinity		
Deputy S.S.P.A. Power (B)		Deputy of St. John		
Deputy S. Pitman (H)		Deputy I.J. Gorst (C)		
Deputy A.J.D. Maclean (H)		Deputy of St. Mary		
Deputy K.C. Lewis (S)				

The Greffier of the States (in the Chair):

The debate now technically resumes on Article 3 as amended. Does any Member wish to speak on Article 3 as amended? If not, I put Article 3 as amended. Those Members in favour ... **[Interruption]** Yes, very well. The appel is called for on Article 3 as amended. The Greffier can

reset the voting system. When Members are in their designated seats the Greffier will open the voting. Voting is open.

POUR: 21		CONTRE: 20		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator L. Norman		
Senator B.E. Shenton		Senator W. Kinnard		
Senator F.E. Cohen		Senator T.A. Le Sueur		
Connétable of St. Mary		Senator P.F. Routier		
Connétable of St. Helier		Senator T.J. Le Main		
Connétable of Grouville		Connétable of St. Ouen		
Connétable of St. Martin		Connétable of St. Clement		
Deputy R.C. Duhamel (S)		Connétable of Trinity		
Deputy of St. Martin		Connétable of St. Brelade		
Deputy P.N. Troy (B)		Connétable of St. John		
Deputy R.G. Le Hérisier (S)		Connétable of St. Saviour		
Deputy J.B. Fox (H)		Deputy G.C.L. Baudains (C)		
Deputy J.A. Martin (H)		Deputy C.J. Scott Warren (S)		
Deputy S.C. Ferguson (B)		Deputy of St. Ouen		
Deputy of Grouville		Deputy P.J.D. Ryan (H)		
Deputy J.A. Hilton (H)		Deputy J.A.N. Le Fondré (L)		
Deputy D.W. Mezbourian (L)		Deputy of Trinity		
Deputy S.S.P.A. Power (B)		Deputy of St. John		
Deputy S. Pitman (H)		Deputy I.J. Gorst (C)		
Deputy A.J.D. Maclean (H)		Deputy of St. Mary		
Deputy K.C. Lewis (S)				

The Greffier of the States (in the Chair):

Minister, you propose Article 4, which inserts new schedule A?

8.8 Senator W. Kinnard:

Article 4 inserts schedule 2A in the principal law entitled: “Re-registration of Surname of Child.” This schedule allows the parents of a child whose birth was registered on or after 1st May 2002, but before the new Article 59A comes into force, to jointly request the re-registration of the child’s surname in accordance with paragraph (3) of that article. The Deputy of St. Martin has proposed further amendments affecting schedule 2A so, for the time being, Sir, I will propose Article 4.

The Greffier of the States (in the Chair):

Is Article 4 seconded? **[Seconded]** Now, there are amendments. I think, Deputy, the first 2 of the amendments, which are numbers 7 and 8, are effectively purely consequential on the earlier decisions of the Assembly and I think we virtually have no consequent but to adopt them. But I will ask the Greffier just to read amendment 7.

The Deputy Greffier of the States:

On page 11, Article 4: in paragraph 1 of the inserted schedule 2A for all of the words following “in the case of the child” substitute the words “who is not of full age and whose birth was first registered before this article came into force.”

The Greffier of the States (in the Chair):

Is there anything you wish to add, Deputy, or it is purely consequential on the earlier decision, I believe. Is the amendment seconded? **[Seconded]** I put the amendment. Those Members in favour of adopting it kindly show. Any against? The amendment is adopted. I wonder if Members are content to take amendment 8 as read. It is slightly longer. It is purely consequential on the decision on the first amendment number one. Perhaps Members are content to take it as read.

Nothing you wish to add, Deputy? I put amendment 8. Those Members in favour of adopting it kind show. Any against? The amendment is adopted. I think, for convenience, Deputy, the Assembly could take amendment number 10, which is described in your report as part of the fifth batch of amendments. I will ask the Greffier to read amendment number 10.

The Deputy Greffier of the States:

On page 11, Article 4: in paragraph 2 of the inserted schedule 2(a), at the end of the paragraph there shall be added the following subparagraph: “Where either the father or mother of the child is deceased (a) any reference in this paragraph apart from subparagraph (3) to the father and mother shall be construed as a reference to the survivor of them, and (b) the evidence required for the purposes of subparagraph (1)(b) shall be the request of the survivor of them for re-registration.”

8.9 The Deputy of St. Martin:

Under the Minister’s amendment a child cannot be re-registered if one of the parents has died between the date of birth and the date of re-registration. The Minister has not given any reason for a grossly unfair proposal which penalises the surviving parent. One of the parents may have suffered a sudden death. Is it right for the States to cause further hardship? The fifth amendment rectifies this omission and allows for a surviving parent to re-register the child. Members will have noted the Minister’s comments, she has acknowledged the oversight and is grateful for me recognising the amendment which would allow for a child to be re-registered if one of the parents has died between the date of birth and re-registration and I was hoping possibly the Minister will accept that. I will propose the amendment, Sir.

The Greffier of the States (in the Chair):

Is the amendment seconded? **[Seconded]** Minister.

8.9.1 Senator W. Kinnard:

I will be accepting this amendment and I am very grateful that the Deputy has really come forward with this amendment to allow for a child to be re-registered where one of the parents has died between the date of birth and the date of re-registration. It is a problem that could only arise under a set of very unusual circumstances and obviously only during the retrospective registration period. But, having said that, I agree very much that it would be very unfortunate in the extreme if in the future one of the parents dies and in that short period between the ... if they were to die in that short period between the date of birth and registration. It is a fair approach, I believe, the amendment that the Deputy is bringing forward in these circumstances; to allow the surviving parent to whom the law would apply to be allowed to re-register alone. However, Sir, I think this would obviously have to be subject to something like the relevant death certificate, but certainly I am grateful to the Deputy of St. Martin. But I should also advise Members, in the way that I have been trying to do throughout this debate, which is laying out what exactly are all the issues for Members to decide. I am going to accept this amendment but Members have their own vote. As the first amendment has been passed of the Deputy, I have to point out that when that first amendment is taken together with this one, which first amendment Members will remember allowed any choice of surname, the consequence could be that the surviving spouse could choose a name that bears no connection at all with the child’s antecedents, perhaps causing some distress to the deceased’s family. I just point that out as an issue but I myself am going to accept the amendment.

8.9.2 Deputy G.C.L. Baudains:

I think I have understood this fully, Sir. As I said before, I am opposed to re-registration fundamentally but, if I understand this amendment correctly, I am particularly upset by this amendment because it does appear to me that there is a possibility here that a re-registration could be made in the knowledge that the deceased partner did not approve.

The Greffier of the States (in the Chair):

I call on the Deputy to reply.

8.9.3 The Deputy of St. Martin:

I am grateful to the Minister for supporting the amendment. To Deputy Baudains, I can only say - the Minister for Doom and Gloom - that there always is the outside possibility. I do not think any of us could say there is not the outside possibility. One of us may get run over tonight if we are not careful. **[Interruption]** Yes, or maybe the motorist is working on it. But, again, I think this is unlikely. I do accept that there is always the possibility; unlikely. Again, I would ask that Members would give this support and ask the appel.

The Greffier of the States (in the Chair):

Very well, the appel is called for. The vote is for or against amendment number 10 of the Deputy of St. Martin. The Greffier will open the voting.

POUR: 21		CONTRE: 20		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator L. Norman		
Senator B.E. Shenton		Senator W. Kinnard		
Senator F.E. Cohen		Senator T.A. Le Sueur		
Connétable of St. Mary		Senator P.F. Routier		
Connétable of St. Helier		Senator T.J. Le Main		
Connétable of Grouville		Connétable of St. Ouen		
Connétable of St. Martin		Connétable of St. Clement		
Deputy R.C. Duhamel (S)		Connétable of Trinity		
Deputy of St. Martin		Connétable of St. Brelade		
Deputy P.N. Troy (B)		Connétable of St. John		
Deputy R.G. Le Hérisier (S)		Connétable of St. Saviour		
Deputy J.B. Fox (H)		Deputy G.C.L. Baudains (C)		
Deputy J.A. Martin (H)		Deputy C.J. Scott Warren (S)		
Deputy S.C. Ferguson (B)		Deputy of St. Ouen		
Deputy of Grouville		Deputy P.J.D. Ryan (H)		
Deputy J.A. Hilton (H)		Deputy J.A.N. Le Fondré (L)		
Deputy D.W. Mezbourian (L)		Deputy of Trinity		
Deputy S.S.P.A. Power (B)		Deputy of St. John		
Deputy S. Pitman (H)		Deputy I.J. Gorst (C)		
Deputy A.J.D. Maclean (H)		Deputy of St. Mary		
Deputy K.C. Lewis (S)				

The Greffier of the States (in the Chair):

We come, finally, Deputy, I think, to your amendment number 9 which you describe in your report as the sixth group of amendments, amendment number 9. I will ask the Greffier to read that amendment.

The Deputy Greffier of the States:

Number 9, page 11, Article 4: in paragraph 2 of the inserted schedule 2A, after subparagraph 3, add the following subparagraphs: “(4) When re-registering the surname of a child under this paragraph the father and mother may also re-register the child’s forenames. (5) The choice of forenames of the father and mother shall be evidenced in accordance with subparagraph (1)(b).”

8.10 The Deputy of St. Martin:

Again, I will try my best not to confuse people but I did say when we started out this afternoon this was rather a complex piece of legislation. The Minister’s amendment does not allow for consequential changes to a child’s forenames. A child may have been registered with a previously forbidden surname as a forename. In this case the parents will no doubt wish to remove the

forename when it is added to the surname. This will avoid Jane Emily Smith-Jones becoming Jane Emily Smith-Smith. It is also possible that parents will want to remove a surname to be added as a forename. Thus Jane Emily Smith-Jones could become Jane Emily Jones-Smith. I did say it was complicated. The purpose of this amendment is simply to allow for these consequential changes to the forenames to be made. It is quite simple really. Now, in the Minister's comments she says, *prima facie*: "My amendment seems reasonable." However, it would create a privilege for those parents re-registering under Article 57 that people registering under Article 57 do not currently have, i.e. where parents wish to legitimise their child and change the child's name having since married. The simple answer to this problem is to give the same rights to parents who re-register after legitimising their child, and I suggest possibly the way round is for the Minister to bring forward a similar amendment to Article 57. To suggest that children simply do not use a name is not an answer. No one wants their child to have anomalies like this on their birth certificate. Furthermore, it is notoriously difficult these days to travel with a child that does not have the same surname as a parent. Parents try to deal with this problem by adding a parent's surname as a forename to show the family connection. It is important, therefore, not only that parents are able to remove unwanted names but they are able to add as a forename a name that has been removed as a surname. I propose the amendment.

