

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 17th NOVEMBER 2010

PUBLIC BUSINESS - resumption	3
1. Income Support: mortgage payments (P.149/2010) - resumption	3
1.1 Deputy I.J. Gorst of St. Clement:	3
Mr. T.J. Le Cocq Q.C., H.M. Attorney General:	6
Deputy G.P. Southern of St. Helier:	6
1.1.1 Deputy M.R. Higgins:.....	6
The Attorney General:	8
2. Rezoned Sites: assessment of housing needs (P.152/2010)	11
2.1 Deputy P.J. Rondel of St. John:	12
2.2 Rezoned Sites: assessment of housing needs (P.152/2010) - amendment (P.152/2010 Amd.)	14
2.2.1 Connétable J.L.S. Gallichan of Trinity:	14
2.2.2 Deputy J.A. Martin of St. Helier:	15
2.2.3 Senator F.E. Cohen:.....	15
2.2.4 Connétable A.S. Crowcroft of St. Helier:.....	15
2.2.5 Deputy A.E. Jeune of St. Brelade:.....	15
2.2.6 Deputy P.V.F. Le Claire of St. Helier:	16
2.2.7 Deputy R.G. Le Hérisier:	17
2.2.8 Deputy A.E. Pryke of Trinity:.....	17
2.2.9 Senator P.F.C. Ozouf:.....	18
2.2.10 Senator T.J. Le Main:.....	19
2.2.11 Deputy D.J.A. Wimberley of St. Mary:	20
2.2.12 Connétable P.F.M. Hanning of St. Saviour:.....	21
2.2.13 Deputy D.J. De Sousa of St. Helier:	21
2.2.14 Deputy R.C. Duhamel of St. Saviour:.....	21
2.2.15 The Deputy of St. John:.....	22
2.2.16 Connétable S.A. Yates of St. Martin:.....	23
2.2.17 Deputy T.M. Pitman of St. Helier:.....	23
2.2.18 Connétable J. Gallichan of St. Mary:.....	24
2.2.19 Senator A.J.H. Maclean:.....	24
2.2.20 The Connétable of Trinity:	25
2.3 Rezoned Sites: assessment of housing needs (P.152/2010) as amended	27
2.3.1 The Connétable of St. Helier:.....	27
2.3.2 The Deputy of St. Mary:.....	27
2.3.3 Connétable G.F. Butcher of St. John:.....	28
2.3.4 Senator P.F.C. Ozouf:.....	28
2.3.5 Connétable D.J. Murphy of Grouville:	29

2.3.6 Deputy P.V.F. Le Claire:	30
2.3.7 Senator F.E. Cohen:	32
2.3.8 Deputy A.E. Jeune:	32
2.3.9 The Connétable of St. Saviour:	33
2.3.10 Deputy J.A. Hilton of St. Helier:	35
2.3.11 Deputy C.F. Labey of Grouville:	36
2.3.12 Connétable K.P. Vibert of St. Ouen:	38
2.3.13 Connétable J.M. Refault of St. Peter:	39
2.3.14 Connétable M.K. Jackson of St. Brelade:	40
LUNCHEON ADJOURNMENT PROPOSED.....	40
LUNCHEON ADJOURNMENT.....	40
The Connétable of Trinity:	41
2.3.15 The Deputy of Trinity:	41
2.3.16 Deputy J.A.N. Le Fondré:	42
2.3.17 Deputy M.R. Higgins:	43
2.3.18 Deputy M. Tadier:	45
2.3.19 Deputy J.A. Martin:	47
2.3.20 Senator S.C. Ferguson:	49
The Attorney General:	50
2.3.21 Senator T.J. Le Main:	51
2.3.22 Deputy R.C. Duhamel:	53
2.3.23 Senator A. Breckon:	54
2.3.24 The Deputy of St. John:	56
3. Napier Report into the suspension of the former Chief Officer of the States of Jersey Police: action on findings (P.166/2010).....	60
3.1 The Deputy of St. Martin:	60
3.1.1 Senator T.A. Le Sueur:	67
3.1.2 The Deputy of St. Mary:	68
ADJOURNMENT.....	78

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

PUBLIC BUSINESS - resumption

1. Income Support: mortgage payments (P.149/2010) - resumption

The Bailiff:

Very well, then we return to the debate on Projet 149 Income Support: mortgage payments lodged by Deputy Southern.

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

I must admit, as my intervention suggested yesterday, I am slightly confused about what it is that the proposer is trying to achieve because it was indicated I think in his speech, and other Members picked up on it, that he was trying to achieve one thing but his proposition quite clearly seeks to achieve something else. What the proposition seeks to achieve is for me to increase or change the special payment criteria regulation to include mortgage payments within that list. If that is the case then that is not the same as saying that anybody who knocks on the door of Social Security can be entitled to a mortgage payment if they find themselves in a difficult situation. It would mean, however, that officers would look at the list with this payment included and only those individuals which currently meet the requirements to benefit from income support and 10 per cent above that would be entitled to these payments. I see the proposer, he is shaking his head but that is the criteria for the special payment regulations. I am not sure really whether the proposer wishes me to include it in that list or he is wishing for something much wider. That gives me certain problems and I believe that it gives States Members a problem in ascertaining exactly what it is that the Deputy wishes for. I must, however, go on and address my remarks on the assumption that what he wishes for is what is in the proposition and that means that he is requesting me to change this special payment regulation to include mortgage payments for a 6-month period. There has, over the last number of weeks since the Minister for Housing revealed or announced that his waiting lists for social rented housing have increased - it is probably fair to use the word "considerably" - over the last 2 years although we know that the increase currently in 2010 is less than the increase in 2009. There has been a number of questions raised, and rightly so, about social housing, about the provision of social housing and how we, as an Assembly, a Government and thereby community, deal with those issues. That is something that I am only too aware of and something that I am working with the Housing Department upon. But it is an issue which we probably need to go back to some basic concepts, bearing in mind that we know that housing in Jersey, relatively, is expensive. We know that housing costs are expensive and we also know that it is the housing ... where you have high housing costs that becomes a barrier to those on benefits from becoming fully self-supported because they have such a high hurdle to get over when it comes to housing costs. My personal thoughts on this matter perhaps are that we need a much wider social provision of housing, something that we have seen with the creation of the associations, but whether we should have 2 different categories; we currently have States provision and private social provision, as it were, by the trusts, I am not certain that that is appropriate. I personally think that perhaps we should have one larger pool. Outside of that we then need some type of provision. We have seen the Homebuyers Scheme in operation. We need some sort of provision to encourage those out of social housing to be able to buy their own accommodation and of course we will always have the private purchase market as well. But we really do need to do some, I think, fundamental rethinking about what it is that we wish to provide, what is appropriate provision, who it is provided by, but I must of course be very careful because this is very firmly in the remit of the Minister for Housing, albeit that it does touch very closely with the benefit provision that we provide at Social Security. Why do I raise the housing list issue? Well I raise it because I believe that this is the change that has caused the Deputy to bring forward this particular proposition at this particular time, so there can be no doubt that the Deputy's analysis or belief that the increased housing waiting list is due to the recession. I think we can be certain about that. Members of the community are finding it

difficult; they are having to stretch every pound that they have. However, I am not sure that then the next jump which is made is that the people on the waiting list are there because they were previously home owners and have had to sell their house, and if only we had been able to provide a mortgage payment for them they would not have been in that case. I am afraid that the evidence does not bear that to be the case. I have, as I hope Members would expect, consulted with the Housing Department, consulted with Citizens Advice Bureau, consulted with mortgage providers and the mortgage providing bodies in Jersey, to see whether we have been encountering repossessions and this has been or is an issue in the Island. I have got to say that that consultation has shown that there have not been any increased repossessions throughout 2009. If we look at the court records we will see that to be the case. Housing do not have evidence that people are applying for tenancies because of repossessions; it is because they are in straitened times in the private rental market and therefore are wanting to access the social rented market, which comes back to my comments right at the start as I was opening my speech. Nor have we seen any increased evidence or increased demands for discretionary payments to help with mortgages under the income support system. As the proposer acknowledged, there is already a discretionary element in income support that can, in exceptional circumstances, provide for such payments. Therefore, I have to ask whether this is the answer to the question which really is being asked, and I am not certain that it is and I am far from certain that there is sufficient evidence, as we stand here today, to say that we need to solve this problem in the way that is being presented to us. Contrary to how it might seem to some members of our community, I believe that all Ministers and all departments are loathe to bring forward any legislation which might be unnecessary or not needed at that particular time and that is appropriate. I am finding it difficult to see that this change is necessary at this particular time. I mention the discretionary powers that the Minister has under income support because they are quite clear and they are used when a general request for help falls completely outside of income support legislation. As Members will know I answered a question recently to say that over the life of income support 3 such payments have been made, where those requests have fallen completely outside of income support legislation. The reason I am majoring on this is because that is not what the Deputy is asking for. He is asking for it to be included within the legislation and, to my mind, if something is included in the regulations there are strict guidelines about when a person is entitled and when they are not. In those circumstances there appears to me to be little need to then come to the Minister for his discretionary powers because the States has made a decision about when or when not cases should be met.

[09:45]

Therefore I struggle in those cases to accept that I should invoke the discretionary powers because the States has made a decision about when and when it should not be payable. Therefore I come back to another concern that I have that perhaps by doing what the Deputy wishes he is worsening the current situation rather than improving it, as I think he intends to, because he will be putting down clear guidelines in the regulation or he will be asking me to do that and, therefore, meaning that it is most unlikely, at that point, that I use the discretionary powers which are broader because the regulation will quite clearly say in this instance "Yes", in this instance "No", because you either meet the criteria or you do not. I am also concerned that if we bear in mind that currently in Jersey we have a very low level of repossessions; I think in 2009 we had one. We do have a couple in 2010 but they are registered in company names and not individuals, those mortgages are company mortgages, and therefore would not be met by this criteria anyway. I do have a concern that despite the high housing costs, but perhaps I would say as someone with an experience in branch banking, that because of high housing costs banks are extremely loathe to get into a position of repossession. I know that there is a popular misconception that banks generally might repossess on a whim. I have got to say that most banks take the opposite view because, as I am sure you are only too well aware, the amount of money that a bank loses by repossessing a property is far greater than they recover in capital value. Now of course when housing is worth more, as we know it is in Jersey, there is potentially more for the bank to lose and therefore they are less likely to repossess and that,

I believe, is one of the reasons why we see lower levels of repossession in our community. The other thing of course is that banks do already have procedures in place. If an individual has not taken out the mortgage protection payment, and here I would add to what Senator Le Gresley said, historically of course all mortgages had to or individuals were, shall we say, encouraged in the nicest possible way, or perhaps not, to take out mortgage protection payments. Of course we now know in our more enlightened times that individuals should be encouraged to make up their own mind and not be forced to have one particular course of action because these policies can be quite expensive and out of the general monthly payments. Having said that, even if an individual does not have that protection, and it is appropriate protection to take out, banks do want their clients to come to them and speak to them in the first instance at the first point that they feel that they might be encountering difficulties with paying their mortgages because there are options available. Individuals can have mortgage holidays, dependent on the provider; it might be 6 months, it might be a year. They can move to interest only payments for a number of years. There are options available for those very reasons that I mentioned, that on the whole providers do not wish to repossess because of the costs involved and the time involved. They would much rather that those individuals were able to deal with their mortgage and their property in a more ordered and orthodox manner. I would not want to send a signal to the lending community in Jersey that the line of first resort is going to be the income support system. **[Approbation]** Banks do not need to follow appropriate procedures and negotiations with their clients because the States will pick up the cost; I do not believe that that is a position that we would want to encourage. The Deputy, in his report, talked about people not knowing what is available via income support and I, in the past, have held my hand up where I felt that we have not communicated in the way that we perhaps should have done. However, in this instance, I am afraid that he is a little bit wide of the mark. While I am always prepared to hold my hand up when I have got it wrong, when we have got it right then I am prepared to stand up and say so. It is quite clear, I have in front of me the income support booklet which is given out to individuals that visit the department and quite clearly there: "How are other costs met under discretionary payments?" it says: "A payment could be made ... he satisfies income support residency conditions, mortgage interest can be paid temporarily following an unexpected significant and sudden drop in income." It is quite clear that an individual could come and ask the Minister to use his discretionary powers under the existing law. Of course I go back to the point that I made that should we change it to the special payments, they are different to the discretionary payments that the Minister makes, then I believe it would make it more difficult for the Minister to invoke those discretionary powers. Of course the proposer is shaking his head and he will tell us why he disagrees with that in due course. In this instance I believe that that information is already available in our printed documentation and having said that there is always room for improvements in communication. I, being an accountant, am only too aware of that, that perhaps P.R. (public relations) and communication is not my individual forte and can always be improved. In summing up, I recognise that this is a difficult area. I would not wish to do anything which might have unintended consequences along the lines that I have outlined. Of course Members might see things differently and feel that it should be included in the special payment regulations and come out of the discretionary powers that the Minister currently has. But what I can say it is appropriate that changes like this are made by this Assembly and not the individual Minister working in their department. In that respect the Deputy is right to bring it to this Assembly because it is a decision which should be made by this Assembly. I will not be supporting it for the reasons that I have outlined but of course, as ever, it is up to each Member to make up their mind about whether they wish to or not. Thank you.

Deputy M.R. Higgins of St. Helier:

Sir, can I seek clarification of the Minister? I read through the legislation last night and this morning and I cannot see the sections that he is referring to that makes it so restrictive on special payments, will he please tell us which Articles and so on, please?

Deputy I.J. Gorst:

The Deputy will forgive me if I do not actually have the legislation sitting in front of me but it is quite clear from the proposer's proposition that he wishes me, and this is where I think the confusion was, to increase the list of expenses payable under special payment, regulation 3(1). That regulation obviously is part of the ... one can only avail oneself of a potential benefit under that regulation if one meets the criteria under the income support legislation generally.