The Greffier of the States (in the Chair):

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

8.10.1 Senator W. Kinnard:

The Deputy of St. Martin's amendment number 9 would allow consequential changes where re-registration might result in the duplication of a surname where one had been previously used as the forename and the Deputy has obviously given an example in his amendment. On the face of it, as I have said in my comments, the amendment appears reasonable. However, it does have the potential, as the Deputy said, to create some unfairness and indeed some unnecessary complexity. Firstly, while I can see the point of allowing a previously forbidden surname that has been used as a forename to be removed when re-registering so as to avoid duplication, I do think that Members will need to consider whether it is in the interests of the child to allow parents also within this amendment the possibility of giving the children a whole new list of Christian names or forenames. Again, I am reminded here ... I was given this example by the Dean and in fact he gave me the example involving the individual who I think called his child ... he was a great football supporter and he named his son after all the players of his favourite football team and the Dean wondered what might happen if he had changed his team's allegiance. He is not here to speak for himself so I give you that one. But during my research of this debate I did come across an entry posted on a message board, Sir, by a girl of 12 who claims that both her Christian name and surname were changed as she was growing up without the changes or the reasons for the changes being explained to her. She said that she was suffering a sense of a loss of identity as a result. There may have been good reasons for the change but her story, I think, does tell of the potential problems, albeit infrequent, that could result from the ability to change both forenames and surnames with complete freedom of choice, which this amendment achieves. The key point is that the Deputy's amendment is not confined to eliminating a second forename but would indeed allow any forename to be re-registered. Furthermore, Members should be aware that passing the amendment proposed by the Deputy would, as we have said, create a privilege for parents that those parents who are re-registering under Article 57 do not have. That is where parents wish to legitimise their child and change the child's name having since married. Under these circumstances, parents can only change from the mother's maiden name to the father's name but cannot remove the duplicate name. One practical answer, as has been identified, is not necessarily to pass legislation but simply for the child not to use the duplicate name later on if they so wish. However, again, having put the arguments, I submit that it is a matter for Members to decide the point and should Members approve the amendment of the Deputy, further amendment to Article 57 of the law would also be

needed at a later point to ensure fairness for those who legitimise their child having since married. In summary, Sir, again I am grateful to the Deputy for his attempt to be helpful here. However, the Deputy's amendment, as I say, is not confined to eliminating a second forename but would allow any forenames to be re-registered. If Members wish only to allow a restricted change, that is the removal of the otiose forenames, I would suggest, Sir, that they reject the Deputy's amendment as proposed in order that a new amendment may be brought forward to achieve just this and also to deal with the inequality caused to those parents re-registering under Article 57. Sir, I would be happy to do this immediately and bring it back to the House as soon as possible. Again, it is for Members to decide the extent of the reform and whether they wish to go beyond merely removing an otiose forename to having the ability to have any change of forename. That is all I have to say on that for the moment. Thank you, Sir.

8.10.2 Connétable J.L.S. Gallichan of Trinity:

Just a point of clarification. How many times are we allowed to change these names? Is it once, twice or 3 times during a person's lifetime? Is there any restriction?

8.10.3 Deputy C.J. Scott Warren:

I agree with the comments of the Minister. My feeling is that the proposer of the amendments, the Deputy of St. Martin, has not been specific enough and what he says the intention behind the amendment number 9 is not in the wording. There is a danger that you could suddenly get parents who decide they would like to call Emily Jane Samantha Gail or something, and it might be unlikely, but there is nothing I can see in this to stop that. Therefore, I would support the Minister bringing back a more specific amendment. Thank you.

8.10.4 Deputy G.C.L. Baudains:

We have heard today that you can register all sorts of surnames, no matter how daft, and then you can change them. Now, not only can you have daft forenames, you can change those as well. I have to ask, why bother registering names in the first place? Let the parents of children call their children whatever they like, whenever they like, and change it once a week. Why not change the names on a regular basis, say every Christmas? The Constable of Trinity, I think, has hit the nail on the head. Where is the limit to this? It is really quite ridiculous.

The Greffier of the States (in the Chair):

I call on the Deputy of St. Martin to reply.

8.10.5 The Deputy of St. Martin:

I think we take the lead from the Minister and I think in a way she is quite relaxed, and she said at the end of the day it was a matter for Members. As I quite rightly, and I think fairly, pointed out, the fact if one accepts what I am proposing, which I think is fair and it is unreasonable ... However, it will require another amendment if indeed it is the choice of the House. I could have put another amendment but we were dealing here with Article 59 today not with Article 57. I would have to put in a stand-alone amendment if indeed that would be necessary. But could I just again comment on the Connétable of Trinity. I think it is fair to say that people only change their name if they have a very good reason. People would not, as my very good colleague here to the right would suggest, change every Christmastime. I think parents have got a lot more upstairs than possibly Deputy Baudains would give them credit for. People will only change if they have a real reason to do so. I think we mentioned the difficulty of travelling abroad with different names. What I am trying to do here is make a much more simplistic way for people to get on with their lives without us dictating to them. So Members have the opportunity. If they wish to support it they can do so. We have heard from the Minister that if we do support this today she will bring an amendment in her own name or through Home Affairs to amend Article 57 which will give that

same right to parents who are legitimising their children on marriage. Sir, I make the proposition and ask for the appel.

Senator W. Kinnard:

For clarity's sake, Sir, I made that on the basis that if Members wanted to make the restriction.

The Deputy of St. Martin:

Yes, if it is approved.

The Greffier of the States (in the Chair):

Very well, the vote is for or against the amendment number 9 and the Greffier will open the voting.

POUR: 8		CONTRE: 29		ABSTAIN: 0
Senator S. Syvret		Senator W. Kinnard		
Senator M.E. Vibert		Senator T.A. Le Sueur		
Senator P.F.C. Ozouf		Senator T.J. Le Main		
Senator B.E. Shenton		Senator J.L. Perchard		
Deputy R.C. Duhamel (S)		Connétable of St. Ouen		
Deputy of St. Martin		Connétable of St. Mary		
Deputy J.A. Martin (H)		Connétable of St. Helier		
Deputy S. Pitman (H)		Connétable of Trinity		
		Connétable of St. Brelade		
		Connétable of St. John		
		Connétable of St. Saviour		
		Deputy A. Breckon (S)		
		Deputy G.C.L. Baudains (C)		
		Deputy P.N. Troy (B)		
		Deputy C.J. Scott Warren (S)		
		Deputy R.G. Le Hérissier (S)		
		Deputy J.B. Fox (H)		
		Deputy S.C. Ferguson (B)		
		Deputy P.J.D. Ryan (H)		
		Deputy J.A. Hilton (H)		
		Deputy G.W.J. de Faye (H)		
		Deputy D.W. Mezbourian (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy A.J.D. Maclean (H)		
		Deputy K.C. Lewis (S)		
		Deputy of St. John		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

The Greffier of the States (in the Chair):

Very well, the debate now technically resumes on Article 4 as amended. Does anybody wish to speak on Article 4 as amended. If not I put Article 4. Those Members in favour of amending it as amended kindly show. Any against? The Article is adopted as amended. Finally, Minister, you propose Article 5, which is a citation.

8.11 Senator W. Kinnard:

I do so propose, Sir.

The Greffier of the States (in the Chair):

Is that seconded? [**Seconded**] Does anyone wish to speak? I put Article 5. Those Members in favour of adopting it kindly ... [**Interruption**] Yes, the appel is called for Article 5. The vote is for or against Article 5. The voting is now open.

POUR: 38	CONTRE: 1	ABSTAIN: 0
Senator S. Syvret	Deputy G.C.L. Baudains (C)	
Senator L. Norman		
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 J.L. Perchard		
Connétable of St. Ouen		
Connétable of St. Mary		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Brelade		
Connétable of St. John		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy A. Breckon (S)		
Deputy of St. Martin		
Deputy P.N. Troy (B)		
Deputy C.J. Scott Warren (S)		
Deputy R.G. Le Hérisssier (S)		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy S.C. Ferguson (B)		
Deputy P.J.D. Ryan (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy D.W. Mezbourian (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy S. Pitman (H)		
Deputy A.J.D. Maclean (H)		
Deputy K.C. Lewis (S)		
Deputy of St. John		
Deputy I.J. Gorst (C)		
Deputy of St. Mary		

The Greffier of the States (in the Chair):

Minister, do you propose the Bill in Third Reading?

8.12 Senator W. Kinnard:

I do. I just wanted to say that I am grateful to all Members for their input and particularly to the Deputy of St. Martin for ensuring that we have all had the opportunity for a full debate on all of the issues, which I think is only right given that it is a matter of wide public application. I believe, Sir, that we have now agreed as a House of such proposals which update the registration options available to parents; making the law more contemporary while supporting, of course, what we

believe to be Jersey's community values and also ensuring the interests of both parents and children. So I thank Members for their careful consideration of all of the issues. Thank you, Sir.

The Greffier of the States (in the Chair):

The Law is proposed in Third Reading. Is that seconded? [**Seconded**]

8.12.1 Deputy G.W.J. de Faye:

I would like to say this has been a most fascinating and enlightening debate but it really has not made that particular grade, and I think one of the most pertinent pieces of information was derived very early on when the Minister informed us that when these matters went out to consultation she received 15 comments and the Scrutiny Panel involved when holding a public meeting received one attendee. I do not really wish to speculate on the amount of time and administrative money in all the printouts and so forth that had to follow but I do wish to say, with the greatest of respect to the Minister, and it is not often that I will contradict a lady with red hair, I think she should have been a little more determined to establish precisely what the public concern and interest was in this matter before it was committed to a debate today because I sense virtually no public concern on this matter at all. It seems to me that the only indication one can derive from that is that the vast majority of the public who are silent are quite content with the *status quo* and have got no real interest in seeing any change. I have heard all sorts of interesting speculations on what the parents' rights might be in this. Indeed, somewhat to my amazement, what the child's rights may or may not be. Quite how a burbling baby is going to make some sort of decision on the name they are going to be awarded I do not know. Perhaps if I knew what I know now and had the opportunity to have an involvement in what was going to go down at the hand's of the Registrar I might have asked to be called Duke Guy Solid Gold de Faye. I am sure that is the sort of name that would have been tremendously useful throughout my youth and adolescence. But, clearly, I think we are getting things at the wrong end of the stick when we are talking about parents' rights. Indeed, it does seem that some Members have approached this as though the Registry Department is offering some sort of client service. This is a new consumer add-on. You can just sort of pop down and decide what names might be appropriate. It does strike me that there are some very good reasons why we have the system that we have. Over time it has been a State requirement for registering births, marriages and deaths and that is not just because of bureaucracy and awkwardness. That is because this type of information is absolutely vital and critical to the way Government operates. I think that the system should be simple and clearly understandable. This does go back a little into perhaps rather conservative and mundane affairs such as marriage and the legitimisation of relationships. There are very good reasons why children who were born out of wedlock were called illegitimate, because the whole feature of parents getting married assured a whole set of rights and responsibilities kicked-in, primarily on a legal basis; absolutely, across the board, care and control of the children, ultimately down to probity and inheritance. Marriage in society has been important and its importance was recognised for those who perhaps could not handle the religious side of it with the emergence of Registry Office marriages but, nevertheless, that particular legal state of union on behalf of adults who become parents is well recognised. I accept that some Members will be astonished that I am saying this because normally I take a very liberal approach. I think in some things we do need to, as it were, toe the traditional line when there are good reasons for doing so. So why is it we have gone to this enormous length to have this debate today, just because it appears one or 2 parents are not happy with the current state or the law? What are we catering for? I would suggest that this is not anything to do with parents' right. This is parents being selfish. This is parents thinking about themselves. I would suggest - and I am not referring to any particular examples because I do not know them and I have not studied them - that this is the sort of thing you would get as a complaint about how the system works from people who frankly have not taken a responsible move in terms of legitimising their relationship, which they do not have to do. But then if they do not then they do not get entitled for a child to be named automatically named after the father and that is because you are not married. It is really quite simple. Why then is the child

named after the mother? Because that is the easiest way of tracking a child's genealogy over family after family. At least there is one thing you can be certain of: where the child came from. It came from the mother. There may be some speculation as to who is the father and which father's name should be attached but you can be absolutely dead certain sure that the mother is the mother, unless there has been some terrible trauma down at Senator Shenton's hospital. I feel, Sir, that I have done my duty. I have listened to the arguments for and against all the various amendments. I have to say, at the end of the day, I do not feel persuaded by any of them. I believe that the system was not broken and does not need fixing. If you have an issue, whoever you are, with the name of your child, use deed poll. That is what it is there for. But let us not start confusing the system and we have had no end of fascinating examples from other countries where clearly England and Wales are the most bonkers of the lot; call your child anything you like. You can call it after the whole of the English football team, the Iraqi war cabinet and the presidents of Serbia.

The Greffier of the States (in the Chair):

Deputy, I do not like to interrupt you 2 weeks in a row but that is what the States have agreed, we cannot reopen the entire debate again. The States have agreed this afternoon that you can now do that in Jersey, this was passed to the Third Reading.

Deputy G.W.J. de Faye:

Yes, Sir, but there are times when the Assembly gets it wrong and I need to point it out. I am not happy with anything we have cooked-up this afternoon, Sir, I regret that, I am very sorry but I am going to vote against at the end of the day.

8.12.2 Senator P.F.C. Ozouf:

The Minister for Transport and Technical Services was the model of reasonableness last week in the waste debate, he unfortunately has exhibited some remarks which I think are returning, in some Members' view, to type. Sir, I gave a speech to some people about the reform of the Assembly and changes made, that we should not be talking nonsense but the Minister - Deputy de Faye - has spoken nonsense. I do not know where he listens to constituencies but there are hundreds of people that were affected by this, there were representations made to a number of Members of this Assembly on this issue. There was a court case affecting this issue and this is not an issue of client service, this is an issue of the rights of parents and rights of children in the naming of them. This is a serious issue. This matter was put forward rightly by the Minister for Home Affairs, there has been some reasonable amendments that the Deputy of St. Martin and I worked on, I would have brought some in my own name, we have had a debate, one vote against, let us get on with the finalisation of it.

8.12.3 Deputy G.C.L. Baudains:

Much in the same frame as Deputy de Faye, I believe the original proposition, or should I say amendment, brought by the Minister for Home Affairs were bad enough and regrettably the amendments by the Deputy of St. Martin have made it worse. There have been several changes as I have already alluded to that I cannot accept, some more than others. But it seems to me that the biggest fundamental problem with this is the fact that it revolves around the wishes of the parent, we do not seem to be overly bothered about the wishes of the child. Apparently they do not really matter. What if a 16 year-old child does not want their name changed, apparently it does not really matter, the parents decide. I cannot support this in any way.

8.12.4 The Deputy of St. Martin:

I do not really want to have this very interesting debate ending-up on a negative side because I think really we have all had a good afternoon here discussing here, it is what the Minister asked for that we should vote the way we saw it. Really I would reiterate to the Minister for Transport and Technical Services that this is really of great social importance. I think Senator Ozouf was right,

there are thousands of people out there who are looking for change, they feel restricted and what we are doing is we are giving them the choice and I would hope that everyone will support this proposition. Thank you, Sir.

The Greffier of the States (in the Chair):

I call on the Minister to reply.

8.12.5 Senator W. Kinnard:

Very briefly, I would just like to express my thanks to the Superintendent Registrar and the other officers involved in bringing this proposition as they have been on standby for days on end for the last few weeks waiting for this debate to get to the top of the agenda. I am extremely grateful for their forbearance. On that note, Sir, I thank all Members and I think this is a good decision today and I think we have had a good debate, quite rightly, and therefore, Sir, I am most pleased to maintain the Bill in Third Reading.

The Greffier of the States (in the Chair):

I put the Bill in Third Reading. Is the appel called for?

Male Speaker:

The appel, please.

The Greffier of the States (in the Chair):

Yes, the appel is called for. The vote is for or against the Bill in Third Reading. The Greffier will open the voting.

POUR: 38		CONTRE: 1		ABSTAIN: 0
Senator S. Syvret		Deputy G.C.L. Baudains (C)		
Senator L. Norman				
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 J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisseier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				

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

The Greffier of the States (in the Chair):

Very well, just before the Assembly comes to the next item of Public Business I have granted leave to the Minister for Housing to make a very brief statement about matter arising from yesterday's fire and rehousing.

STATEMENT ON A MATTER BY THE MINISTER FOR HOUSING

9. Statement by the Minister for Housing regarding the fire at Broadlands:

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

I would like to make a short statement in regard to the disastrous fire at Broadlands, St. Peter whereby around 60 people, including families and children, have been made homeless and many of them having lost all their possessions. You will be aware that this was a registered lodging house and all these good hardworking people do not possess housing qualifications. Therefore my officers are working with Connétable du Feu and Deputy Egré and the Parish officials in assessing the immediate needs of those people made homeless. Our officers are currently at the Parish Hall interviewing and, as I say, assessing those unfortunate people's needs. Officers are seeking unqualified accommodation, *et cetera*, but I am advising Members that we will be offering, on a very temporary basis, accommodation at the recently located flats at Ann Court until such time as they can rehouse themselves in the unqualified accommodation in the private sector and this could be several months. Thank you. **[Approbation]**

PUBLIC BUSINESS (continued)

10. Draft Customs and Excise (Amendment No. 6) (Jersey) Law 200- (P.54/2008):

The Greffier of the States (in the Chair):

The Assembly now comes to the Draft Customs and Excise (Amendment No. 6) (Jersey) Law, also in the name of the Minister for Home Affairs, and the Greffier will read the citation.

The Deputy Greffier of the States:

The Draft Customs and Excise (Amendment No. 6) (Jersey) Law: 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.

Senator W. Kinnard (Minister for Home Affairs):

My Assistant Minister is dealing with this matter.

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

As Members know this House has decided as a matter of policy to implement the Financial Action Task Force 40 recommendations and 9 special recommendations on counter measures against money laundering. Special recommendation 9 on terror financing includes a requirement that the country is to have in place provisions to detect and control cross-border movements of cash and bearer negotiable instruments. Sir, from here on in I will refer to them simply as cash. The Financial Action Task Force has stated that reporting by intelligence and law enforcement indicates that cash smuggling is one of the major methods used by terrorist financiers, money launderers and organised crime figures to move money in support of their activities. Sir, the purpose of this draft law is to amend the Customs and Excise (Jersey) Law 1999 by inserting a new part 5A which has provision designed to implement the cross-border elements of special recommendation 9. The other elements relating to seizure of suspicious cash within the Island will be implemented by the Proceeds of Crime: Cash Seizure (Jersey) Law which was adopted by this Assembly at the end of 2007. The new provision in the Customs Law would empower a Customs Officer to require any person entering or leaving Jersey to disclose any cash over the prescribed amount of 10,000 euros, produce his or her baggage for inspection and answer questions relating to the cash. A 10,000 euro limit is the prescribed amount in corresponding legislation in the E.U. (European Union), including the United Kingdom as well as Guernsey and the Isle of Man. To avoid any confusion, it is thought sensible for Jersey to maintain a consistent approach. Failure to make a disclosure, making a false disclosure and/or failure to produce the luggage would be a criminal offence and would result in rendering any cash concerned liable for forfeiture. The new provisions would also give Customs Officers powers to search persons, ships, aircraft and postal packs if there was a reasonable suspicion that cash above the prescribed amount would be found. If a Customs Officer was to suspect from the information he received as a result of a disclosure or a search, that any cash was related to terrorism or money laundering he would detain it under the new Proceeds of Crime: Cash Seizure (Jersey) Law. The provision of the law would then apply to any seizure and forfeiture. This would ensure that identical procedures are applied to any seizure of cash made at the borders or in the Island. Sir, I move the proposition.

The Greffier of the States (in the Chair):

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? If not, I put the principles. Those Members in favour of adopting, kindly show? Those against? The principles are adopted. Deputy Mezbourian, does your Scrutiny Panel wish to ...

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

No, thank you, Sir.

The Greffier of the States (in the Chair):

Very well. Assistant Minister, there is an amendment to Article 1 which substitutes the sum of £10,000 for the sum of 10,000 euro, are Members content with that the Articles be proposed as amended? Very well, I will ask you, Assistant Minister ... perhaps I should ask the Greffier formally to read the amendment and then I will ask you to propose the articles as amended.

Connétable K.P. Vibert of St. Ouen:

Sorry, Sir, I did try and raise the light. On the amendment the Assistant Minister when proposing this proposition, which I totally support by the way, did say that the 10,000 euro was included in Guernsey and the Isle of Man and yet his own report says that it is not and I query that, Sir.

The Greffier of the States (in the Chair):

Let me ask the Greffier to read the amendment and then we will ask the Assistant Minister to propose the Articles.