Deputy R.G. Le Hérisssier of St. Saviour:

Sir, I wonder if Deputy Higgins would mind if I was to direct a question to the Attorney General, asking whether he supports the legal interpretation, as made by the Minister for Social Security?

The Bailiff:

I think that might be helpful. The position, as I understand it, is that the proposition itself is clear. It wants to insert in the regulations reference to mortgage payments but what the Minister seems to be saying is that whatever payments may be made under those regulations may only be made to the people covered by those regulations which he says, in his comments, are people on income support or with 10 per cent more than income support. But I think that is the question for the Attorney, as to whether that is what he said is correct.

Mr. T.J. Le Cocq Q.C., H.M. Attorney General:

Yes, Sir. The position is covered by the Income Support (Special Payments) (Jersey) Regulations 2007 and part 1 deals with special payments and sets out the categories of people for whom special payments can be made. At the risk of simply reading out the statute, it does have certain criteria: "A special payment may be made to defray the expenses described in Regulation 3 in the circumstances where the claimant is an adult whose household is in receipt of income support and meets the conditions set out in certain parts of the law and meets the conditions of other parts of the law" and there is a reference to a particular calculation. There is a qualifying set of criteria. I am not sure it would be helpful for the States if I were to set it out in a great deal of detail but there are definitely limiting qualifying criteria for the ability to receive a special payment under the part of the statute that is proposed to be amended.

Deputy G.P. Southern of St. Helier:

Sir, if I may, may I ask the Attorney General to examine part 3 special payments of the Income Support (Jersey) Law 2007, section 8 where it does state: "... may, by regulations, make special payments of such amounts and in such circumstances as the regulations may specify, whether or not the person is part of an eligible household." That qualification is not in the law and it may make a special payment whether or not a person qualifies under the financial regulations.

The Bailiff:

Do you wish to look at that, Mr. Attorney?

The Attorney General:

I wonder if I could glance at that for a few minutes before coming back. Perhaps the Deputy could direct me to the precise statutory provision? I have the statute here ...

The Bailiff:

Very well, the Attorney will come back when he has had a look at it. Very well, does any other Member wish to speak? Deputy Higgins.

1.1.1 Deputy M.R. Higgins:

Obviously I am most interested to hear what the Attorney General says because my own reading yesterday gave me the impression that this would be quite in order, but obviously the Attorney General is far better qualified than I am to make that judgment. What I shall say is that I intend to support the proposition unless the advice is such that it would rule out the people I am trying to

assist. I also believe there were a lot of red herrings talked about yesterday and in fact also today by the Minister. Senator Le Gresley talked about personal protection insurance and there was all types of personal protection insurance including redundancy protection, mortgage protection and so on. Unfortunately many of these policies have been missold and many of them are not worth the paper they are written on. There is a lot of controversy in the U.K. (United Kingdom). There are a lot of claims being made for compensation and unfortunately with many of these policies, as the Minister mentioned this morning, they were almost a condition. When you took out the mortgage with the bank they insisted you took it out and you pay an awful lot for it. With redundancy protection many people have been missold it. Medical protection insurance, again misselling. I was caught by that; under medical insurance you think you are fully covered until you have got a problem and then you suddenly find there is wiggle room and they get out of them. A lot of people have bought these things thinking that when times are bad they are going to be covered and unfortunately they are not. Do not place any credence on the fact that these policies exist. Secondly, my interpretation of what Deputy Southern is trying to do is simply add another category to the list that is in Regulation 3(1). Basically Regulation 3(1) just lists the sort of things that the department can provide some assistance for, for example, the cost of buying furniture or household equipment; deposits to secure a dwelling; removal expenses; expenses to help people take up remunerative work; the cost of medical services or items. All he is suggesting we do is add another category into Regulation 3(1). Now, the Minister has said about discretion. He has discretion, because that was the other red herring that came out yesterday saying that all these people, they are going to go straight to Social Security to get the assistance that they want. Under Regulation 5 it says: "However, no expenses are payable under this regulation unless the claimant has no other reasonable means of meeting the cost." Therefore, if he has a valid insurance that does pay out he will get it paid out. If he has got some other assistance the bank are helping him, he will not be going to Social Security. We are talking about the last line before the person loses their property and that is legitimate. I think that if we are a caring society and we want to help people then we would make provisions for this. The Minister has also discretions. It says: "The Minister may make special payments of such amount as the Minister considers appropriate." It does not mean to say they get a free ride, they get everything paid for them.

[10:00]

I think, as I say, a lot of red herring. Now the Minister also said, for example, that there have not been that many repossessions. I am pleased to hear that but it does not mean to say that tomorrow there may not be more. This particular recession that we have working with the Islanders, according to the figures that I can see them, I was trying to elicit responses from the Chief Minister and the Minister for Economic Development in written questions yesterday, no one really knows the state of the economy. There is no one saying that we are out of recession and the truth of the matter is, even when you do come out of recession, people could still lose their properties. It does not mean to say, because the economy is starting to grow again, that all sectors are growing and that everybody is going to come out on the sunny side, out of the trough we are in. The other thing too you have got to bear in mind is that the recession that we are facing at the moment is a worldwide recession and Jersey depends upon the rest of the world to make its living. The banking and financial services we offer are not to the local population, although that is part of it. It is primarily for people in other parts of the world. Where traditionally have been our main markets? The U.K.; well, we know what state they are in. Europe; look at the state they are in. The United States. Yes, now, the Ministers make great play of they are now setting up offices in India and China and so on, but it is going to take time to get that business from there. I would also say, by the way, that not all that business is the business that we want. I have been hearing that a lot of the inquiries that are being made of Jersey as a response to Jersey Finance's efforts in that part of the world are being rejected because some of the people who want to come here are some of the crooks that we do not want here. There is good business, yes, but you have got to sort out the wheat from the chaff. So what I am trying to say is the recession I believe is going to go on for some time and

the depressed nature of our economy will go on for some time. If you look at the figures the Minister gave me yesterday, they are saying it is 1 per cent growth in 2011, 2 per cent growth in 2012-2013. That is not very high traditionally. In fact, it is probably below the trend level for the Jersey economy, forgetting the blips and 7 and 8 per cent growth that we were getting. So what we are going to be doing is we are going to be operating below the level that the economy could operate at and it is going to take many years before we get to the level the economy was at before we went into the recession. If you do not believe me, look at their answers. It is hidden in the text. Now, saying that, what is to say that we are not going to face another crisis? How many of you have been following what is going on in Ireland at the moment and in the euro zone? Ireland is in dire straits and it could bring down part of the rest of Europe. You have the President of the European Union saying we are in survival mode. This is a real crisis. It looks like Ireland is going to have to be bailed out to €100 billion. Now, what effect is that going to have on us? It could have an indirect effect. According to the media reports I have been reading, Barclays, Royal Bank of Scotland, Lloyds are all in hock to Irish banks and those banks, there is the contagion effect and, as I say, this is why everybody is really worried about the current situation. So I am not trying to be a doom-monger. I am just trying to say things are uncertain out there. Problems could come and they could affect the Island. More people could lose their jobs and if they lose their homes as well, how quickly will it take for the Jersey housing market to tumble? We talk about things, we have not been affected. We have house prices that are higher in London yet we have got the classics of a housing boom and bust scenario, very, very high prices. If people start losing their jobs, we have already got a flat housing market, and if we start selling those houses, we could get a plunge in the housing market which would be disastrous, not only for the economy but more importantly for the people concerned. So what I would say to you is all we are asking for is a safety net for people as a last resort and I would strongly urge Members to support it.

The Bailiff:

Mr. Attorney, are you in a position to respond yet?

The Attorney General:

I hope I am, Sir, yes. The section to which the Deputy has referred me, namely section 8 of the primary legislation, deals with a number of circumstances where it is appropriate to make special payments. The first of those is those circumstances covered by regulations and it does indeed provide that the regulations might specify that those payments can be made to people who are not members of an eligible household. However, the regulations that are being sought to be amended, the regulations in question, set out the circumstances in which those payments can be made and those payments can be made within the circumstances that I have just read out which seems to me to be limited to people who are within an appropriate qualifying household. Regulation 2 of the 2007 Special Payments Regulations sets out the circumstances in which a special payment to defray the expenses set out in Regulation 3 can be made and that qualifies the categories of people for whom one can look to under Regulation 3 to make those payments. If one then reverts back to the principal legislation, subparagraph 2 of Article 8 provides the more general ability for the Minister to make a discretionary payment in exceptional circumstances, and that is a general discretion not governed by the terms of any particular regulations and that too means that the payment can be made whether or not that person is a part of an eligible household. I hope that that sufficiently clarifies the position.

The Bailiff:

So as I understand it, Mr. Attorney, just to be clear, the proposition would simply amend the regulations or would only cover the households covered by them.

The Attorney General:

Yes, Sir, by the regulations which are limited by reference to paragraph 2 of the regulations.

The Bailiff:

But the Minister has an overriding discretion under the law ...

The Attorney General:

Under the one.

The Bailiff:

That he says he has been exercising.

The Attorney General:

Indeed.

The Bailiff:

I understand.

Deputy G.P. Southern:

If I may, while the Attorney General is on his feet, ask him whether part (b) of the proposition covers the ability to amend this regulation so that it covers mortgagees who are obviously outside the normal remit of poor families.

The Bailiff:

Deputy, if I may, that is not a matter for the Attorney because that is just interpreting this proposition. I have to say that what you request in (b) is the standard wording to give effect to (a) of your proposition and (a), we have discovered with the help of the Attorney General, is limited to people with the relevant income level support. So the answer is no, I do not think (b) is wide enough to request the Minister to make a general alteration. It is only to make an alteration to give effect to (a). He may choose to do so voluntarily but now that we have the interpretation of the regulations, your proposition is, I think, quite clear. It is limited to those on income support or 10 per cent more.

Deputy G.P. Southern:

Sir, you appear to be informing me that despite my best efforts, my attempts to draw up something comprehensive to deal with this particular circumstance where obviously a mortgagee is unlikely to be qualifying for income support, what you are saying is that the way it is structured at the moment will not work.

The Bailiff:

I am afraid not, no.

Deputy G.P. Southern:

In that case ...

The Bailiff:

Now that we are clear from the Attorney what the regulations say, it is quite clear that (a) asks that you increase the type of payment that can be made under the regulations to include a mortgage payment but it still has to be made to people who qualify under the regulations. (b) simply asks the Minister to amend the regulations to achieve that. So by your proposition, you will not catch those who are earning more than the amount covered by the regulations.

Deputy G.P. Southern:

Thank you, Sir. My interpretation of the 2 parts of the law and the regulations were that the law would override that. However, I think that means then it would be foolish of me to pursue this particular proposition in the light of the facts that you said it does not do what I think it says on the

can, and therefore with the Assembly's permission, I will withdraw this and bring it back in the right format to do what I want it to do.

The Bailiff:

Which you certainly clearly can do. **[Approbation]**

Deputy G.P. Southern:

Thank you, Sir.

Deputy I.J. Gorst:

While of course I am not going to not accede to the Deputy's request, I have got to say it is a little bit frustrating, not on any personal part because that is politics, but certainly on the part of my department. We have had 3 major propositions which we have had to prepare for, research for, provide comments for. Officers got somewhat beaten up yesterday for what was described as a "cannot do" attitude. It is a little bit difficult for me. I am trying to achieve a body of work and proposers are moving propositions and then withdrawing them after we have done all the work where simply a discussion with officers could have ascertained what I just said in my speech. **[Approbation]**

The Bailiff:

Well, Deputy you seek leave to withdraw?

Deputy G.P. Southern:

I do with my apologies to the House obviously and with the caveat that I will bring this back. I think it is an important issue and this Minister apparently is trying to ignore it. The fact is that people do turn up on the desk and they are told by officers: "No, there is no help available" because it is not publicly known, and I wish this issue to be dealt with so I will be returning with a proposition.

Senator T.J. Le Main:

Can we have a vote on that because I think it should go to the vote quite honestly. I oppose that.

The Bailiff:

Well, just to be clear, Senator. What is being asked at the moment is to leave to withdraw. Of course, Members may vote against it but then this debate will continue and even if it is defeated, there is nothing to prevent the Deputy bringing a different proposition again later so it is not entirely clear to me that very much could be achieved, but that is a matter for Members. So, is anyone asking for the appel then in relation to leave to withdraw? The appel is asked for then in relation to the application for the leave to withdraw.

POUR: 45		CONTRE: 2		ABSTAIN: 0
Senator T.A. Le Sueur		Senator T.J. Le Main		
Senator P.F. Routier		Connétable of Grouville		
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				

Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

2. Rezoned Sites: assessment of housing needs (P.152/2010)

The Bailiff:

Very well. We come next to Projet 152, Rezoned Sites: assessment of housing needs lodged by the Deputy of St. John and I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion (a) to refer to their Act dated 16th July 2008 in which they approved the rezoning of approximately 58.5 vergées of land for the provision of lifelong dwellings for people over-55 and first-time buyers; and (b) to request the Minister for Planning and Environment to defer the granting of any planning permission in respect of any of the rezoned sites where permission has not already been granted until such time as a detailed assessment of the current demand for lifelong homes for people over-55 has been prepared by the Ministers for Planning and Environment and Housing and presented to the States.

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

May I just note, I do not think it is a direct interest in any shape or form; it is certainly not pecuniary; but the Housing Trust of which I am a member is in the process of negotiating on one of the sites that already has planning permission. But I will be staying; it is not a pecuniary interest; I think I should just note it.

The Bailiff:

Very well, thank you. The Deputy of St. John.