The Deputy Greffier of the States:

On page 10, Article 1: (1) for the words “£10,000 but” in the inserted Article 37A(1)(a) substitute the words “10,000 euro or the equivalent in any other currency but”; (2) for the words “£10,000” in the inserted Article 37A(3)(b), substitute the words “10,000 euros”.

The Greffier of the States (in the Chair):

Assistant Minister, we ask you propose the articles as amended.

10.2 The Deputy of St. John:

Yes, Sir, and in answer to the Connétable’s question, he is quite right, it does appear in the report as pounds and that is the purpose of the amendment because it was an error on the part of the department at the time. Having said that we started discussing this very issue in the spring of last year at a time when sterling was considered an appropriate currency to put it in. Subsequently other jurisdictions registered a similar legislation in euros and it was felt to keep consistency that euros would be the chosen currency, Sir.

The Greffier of the States (in the Chair):

Are the Articles seconded? **[Seconded]** Does anyone wish to speak on the Articles as amended? I put the Articles as amended. Those Members in favour of adopting, kindly show? Against? The articles as amended are adopted. Propose the articles in the Third Reading, Assistant Minister?

The Deputy of St. John:

Yes, Sir.

The Greffier of the States (in the Chair):

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

11. Provision of land for lifelong dwellings (for people over 55) and first-time buyers: amendment to Island Plan (2002) (P.75/2008)

The Greffier of the States (in the Chair):

The Assembly comes now to the Provision of land for lifelong dwellings (for people over 55) and first-time buyers: amendment to Island Plan (2002). I am sure Members would be willing to spare the Greffier the task of the reading the several pages of the proposition but I should perhaps ask the Assistant Minister if it is your wish to propose the proposition as amended by your own amendment relating to the St. Mary site. Is that your wish, Assistant Minister?

11.1 Deputy A.E. Pryke of Trinity (Assistant Minister for Planning and Environment - rapporteur):

Yes, please, I would like to propose it as amended, Sir.

The Greffier of the States (in the Chair):

Are Members content that the proposition should therefore be taken to be proposed as amended by the Minister’s own amendments? Very well, I call on the Assistant Minister to make the proposition.

Deputy P.N. Troy:

Before the Assistant Minister starts, of course as a builder/developer I declare an interest, Sir, and leave the Assembly. I am not purchasing any of the sites or involved in any of these sites but I think it would be better if I left the Assembly, Sir.

The Greffier of the States (in the Chair):

Thank you, Deputy. Assistant Minister.

The Deputy of Trinity:

In 2004 the Island-wide strategy for an ageing society recognised and highlighted the issue of our Island's ageing population. That survey concluded that a number of elderly people in our Island would steadily grow over the decades. This would result in a long-term shift in the composition of our population. Basically more and more people are living longer, it is as simple as that. People are not only living longer but healthier too. In the 2001 census 17 per cent of the population were above working age, and the Statistics Unit suggest a rise to 19 per cent by 2011 and to around 30 per cent by 2031. An ageing population is a worldwide issue, in this we are not unique and we are not alone but we must understand what it means for Jersey and we must plan for it. One of the things we must plan is how to ensure older people are where they wish to be, in their own homes. If we do not want people consigned to care homes we must provide the right homes in the right places to support independent living. I would like to think, Sir, that it is something that we all would ascribe to, being able to stay in our own homes as we get older. In the Strategic Plan, we commit to promoting a just and equitable society and to meeting the challenges and opportunities presented to us by its ageing population. It clearly states that we will, as an Assembly, achieve this by increasing the number of older people supported to live at home and by increasing provision for the Island-wide sheltered housing. Approving this proposition enables us to deliver our promises and we need to deliver it now. It takes time to construct homes. If we rezoned land today it is unlikely to yield completed homes until 2010 or 2011 at the earliest. If we put off this debate until the end of 2009 when the Island Plan Review comes to the States the need will just be greater and the shortfall harder to manage. In April this year we debated the timing of this proposition *vis-à-vis* the Island Plan Review. The Deputy of Grouville, in her proposition, asked whether the timing was right, should it be rolled into the Island Plan. Almost two-thirds of the Members agreed that we need to deal with this in the here and now and not wait until late 2009. We agreed then that doing nothing was not an option. The *Planning for Homes* report published in 2006 reported that the need for lifelong homes would significantly increase from 2010 onwards and recommended that it was important to plan now, securing sites over the next 5-year period. The most recent data to support the provision of land for housing in advance of the Island Plan Review was provided by the latest Housing Needs Survey 2007 and its assessment of needs across the housing market for 2008 to 2012. While this survey represents an estimate at a point in time in a dynamic housing market, and it is a planning tool rather than a definitive statement, the headlines that are important to this proposition are: there will be a shortfall of up to 400 older persons over 55 homes over the next 5 years. That was clear. Also about two-thirds of these people are looking to move in the next 2 years. As well as contributing to the overall requirement for homes throughout this Island this proposition explicitly seeks to support and sustain the life and vitality of Parish communities by ensuring that people - young and old - are provided with opportunities to live and engage in Parish life. This is particularly applicable to the Island's rural Parishes where development opportunities and access to housing are limited. So how do we achieve this? This proposition responds to this recognised need for appropriate older person's housing. It provides lifelong homes in the private and public sector to meet the needs for the over-55s. Evidence from the Joseph Rowntree Trust, who are one of the main providers of affordable housing for all groups and world renown in the area of research, state that older people see lifelong homes as a positive choice, particularly attracted by combination of security and independence and to be able to engage in social activity and lead an active life. Sir, the Connétables I am sure you will agree are a very wise group of men, shame there are no women though. They have identified this need a few years ago and some Parishes have built lifelong homes and have seen the benefit of them. So where better than to go and discuss it with them; this need. The Minister for Planning and Environment and the Assistant Minister for Housing and I have had several meetings with the Connétables to identify the sites within their own Parishes for lifelong homes. In St. Mary and in Trinity they also identified a desperate need for first-time buyers. Every site in this proposition and the type of tenure has been

supported and endorsed by the relevant Connétable. Each one is based upon their knowledge and assessment of their own Parish and their own particular need and demand for homes from their own parishioners who in some cases have had support from their Parish Assemblies. This proposition responds to recognised need for housing. In particular provision of lifelong homes in the private and social rental sectors to meet the specific needs of older people who are defined as those of over 55 years of age. You may well ask why lifelong homes are defined as over-55. Fifty-five is not old and I look around this Assembly today and reflect that 55 is positively young. So why not set the lower limit at 65 or 75 years of age? Well, Sir, in fact there is sound evidential basis for setting the lower limit at 55. The Jersey Annual Social Survey 2006 shows a decreasing tendency of people to consider downsizing in retirement with increased age. There is a particular drop-off of intake after 55 years of age. This would appear to be the optimal time to consider that last house move, hence the word “last-time buyers”. In the same way that first-time buyer homes are restricted for onward sale to first-time buyers in perpetuity the over-55 homes for sale will be similarly restricted to ensure the continued availability of such homes in the future. There is, in fact, no universally adopted minimum age requirement among U.K. based providers of older person’s homes. Although major providers like the Joseph Rowntree Foundation and the Methodist Homes for Aged employ the over-55 category in the allocation of places to prospective residents. Appendix 2 of this projet contains maps and information on how is it intended that each site will be developed, what obligations will be placed on each developer and also details our response to the site-specific comments made during the extensive consultation process. I, like many here, are against the wholesale building in our countryside but this has to be weighed-up with having some specific form of development to maintain and sustain our Parish way of life and working with the Connétables. I will now describe the specific sites in more detail. Field 516, 516A, 517 and 518 in St. Saviour, on page 616: this site presently comprises of approximately 27 and a quarter vergeés of agricultural land located opposite Grainville playing fields on St. Saviour’s Hill. It has access to good public transport, walking distance to shops at Five Oaks and Bagatelle. This site is a logical extension of the built-up area and the proximity to amenities and facilities makes it appropriate for older person’s homes. Preliminary proposals have suggested that the development of this large site could take the form of a mixed-tenure retirement village with a potential yield of approximately 98 open market and 80 social rental lifelong dwellings. It has been suggested that up to 30 of these social rental lifelong dwellings will be ceded by the developer to the Parish. Proposals have suggested that the development of this site could also provide a 75-bed residential care and dementia home, guardian accommodation, indoor and outdoor recreational facilities, shop, surgery, car parking and amenity space. A public car park to relieve potential on-street parking in La Chasse Brunet and amenity open space will also be provided as part of the development and planning obligations and this will be ceded to the Parish. The amenities and facilities provided by the developer will be managed by a non-profitmaking professional organisation and available to all residents. This type of development will have no impact on schools and the traffic impact can be reasonably managed at principally non-peak hour flows. The site is large enough to incorporate a significant area of open space. Site 2: Field 274, La Lourderie, St. Clement. This is a brownfield site which comprises a number of redundant glasshouses on approximately 5.5 vergeés. The site is located near La Rocque contiguous with existing built-up area, a good bus route and is in walking distance to shops at Pontac. It is considered that this site could accommodate a mixture of approximately 35 lifelong time dwellings for older people. Field 605 in St. John: this site comprises approximately 2.5 vergeés of agricultural land. The site is located in the centre of St. John Village and is in easy walking distance of all the village amenities and facilities which is on a bus route. It could accommodate a mix of approximately 16 lifelong homes for older people. Field 561, 562, St. Mary: this is a brownfield site which comprises a number of redundant glasshouses on a site area of approximately 5.5 vergeés. The site is located to the south of St. Mary Village, walking distance to the village amenities and facilities. There is also capacity at St. Mary primary school to cater for children living within the first-time buyer homes. This site will accommodate 33 dwellings, providing a mix of first-time buyer, open market lifelong dwellings for the 55s and also for social