2.1 Deputy P.J. Rondel of St. John:

In bringing this to the House, I do so to be content in my mind that things said in another place were not correct. I need to know, as do the people of Jersey, that the Act of 16th July 2008 to rezone 58.5 vergées of land was justified. The people of Jersey have concerns that little work was done by Housing and Planning in confirming that the needs were there. I recall the Minister for Housing attending a Parish meeting in St. John and telling people in 2006/2007 that he had figures suggesting that St. John needed more homes for the over-55s. In fact, he was suggesting to the Assembly that, in fact, we rezone 2 areas of land. But the residents did not agree and said no, they would only permit one field to be rezoned. That said, I had concerns as he gave residents large numbers of need for the Island yet at the time, no co-ordinated approach had been used, as I would have liked to have seen figures. Given his department had numbers and each Parish had numbers of people who needed accommodation, I have to ask did we have a total of 12 Parishes, a Housing Association, plus the Housing Department do double counting? I am told we have a full list in St. John now in 2010. Did we have a full list in 2007? No, we did not.

[10:15]

I do not think that anything wrong was done other than errors were made by the Housing Committee and the Planning Committee of the day by not asking the Connétables in each Parish to submit their list to the centre so you could take out the names where double counting had occurred. I need to know if 58 vergées were required or was it only 25 or 30 vergées that were required. This is where I have real concerns, if we have gone forward and rezoned 50-odd vergées when only 25 or 30 may have been the correct number. Given that a person may have lived throughout his life in a number of Parishes, that person would have been entitled to have his name on any number of housing lists. He may have been born in St. John, lived there until the age of 8 or 10. The family would have moved to St. Brelade possibly for 4 or 5, maybe 10 years, moved on at the age of 20, 25 when they got married. Lived in St. Helier for another 10 years and then moved on later on in life to other Parishes. So therefore that person would be entitled to have his name on a number of housing lists within all those Parishes. This is of real concern. Another area is first-time buyer homes. If you have got a list in each Parish with first-time buyer list, some Parishes hold them and then destroy them after a few years for reasons because they have caught up. Then they wait a while before setting up another housing list for first-time buyers. So the parents who have lived in these other Parishes could possibly also be putting down their children's name at an early age, and we know that happens because I have seen it happen where parents put down, shall we say, Billy and Joe at the age of 12 and 14 but they may not be ready for a house for 10 ...

Senator T.J. Le Main:

You cannot put a child's name down at those ages.

The Deputy of St. John:

Excuse me, I am not taking interruptions, Sir. I am not going to give way to the Senator. He can talk later.

The Bailiff:

Senator, you can only interrupt the speaker if he gives way. Then you can make your speech later.

Senator T.J Le Main:

He is misleading the House.

The Deputy of St. John:

I am not misleading the House. I have seen names put down of young people by the parents and quite rightly so. We see it going on in education. We see it in other areas and people do this type of thing. Sir, through the Chair, could you ask the Senator to either keep quiet or retire from the Chamber, if he does not want to listen? **[Laughter]**

Senator T.J. Le Main:

It is possible I will retire if I continue to hear all the misleading statements made by the Deputy.

The Deputy of St. John:

I am not giving way. I ask through the Chair, if there is one more interjection from the Senator that he be removed from the Chamber. **[Laughter]** Thank you.

The Bailiff:

It will be for the Chair to decide that but the position is you have not given way, Deputy, so carry on.

The Deputy of St. John:

Thank you, Sir. They keep on throwing my train of thought. I can recall not so many years ago being on a panel that was responsible with the Housing Department for issuing first-time buyer homes to people on 2 lists. There was a list from the Housing Department and a list from the Parish, my own Parish. I was one of the members sitting with another from within Housing and we found that a number of people had their name on both lists. So there had been double counting so I know it goes on, and I am sure the former Minister for Housing will try and counter this. But these things do happen. It is nature. I know full well that if any of my grandchildren were living in multiple Parishes, I would ask them to make sure they put their name down so they do have a chance to have a first-time buyer home in whatever Parishes they had lived. Given that we have the 12 Parishes who only now over the last few months are pulling together their 12 lists at the request, I believe, of the former Minister for Housing - this has only been happening over the last few months - it proves to me that those lists had not been pulled together on an earlier occasion. Therefore, once again, it proves that did we need 58 vergées rezoned or did we need 35 or 25 or whatever the real figure may have been. I need to see from the Minister for Housing the facts and figures or this House needs to see that those facts and figures were produced to the Planning Department of the day. I do not know if the Minister for Planning and Environment is going to speak on this but it is his choice. I know there are a lot of slings and arrows going to come from across the Chamber from one or 2 of the Connétables. They have already told me but I will take it, being a politician, from whence it comes and I respect them all for what they will have to say. But that said, what I am asking here is that we make sure that what was passed in this Chamber were the correct numbers. I am not pointing a finger at anybody. All I am saying is; was the need there in 2008? It may be there now but I look around this Island and I see a lot of empty first-time buyer homes or properties for sale and the like. The first-time buyer homes in St. Peter's Valley, I have to ask, it is 3 years now some of those have been on the market and are they all sold? I have to challenge that they may not all be sold yet. I do not recall any survey having been done. Members in this Chamber might tell me I was wrong, I was out of the House at the time, but was a survey carried out for the need? I do not believe it was. I have not come across any documentation to say that the need was there. There may have been a survey but can it be produced, please? I know that

it may seem wrong but I am aware that the Connétable of Trinity will be bringing an amendment to my proposition before long and he has asked whether I will accept it. I will hear what he has got to say in his speech before accepting his amendment because it would be nice to hear him on his feet, and he may have a very good reason for wanting his to go through. Given that his own Parish is in a slightly different position to these, this is not being done by developers, it will be a Parish scheme, it is possible that I may, when the time comes, accept the amendment. Obviously it will be up to the Chamber but, just to make things easier, I think we need to hear what the Connétable has to say within that. But I do have real concerns. I am not going to spend a lot of time on my feet. It is a matter of did we rezone the correct amount of land in 2008 and could the Minister for Housing please produce - he is not present, his Assistant Minister is in the Chamber - please produce the facts and figures that there was no double or triple or quadruple counting taking place because I do not believe those figures are available. I make the proposition.

The Bailiff:

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

2.2 Rezoned Sites: assessment of housing needs (P.152/2010) - amendment (P.152/2010 Amd.)

The Bailiff:

Very well; then, as the Deputy has said, there is an amendment lodged by the Connétable of Trinity and I will ask the Greffier therefore to read that amendment.

The Deputy Greffier of the States:

Page 2 paragraph (b). After the words “already been granted” insert the words “with the exception of Field 578 Trinity for which permission to develop is about to be requested for first-time buyers as the second stage of a 45 per cent/55 per cent development package of lifelong dwellings for people over 55 and first-time buyer housing.”

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

Hopefully the Deputy of John will see sense and accept this, but really the main concern in the Deputy’s proposition was he added “first-time buyers” and if you look through his report, there is nothing really concerned about first-time buyers. It is more the over-55 development and I think it is well-known now that Trinity had a 45-55 split and we have developed our retirement homes already. They are now occupied, the 14 homes that were built. So there is a demand in Trinity for first-time buyers’ homes. We have been slightly remiss. I think the Deputy should take into account also that the first-time buyers, the banking and the deposits required by first-time buyers are quite onerous and the Parish at the time felt that we would just get on first with the retirement homes and then proceed with the first-time buyers. We have in excess of 60 on that list. We have now written to all of those and they are coming back and it is looking hopeful. Field 578, we were very fortunate the Parish was gifted this field and that was the reason why we went through and harped for it to be rezoned. I think the future of rezoning with the Connétables’ blessing should be that the land should be in the Parish’s name before rezoning takes place. This makes life a lot easier for the development to go forward with the Parish being involved in a greater way on the new development. However, we have now instructed our architect to go forward with the design. The response from the 60 people that I have written to is looking promising. I know this is a large field of 9 vergées in Trinity and hopefully this will be a phased development. The Deputy will also notice that the Parish has not asked for any other land to be rezoned in the new Island Plan. We are quite content to have this field. We are very fortunate. We are in a position to build lifelong homes for first-time buyers. These will be lifelong homes. They will be superior properties and we are ... hopefully the way things are changing as well, the Parish has to also finance these homes. It is not quite as simple as many years ago when you got a loan from the States and they helped the Parish to do these developments. We are in the process of working with the banks, such as we did with

the over-55 homes, and we look forward to progressing. The problem with this proposition, if it was accepted, it instructs the Minister for Planning and Environment to defer granting planning permission and it is for this reason I brought this amendment, as basically we are now going ahead with the architect. There is quite a large amount of planning fees to pay out of Parish funds should everything go according to plan and I would ask the Deputy if he could just accept this amendment. It is quite simple. It is just to leave Field 578 as part of our 45-55 development we have already commenced. I propose the amendment.

The Bailiff:

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

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

Yes, it is really more of a question to the Constable because I was slightly confused. He said he had 60 people on the list. The actual amendment says: “45-55 development package for lifelong dwellings for people over 55 and first-time buyer housing” but in his speech, the Constable said these are superior lifelong homes for first-time buyers, assuming that they will have to live in there all their life or possibly could because they are superior. My question is which is correct, the amendment or the speech? Secondly, if they are so superior first-time buyer homes, and I know what a lifelong home would be, extra doorways, wheelchair access and everything, what sort of price are we talking for a first-time buyer home in Trinity? Am I confused or is the Constable confused? Again, the 60 people, as that comes back to the Deputy of St. John, who are they? Are they on the list in St. Clement? Are they on the housing list as well? We do not know because the criteria were never sorted and I think, before we went to rezoning, the Deputy of Grouville brought a proposition to this House. I think it was supported and then completely ignored to get criteria before we went to rezoning. So that is the question I do have for the Constable. Either one of us is confused but I would love to see the 60 superior first-time buyer lifelong homes at a reasonable like £300,000 price. You probably could only afford them if you lived in Trinity.

2.2.3 Senator F.E. Cohen:

I would urge the Deputy of St. John to accept this amendment and I would urge Members who have not seen the new housing that has been completed by the Parish of Trinity to go up and see it.

[10:30]

I went to see it and it is absolutely fabulous. I would be delighted to live there and I think our credit should go to the Parish, to the Connétable and, specifically, to the Deputy of Trinity who developed the rules that are now known as the Pryke Rules prescribing the size, scale and design of appropriate over-55 housing. This is a departure from the housing that has just been completed. I have full confidence in the Constable of Trinity and in his municipality that there is undoubted demand for these houses, and I think they should be allowed to just get on with it.

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

I do not want to reopen the debate that led to these fields being rezoned for housing, but I do want to register my profound objection to removing this from the Deputy of St. John’s argument. This is the best reason for supporting the Deputy of St. John’s argument, that we are prepared to build on beautiful fields in Trinity when there are other places that housing could be built just because the Constable and the municipality approve it, just because some parishioner has given the field for being built on. Members may have forgotten that this was one of the debates which drove a coach and horses through the last Island Plan and, of course, we are busy preparing the next one and perhaps in due course, we will drive a coach and horses through that. I find it one of the most depressing debates I took part in, along with the incinerator ones, and I will not be supporting this amendment and I would urge that Members who remember that debate to stand by their guns.

2.2.5 Deputy A.E. Jeune of St. Brelade:

I wonder if the proposer of the amendment could just clarify for me. When he says the over-55s, is this only over-55s who are first-time buyers and, secondly, the resale of an over-55 property, would that have to retain an over-55 occupant?

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

I do not often disagree with the Constable of St. Helier but I am afraid I am going to have to disagree with him on this occasion. I do not know how many first-time buyer homes we are building in St. Helier but I do not believe it is a great deal, none at all. I am afraid to say the Assembly really needs to get its head around a more cohesive idea as to what our future needs to be. We need to collectively work on a list that prioritises need and is not designated by where one is born. I do take issue with the idea that people who have been born in a Parish should have the privilege of having the opportunities that are made available in that Parish when those of us that are born in St. Helier do not have the same opportunities. Conversely, while pointing that out, I would like to say a couple of things about the actual scheme at Trinity. I did go with the Planning Applications Panel, at the invitation of the Constable of Trinity, and we walked around the development. It was not in the middle of the countryside surrounded by all of the wonders that one would expect. It was in a small corner off a well built-up section of Trinity. The development is excellent and the project has been managed extremely well by the Parish and it should be commended and they should be congratulated, as the Minister for Planning and Environment says. I did not know, so I apologise to the Deputy of Trinity, that she had had such a big role to play, and while I would not want to detract from that, I am a little bit surprised to hear that there are now Pryke Rules setting out what the minimum size will be, while I am still waiting to hear back from the Minister as to what the minimum size will be for rooms and developments in the new Town Plan. If there is an established new set of rules that have been drawn up by the Deputy of Trinity, perhaps he can circulate those so we can compare them with other jurisdictions. I am sorry to say to people in this Assembly, and to those that are listening at home, Jersey's character is and has been changing for a long time because of the drive and the need that we have set upon it as a small geographical location by the veracity of the industry that we have chosen to supply us with most of our needs. The finance industry will be making significant changes to the heartland of St. Helier. It has already done so, and I am sorry to say the propositions that come before this Assembly trying to negate housing in the countryside will not get any support from me any longer. They did in the past but I am sorry to say the immigration policy, if there is one, the migration mechanisms that are in place, mean that there are more and more and more and more people coming to Jersey and we are expanding that on an annual basis. They cannot all live in town. They should not all live in town and I am sorry. Unless the people of Jersey elect in politicians that have a different political objective, then they are endorsing the need to build in the countryside. We need to manage that build very carefully in harmony with the environment, but to just put a blanket moratorium "no build in the countryside" is just unrealistic and it is not sensible. So sensible development, as this has been in Trinity, will get my support and I am sorry, there will be no moratorium on building in the countryside. While I strive to protect the environment as much as I can, I do not want it all crammed into St. Helier because it is already becoming very unbearable, there is no air quality provision, there is no town park that has been delivered that was promised in the year 2000. We are in 2010. Life in town can be very challenging for people and the pressures of building, and there has been no addressing of the urgent needs for transport strategy, as I said, the air quality strategy, the quality of life issues. All of those things have not been met. So propositions like this from the Deputy of St. John I am afraid are just not going to get my support, and I completely agree with the Minister for Planning and the Environment. I request he withdraws or accepts this proposal.

Senator F.E. Cohen:

A point of information. I am sorry the Deputy has not received the figures he requested. The figures have been prepared. They took a great deal of effort. They are in draft form and they will be circulated today.

Deputy J.A. Martin:

Can I have a point of clarification for Deputy Le Claire? In his speech, he said he was shown round the lovely field in Trinity by the Constable of Trinity. Now was the Constable of Trinity acting as the Constable of Trinity or the Chair of the Planning and Applications Panel? I am slightly confused here.

Deputy P.V.F. Le Claire:

It is difficult to say because we took a break from the Planning and Applications Panel that time [Laughter] and the Constable of Trinity did don a different hat. It was a work hat, a white work hat as we were all required to do, and then started to show us around the project. But he was not, at that time, engaged in the Planning Applications Panel consideration. He was just merely showing us the site to show us what was happening and we took the opportunity to look at it and we thought - I am sure most Members will support me - it was an absolute wonderful development. It was not in the middle of a field. It was not in the middle of the heartland. I also congratulate and thank the Minister for the Planning and Environment Department for promising to share those figures.

2.2.7 Deputy R.G. Le Hérissier:

Like a lot of Members, I am torn. I think, along with the Constable of St. Helier, it is totally illogical to accept the Constable of Trinity's amendment, albeit for what we all know to be a very interesting and well managed project because unless we can prove that the original policy is a robust policy and that this falls within the robustness, so to speak, of that policy, then I just think it is odd. If we approve the Deputy of St. John's proposition, why do all those Parishes who are going to be stymied not come forward and ask for exemptions which obviously will make the whole thing utterly ridiculous. So it all boils down to the facts, and I will look forward to hearing from Senator Le Main and the Deputy of Grouville who took obviously very different sides. How robust was the original policy? The other thing that is worth bearing in mind is a lot of controversy, for good reasons and emotional reasons, centred on the fields in the countryside but the bulk of the development, of course, the massive bulk, was going to come from what I suppose you could loosely call the semi-urban area of St. Saviour. That is where the real development was and, hopefully in terms of the overall development, is coming even though much of the controversy centred on fields in the countryside. But I want to hear about the robustness of the overall policy before I make up my mind on the amendment. I think it is wrong for the Minister for Planning and Environment - and he did this very cleverly when I moved my proposition in terms of his planning powers - it is wrong to say this is a well-designed thing therefore we should approve it. Similarly, when I moved my proposition on the planning powers, the proposition was not about is the Minister for Planning and Environment a jolly good chap or is he not, but of course that is what we ended up discussing. It was about the "the powers" and today it is about the robustness of the policy, not about is the Trinity project a jolly good project.

2.2.8 Deputy A.E. Pryke of Trinity:

I do not want to rehearse the rezoning debate that we had back in 2008. This development in Trinity went through full consultation. It was part of the group that did come to rezoning and, if I remember rightly, there were only 2 or 3 comments made by the public during the whole consultation period, which included public meetings as well as meeting various interest groups and focus groups, et cetera. One comment was made about keeping the trees in that field, and the other comment was the noise pollution from the bells of the church. This is a Parish development. It is run by the Parish by a committee that had been elected by the parishioners at a proper constituted Parish Assembly. The application for rezoning was for 45-55 split of lifelong homes over-55s and the lifelong homes, as has been mentioned here, is up and people are in it. They are all owned by the Parish. Deputy Jeune was concerned about that but the 14 that are already up are still owned by the Parish and will continue at this present moment in time, unless the Parish suddenly thinks otherwise, will continue to be owned by the Parish as do the other 10 lifelong homes. The other

part to get our 45 split was the first-time buyers and, as the Constable has said, we were very fortunate in Trinity to have this field given specifically for the first-home buyers and it is well placed. It is opposite the lifelong homes. It is in very much part of the community by the shop, by the pub, by the church, by the cemetery and very importantly, not very far from the youth centre and from the Parish school. We are a small Parish school and it is important that the first-time buyers ... we encourage families into the Parish who will have children which will go to Trinity school but also that they are part of the life of the community. The first part of the development has been done, as I have said, and the plans are well underway for the first of the first-home buyers which will be run by the Parish. It is very much for people with strong Trinity connections and we felt that was important. So I urge Members please to support the Constable of Trinity with this amendment. This is a very exciting project, and I comment on the Minister for Planning and Environment, lifelong homes are so vital. As I said in the rezoning, having, as Deputy Fox, in my former life been a community nurse, been a community hospice nurse, the importance of looking after people in their own homes is vital, but those homes need to be fit for people to stay in their own homes. As we go further ahead into our ageing population, the emphasis is on community support, and that community support includes being able to stay in your own home. This has been one step ahead of the game and making sure that the homes that we build for lifelong homes enable that because it is very simple to be done at this stage rather than later on when you need to take out a bath or whatever for people to remain in their own homes. So, in fact, we are really looking ahead and making sure that people can stay in their own homes and I urge Members to support the Constable of Trinity.

2.2.9 Senator P.F.C. Ozouf:

First of all, just to refer to the intervention by Deputy Martin, as far as I understand it, the Planning Applications Panel are scrupulous in the way that they conduct their affairs.

[10:45]

I am advised that the Constable and indeed any other member of the Planning Panel who were in conflict - I think the Connétable of St. Mary is on the panel - stands aside from the panel and never takes part in an application, and I think that point needs to be made. I am seeing nods and I understand that that is the case so to cast probably unintentionally an aspersion on the Constable of Trinity I think would be wrong. I too have visited the Trinity site and complimentary things have been said about it. They are, in my view, apart from being well designed and all of the other architectural things and location, they are an example of the Parish system at its best. The Parish system providing homes. They funded it. The Parish Assembly has been involved. The Parish Procureurs and other people have been involved, the Connétable took me around with one of his senior officials. I think that this is a fantastic example of what the Parishes should be doing [**Approbation**] and I do not think that we should only be seeing this done in Trinity but we should be seeing that, and that was the aspiration of this original proposal, that we would be seeing the equivalent in St. Saviour, in St. Mary and some other Parishes. This amendment is right but I have got a problem with it. It does not go far enough. It should be taking out all of the Parish sites. I say that for 2 reasons: first of all because I think they are needed and, secondly, I think that accepting - and I am slightly worried about this - this amendment gives credibility to the whole proposition. The fact is that this land has been rezoned. We have been in this Assembly many times and in my former former life I was Planning and Environment President and I had to defend, quite legitimate, as I look across the Assembly to see the Deputy of St. Peter and other representatives who made some very strong attempts to influence the then committee in relation to its planning decisions. I am afraid that all the information that I have is that this Assembly cannot influence the Planning Panel, and the Minister for Planning and Environment in the same, and the Deputy of St. Peter is nodding. We sparred over some of those developments at the time. I do not think we can go here. I do not think that we can rezone land with information, making a

democratic decision in this Assembly and then ask the Minister for Planning and Environment to set aside that because we ...

The Bailiff:

Senator Ozouf, you are straying on to the main proposition.

Senator P.F.C. Ozouf:

So back to the amendment, I am slightly worried that this amendment, while it is right, probably, I cannot vote in favour - I may vote in favour of this amendment but the amended proposition, it is slightly better but it cannot be approved.

2.2.10 Senator T.J. Le Main:

I will deal with the proposer later [**Laughter**] and try to contain myself to this amendment. I am going to 100 per cent support this amendment. I think that the Connétable of Trinity and all the Connétables have been magnanimous in their support of their parishioners and the needs of their parishioners in trying to realise people's ambitions either to own a home or to be able to live in their community as part of the community to assist the community in reasonable, affordable accommodation. I commend, as I did on P.75 when it was debated, that there is a real need that was identified by the Connétables from their Parishes. I also have visited with the Minister for Planning and Environment and the Connétable the development at Trinity. I have to say that when one speaks to the occupiers, the people that are now living in these sheltered accommodations, and where you see they were living before, it is a joy to behold, I can assure you. Many of these people in the twilight of their lives in the last few years are now suffering from cold and medical and physical problems. To see the joy on their faces when they invite you into their homes ... if such developments as have been done by Trinity, St. Martin, and I look at other Parishes as well that, particularly St. Ouen and St. John, it is a real credit to the people of Jersey and I commend it. I have to take issue with Connétable Crowcroft who in all the years that he has been the Connétable, has never once attempted or otherwise to get involved with first-time buyers on a parochial basis or residential retirement homes. Residential yes, residential homes, but lot of people do not want residential homes. They want to be able to live and have their families in their own home, and I am saddened by the Connétable of St. Helier's opposition to this as I feel that he has not led by example as a Connétable and has quite honestly ... in this area I am talking about, the provision of homes for retired people. The other issue that I have to say in support of this amendment is that if you speak to most of the Connétables now since P.75 was debated, the issues are that the waiting lists for all categories, mostly in the particular Parishes that have got these developments proposed or started, their waiting lists for all categories have gone up dramatically and, in fact, one Connétable sent me a note to say that it had far more names now for all categories, another Connétable assuring me that their waiting list now for sheltered accommodation has gone up by 100 per cent. As I say, I will deal with the main proposer later on. At the moment, I urge the Members to support this amendment. I will agree totally with what Deputy Le Claire has been saying, that if we do not, as Members of this Assembly who are elected to look after the people of our society, that we have a huge cross-section of people waiting, considerable waiting lists still now produced to me by the Housing Department in the last few days for people who need homes, rental homes. They need first-time buyer homes and need Homebuy, and the waiting lists are increasing by the months. When you consider that home ownership in Jersey is a very low 50 per cent compared to other countries like Guernsey, the U.K. where it is over 70 per cent, we need to make sure that we give an opportunity for young people, particularly young people with very strong family connections like in Trinity, that at least they can aspire to having a home to raise their families and to continue the wonderful tradition of honorary service that all the Connétables and their parishioners provide through the honour system. I am going to support this 100 per cent as I am - no doubt, you will know, as I say, I will deal with the main proposer of the proposition later but I ask Members to support this.

2.2.11 Deputy D.J.A. Wimberley of St. Mary:

A number of points come to my mind. The first is to throw a bouquet in the direction of the Parish of Trinity and, as the Deputy of Trinity pointed out, it is a good example of the community providing for itself. I have to say that when you look at their brief report, how the development is in the control of the Parish, the fields are owned by the Parish and there is no developer involved in the proposed first-time buyer development, that really warms my heart and that Parish has somehow managed to remove the profit motive and is providing housing in accordance with what they see is the need. I just find that very refreshing and quite an example, and maybe we should remember that when we consider levies on the capital value of land as it rockets when it is zoned for developing, and here we have apparently that motive completely removed. So I think that is worth saying although it does not necessarily justify accepting this amendment. The other thing in the detail of the Trinity amendment is the distinction between over-55s which are already built and the first-time buyers. I well remember when I was a cycle tour guide when I used to go through St. John, and I pointed out the development there for people who were of advanced years with a connection to the Parish of St. John, I think it is Le Vesconte development, is it not, and people's eyes would just light up. They said: "What a good way to do things; how responsive", and some of them came from big cities and it was just an eye-opener to see that level of community thought and provision and the way that people were being kept in connection with their home communities. So indeed, over-55s, that is another issue, and I think very hard to argue against, but first-time buyers, of course, is another matter. Now the Deputy of Trinity referred to the life of the community and revitalising or should one say maintaining the vitality of the Parishes and she mentioned the school and keeping the numbers up in the Parish schools. Of course that does depend on whether the new first-time buyer occupants are going to send their children to fee-paying schools outside the Parish or whether they are going to send them to the local Parish school, and that is an issue. That is an issue in terms of rolls and keeping the Parish schools viable. It is something that I hope the Minister for Education is looking at, just that balance and making sure that the vitality of the community, which does indeed centre to some extent on the Parish school, that that issue of the balance between fee-paying and non fee-paying in the primary sector is kept in mind because it is all very well having 10, 20 new first-time buyer homes, but if all the children are going to go to school outside the Parish, you have not helped with the vitality of that community in terms of its school. So that is just an aside. I am just slightly wary about this notion that if you build new houses in a Parish, you revitalise the Parish. There is another issue, of course, of downsizing, making the big houses available in a Parish, like my own, available by creating smaller over-55 units so that those bigger houses then become available for other purchasers. So that is another way of achieving the same goal. Now to turn to the more general issues in this amendment. We are rightly concerned as an Assembly, and I think a previous speaker referred to it, I cannot quite remember who, that this is yet another field and where does it end. I think it was Deputy Le Hérisier. Where does this policy end if we build and build and build? Senator Le Main said again, not for the first time, the waiting lists are increasing by the month and home ownership is very low in Jersey relatively, and he was presumably trying to make the case for raising the level of home ownership. If you put those 2 things together, an ever-rising waiting list and an ever-rising demand for home ownership, even at £500,000 a throw which seems to be slightly contradictory but anyway, if you put those 2 things together, you are faced with a situation where you either build on field after field after field or you cram all that extra demand that we are not meeting into St. Helier and the other urban areas, but mainly St. Helier and possibly St. Saviour. Now which is it going to be? Are we going to bite this bullet or are we just going to nod through this amendment and then vote against the proposition and then just carry on as normal for ever and a day, because if we do the Island will be ruined. The fields will go, they will be built on. The tide will carry on. As we heard, the waiting lists are increasing by the month.

The Bailiff:

Deputy, if I may say so, I think you are straying into the main debate now.

The Deputy of St. Mary:

Yes, Sir, okay, I will try and stick to the amendment. The amendment is asking us to exempt the Trinity development.