rents. Land northeast at Maison St. Brelade: the site comprises of 2.75 vergeés of uncultivated land. This site is located next to Maison St. Brelade and for those who do not know, this is a residential home run by the Parish. It is easy walking distance to the bus stop, a range of shops at Quennevais Precinct and has amenities and facilities at Les Quennevais Recreation Centre. This will be a Parish development. This site could accommodate an extension to Maison St. Brelade providing approximately 80 units of accommodation. Field 148, Rue des Maltières, Grouville: this site is an infill development of land between Le Côté Vautier and residential properties fronting Rue des Maltières and La Rue Horman. It comprises approximately 4 vergeés. The southeast part of the site is adjacent to Grouville Marsh and will be retained in its natural state. It could benefit from a field access to La Rue Horman which could enable a direct pedestrian route to Grouville Village. This site can accommodate approximately 20 lifelong dwellings for the Parish of Grouville. The development of which will be undertaken by the Gorey Lodge Charitable Trust. Appropriate measures for the marsh will be required. Field 818 and part of Field 873 in Trinity: this site presently comprises of approximately 1.75 vergeés of agricultural land. The site is a logical extension to the existing Parish sheltered homes. It is easy walking distance of the post office, pub, church and youth centre. This will be a Parish development and the site could accommodate approximately 12 lifelong dwellings for social rent. Field 578 in Trinity: the site presently comprises of approximately 9 and a quarter vergeés of agricultural land. The site is located opposite the existing Parish sheltered homes, easy walking distance of the post office, pub, church and youth centre. There is also adequate capacity at Trinity primary school to cater for children living in the first-time buyers' homes. The site could accommodate approximately 36 homes providing a mix of first-time buyers and one bedroom lifelong dwelling for social rents. This is a Parish development scheme. In summary then, Sir, this proposition seeks to enable the provision of land for housing on H sites involving an area of land of approximately 58.5 vergeés by amending the 2002 Island Plan. In addition to the provision of lifelong homes, the proposition also, in the case of 2 sites, recommends the provision of much needed homes for first-time buyers in St. Mary and Trinity. Although we originally sought only sites for elderly person's housing, the Connétables in these 2 Parishes, concerned that the population profile of their Parishes was ageing, felt that it was important to provide opportunities for homes for young families who have strong ties with their Parish and who would not otherwise be able to find homes in their respective Parish. Provision of new homes in all these sites will be subject to the same proportional split of tenure as those H2 sites already rezoned in the 2002 Island Plan, such that at least 45 will be for need or affordable at a social rent or Jersey Homebuy homes and up to 55 can be for sale for first-time buyers and, under this proposition, older people over 55. In the light of the Deputy of Grouville's proposition the Minister for Housing, together with the Connétables, will develop and establish a policy for allocation of homes on these rezoned sites. Public consultation was undertaken on 12 sites at the beginning of the year, and as a result of that consultation, for different reasons, the sites have been reduced to 8. The other 4 will be reconsidered during the Island Plan Review. As well as contributing to the overall requirement for homes throughout this Island, the proposition explicitly seeks to support and sustain the life and vitality of Parish communities and the amenities they provide by ensuring that people, young and old, are provided with opportunities to live and engage in Parish life. This is particularly relevant to the Island's rural Parishes where development opportunities and access to housing are otherwise limited. Generally because of a lack of affordable housing homes and lack of sites. The estimate total yield for these 8 sites is at least 337 homes, together with associated community and other facilities in some cases. One proposed site - Field 516, 516A and 518 in St. Saviour - has the potential to provide half of this yield, the remainder of the proposed provision being spread around the remaining 7 smaller sites in 6 Parishes. The number of homes that could be provided are entirely indicative and give the scale of development that is likely to be achievable. Any subsequent development will be subject to a formal planning application, have development brief to assess the achievable yield and efficient use of land. Appendix 3 of the projet specifies the general design criteria for these homes created and the specific criteria that we will look at for the lifelong dwellings on sites zoned as a result of this

proposition. The proposition proposes 2 principle changes to the housing chapter of the 2002 Island Plan. They are in the form of changes to the policies and the technical changes to support those policy changes. First it extends the definition of Category A housing in policy H1 to include housing for the elderly in lifelong homes for persons over 55, for social rents and for purchase. Second, it adds to the number of sites of category (a) housing included in policy H2. Sir, I would just like to comment briefly on the amendment. This amendment reflects the specific negotiations which have taken place between the Connétable and Deputy of St. Mary, and myself. The Parish requires 15 first-time buyers, 4 lifelong dwellings for sale to the over-55 and 14 lifelong dwellings for social rents. These figures, as maximum values, were agreed at a Parish Assembly held at St. Mary on 10th April 2007. In the proposition under paragraph 15 Fields 561, 562 St. Mary, the amendment is to delete the words “at least”. To finish, Sir, each site proposed has the full support of the Parish Connétables and been through full consultation. I urge Members to support these sites and to send out a message that we do care for our elderly on this Island, how they will live and our Parish way of life. Sir, I make the proposition.

The Greffier of the States (in the Chair):

Is the proposition seconded? **[Seconded]** Deputy, I do understand that you will be seeking separate votes on the 8 sites and Members can vote on each one individually?

The Deputy of Trinity:

Yes, Sir.

The Greffier of the States (in the Chair):

Does any Member wish to speak on the proposition? Deputy Le Fondré.

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

Members will know that I do not like the rezoning of green field sites and I therefore support the proposals that we should be looking at brownfield sites for future development possibilities. I would stress that while I believe I see a sense of change in direction of planning on this matter, I hope they will continue to go further on this for the future. But with regard to this debate and what we have heard so far, it is my understanding that the relevant Parishes are supportive of these proposals due to a perceived need for first-time buyer and sheltered housing in that Parish. Therefore, despite my own personal reservations, provided the Connétables of the relevant Parishes stand and confirm their support and confirm that the Parish is broadly supportive of the proposals, preferably by way of Parish Assembly - I am not too sure it has been applicable all the way through - but also the Parish Deputies stand and confirm their own support of the proposals, then I will support them. For that it does require, for me, an active demonstration of support from the elected representatives of those Parishes. Just one comment which is not necessarily relevant ... is taken from this proposition, Sir, but is more so relevant to the Island Plan, which is one comment I would like to make. Members may well recall a rather well known advert for cat food, which used to claim that 7 out of 10 cats preferred that particular brand, this later changed to 7 out of 10 owners that expressed a preference and even more recently the rather pertinent statistic of 7 out of 10 cats said their owners preferred it. The reason I mention it, Sir, is in the summary of responses the department set out, it is to really demonstrate my slight concern at how statistics are presented. The reason I state that is on page 4 of that response it says: “Support for rezoning land: 82 per cent thought that land should be rezoned to help meet the needs of first-time buyer housing; 64 per cent thought that land should be rezoned for over-55s social rented; and 69 per cent thought that land should be rezoned for over-55s enabling existing homeowners to downsize.” That is almost certainly true and would sound extremely impressive except for the fact it is based, as I understand it from reading the report, on written responses of 86. The reason I raise that is not for this debate but is for the forthcoming one on the Island Plan and I hope the department will try to make a somewhat more encompassing approach as to the public consultation and what the trend and views

of the Island is on these types of matters. Anyway, I do fully appreciate it is difficult to obtain sound and representative responses, particularly when many people tend to think that the attendance at a Parish Assembly is all that is required for their views to be fully taken into account by the department and do not necessarily write-in on their own accord. Therefore I think that for the Island Plan, the next set of proposals, this type of what you might call self-selecting samples would be quite difficult to use as justification for demonstration of full Island-wide support for the proposals. But to return directly to this proposition I would like the relevant Constables and Deputies of the Parishes to indicate their support during the course of this debate. If they do not, I will not support that part of the proposition. Thank you.

11.1.2 Deputy J.J. Huet:

I have a couple of queries I would like to ask. One was I was looking at page 10.3.4. Now, it is saying that the site assessment has been undertaken. Now this has happened ... they say if you wait long enough things come round a second time, because I remember that the site assessment was done at First Tower for 67 houses and I believe it also happened at Goose Green. A couple of years later in 2002 it came back at 97 houses and surprise, surprise, when the plans went in it was 145 houses. When queried how we could jump from 67 to 97 to 145 we were told that we were a bit stupid, we had not read the Island Plan properly and it was only saying what it could take, not the full amount that was possible. So, yes, I suppose I could say 10 vergeés could take 2 houses but 10 vergeés could take, I do not know, 50 houses. So that is my first question, to say that we are saying that the sites offer these amount of houses but we have been proved wrong twice in this Chamber on 2 sites that I know of that have been increased dramatically, nothing like we were told in here. The other one I looked at was 3.7 and I nearly laughed, because if you went back long enough, if you wanted to rezone and the site was in a green zone you had to come back to the House, you had no choice. Now they have very conveniently, dare I say, slipped in that we suddenly acquired a new zone in 2002 called the countryside zone. I gather the countryside zone does not have to come back to the House like the green zone does. It is now, I believe from what I read here, that it falls now within the policy. So that was very cleverly done. It means all the countryside zones and all these sites that would have been green zone before 2002 are now countryside so they do not have to come back to the House. So that was my second point. My third point, Sir, is on page 8, we are told this is for approximately 337 properties. Now I have shown that that could be 500 properties because there is no guarantee it is going to be 337 properties. I got the figures out and I did ask somebody to check them because I thought maybe I had made a mistake. The plots of land at First Tower for the 145 houses were originally going for £200,000 each per plot. Now I am back to my old thing, do not forget this plot of land was worth £50,000 as agricultural or countryside. Once it is rezoned it comes worth £6 million. I thought, right now, if those 337 houses, do not let us be greedy, we will not have them at £200,000 a plot because some of them I believe are owned by the Parishes, so let us be generous and say £100,000 per plot, thinking of first-time buyers, senior citizens and so forth. I thought: "How much is that?" Well, I did do a double check. It comes to £33,700,000. Wow, I thought, that is nice. So I thought I am always on about this '20 means 20', because I am not on about the developer, I am on about the owner of the land. The owner of the land has this plot of land that is worth £50,000. It gets rezoned, it is worth £50 million. Now, I believe this is where the '20 means 20' should come in and this is where it should be paid to the States. On this one at £100,000 - and do not forget I have been very conservative, Sir - I worked out that the States would acquire £6.7 million at '20 means 20.' Just say I was wrong and it went for £200,000, that is £13 million. If there were 500 houses, Sir - well I have not worked that sum out, I think it is beyond me. What I am trying to say, Sir, is that we were asked to put G.S.T. on food because we were told there was no other way of raising it. I believed it. I now hold my hands up and say I was stupid because I really believed that the G.S.T. on food, for some unknown reason, I had it in my head that it was between £15-20 million every year. Where I got that from, I do not know. But I was wrong. I have only recently found out that in actual fact it is £3 million per year, the G.S.T. So I was well wrong. I

can remember sitting with Deputy Breckon and saying to him: “Do you know I could come up with something that is worth about £3 million a year, but it is not enough, is it?” He was saying to me: “No, it is not, is it?” So we obviously were both thinking along the lines, but if this is the right figures now, it would have been enough. What I am saying is I do not believe that we should be putting these plots up for sale for the land owner to walk away without paying a ... and I do not want to hear about community charges and everything else, because that comes down to the developer. I am talking about the owner of the land. I believe that they should be paying a tax to the States because the States are rezoning. If they do not want to pay it, well they do not need to have their land rezoned, do they? But I bet you there is not too many of them that will turn it down. I have spoken to a couple that are very honest and have said to me: “I would have no objection to paying that because it would make my land worth £50,000 to £6 million.” Sir, I find this very difficult to say that first of all I do not believe the amount of houses because I have been caught once, and they say: “If you catch a person once you cannot catch them a second time.” I do not believe the amount of houses. I now realise we have been caught out on the countryside and green zone and nothing, but nothing - and they have been promising for years they will come back about a land tax - has been done. I would like to see ... and I think I would go as far to say until the land tax comes in this will not get my vote. Thank you very much, Sir.