[11:00]

I am pointing out that that, if we say: "Fine, we accept this," we are bowing in the face of a destructive population policy which comes up for renewal shortly as it is only valid for 3 years, this policy of endlessly increasing the population. I am torn. I find the development probably one of the better examples of a Parish development, but it is an aspect of a policy that we, the Assembly, should find unacceptable. We cannot go on like this. So I should probably be voting against this. Even though, as I said, it does have its pluses, but there has to be an end. We really do have to grasp this nettle. I think the public, although they have never been consulted properly on the overall issue, are with me on this. We do have to bite this bullet or grasp this nettle or whichever metaphor you prefer. Thank you.

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

I will be supporting this amendment. But it does put me in a bit of a dilemma, because as Senator Ozouf has said, I am a little concerned that some people might think it makes the main projet less damaging. In view of the relatively small amount of land involved compared to certainly what we have in St. Saviour, as I said, I will support it, but I would hope to remind people that the whole projet is damaging and delaying. Therefore, I would like them to take that into account later on.

2.2.13 Deputy D.J. De Sousa of St. Helier:

I am finding this really difficult to make a decision. My mind has been swaying one way and the other. So I hope that in summing up the Connétable will convince me one way or the other please. While, as a Town Deputy, I feel that there should be more development for Islanders in other areas of the town, I stood on the election platform that I am against the constant rampant development of St. Helier, to the detriment of everybody's lifestyle. Hopefully, the Connétable will be able to convince me one way or the other. Also a lot of the areas that were rezoned for development - we have the field behind Channel TV as well that has now been taken out - I do feel that we should have, before we rezoned these areas, done an in depth review of the number of people that are on the list. So I will be voting for the main proposition.

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

When the policy for rezoning land for lifelong homes and over-55s was brought to this House it caused a lot of people to scratch their heads and to look at the issue as to whether or not they wished to see very good agricultural land rezoned for housing. Indeed, in that debate, I only supported the larger village style development that would have taken place or is proposed to take place in St. Saviour as being worthy of rezoning and voted against all the others. It strikes me as somewhat ironic that the Constable of Trinity, having expressed his support and indeed the support of all the other Constables for the generality of the rezoning proposals for the lifelong homes, has appeared to have broken away from the pack, in this particular argument, and is seeking - probably rightly in his mind- a special exemption for land in Trinity, but not necessarily supporting the other issues or the other land parcels in other Parishes. The Minister for Planning and Environment in his comments is suggesting that when we do get to the main debate he will not be supporting - because I do not think he is able to, but he will go into the details - the recommendations from the Deputy of St. John to delay or to defer consideration or permissions granting of the plans that this House has already agreed by way of rezoning. I think the logical stance in my mind should have been for the Constable of Trinity to be supporting the Minister for Planning and Environment in the main debate. I think in that respect I am quite clear in my mind that I cannot support the Constable of Trinity in this particular respect, because he is making a special case for his Parish, whereas it is the generality of the argument that is the important one. It is something, as I said earlier, to which he

expressed support. I think he should do the right thing and withdraw the amendment and vote against the main proposition.

2.2.15 The Deputy of St. John:

I cannot accept the amendment given what I have heard from Members on the floor today. When the Constable is summing up, will he confirm or otherwise that the main beneficiary of his proposed development will not be the first-time buyers, but in fact will be the Parishes themselves. Would I be correct in saying that the youngsters will not get the homes at, shall we say, cost price but there will be a premium on them and that the money that is made will go to pay off the mortgage on the over-55s development? Will he confirm that or otherwise? Secondly, will the Constable confirm that he had a list going in 2007, before the State came to the House in 2008, and what the numbers were? He has given us a number of 60 plus at the moment for 2010. What were the numbers he had on that list in 2007/2008? Thirdly, I note that Deputy Pryke made a comment about P.75 of 2008. In fact the Rural Strategy Group said that the land should be kept in agriculture, contrary to what the Minister for Health and Social Services told us. I have to ask, will the following Members, all 16 of them, be declaring an interest, given that we have a Minister for Planning and Environment, a former Minister for Housing, the entire Planning Panel, former Assistant Ministers for Housing within the Chamber, et cetera. A total of 16 - I am not giving away each time the Senator stands up - members. I hope they are going to be declaring an interest when they get up and speak, because given that the Minister for Planning and Environment has surrounded himself within his Planning Panel and the like with all these Members who have association with this beautiful site at Trinity, I just wonder if they are going to declare an interest ...

The Bailiff:

I am sorry, Deputy, but I do not consider that the Minister for Planning and Environment, for example, has any interest to declare.

The Deputy of St. John:

Not the Minister himself possibly, Sir, but all his Planning Panel.

The Bailiff:

The Planning Applications Panel similarly has no interest.

The Deputy of St. John:

There is an awful lot of influence being shown by the Connétable of Trinity in taking members of the Planning Panel and the like to the site while they are on, we are told, quasi visit ... we are told by Deputy Le Claire

The Bailiff:

I am sorry, Deputy. I cannot see this at all.

The Deputy of St. John:

No, all right, Sir. I will continue.

The Bailiff:

This is a proposition as to whether in fact the whole matter should be delayed.

The Deputy of St. John:

Correct.

The Bailiff:

That they happen to be on the Planning Applications Panel is not relevant to that decision.

The Deputy of St. John:

In my mind it is relevant, Sir, but we stand to differ. You are in the Chair, Sir, so I will take your ruling. [Laughter] That said, I would be interested to hear the Connétable's comments in relation to that list prior to 2008 and also the profits that are going to pay for his old people's home, whether that is the young people on the first time buyers list, who are fortunate to get a home if this comes off. Will they be paying a big proportion towards the old people's home? Therefore the Parish in fact will be becoming developers in their own right. That is basically where I will be coming from on that one. Thank you.

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

I was not going to speak on this one. The Parish of St. Martin does not have any land which has been rezoned. I missed the boat by about a month. I have been waiting for 4 and a half years to get back on to the ship. I am looking forward to the Island Plan debate in order to do so. I am going to be talking about Trinity, but I will also be talking about the northern Parishes. I am concerned about the community. The main thing about the community is that we have no ability at the present moment to look forward to a community which will be revitalised by the introduction of young families and children. I did a survey in order to go to the Examination in Public of the Island Plan of property transactions in our Parish during August 2009 to end of July 2010. There were 50 domestic property transactions. The average price for a dwelling was £815,370. Way above any chance of a young couple purchasing. Of the 50 transactions, there were 11 which were below £425,000. These included one-bedroom flats, 2-bedroom flats and the smaller houses. The top 12 transactions were in multi-million. There were 12 transactions out of the 50 that averaged £1.82 million. There is a definite imbalance on the social profile in the population of St. Martin. We are directly adjacent to the Parish of Trinity. I would imagine the same figures apply for the Parish of Trinity and the impossibility of maintaining a population profile where you have old people, young people, middle working people, people of all professions, classes and degrees of skill and employment. We are in the process of creating an elitist society. I am against it. I do not want it to be them and us, basically; them in the leafy countryside Parishes and us in the urban and suburban Parishes of St. Clement, St. Helier and St. Saviour. I think we have to look at the whole Island Plan for 2011 now, I should think. We have to look at the population profile throughout the Island and to build a society which includes everybody, everybody who can contribute to the balance of society. I am afraid, this is the point in question, that the Connétable of Trinity has the ability at the present moment to balance the population in his Parish. He is going to get young people in first-time buyer houses and old people in retirement homes. I think the trouble is, in this debate, is that we are getting all confused about lifelong homes, over-55 homes, first-time buyer homes, when we should be talking about first-time buyer affordability in perpetuity and retirement homes for elderly people. Simple as that. That really is what we should be looking at. I am absolutely going to support this amendment. Thank you, Sir.

2.2.17 Deputy T.M. Pitman of St. Helier:

I am happy to follow the last speaker; come to that and play. I am really, really surprised to see the Deputy of St. John suggesting there might be a conspiracy theory here; surely not. I am going to support the main proposition, which I will come on to later, because I do feel there are issues that need to be looked at in depth, with the whole concept of over-55s and how we view that. I feel there are issues that need to be explored in further safeguarding the instant profiteering of the developers. However, I do think it would be really churlish not to support the amendment here, I am afraid.

[11:15]

I was not deemed worthy of a personal tour of the site at Trinity. I cannot imagine why. But I am aware of it and I have visited it. It is excellent. It is really, really, very good indeed. I think the Parish deserves some credit there. I do have to say I am a little fascinated and even further

perturbed to hear about the Pryke Rules. I wonder what potential they have to spread into other areas. I should probably qualify that by admitting that in St. Helier we seem to have Crowcroft Rules. One being that you can cycle the wrong way up a street and frighten the living daylights out of people. Maybe we should not be too harsh on Trinity. Nevertheless, I think ... the Constable has brought this forward and it is an excellent project that he is talking about, not just controlling the profit area and making sure that is safeguarded, you know, surround of the school, youth club, church and cemetery, sounds like they have every area covered really. It seems like the ideal plot. I am going to support the amendment, but I will be supporting the main proposition. Really to echo what the Constable of St. Martin said and really Deputy De Sousa. As a St. Helier Deputy, I feel that we have to start thinking as a whole Island and not seeing these little bits and doing things piecemeal. I would hope that when we come to the next attempt to cram, cram and cram again into St. Helier, the Constables will also support the residents of St. Helier, because the Constable of St. Martin is quite right, we do need to think as a whole Island. I think I will leave it at that. I will support the amendment, but I will be supporting the main proposition. Thank you.

2.2.18 Connétable J. Gallichan of St. Mary:

I have heard a lot of speeches that really should have been made during the debate in 2008 rather than this morning. Of course, many of them were. I would like to return to the logic of this current debate. To me, unless I am being particularly obtuse, which I may be, this is surely a very simple matter. The main proposition is calling, in effect, what it is centred on is a review of the requirement for over-55s on the lists for those dwellings. This amendment is concerned only with a field that will have simply first-time buyers on it. So I cannot see what particular relevance at all the information that the Deputy of St. John is requesting in the original proposition and what bearing that can possibly have on this particular piece of land. The rezoning is already done. There are no over-55s on this particular piece of land; they are already built. I cannot understand the logic of trying to withhold this first-time buyer application. So from my point of view, it is quite simple, we should support this amendment.

2.2.19 Senator A.J.H. Maclean:

Very briefly; I am surprised that the Deputy of St. John is not accepting this amendment. As the Constable of St. Mary has just said, it seems perfectly reasonable to me. The land in Trinity, the 3 fields, the first 2 have already been passed. In fact the development has been completed in August of 2010 for lifelong homes. The main proposition is all about assessing the demand for lifelong homes, nothing to do with first-time buyers, as the Constable has said. I would have thought that, if anything, this demonstrates the success that Trinity has had with its development to date, how well the Parish system is working, how well the Constables are doing their jobs in looking after their parishioners. The thrust of the Deputy of St. John's main proposition is all about assessing and having assurances that the demand really exists. I think Trinity have proven with the development they have done to date that demand does exist. I think who better to know about demand in Parishes than the Constables themselves, the father of the Parish? It seems perfectly sensible, perfectly reasonable and I would urge Members to support this proposition. I will deal later with the main emphasis of the proposition that we will be talking about. The one question I would be interested in having the answer to and perhaps the Constable, when he sums up, may well be able to confirm this, as the Deputy of St. John is so concerned about assurances on demand, I assume he has had a lengthy discussion with the Constable of Trinity about the position relating to demand in Trinity for first-time buyers. Perhaps the Constable could just confirm whether that is the case or not. If it is not, I do question why we are having either this debate or indeed the main one.

Deputy P.V.F. Le Claire:

Can I clarify? There was a request made by Deputy Martin and I think it was misinterpreted. My reference was for the retirement homes we visited not to the other sites.

The Bailiff:

Very well. I call upon the Connétable of Trinity to reply.

2.2.20 The Connétable of Trinity:

It is quite amazing what I thought was quite simple. Deputy Martin, I know wants clarification; lifelong homes. They are all lifelong homes. The idea of the first home buyers' lifelong homes are that they are homes for life. The idea is that they are being designed as either 2 or 3-bedroom houses, but are designed in a way that a fourth bedroom can be added when the people have the finance; even maybe a fifth bedroom could be added over the garage if they need it. I know for Deputy Martin it sounds as if I was dwelling ... I should have cleared it up a lot earlier. These are lifelong homes for people that ... the biggest problem with first-time buyer properties are you get married, you have one child, 2 children and all of a sudden a third one comes along and you just do not have the room. So people have to move on and go up the ladder. Then you have the prospect of conveyancing fees, going to court and another house to move to. The idea of these homes is that they will be able to stay in there lifelong. If they have 2 children, 3 children, they can when they wish, if they wish, to extend them. The facility will be in those houses for them to extend. It is not ... I know the lifelong homes for the over-55s is a completely different things. These are lifelong first-time buyers' homes, which will have to be sold on to a first-time buyer in the future. It will not go on the open market. There will be criteria that they will have to be sold to another first time buyer, but the idea is that they can hopefully stay there for most of their lifetime while they raise their children. Okay? That is one of them. On my list so far we have had over 40 replies and no one of the Parish of Trinity list is on any other list. No one is on any other list. This is for the first-time buyers. Can I just also clarify; the panel has not been on the first-time buyers' site. We happened to stop for coffee at a local establishment not far from the retirement homes and while we were retiring and going back to the van I just walked them around the retirement homes alongside the establishment. That is all; nothing else. Basically - it was Deputy Jeune - none of our over-55s are owned by the people who live in them, they are all Parish-owned and are rented. So they will not be ... there is a possibility if we do build some in the future ... that is well away. The 24 homes that are built by the Parish now are all social rented houses. They are rented. If that helps. The Deputy of St. Mary is not here. Most of the people on my list have indicated that their children are starting Trinity School in the next year or so, which is obviously of great benefit to us, because we do want that school to survive. Most of the people ... I cannot tell people where their children are going to be educated, but in general they all are going to use the local Parish school. As for the Deputy of St. John, could I just say, the finance is not finalised yet. There could be 2 schemes in this development. Because of the problems in financing the first-time buyers have there is a good chance that a lot of them will have to go on a Homebuy scheme. So in that case, there will be no ... the one-third will be held by the Parish, so there will not be a great deal of profit. For those who can afford the whole purchase, there could be a mark-up. But I think you have to realise we also have the infrastructure to put in. That is going to be quite an outlay. That will be included, but I am saying, that there is ... there is a possibility that a lot of it will be in an equity thing which will be held by the Parish. It will not be realised until that property is sold on. But because these are hopefully homes for the long term for these families, the Parish will sit on the equity for many, many years to come. I hope that answers his question. I think there has been enough discussion on this. Whether the Deputy wishes to accept or not, I do not want that, I would like it to go to the appel.

The Connétable of St. Helier:

Could I just ask the proposer, if I were move to Trinity, how long I would have to live there before I would be entitled to enjoy one of these homes?

The Connétable of Trinity:

First of all, you have to be eligible to have a first-time buyers' house. I think the Constable already owns a house. [Laughter]

The Bailiff:

The appel is called for in relation to the amendment of the Connétable of Trinity. I invite Members to return to their seats. The Greffier will open the voting. Have all Members had an opportunity of voting? The Greffier will close the voting. The amendment is adopted 40 votes pour, 9 votes contre and one abstention.

POUR: 40		CONTRE: 9		ABSTAIN: 1
Senator T.A. Le Sueur		Senator B.E. Shenton		Deputy of Grouville
Senator P.F. Routier		Senator J.L. Perchard		
Senator P.F.C. Ozouf		Connétable of St. Helier		
Senator T.J. Le Main		Deputy R.C. Duhamel (S)		
Senator F.E. Cohen		Deputy J.A. Martin (H)		
Senator A. Breckon		Deputy of St. John		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator A.J.H. Maclean		Deputy of St. Mary		
Senator B.I. Le Marquand		Deputy A.K.F. Green (H)		
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy of St. Martin				
Deputy R.G. Le Hérisseier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

2.3 Rezoned Sites: assessment of housing needs (P.152/2010) as amended

The Bailiff:

Very well. Then we move back to the main proposition as amended.

2.3.1 The Connétable of St. Helier:

I know that Senator Le Main is going to deal with the proposer in due course; well I am now going to deal with Senator Le Main. **[Laughter]** I think it is very unkind of him to say that St. Helier is not doing its bit for housing in the Island. **[Approval]** He did not go so far as to say that we were not committed to residential care, which is just as well, because he knows we have been working for some years on a new residential home. I should remind the Senator that we get quite a lot of requests to build on the precious remaining greenfields in St. Helier. I and the Deputies, I am afraid, have not yet found one - certainly not since I have been involved - that really we want to see go. We have so little green space left in the Parish that we fight against them. Deputy Hilton has a good sense of balance, but how many more times is she going to have to climb on to a chair and protect her green field up near Channel Television? I think the Senator needs to remember that St. Helier, as I say, does accommodate a third of the Island already. Moving on to the wider matter, he seemed to suggest that our job as States Members is to provide housing full stop. I would like to remind him of the Line in the Sand. There are thousands of Islanders who are concerned about what is happening in this Island to those precious greenfields around the Island and the coastline. I am one of those Members of this House - whichever Parish it is, I am not parochial about it - who believe that it is worth fighting to keep Jersey special and to confine development to village cores. I agree with what the Constable of St. Martin was saying about the need to make sure that our rural Parishes do not lose their heart. We have to be really careful that we do not see this whole Island go under concrete. That is why I have taken the stand I have on this particular case. That is why I support the Deputy of St. John. It is not because I do not care about people having homes. It is because I believe we are stewards of the Island for future generations.

2.3.2 The Deputy of St. Mary:

Amen to that excellent speech from the Constable of St. Helier, which I will not repeat. I will just make 2 points. One is that we are under this constant pressure and we have to get the right balance with things as they are between maintaining the vitality of the Parishes and not building over the whole Island. That is a matter that we would address better if we were not under the constant pressure alluded to in the debate on the amendment, the pressure to build and build and build. It is not good for the urban areas. It is not good for the country areas. We should be taking these decisions without that pressure. So that we take them to reinforce our communities in a balanced way and get the answers right, rather than be under this cosh, which we allow ourselves to do. We do not have to. We can change the population policy in 2 years' time. I hope we do. I think, as the Constable rightly said, that is what Islanders want. There has never ever been proper consultation about population required in this Island and there should be. So we look forward to that in due course. The other point I wish to make is, I do not know if it is a minor point or not, I refer the proposer to his report in the third paragraph where he hints that there is a degree of unoccupied accommodation in the Island. He says: "To make sure we should ensure that we are only constructing what is necessary and that we are utilising to the best of our ability the accommodation which currently exists." I find that a very interesting statement.

[11:30]

I have often thought, as I cycle through the lanes, whether there is 100 per cent occupancy out there or whether some of those houses are owned for tax reasons, but not lived in. I just want to ask the proposer for a little bit more detail on that interesting aside in his report. If it is true that there is a degree of under-occupied and unoccupied housing, that is a key issue, because if we could find out how many of the larger houses have maybe one or 2 people living in them and if we could find out

how many unoccupied houses there are in Jersey then maybe that again would reduce some of the pressure we are under, some of this cosh, to just build and build. Thank you.

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

When the Deputy first spoke on this property, he alluded to the fact that it was being brought in relation to something that was said in another place. I would be interested to know what that was. Is it a need or is it something that was said in another place? We have a lot of new Members in the House, but many Members will remember the long debate in 2008 that went on about the rezoning. All of these sites were supported by the Constables. The Constables were not hoodwinked by the Housing Department. We do have minds of our own and we can think for ourselves and we do know what the need is in our own communities. With regard to St. John, we have an application to put 14 units in a field. I am well over-subscribed on that. The 14 units that will go in St. John will be units for sale for over 55s life-long homes. There is a planning obligation agreement if this proposition is defeated that we will enter into an agreement with Grouville, where 20 homes will be built in Grouville, which will be for social need. The social need is much better catered for overall than the 45-55 split that would be across the 2 sites. We already have 22 units in St. John and our Housing Association in St. John, which the Deputy is a member of the association. We are not looking to increase that number, because we are reasonably well accommodated there. I will put my Assistant Minister's hat on now. I can advise the Assembly that at the moment the Housing Department has 788 people on the list, of which 187 are identified as people in need of over-55 housing. All of these people have been assessed. So there are 187 people there that need over-55 housing. That is purely the Housing Department not the housing trusts. It has been alluded to in some other speeches that we need to get a cohesive list. That is one of the jobs that, since becoming Assistant Minister, I have taken on board. We have only just started that. A lot of data protection issues are having to be dealt with within that. But I can say to the Assembly, at this point in time, we have started on about 400 units. In terms of double counting, we are in single figures, percentage wise. So if that trend continues there is not a lot of double counting going on. I think that is about it. Other than to say that I am confident that the assessment has been done properly and correctly by both the Parishes and the Housing Department and Planning Department and I would urge the Assembly to reject this proposition.

2.3.4 Senator P.F.C. Ozouf:

I would like to just refer back to the remarks I made in the amendment debate. Before I do so, I hope the Constable of St. Helier is not going to leave, because in fact there is a site that was suggested for lifelong homes, social rented senior citizen homes, because I think I brought it when I was still a Deputy, above the Westmount Quarry site. He and I, I think, had a conversation that the Parish, while it does within St. Helier have the George V homes, it does not have its own Parish scheme. I think the Parish of St. Saviour has the Housing Department Victoria Cottage Homes and there was an aspiration to have ... I am not sure whether this is appropriate, I cannot remember Standing Orders, but certainly there was a view that there should be the Elizabeth II homes at some point on one of those sites. I realise that there is some debate and some scepticism about the numbers. But as I understand it, and no doubt the Minister for Planning and Environment and others are going to comment on this, there are 2 sites now we have accepted the amendment that cannot go ahead if this proposition is accepted and the Minister could do what the proposition said, which I will come on to. The proposition would mean that both the St. Saviour site and the St. John site could not happen. No doubt the Constable will be talking about the site in St. Saviour. I know a little bit about it. Can this Assembly be sure, are they going to say, that St. Saviour should not have its over-55s site? It is one of those Parishes that does not have any examples of those like Trinity, St. John, St. Mary's and other sites. St. Saviour does not have, unfortunately like St. Helier, any of its own Parish run, Parish organised, retirement homes. The proposition which we passed, because of the planning obligation, is going to give the Parish of St. Saviour that opportunity for its residents to have senior citizens homes and indeed putting supply into the market

for over-55s. If there was one reason to vote against this proposition, it would be a vote in favour of St. Saviour progressing that scheme in its own Parish, giving the role of Trinity to St. Saviour in terms of having a housing provision. This is something that I want to support vigorously. But I have to say that this proposition, because of what I said earlier, I do not think can be voted on and approved by this Assembly and accepted by the Minister for Planning and Environment. The Minister for Planning and Environment cannot take views of this Assembly into account when there has been a rezoning proposition. The owners of the land have a legitimate expectation and they have rights to have their planning applications determined, based upon the decisions and the rezonings of this plan. **[Approbation]** We have debated this many times before in this Assembly. That is the function of the Planning Law. The Assembly cannot put a direction on the Minister for Planning and Environment to comply. Of course this Assembly can vote in favour of it, but effectively the Minister or the Planning Applications Panel in determining an application would have to set aside that. It is not a relevant factor for the Minister of Planning and Environment or Planning to take. So for 2 reasons, I would urge Members to vote in against this proposition; firstly, because it stops St. John and St. Saviour reaching its potential in terms of delivering unit and secondly, we should not be having this debate.

2.3.5 Connétable D.J. Murphy of Grouville:

I think for the sake of clarity and for those Members who were not here in 2008 when the debate first started, I shall make the Grouville position perhaps clearer than it says in the comments from the Minister for Planning and Environment. That is, it does say that Field 148 is a private developer site supported by the Parish. That is not strictly true. It is true that it is a private developer. However, the developer is the Gouray Lodge Charitable Trust. In return for the support from the Parish, the Gouray Lodge Charitable Trust are willing to give over to the management of the Parish 12 of the 20 units. That would mean that the Parish at the moment, only having 12 units of accommodation for the elderly, will have 24 units under our control. That, to me, is a fantastic deal, because it does not cost us any money and we will have the benefit of the rents being paid to the charitable trust, who are notable for keeping within the social rental scale. These rents are then transferred, of course, into the charitable trust, which as you are probably aware is the trust which gives £100 every Christmas to those over 70s in the Island. So, with the trust it is a 2-way street here. We are very, very happy indeed to support it. This is just one of the facets of the Gouray Lodge Charitable Trust. There are many, many other organisations and charities who have been supported by them in the past and I am sure will be in the future. Where it says private developer, please do not think it is an ordinary private developer. This is a one-off. Now, we spent some hours yesterday discussing long term care. It has been proven beyond doubt that staying in ones home as long as possible leads to longer life and of course it is economically better from the States point of view, because it is a much lower cost that putting people into nursing homes. When I came into the States first in 2003, it was one of the things on my platform. I was pushing away to try and get this. It has taken long enough to get here. I am just sorry that when we get to the stage now where we are right on the verge of being able to kick this off and commence it another barrier has been put in our way. We are ready to go, the whole thing is moving and all of a sudden somebody is trying to stop it. I just think it is a great shame and it is quite mischievous, in fact. I do not honestly know what the Deputy hopes to achieve by this, because as the Minister for Treasury and Resources has so clearly told us, that even if the House passes this then there is no reason for the Minister for Planning and Environment to take account of it, because the Grouville Plan has already been approved. I do not know where we go from there. The only people who are going to be hurt by this are the parishioners of St. John, who are going to be disadvantaged because they will not have homes to move into. The advantages of people living in their own homes for as long as possible are well proven. I refer you to reports from Saga, Bupa and Age Concern. It is extremely important that we keep building these homes and keep letting these homes to people. It is going to save us in the long run. I think the Deputy of St. Mary has brought up the fact that he does not understand why people are living in big houses. The reason they are living in big houses is they

cannot transfer down. You have to make room in those big houses for people coming up the ladder. So we can go down and trade down. The Deputy made a big point of saying he is not happy about the way that the need was assessed in 2008. I can tell him that when the Minister for Planning and Environment and the Minister for Housing came to see the Constables there was a lot of discussion with the Constables. It was not just done ad lib. We did our own homework, they did their homework and the figure we were given, I think, was a demand for something like 360 over-65s elderly housing at that time. That was in 2008. I have done a quick snapshot of some of the Parishes this morning. I have found that the demand, certainly in Grouville where I had a demand of over 25 has now gone up to 42. The snapshot of the other Parishes is roughly the same. Even if we manage to build all the houses we have on the blocks now or with planning permission to pass, we are still going to be short of at least 200. So, those are figures are verifiable. Even though we do not particularly want to go down the route of having to go down another 3 or 4 months ...

The Deputy of St. John:

Will the Member give way a second?

The Connétable of Grouville:

I will give way unlike some people.

The Deputy of St. John:

Could the speaker produce those figures? That is what I have been asking for. We have heard the Assistant Minister speak on behalf of Housing. He has not produced them. He told the House that in fact the numbers are just being pulled together now. I need to know the figures that were in place in 2007/2008 when this proposition came to the House.