11.1.3 Senator P.F. Routier:

I spent a bit of time studying this proposition and looking at each of the sites and I have to say I think that the proposers of this proposition, in working with the Constables, have done a tremendous job in identifying sites. I think what they will be doing is they will be strengthening their community around their Parishes and I believe that they are certainly going along the right route to ensure that provision is made for the elderly within the community. So I will be supporting this proposition. I have one little concern, and this is in relation to Fields 818 and 873 in Trinity, which relates to a comment made by the Health Protection people with regard to the dwellings which may be affected by the noise of church bells. [Laughter] When I read that I nearly fell off my seat, I could not believe that the Health Protection people would be commenting in that way. So I do not think that is a serious comment that the Health Protection people should be making but I hope when Members read that they will discount that and still go ahead with supporting this proposition.

11.1.4 Deputy J.G. Reed of St. Ouen:

I would like to start by saying that I absolutely fully support the provision of sheltered housing as a useful and invaluable way of providing homes for elderly in the Parish and improving the community that we all live in. I think that St. Ouen, thanks to some very forward looking Constables and parishioners, has achieved that. I suppose that is where a number of questions rise which I would like addressed. If the Parish has been able to build sheltered housing over a period of many years why do we need to change the Island Plan to accommodate the provision of sheltered housing. That is the first question. I have heard what has been said about the age at 55 and I would just like to make some observations. I accept that statistics can mean everything but in practical terms - and I am sure my Constable will be more than happy to support the view - in our experience when we are seeking residents and selecting residents for our homes, I would suggest that without exception we have no applications anywhere near the 55 age range. In fact I would go further that when we have conversations with some of the people that have put their names on our waiting list, we generally find that people in their 70s are still content and happy to remain in their own homes, partly because our health system is such now, and the protection that we give these people, that they are living fulfilling and full lives and have no desire to generally leave their homes whether they are owned or rented. I accept that the Minister says that we should plan for tomorrow but I say what about dealing with the problems today? It is quite clear without even looking at the Housing Needs Survey that we have a desperate shortage - desperate shortage - of first-time buyer homes. Desperate. So much so that we are hitting the £450,000 plus for a small - a very small - 3 bedroom

house. We are suggesting that because not many places will be built in the next 5 years we are going to concentrate our efforts on utilising rezoned land for providing lifelong homes. I fully support, and I am pleased to see that some of the Constables have flagged-up the very issues that I am raising here today and have persuaded the Minister to enable them to provide first-time buyer homes with the sheltered housing as a combined facility. I do struggle though with the aim to provide homes which can be bought, and I will tell you why. As I understand it - and please correct me if I am wrong at a later date - we had an experience recently where a large site was used for specifically the 55-plus individuals. It is my belief that quite a number of those properties are still vacant. I also believe that it has been 2 years since, or almost approximately, since that development has been complete. Where is the demand? Where is the demand? As I said before, people I believe generally do not want to leave their homes until they have to. That is the issue that we need to recognise. We also need to recognise that the majority of people are not looking to downsize, they are looking to upsize to get out of the small one and 2-bed flats that we have allowed developers and others to build, to move into the bigger home. Sir, I want to hear proper reasons, full and detailed reasons why I should forget about the needs of the first-time buyer and why I should allow these valuable sites to be used for this purpose. Thank you.

11.1.5 Deputy R.C. Duhamel:

A couple of quibbles. I think generally some of the schemes that have been put forward do stand out in terms of their quality compared to others. I think in terms of amenity provision and moving things forward in terms of providing a village-type atmosphere, I think the St. Saviour proposed development is probably in a class of its own. That unfortunately cannot really be applied to the St. Mary proposal which is basically redundant greenhouses and if people look at the map the thing that annoys me most is that this is greenhouses being converted but almost outside of the village envelope of St. Mary, which is shame. So in planning terms, and it may well be the long term objective to build on Field 564 or 563 or the ones to the north of the proposed development but I think broadly what is not happening is that we have not thrown a cordon around the existing village development and we are not coming forward with a complete village and community development plan. This unfortunately is in the worst tradition of bolt-on housing estates and if we read the explanatory notes, Transport and Technical Services are not supporting the site as there is little opportunity for potential residents to use methods of transport other than single occupant car journeys. The whole essence of 55-plus developments is to strengthen the community links within the village developments and areas which are already developed and not to be, as I say, bolting-on housing developments out in the sticks or several hundred yards down the road away from the amenities which are probably more usefully provided in the centre of these developments. So I do not think St. Mary cuts the mustard on that one. Likewise, I think probably the worst is a suggestion out of the collection of schemes put forward are the proposals for Trinity. The rural economy strategy group have advised that the field - this is 578, the very large one, the 9 and a quarter vergeés field to the north of the road - is a commercially viable field which should be retained for the long-term use of the agriculture industry. It is a shame that it has been, again, bolted-on - it is probably the best way to describe it - to the other site across the road. For Members who know the area this is not really the village of Trinity. We do have Victoria Village further down the road and indeed over the years I have always thought that Trinity had managed to escape the bolt-on housing mentality that was displayed when we had various revisions of the Island Plan in putting housing developments next door to the Parish churches. But it would appear that the march of progress is on in this particular instance and we have got 2 very large fields; in fact 818 when I was on the Planning Committee a number of years ago, it was suggested at the time that the second half - the southern half - of Field 818 below the existing development for old folks, would not be built on. But here it is a number of years later and the development proceeds southwards. I think it is a shame. I have got no real objections to strengthening communities and community development providing it is done in a properly planned fashion. But I think in these 2 particular instances it is not as planned as it could or should be. Final point, Sir, and that is on the

specific criteria for lifelong dwellings for older people, and may be picking-up a little bit on what the Deputy of St. Ouen was talking about. On page 37 we are told that there are specific criteria for lifelong dwellings for older people over 55 and - it is the third from the end bullet point - "The preferred unit type will be a single-storey bungalow and anything other must have the appropriate desired lift access." So what we are doing is we are zoning, under these proposals, large tracts of agricultural fields in the countryside with no specific links to well thought out amenities for the community developments and in terms of density we are going to be building bungalows. It is not the best use of land in my book, Sir, I think we could do better and we should do better. Just going back again, briefly, to the St. Saviour proposals. There was a lot of objection to this particular site going ahead at the outset but I think what the developer has done is allowed himself to be moved in the direction of providing proper amenities and facilities for older persons' homes. There will be a number of units that the Parish will be taking over; there is talk for a community hall, daycare services, activity facilities, a restaurant, cafe, hairdresser's and shops and other ... maybe even a post office, who knows. But I think the St. Saviour one really kind of shows how it should be done and could be done and the others leave a lot to be desired. I am particularly pleased that the votes will be taken separately, Sir, and I will be voting accordingly.

11.1.6 Deputy J.A. Martin:

Just a few questions. Again, I need to be convinced by all the Constables, but these are questions I would like to put to the Assistant Minister for Planning. The Deputy of St. Ouen talked about sheltered housing and on page 8.16 makes it quite clear that this should not be confused with sheltered housing and we are talking about lifelong homes. I have a question there because we have described lifelong homes as a unit of accommodation that is probably accessible by a lift, somebody can stay in it, and to me this does not marry-up with the housing survey needs where the Statistics Unit told me when the States Members were meeting that they do have a lot of one and 2-bedroom surplus flats. They have not identified whether they could or could not be lifelong homes but they are definitely not sheltered housing because that is a provision with an onsite caretaker. So that is that one. My second one is fundamental to the proposition we had last week because on the same page, on 8.12 - remember that we are asking to rezone again - it states: "The provision of new homes on these sites will be subject to the same proportion of split of tenure as those H2 sites already zoned in the 2002 Island Plan such that at least 45 per cent should be for the needy or affordable, i.e. social rent, and up to 55 can be for first-time buyers under this proposition and older people over 55." Now, my direct question is did we move that goalpost last week when we voted through Homebuy because I have not got a copy but my memory of it said, every new H2 site will now be assessed on the need at the time for social rented housing. At the same time we were told at the moment we do not need much. Does this apply still on the over-55s? I think it does and it really muddies the water of this proposition. Again, just looking at the actual sites in Trinity, again, it just says: "This site could accommodate approximately 36 homes with a mix of first-time buyer and one-bedroom lifelong dwellers for social rent." Again, does that take out the option of the Minister for Housing and the Minister for Planning and Environment to get together on every site when they do come to Planning and say: "No, we do not need these for social rent and we will put in first-time buyer." As I say, I am not against it but I think we are told by most people we will not do piecemeal and last week we had Homebuyer telling us we did not need social rented and we must let people buy first time. Now, against what I can read of the Statistics Unit, we are making small units of accommodation in different Parishes. I have a direct question on Field 148 in Grouville. "The site could accommodate approximately 20 lifelong dwellings for the Parish of Grouville. The development would be undertaken by the Gorey Lodge Charitable Trust." I do not need to know who they are, I would like an explanation of what is this trust? Does it rule under the codes, because there is no law? Please remember there is no law for housing trusts that has ever come through this House, there is a code and I would like to know if they are new, if they are established, if they are - I presume - a not-for-profit organisation? But I would really like a recommendation because other than that I am not supporting that. The land in St. Brelade, I went

up with the long-term care and visited Maison St. Brelade and they are already obviously upgrading and have a new building; is this lifelong dwellings of accommodation complimenting that or is it already in the drawings there? I think it is probably complimenting that. I do think St. Mary have played a good flanker where Deputy Huet has noticed, they have at least had - at least - 33 taken out. So St. Mary will not get no more than 33 dwellings, and I think maybe some of the other Constables may have missed a trick there because, as Deputy Huet says, what potential yield never... always seems to be upgraded and not downgraded. Lastly, Deputy Duhamel of St. Saviour says: "We have a lovely scheme in St. Saviour." The Assistant Minister for Planning made much play of it as a residential retirement village with a potential yield 98 open market - and this is my question - is it and 80 social rented dwellings for life for over-55s or are the 98 for a number of open market, is that and? Is it just a play on the words? I need to be sure that they are both for over-55s. I think they are but I am just asking the question. The Assistant Minister, Sir, also said they have no implication - it is a very, very big site - for traffic and schools. Traffic... people even if they are moving to over-55 will be driving cars. The "no implication on schools" and I think St. Saviour primary school has been oversubscribed for a very, very long time and maybe the primary school at Grainville, but if this is over-55s and it is all over-55s, it is very well known that childcare in Jersey is very expensive and if nanny or granddad is not working and are over 55 they do look after the grandchildren and the grandchildren go to school in the area of the grandparents, or where their child minder is or follow on from their nursery. So I think that is quite a sweeping statement the Assistant Minister says when, in practice, this is what people do, and it is a very big unit. I think those are the only questions I have. I have not made my mind up completely yet. I am glad we are voting on this individually, but, as I say, the overriding question is why ... I am still not convinced that piecemeal ... again before we already have basically thrown out the Island Plan, and we are looking to review it. Secondly, the Homebuy scheme, Sir, I think that overrides anything that is already on H2 and it can be addressed and assessed by the Ministers for Planning and Environment and for Housing together. The Minister for Planning and Environment is nodding to me so I am assuming that is correct. So that, again, puts some serious doubt in my mind. But I will wait for the Assistant Minister for Planning to sum up and I look forward to listening to the Constables who are in support and who may have more knowledge - sorry, more parochial knowledge - of the questions I have put and they will answer them for me. Thank you, Sir.