The Connétable of Grouville:

I think with all due respect, you are asking the wrong person. The Deputy should go to the Minister for Housing and ask him for the figures they produced to us at that time. There was no doubt about them, they were there and they were given to us. In fact, as I remember it, there was a chart on the whole thing. Coming back to us now 2 years later, when lots of money has been spent, lots of plans have been produced and we are now stuck with the situation where we have another barrier to jump, I am just not amused by the whole thing at all. I would also suggest that if the Deputy has done his homework then perhaps he would like to tell us what he thinks the compensation payments are going to be for the delays now being instigated by this proposition? Because there will be a compensation payment to pay. We have already had letters, the Constable of St. John and I, from the proposed developer at St. John to say that the compensation clock is already ticking. Perhaps the Deputy would like to tell us what he thinks the compensation is going to be. Obviously I am not going to support this proposition and I would urge Members not to support this proposition. Fields are important, but people are more important. Thank you.

[11:45]

2.3.6 Deputy P.V.F. Le Claire:

I am very pleased to follow that speech of the Constable of Grouville, especially as the interjection by the proposer of this proposition asked for the figures. If he had done the research, which he evidently has not done on this issue, he would have dug out of Hansard and other places the answers from the Minister for Housing in relation to the question put to him by the Deputy of St. Helier, Deputy Higgins, on 28th September of this year. I will read it, if I may, with your permission. Deputy Higgins asks: "Could the Minister advise the Assembly how many people since the onset of the recession in Jersey have been housed or are currently waiting to be housed by the department as a result of being made redundant or losing their homes to repossessions by banks or home lenders?" In this answer he gives the figures of the people and the problem. Deputy Power, who is not here today - I will take his place by using his own speech, maybe that will help

and then go on to mine, which is not much longer than this - said: "This is not an easy question to answer, when exactly Jersey entered the recession. The answer is probably one that the Minister and Treasury and Resources and myself might agree to disagree on, but certainly it slowed down at the beginning of 2009. As I mentioned in the last Assembly sitting, the population officer and the Minister for Housing has noticed a 60 per cent drop in the number of (j) purchase applications, consequently we have also seen a 43 per cent rise in the number of applications for housing on the grounds of homelessness or financial hardship in the last 12 months. The trend seems to be continuing with 151 similar applications having been made so far this year, which are new. I can confirm to the Deputy - I will confirm these figures in writing - that we have a current waiting list of 305 for one-bedroom units, 335 for 2-bedrooms, 155 for 3-bedrooms and another 102 for other types of accommodation. The current average waiting time for one-bedroom is 14 months. [You think the hospital waiting list is bad]. The 2-bedroom is 12 months and for 3-bedroom need it is over 13 months." Why is there a need? Because of the same ideology that the Deputy of St. John is asking us to take up this morning, which has been the Island's policy for decades: limit the supply, keep it back, hold it back and artificially keep these prices where they are. You look in any other jurisdiction in the world and the prices are pretty much where they were 20, 30 years ago. Not in Jersey. Eight years ago, by way of example, we did a study and the average house in the U.K., for comparative purposes - I can get the detail for Members - was in the region of £150,000. In Jersey it was £300,000. The increase in those 8 years in the U.K. has been £50,000, from a starting point of £150,000. In Jersey it is £150,000; 3 times the U.K. rate, 3 times the level of increase from a higher starting position. I am given a note by the Assistant Minister for Housing, who is doing the work that has been needed for a long time to have a cohesive understanding of the issues. The Deputy of Grouville has made a clear point about it in the past, we need a cohesive understanding. There are 14 in St. John, 30 in St. Saviour, 40 in Grouville and 16 in Housing and there are 187 people who need housing that are over 55 on the housing list. I am told there are 75 units for lifelong homes in the build. We do not achieve even a D minus when it comes to housing in this Assembly. We are woeful in addressing the needs of homes for people. By way of example, going on to my speech, I received a letter on 4th November - I suspect most other Members did as well - from the Jersey Shelter Trust. I received it from the Trustee Shelter, from the Trustee, Michelle Cuthbert, who said: "Once again, as Christmas approaches we will be holding our annual fundraising soup kitchen [and I will give them a little plug if I may, Sir] in aid of the Shelter Trust for the Homeless. The event takes place in the Royal Square on Tuesday, 30th November between 11 a.m. and 2 p.m." Most Members attend that. They may have not read the rest. I did: "We hope you may feel able to come along and support this worthy cause. It is very worrying to consider that August has been the busiest time Shelter has ever known since it began. On one occasion 91 people were housed." In August; 91 people: "This is very worry as normally the summer months are the quietest and numbers increase in the winter." We do not have enough homes for our population. The quality is not of a good enough standard to hold our head high on the international stage. I am sorry to say that internationally we look bad in this regard from every angle. We are discriminatory, in my view, in the way we apply ourselves to this problem. Moreover, in a recession, when people are looking to go to work with their tool bags on their backs, we have propositions like this saying: "Hang on. The economy is not hurting enough. Let us put a little bit more on stall." They want the whole Island preserved in aspic: "Do not develop anything. Do not build anything. Repair it. Reuse it. Recycle it." I do not want to live in a cave. People in Jersey are tired of living in caves. I am sorry, it is all emotive stuff. The Deputy of St. John in his proposition says: "One of course recognises the desire of opportunists to make money." Maybe there are people in building and developing that are making money, maybe because that is what the game is about. But one thing is for certain, we are in the business of providing homes for people in need. There are a lot of people in need. There are going to be more people in the economy that suffer from the ability to house themselves through the loss of jobs and things. If we get in the way of this now ... I disassociate myself with the insinuation of the Deputy of St. John that I have some association here. None of my family or relatives live in housing or in trusts or have anything to do

with these schemes that are involved here in any way, shape or form whatsoever. We live in private rental sector, in the majority, in town. If some of the Members could come and have a look at some of this accommodation that we are living in, they may change their view about what is going on. The reality is the developers make a profit. What is wrong with that? What is wrong with that? People like to buy cars from foreign companies. The foreign car makers like to make a profit. We do not all have to wait in line to buy a car that is going to take us 10 years to own, that the States is going to provide, that is going to fall apart in 10 minutes. I am absolutely amazed that people who live in big houses in the countryside bleat on about preserving the aspect of this Island at every opportunity that they can when they come to St. Helier to speak about preserving the Jersey way, yet when they get to town they close their eyes.

2.3.7 Senator F.E. Cohen:

The Deputy's proposition is well meaning and I do understand where he is coming from, but I feel that he is fundamentally wrong. He has raised the issue of demand. Demand is not an issue. There is demand and this was shown by the Housing Needs Survey. We all know we have an ageing population and we have to accommodate the ageing population. I have absolutely no doubt that there is demand over time for the social units. Whether there is urgency, is another matter. The Housing Needs Survey certainly indicated that there was some urgency. The then Minister for Housing, Senator Le Main, and I visited the Connétables. We suggested to them that in order to accommodate this demand for retirement housing that they search their Parishes for schemes that they could deliver as Parish schemes. We set one precondition and that was that anything that came forward must have the full support of the Connétable. The Connétables endeavoured to find schemes that would be entirely Parish-owned in many cases. Unfortunately, some were unable to find sites that could only be delivered through Parish investment. They were forced to go down a route of bringing forward sites that were partnerships with developers in some cases. Still each site had the full support of the Constable. Proper process was followed. The sites were brought to the States. The States considered each site in a lengthy debate and each site was approved by the States. The then way forward was for planning applications to be received. In fact, other than on 3 sites, planning consents have already been granted. One of the remaining sites has effectively now been taken out of the current proposition, through the acceptance of the amendment, that is the Trinity site. So we are now left with 2 sites only, St. John and St. Saviour, undetermined. I think the process that we are going through in this debate is curious and potentially dangerous, for I do not believe that it is right that the States should seek to interfere with the planning process in this way. We have a relatively simple system. That is that the Minister for Planning and Environment or the Planning Applications Panel or officers through delegated authority make planning decisions. The Minister for Planning and Environment takes responsibility for those decisions. If you do not think the Minister for Planning and Environment is doing a good job, the States can get rid of the Minister for Planning and Environment. That is the system that we have now developed. To go half-way house and effectively say: "We do not think much of the decisions and therefore we are going to, as a States body, try and circumvent those decisions," I think is a very dangerous route. I would therefore urge Members to vote against this proposition.

Deputy M.R. Higgins:

Could I just ask a point of clarification on the last speaker? The Minister said that the Housing Needs Survey showed urgent demand. Could you just tell us the date of that housing survey?

Senator F.E. Cohen:

My memory is not my strongest point, but I think it was 2007.

2.3.8 Deputy A.E. Jeune:

I have heard very clearly what the Minister for Planning and Environment said. I cannot say I disagree with him. However, I have a problem with the over-55s **[Laughter]** being used as an age

limitation for entry to a lot of these new developments. Senator Ozouf, when he spoke, spoke about the senior citizen. The senior citizen is at least, in my opinion, over 65, not over 55. The Connétable of Grouville has said that he will be short of properties as his list is getting so great. But what is the age band of the people who are looking to go into these? My concerns are that green zones will be eaten up, because we are giving lifelong over-55s homes when we ought to be looking, in my opinion, at the over 70s. When reading through the report of the proposer, I can share his concerns that we do not really have the evidence. People also mention about moving into smaller properties; people moving out of the larger homes and moving on. Why should they if they do not want to? Parishes have homes for the elderly, yet they are putting this 55 age thing on it. They are not. If they are not, why are they calling it the over-55s? Perhaps somebody can clarify that for me. However, I do accept that if land has been zoned and permission has been given to build I find it is going to be difficult to alter that decision. Thank you, Sir.

[12:00]

2.3.9 The Connétable of St. Saviour:

I feel really I ought to declare an interest in this and in the 2 sites that we are debating here. St. Saviour is 90 per cent of the area of the land we are talking about. If it is passed, St. Saviour's benefits, although I suppose in some ways that is an interest. It is unfortunate because of the concerns regarding the sites in St. John I believe the proposer has felt a need to bring this coverall projet. "Unfortunate" perhaps is the wrong word to use to describe this situation because, while it may or may not be necessary in his view to clarify the numbers, by far the greatest effect of this is going to delay the one really big site that is going to help the situation for the elderly in the whole Island. In my mind that is very serious. It has major benefits for St. Saviour. We will get 30 homes for the elderly, at the moment we do not have any and we have not at this stage decided whether those would be 55, as they would then be eligible to be, or they may be 70 or even 80 by the time we get them into them. The longer this goes on the older they are going to be. One of the benefits of this site is that we will get a new pavement making it safer for children to walk to school. We will get some off-street parking. We will get benefits for the Parishioners around the area and bringing in advantages for people living in the cottage homes, which is States housing. We will get doctors' surgeries. All of these are facilities for the elderly, all of these are going to be delayed. A growing number of elderly Parishioners need suitable living accommodation. It is designed to cope with their needs, and what applies to St. Saviour applies to the whole Island. The Island is facing the problem of an ageing population; we all know it is coming. To delay in order to look at the figures again is just burying our heads in the sand. Do Members believe that the problem will go away? It is going to get worse. The Island will need more lifelong homes. We might argue about the time and the scale of that need, but people are living longer. That is a good thing but society must, must be able to cope and care for its elderly, our elderly. As the proposer suspects we do not need as many of these lifelong homes now, he might be right, but that situation is not going to last long. It will be that if we do it and we build the homes and they are not necessary at this stage, it will probably be the only time in memory when we are ahead of the game. If he is right and we have got too many then the prices are going to come down, and they will stay down. It could be argued that would be a good thing to do. It is going to take 3 years to complete the site in St. Saviour. If we need the homes now we need to start building them now. What we are doing, in effect is a short-term bandage. These homes provide for .002 per cent of the Island's population. The increased number of people reaching this age is going up. We all know it is an ageing population, the number of people reaching this age is probably going to go up by 5 per cent, 10 per cent over the next few years. I would remind people that 5 per cent of the Island population is 4,500, not the 200 homes we are looking at in St. Saviour. The confusion over the lists is a red herring. The proposer wants another detailed assessment of the needs. Housing has a list, there may be some inaccuracies, but really these inaccuracies are insignificant in relation to the total. No one can say that half of the Island's needs just do not exist, and we are looking at half of the Island's needs in St. Saviour. That is what this site provides. On the housings list of hundreds, we

were told there were 50 from St. Saviour. We have not got a list yet, we have not started a list; we have not got any buildings. We have had lots of inquiries but we have not started an official list, so that 50 does not confuse the issue. Dandara have had over 50 inquiries to purchase. Those are not housing lists, those are not social needs; those are inquiries to purchase. They have not started marketing yet but they have already had over 50. So, we are talking about 100 people here, that is half of the site, and we are still 3 years before the site is completed, and the Deputy is saying: "We do not know if we need them." L'Hermitage is a site like this. That is all sold, there is a waiting list now for the 2-bedroom units but again, the proposer does not know whether they are needed yet. On the St. Saviour site the social units will be nearly 700 square feet and the non-social units will be over 20 per cent bigger than L'Hermitage. These are going to provide good homes that people will be able to live in and cope with their changing needs, as they get older. To delay the start is unjustified. Yes, Dandara will make a profit, I hope they do because if they do not St. Saviour does not get the houses we need, we do not get the houses gifted to the Parish, and the social units will not be built that housing need. No one wants to build on greenfields, we all know that, but we had that debate 2 years ago. We will probably have it again today because people will keep raising it as an issue but it is not an issue, these sites have been re-zoned. No one wants to build in greenfields but we do desperately need these housing units. The St. Saviour site is ideal; it ticked all of the boxes when we were looking at what was needed. It is out of sight because of the ground levels, it is surrounded by housing, it has got a playing field, which means that there is an interest for the elderly, they can see the children going past to school. It really is very good for the Parish. As I said, we had the debate for the re-zoning; that was 2 years ago. We still have not got any homes for the elderly. We needed them then and we need more now. In his report the proposer says: "There are no financial implications." As the Constable of Grouville has said: "He is wrong, he is very wrong." This delay will be expensive for the developer. Major sums of money have been invested and they have been invested on the basis of the development brief and the advice from Planning. Planning has given that advice as a direct result of the decision of this Chamber to re-zone the land. This Chamber made that decision and as a result they have gone ahead with the expenditure. I suggest the proposer should have talked to Planning and got advice before saying there would have been no costs. I have spoken to Planning and I am advised that we are creating a situation where it will be impossible to defend against the claims for costs. The developer has told me that they will have to claim for costs because they have spent the money and they are spending it. The costs are going up as we speak. So the report is wrong, there is a significant cost implication. Although we need these homes now when, hopefully, they become available in 2 to 3 years' time, the situation will be more serious, we will need them even more. There is nothing to be gained by delaying. The only thing that will result is major costs to the taxpayer and failure to improve conditions for our elderly and our vulnerable. I ask Members to vote against this proposition.