Connétable D.J. Murphy of Grouville:

I am terribly sorry but I was called from the Chamber for an emergency when the debate started. Can you tell me if we are debating now and then going on to debate each individual site?

The Greffier of the States (in the Chair):

No, there is one debate on the entire proposition but there will be separate votes, Constable.

11.1.7 Deputy C.J. Scott Warren:

I should first declare that I am over 55. I should say that obviously for all the 7 Parishes that come within this proposition, I believe all the Connétables do give support for each scheme or schemes. In particular, I support the St. Saviour retirement village and welcome - which has been mentioned by my fellow deputy - the 30 social rent for lifelong dwellings that the developer has said he will cede to the Parish. I also, Sir, support in this proposition the first-time buyer homes and lifelong dwellings. The thing that I would say is, and has been mentioned by Deputy Duhamel, we have had a concern about a sense of community which definitely this retirement village in St. Saviour does have. Looking at each individual scheme certainly some of the schemes have more ... there is more provision from the community aspects, which is important, than for other schemes. We have seen concern in the newspaper yesterday and I think all of us know that we have to be cognisant of the need to preserve, wherever possible in future, green field sites, the countryside zone, and when we have the revised Island Plan all these issues will need to be kept under constant review. We will need a joined-up government approach which takes a lot of departments, including the Parishes,

Planning and Environment, Housing, Economic Development, particularly with issues of future decisions regarding migration. So, Sir, I do support particularly the St. Saviour proposals. I understand from the Connétables that these sites are needed for the individual Parishes. I do have reservations about the community aspects of some of the sites but because I do believe that the Connétables would not support these sites if they did not really believe them to be necessary, I will, Sir, support this proposition. Thank you.

11.1.8 The Connétable of St. Mary:

I thought I could not let Deputy Duhamel of St. Saviour... I am sure I could not let him get away with... **[Laughter]** Obviously he did say “almost outside” so therefore it must be slightly inside as well so I think that kind of defeats his objective as well. Could I point out that although it is a greenhouse site, it is a brownfield site and I know I have had a discussion with Deputy Duhamel previously about this. He had suggested that we could use some of the fields to the north of this particular one which would be green fields sites. So he has a preference for building in green field sites and not brownfield sites, I think, as well. Regarding the ...

Deputy R.C. Duhamel:

A point of clarification.

The Connétable of St. Mary:

No, I am certainly not going to give way. **[Laughter]** Good gracious me, I do not get up very often and you expect me to give way, come on. **[Laughter]** Gracious me. Regarding the traffic situation or the buses situation, as is mentioned down here, I am very disappointed with Transport and Technical Services in that respect because it said that the ... other than single occupant cars. I seem recall something that goes around in my head - and an old saying as well - is that if Mohammed cannot get to the mountain, bring the mountain to Mohammed. So why do not the buses then ... when the situation is there with all the extra ones, they can arrange for the buses to come there. It is not very far around. Perhaps the Minister for Transport and Technical Services might incorporate it in his great big new northern route that he plans to have from Gorey to Grosnez as well. So that could be incorporated in that, I am sure, if he really wanted to. But obviously Deputy Duhamel... and thank goodness he was not at the meeting because it was only parishioners there to decide ... we are looking into it and it is being looked into with traffic calming measures as well, with the help of Transport and Technical Services and the St. Mary Honorary Police as well, because of trying to incorporate more safety measures and that around there. So I certainly could not let him get away with that. Obviously it will be one vote St. Mary will not get but nevertheless I am hopeful that everybody else will be in favour and I look forward to the vote. Thank you, Sir.

11.1.9 Connétable P.F.M. Hanning of St. Saviour:

As before, I must declare an interest because the Parish will be - if this goes through, or the St. Saviour one goes through - being gifted 30 apartments and it might come as some relief to Deputy Huet that the value of these apartments will be over £4 million and I think that probably goes fairly well towards the sort of tax that she was looking for. We have been gifted these because of the support that we are providing. The developer is also the owner of the land and we have, I think, had very good relations with the developer. We are looking at the St. Saviour scheme as being a very high quality scheme. We are hoping that if our finances can be sorted out adequately and safely that the Parish would purchase anything up to the entire 80 social units. We will be gifted 30 and hopefully we will be using the income from those to help fund the purchase of the remaining 50. This is not decided at this stage but this is what we are hoping to do. I think this provides us with housing. At the moment St. Saviour has no housing for its parishioners. Many of the other Parishes do have the housing. I think we have a moral duty to look after our elderly parishioners. If you have lived in the area or the Parish, either been born there and lived all your life there, or

have moved there and have lived a proportion of your life there, you do not want to move once you reach your later stages in life. You want to be able to carry on and live there. I think it is only right that we as a Parish try and support that. I think most people here agree that the St. Saviour site is different to the others. It provides virtually half of the entire number of housing units. It is a complete village unit in its own right. It has been developed in conjunction with the recommendations of the Rowntree Trust. The care home will be run hopefully by the Methodists and they will also have a dementia unit there and will be able to provide help for people living in this retirement village. It has a lot going for it and I would be very disappointed if Members did not support us. Deputy Huet again has spoken about the over-development that can happen. We have been particularly strong in arguing for a limited number of units of accommodation on this site and the developer has agreed to place a covenant on the land that is not being built on so that we can protect the trees and grassed areas that will be quite a high proportion of the site. This will be alongside Patier Park and I think make a very pleasant area for these people to live. For Deputy Martin, yes there will be 80 and 98 open. I do not think it will make a vast amount of difference to the traffic because while the people living there will have cars - or some of them will - there is a bus route with a lay-by provided for the bus to come. It is on a good bus route. I hope that she is right and that we do have youngsters staying with grandparents. I think it is an essential part of our society that young people do mix with the elderly and I know that many of the elderly find that it is invigorating for them to have youngsters, if not gangs of teenagers, at least some of the youngsters being looked after by their grandparents and I think it would be beneficial to the whole area if we do have some. I am not suggesting we have a whole school full but it would ... if we have odd ones visiting or being looked after occasionally I think that would be beneficial to the site. It is, as I have said, very important to the whole area that we have all the facilities that have been provided there. In the area we have the Cottage Homes just across the road, they will be able to benefit from the facilities that are provided. It is a win/win situation. The Parish gets housing, the Island gets its elderly looked after, and the people in the area get a good development. I have been approached by quite a lot of people who want to downsize and move there. I think the point made that the older you get the less likely you are to want to downsize is valid. The longer we leave this, the harder it is going to be for some of those people to move because it is a traumatic event moving. So I think the sooner we can go for this the better. I would be very disappointed if people did not support this because we certainly have the support of our Deputies, they know how much the people in the Parish want this - I hope we have got the support of our Deputies, certainly all the ones I have spoken to said they support it. I think this one is a special case. When we had the previous debate in April even the Deputy of Grouville said it was a special case and, Sir, I think that just about sums it up. I think the Island needs these facilities and certainly we as a Parish need them, and I would ask Members to support it.

11.1.10 Deputy K.C. Lewis:

Initially, Sir, regarding the St. Saviour development, I was not initially in favour of the development up there. But as it has been modified with local concerns taken into account, the plan does now have my full support. I am sure the Constable will be pleased with that. In the proposition it says it has been suggested that up to 30 of the social rented lifelong dwellings will be ceded by the developer to the Parish. I hope that has now been firmed-up to something a bit more solid than a suggestion and "up to". The Constable is nodding, I am grateful for that. Also I do hope that as the Constable has just mentioned that the facilities there will be available to the people staying in Victoria Cottage Homes and I would like clarification that a zebra crossing or similar would be part of the initial plan. Thank you, Sir.

11.1.11 The Connétable of Grouville:

If I can address mainly, Sir, obviously, Field 148, which is the field in Grouville which is up for rezoning. The site is basically an infill site and it is marginal agricultural land, which is very wet at the bottom. The trust who have undertaken to build have undertaken to hand over management of

the bottom 7 metres to the National Trust who have land bordering on there and bordering on the Grouville Marsh. In fact the land is rent-free at the moment in exchange for branchage, *et cetera*. I have researched the whole area and we have not found any other suitable site. Everybody has got a field they want to build on, of course they have. We tried 2 sites around the Gorey village area which is the site we were aiming for. There is one site with glasshouses on and they would not sell and the other site was already part of the Potteries development, or the proposed Potteries redevelopment and that is part of the drainage system for the whole of Gorey village so it cannot be built on anyway - the village would flood without it. The application that is going in is on behalf of the Gorey Lodge Trust - and this is especially for Deputy Martin. It is very highly regarded within the Island community, obviously not in St. Helier. The main man behind the trust is David Kirsch who lives in Grouville I am delighted to say and the trust is the trust that provides £100 a year for senior citizens over the age of 70, which I believe comes to about £800,000 a year which they give away to the community. This, of course, is only the tip of the iceberg of their generosity as I know of many other gifts and grants that have been made but without any publicity at all. They are an extremely generous trust towards the Island. They already have 2 developments in the Gorey Village area; Margaret Terrace and Leonard Terrace, which are beautifully done. You may have seen them. One is near the Spa Shop in Gorey Village - little granite bungalows along the side of the road - and the other one is opposite the Village Inn, which is another one along the seafront there. Those are all let at affordable rents to elderly people. So this is just another one of their developments to help the Parish and I am delighted that we have them. Those 2 developments that have been done in village... I might tell you that when one becomes vacant there is a stampede to get in there. They really are very, very popular. We, as a Parish, have 19 people on our waiting list at the moment and I think if this rezoning goes through it is going to virtually redouble. The actual development bungalows on that side of the road will be one-storey but with 2 bedrooms so that carers or family can stay with the tenants, if necessary. It is a fact that in the rural Parishes we have very few sites that are not countryside or green field zoned and until there is an exit strategy for greenhouses ... we have not got one so we just cannot recommend greenhouse sites at the moment. I would love to, because we have a couple of greenhouse sites which would be absolutely perfect not for elderly people but certainly for first-time buyers. I wish that somebody would get on with it and gives us some way of going forward with greenhouse sites because they would save us a lot of problems. Now, the agreement that we have between the Parish and the Gorey Trust is that the Parish will have nomination rights over 60 per cent of the 20 properties. That is 12. These properties will double our capacity. At the moment we have 12 units in the village itself and they will be a much better class... much better properties and we will then be able to spend the income from our present properties on improving and refurbishing them, which they do need a little bit of money spent at the moment. I am extremely grateful for this generous and selfless gesture by Mr. Kirsh and the Trust which will help the older generation of Grouville. I have to say that if this is turned down then we really have nowhere else to go. The Trust will not pay retail prices for land that already has planning permission. It is just unaffordable for them. Affordable absolutely for the Parish to go ahead and do anything with the cost of sites as they are at the moment. If you have a site which has been passed you are paying £200,000 for the site and about, you know, another £100,000 to build something terribly small on it. So that is just not in our sights at all. This is not the case here of a greedy developer cramming houses on to a site in order to sell on the open market. These will be rented at social rents. The rents will be at rates agreed by the Housing Department so absolutely nobody will be overcharged or put at disadvantage. During the course of these negotiations and the time we spent talking to the Minister, he has basically devolved some of his responsibilities on to the Connétables. We have taken these responsibilities very seriously and I am just asking for the rest of you to please take those responsibilities on board as well and please pass this. Thank you.

11.1.12 The Connétable of St. Brelade:

St. Brelade's land northeast of Maison St. Brelade. This piece of land, ladies and gentlemen, I am very grateful, was purchased by my predecessors some 20 years ago and belongs to the Parish, and I hope that gives Deputy Huet comfort. The Parish philosophy has been towards residential care and this has taken place over many years and we have a successful residential home. But as time goes on things need to modernise and change and it did have an extension some 10 years or so ago and we are now due to modernise it yet again. We have a 50-room residential home and we have to turn those rooms into en-suite accommodation. In order to do so we have to carry out an extension which will involve going on to the site in question. Now these plans have been going on for some considerable period of time and some 18 months ago it must be - or it may 2 years ago now - Planning approached us, as they did other Constables, asking for ideas with regard to sheltered over-55s housing. I looked seriously around the Parish and really could not find anywhere else. But it struck me that the area in front of Maison St. Brelade that we are discussing at present could be utilised to provide what I would term sheltered housing as opposed to over-55s, as an adjunct to Maison St. Brelade providing the last house perhaps before people were to go into residential care. The site is particularly suitable. It could be administered within the remit of the Maison St. Brelade staff and management. All services are present. Suggestions from T.T.S. I think with regard to access to the railway track can be considered and I think probably overcome without too much difficulty. I consider it is the future and the way forward. It would not be an obtrusive development, it lies quite well with the area and I think it satisfies the need not only to enable the redevelopment and improvement of Maison St. Brelade, but also provides a few extra units of accommodation to help the Island need. Thank you, Sir.

11.1.13 Connétable S.A. Yates of St. Martin:

I made a few notes because I would like to address a couple of things that Deputy Huet and the Deputy of St. Ouen said and some of those were answered by the Constable of Grouville. But I would like to assure Deputy Huet of St. Helier that for each one of these sites, not only does the Connétable back it up, the Constable is integrally entangled with it; he is part of it, and you will not see any £300 million land profits emerge from any of these sort of land transactions, because it is just not like that. The Constable is so engaged in the development of these retirement, sheltered housing, last-time buyers or life-time homes, that basically these are social houses; they are social houses for the Parish and the Constable is masterminding these developments. We have got a situation where you have... from the debate so far we have obviously Trinity is a Parish development; St. Saviour, you have a land owner/developer development in conjunction with the Parish; with Grouville you have a charitable trust development. So far there is no great developer profit here. I just wanted to reassure the Deputy that this is the case. The whole essence of this proposition is for social housing. The Deputy of St. Ouen was rather questioning the emphasis on sheltered housing last-time buyers or lifelong over-55 homes, and I totally agree with him. He says that first-time buyers is the priority. I totally agree with him. In the coming Island Plan Review I hope to be bringing forward a proposition for St. Martin because I would like to deliver affordable housing for young families because I agree that the need is for young families, but also I would like to add to our 27 sheltered housing because there is a demand. But that will come probably at the end of the year or next year. Deputy Duhamel of St. Saviour approves of the development in St. Saviour and I am very pleased with that, but he was a little bit off about the one at St. Martin. I think that is not fair because in fact we have got to regenerate the Parishes with younger families. I will take issue because he was saying that all this sheltered housing was going to be bungalows, these lifelong homes were going to be bungalows, but in fact my proposed scheme for first-time buyers in St. Martin, they are lifelong homes and they have got provision for a lift later on because with clever arrangements of broom cupboards or airing cupboards downstairs and extra wardrobes upstairs you can make a lift for a 3-bedroom house. That is what we have done, a 3-bedroom house, lifelong home, with the doorways for lifelong home. So do not think bungalow for lifelong homes, they are not. Not necessarily. Sir, basically I have more or less covered what I wanted to say. Yes, I would hope that the House would support this proposition.

11.1.14 Deputy D.W. Mezbourian:

Deputy Pryke told us that there is a demand for homes and the report itself states that the proposition is seeking to respond to a need for housing. I put the question to her that under item 2.3 we are told that the Housing Needs Survey of 2007, which assessed Jersey's housing assessment for 2008 to 2012 states that one of the headlines of relevance to this proposition is that about two-thirds of people are looking to move in the next 2 years and I wonder if the Deputy, when she responds, will tell us two-thirds of how many; two-thirds of people who are looking for what type of accommodation and if they are looking to move in the next 2 years, what are their reasons for looking to move in the next 2 years? Are we responding to a need or in fact to a want? I have a couple of other points, Sir, and I will be brief because I am aware of the time. Deputy Huet mentioned that once bitten twice shy, I think was what she was implying, on the indicative figures that she has had to deal with within this House in the past. I refer Members to section 8.89 in the projet which makes it quite clear that the yields referred to in this proposition are entirely indicative and do not represent a maximum or a minimum developable yield for any site, but rather give an indication of the scale of development that is likely to be achieved. It refers also in 8.89 to the development brief and I would just draw Members attention again to the fact that we in St. Lawrence fought long and hard over the proposed development at Goose Green precisely because indicative figures were agreed within the 2002 Island Plan. Now, we all know there is nothing in here that refers to St. Lawrence so I have done my bit of arguing with the Planning Department - with the Minister for Planning and Environment - to get the numbers reduced downwards. Indeed I think we started at about 150 houses and reduced down gradually to eventually a site with a 102. I urge Members to drive past and see how dense that site looks now that it has been developed. The houses may be more attractive than they were originally thanks to the Minister for Housing, but the site indeed looks particularly ... I beg your pardon, thanks to the Minister for Planning and Environment - I do not want to give praise unduly to the wrong person - I have not had cause to praise the Minister for Housing recently. Nevertheless the Minister for Planning and Environment listened to us and the Connétable of St. Lawrence, Deputy Le Fondré and myself, and indeed the Deputy of St. Peter, fought long and hard to get the numbers down simply because it was an indicative figure agreed within the 2002 Island Plan. I merely draw Members attention to this. Now I believe I am cautious on the possibility of rezoning land, be that green field or be that countryside. When I read something like this - P.75: Provision of land for lifelong dwellings and for first-time buyers - I am struck when I note that the Rural Economy Strategy Group does not support all of the sites within here as Deputy Duhamel has alluded to. What surprised me though was that he supports the proposition to rezone fields within St. Saviour. When he spoke he made no reference to the fact that on page 16 of the proposition we learn that the Rural Economy Strategy Group object to the loss of the land which they consider is capable of sustaining a wide range of crops. Yet - and yet - here we have the good Deputy supporting the rezoning of these fields within St. Saviour. Now I am sure that other Members who follow me may well make the point that with food prices rising for whatever reason - be that G.S.T. or simply the world economy at the moment - food prices are rising; do we need to develop on prime agricultural land which is capable of supporting a wide-range of crops. Obviously I will leave that to Members themselves to decide. I want to echo what other Members have suggested when they spoke previously, which is that this does smack to me of being an unco-ordinated and piecemeal proposition. I regret that we have felt it necessary - well, we, certainly not me, but the Planning Department - to bring it forward before the final review of the Island Plan. Just let me support myself there. **[Laughter]** There are a couple of other sites that the Rural Economy Strategy Group have objected to and one of them being part of the field in Grouville - Field 148, Rue des Maltières, Grouville - and the other part as I think Deputy Duhamel mentioned, the commercially viable Field 578 in Trinity. They also made comment that Fields 818 and part 873 in Trinity would not be a significant impact if they were lost. Nowhere do I see an explanation of what a significant impact would be were they to be lost for homes. I am not sure, Sir, whether I have anything else to add. I have certainly got plenty of notes

made on this proposition. I think I will just close by saying that I feel that the Minister for Planning and Environment's position is compromised because he is Minister not only for Planning but Minister for the Environment and [**Approbation**] I feel strongly that if the Rural Economy Strategy Group, who have been consulted in this, make the comment that they do not feel that agricultural land should be rezoned for housing then I question the Minister in his role as Planning Minister when I read in section 3.9 that he considers that the principle of releasing these sites for development to provide homes is in the best interests of the Island and is therefore justifiable. Sir, I hope the Minister for Planning or the Minister for the Environment will stand up and speak and make his views known to us and make his views clear to us, Sir, because, again, I find myself thinking that the Minister for Planning and Environment - he who wears 2 hats - is again in a compromised situation. I do not think he should be in that situation. Thank you very much.

ADJOURNMENT PROPOSED

Senator L. Norman:

Perhaps the Minister could do that tomorrow and I propose the adjournment, Sir.

The Greffier of the States (in the Chair):

Very well, the adjournment is proposed. The Assembly will adjourn until 9.30 a.m. tomorrow morning.

ADJOURNMENT