Deputy A.E. Jeune:

Excuse me, Sir, may I just ask a point of clarification of the last speaker? The last speaker mentioned that the development for St. Saviour would be like the L'Hermitage in St. Peter and I would like to ask, will the Parish's development have residential nursing care provision? Thank you, Sir.

The Connétable of St. Saviour:

I did not say the development would be like L'Hermitage. I merely compared the sizes saying it will be bigger; the sold units will be 20 per cent bigger than L'Hermitage. I understand there is an application going in very shortly, which includes a care home.

Deputy A.E. Jeune:

Thank you, Sir, and I apologise to the Connétable.

2.3.10 Deputy J.A. Hilton of St. Helier:

I am both puzzled and frustrated by this debate. It is like pulling teeth. Senator Ozouf referred to the difficulty we had in the Environment and Public Services Committee back in 2003 in trying to get the H2 sites through this Assembly. It was absolute hell, and when together with the Minister for Housing, the Minister for Planning and Environment and the then Assistant Minister for Planning and Environment, we decided that we had to do something to address the issue of homes for the elderly and first-time buyer homes, we decided to adopt a completely different practice of trying to find land to develop. So, we consulted extensively with the Connétables because of the accusations in 2003 where there was no consultation. So we thought: "Right we will take this back to the Parishes we will let the Parishes decide." and despite doing that we are still being pilloried. In 2008 I do not know how many hours we spent debating this proposition. I had a quick look at the vote this morning and I believe, well certainly as far as the St. Saviour land is concerned, I am correct in saying about 40 Members at that time supported that land being developed. What are we doing, sat here again for several hours wasting time **[Approbation]** when this Island is facing serious issues that we should be addressing? I sent a note across to the Deputy of St. John and indicated: "What is this about? There is enough evidence out there to show that there is a need." The facts were produced in 2008, all the figures were there, the Connétables did their own research, the Housing Department, the Planning Department had done their research; so what is this about. I just find it utterly frustrating. Nothing has changed. Things are getting worse. We have been given figures by the Assistant Minister for Housing this morning, which will back up the need. It is blatantly obvious to me, and also been confirmed this morning by figures being produced by our Statistics Department, that the price of housing, a 3-bedroom house has gone up in the last quarter again. Our supply does not meet demand, that is a fact, and it never has done. Until it does we are going to have to pay hand over fist for decent affordable housing. It is just not going to happen. We need to be building more for everyone. There are too many people in this Island living in sub-standard accommodation because the Members of this House just do not seem to be capable of making a decision that serves the best interests of the majority of the people in this Island. Anyway, getting back to saying to the Deputy of St. John: "What is this about? The evidence is out there." The message I get back is: "Several weeks ago the Deputy of Grouville made comments in evidence in the police court about corruption." Right? So, this is what it is all about at the end of the day. When we consulted on this, the 4 of us, we consulted on 12 sites, we took them to the Parishes; it was sites that the Parishes put forward, not developers. It was the sites that the Parish Connétables and the Parish Assemblies agreed. Of those 12 sites, we withdrew 4 because of the amount of opposition to some of those sites and for various other reasons. Now, I do not know what the Deputy of Grouville knows, I do not know, but as far as I am aware the process we adopted was completely open and transparent. It grieves me when allegations are made about individuals and civil servants employed by the States of Jersey who are not in a position to challenge those allegations. It is entirely wrong in my opinion.

[12:15]

I personally know of about half a dozen women in their mid to late 60s who are living at this current time in straightened circumstances. I do not know why it seems to be maybe more single women, divorced women, separated women but they are out there, and I have certainly had contact with older women in the private sector at the moment who have been waiting. There is one lady who was re-housed a couple of months ago, who had been in the private sector, who had been waiting 14 months to be housed by the Housing Department but they have got no accommodation, and she is just a drop in the ocean. There are plenty of people out there who are waiting. So, I would just appeal to Members, we have had this debate 2 years ago. Please do not support this proposition because in my opinion it is just not worthy of supporting. Thank you.

The Bailiff:

Please may she be listened to without interruption?

2.3.11 Deputy C.F. Labey of Grouville:

Yes, thank you. To follow that speech I would like to start by making it perfectly clear that there is no way I asked the Deputy of St. John to bring this forward. In fact I think this whole proposition is quite unfortunate and I have some sympathy with what Deputy Hilton and other speakers have said. This really is closing the stable door after the horse has bolted and I do wonder what it is we are doing here and what we are trying to achieve. So if I can make that absolutely clear, although probably in 2008 I was one of those Members who brought my own proposition because I was very, very concerned with what was going on. I will just touch on, to make it clear to Members, I was subpoenaed to court a month ago, I cannot remember how long ago. I was subpoenaed there, I gave evidence under oath and I answered the questions that were asked of me as honestly as I could. So, if that came out in ways that Deputy Hilton and others do not like, well, I am sorry. I was answering questions under oath. She is shaking her head but she is right, she does not know what I know. She has not had meetings and experienced what I ... Could Senator Le Main please stop interrupting every speaker he disagrees with?

The Bailiff:

No, Deputy, I did not hear any interruption on this occasion from Senator Le Main, perhaps one of the few that there has not been an interruption, but there was ... **[Interruption]** No exactly, I was supporting you, Senator. I was saying there was none and I think we ... **[Interruption]** No. I think, Deputy, we should not go into what was said in court. That is another case and there is a trial still continuing.

The Deputy of Grouville:

No absolutely, which is why I am not going to go into anything that was said there. I said those things in the rightful place and I have no desire to go over them here, but I was opposed to the rezoning debate. I just felt the whole thing was wrong and claims were made where we suddenly had this urgent desperate need for housing. It concerned me that why should this have come about so suddenly and urgently? We ought to be planning for things. We have a sort of migration strategy in theory but some of our rules that had been put in place years before about unqualified (j) categories, you have to be here 5 years before you can work in anything other than catering, had in my opinion been very, very ... well they were being monitored in a very lax way, and I would suggest that a lot of our problems we have today is because of that issue. That is the source. So we will not meet the supply the way we allow the supply to come in. Until that issue is addressed then we will never ever meet our housing needs but I do notice the former Minister for Housing has played a role with the (j) categories and with the licensing of premises. I could not believe we have had a property over Liberation Station, which I have asked him about, this Apart-Hotel, 60 units of accommodation for unqualified people.

The Bailiff:

I think you are rather drifting off the subject, Deputy.

The Deputy of Grouville:

Well, not quite, Sir, not quite, 60 units of accommodation for unqualified people, so our qualified people, our Jersey born people are obviously struggling to find somewhere to live. It is not unrelated, it is very related and unfortunately this disjointed thinking in this Assembly... **[Interruption]**

The Bailiff:

No you may not, Senator, you will have a chance to speak in your turn.

The Deputy of Grouville:

Has he finished? In 2008 when I became concerned I lodged a proposition and one of the elements of that proposition, which in that section I won by 40 votes to 6, was to find a criteria for putting people on the waiting lists because we had a central list, which was administered by Senator Le Main, and then each of the Parish Constables were being asked to make up their own lists. We had no means of knowing if they were duplicated as is already alluded to, and yet we were told we have an urgent need, and we were re-zoning land without any robust figures, though there could have been double counting. I do not know, Senator Le Main does not know, the Constables do not know because there were no criteria and no means of knowing who had who on whose list?

The Connétable of Grouville:

Could I ask the Deputy to please give way for a moment? The problem with conjoining the lists at that time was the data protection laws. We were not allowed to hand over those lists to Housing and Housing were not allowed to hand those over to us.

The Deputy of Grouville:

I rest my case. We had no means of knowing if the numbers were duplicated. I will just read out an exchange during question time. This happened because I won the vote in February 2008, to form criteria to put people on the waiting lists. I expected that criteria to have been formulated before the re-zoning debate. We had the re-zoning debate in the July, 10 months later I asked a question of the Chairman of the Comité des Connétables, and I asked how many meetings he had held between the Connétables and the Ministry for Housing to develop such a criteria and at what stage is it being developed. This is after everything had been re-zoned. This is so ironic and it does make me question when things are passed in this House, it might be a matter for P.P.C. (Privileges and Procedures Committee), how they can just be ignored. Because in February 2009 the answer I got was: “No meetings have been held to date between the Constables and the Minister for Housing to develop a criteria for admitting people to Parish waiting lists for sheltered housing. However, the Comité des Connétables has invited the Minister to attend its meeting on 9th February 2009 to discuss the matter.” No meetings had been held and so development of the criteria has yet to be considered. To take up Deputy Jeune’s point, so who puts their name on these lists? I am going to be 55 in 3 years’ time, shall I put my name on the list, shall I realise my assets and go and be provided for by ... pay a rent to the Parish? Then the Chairman went on to say: “The Minister for Housing has not to date provided the Connétables any details of those persons on the Housing Department’s central waiting list and so it is not possible to say whether or not any of these persons also appear on the Constables’ waiting lists.” So there we have it in black in white. No idea. I then asked at that same sitting, a question of the Minister for Housing and it was in an exchange between Deputy Martin and she said: “We need to know how many people on the waiting list because the information is not going from the Constables to the Housing Department. Are there duplications? It is quite simple. Is the same person on the Housing waiting list, on the Grouville waiting list or the St. Ouen’s waiting list? Could the Minister agree to find this out urgently and let the House know?” To which the Minister for Housing replied: “I am not prepared to find this out urgently” and went on about the Whitehead Report. Deputy Trevor Pitman asked: “Could the Minister give us assurances that there is no one on this waiting list for urgent re-housing who might have just sold a property for £1 million for example?” Senator Le Main replied: “I cannot give any assurances such as that.” So no criteria, no robust figures, they could be duplicated. We have heard that they might be because nobody knows. Then we are led to believe, we hear things like: “People are living in big houses so what are they to do?” Well, why cannot they downsize? **[Interruption]** There was I thinking we had an abundance of flats over here but that is not the case, is it? People want to live in a sort of an idyllic way when we have got a finite amount of space. I have issues with this whole business, how it went about and how we arrived where we are. One of the issues was the road show that took place in January 2008 it was between Housing and Planning on the road show. Does anyone spot a conflict? Planning is going to be determining the applications in so many months’ time and here they are selling it to the public. In the Minister for

Planning and Environment's comments he makes the comment: "Supported by the Parish." Supported by the Parish? How many meetings were advertised and what were they advertised for? Was it first-time buyer, sheltered housing? What was it for? I certainly know in my Parish it was a complete mix. It certainly was not: "Let us have a Parish meeting about sheltered housing." So, the Parish Hall was full of expectant first-time buyers who expected to discuss that issue but there was none of it. It was to discuss one issue only. Were there votes taken at the end of the Parish Assembly? Not in my Parish. So when the Minister for Planning and Environment says: "Supported by the Parish" what does that mean? I have serious concerns at the way these sites were found. They were not advertised. Did the Constables ... okay Trinity was left some land so I fully appreciate where he is coming from, the rest what happened, how were these sites found? I think most people know the answer to that. I certainly know in my own Parish there are sites such as the Jersey Pottery site, such as the De La Mare Florist site that we knew was coming up, which would be out of Planning gain, could have each provided 5 sheltered housing. They could provide first-time buyer, as part of the Housing gain. There was absolutely no need to re-zone, and let us not forget, an agricultural field in full agricultural use. So, there were concerns about the criteria and still no criteria.

[12:30]

How the sites were found, how many people constituted this urgent desperate need, the Planning and Housing road show "supported by the Parish." I do not know, I do not know about that. My major concern was when I learned, and I learned more about this information after the debate unfortunately because somebody came forward, and other people have come forward to speak to me, which is why I have the information, far more information than Deputy Hilton has I am sure, that the same developer was involved with numerous sites, albeit under the guise of different company names. To me that raises concerns. That raised concerns for me and it should for everybody else in this Assembly. I am for sheltered housing; I like to see our community provided for. I think we should respect our elderly and provide for them and honour them so that they do not have to go through old age or come up to old age with the worry of where they are going to live and if it is half decent, but we can do that. We can still do that but we do not have to go out and re-zone swathes of our countryside necessarily to do it. We can do it as a last port of call but I think what we did, we rode roughshod over the Island Plan so the whole issue could not be taken on board together, and we rode roughshod over agricultural land. Like I say, we have had these debates; I brought forward a substantial proposition in February 2008, which we debated in the April ahead of the re-zoning debate. Members had the opportunity then to voice their concerns and a lot did, a lot supported many elements of my proposition but they were later ignored and I would ... and I am serious that I think P.P.C. need to look into that when this Assembly makes a decision about something and it is just ignored. We later, in the July, had the re-zoning debate and without robust figures, without criteria, with the same developer involved in 5 of the 8 sites, we re-zoned 60 vergées of our countryside and, as far as I am concerned, that is where it ends. I know the Deputy of St. John is well meaning in this, he has been frustrated with it, I do not think he was in the Assembly at the time that that debate happened so I can understand it, but I am afraid it is too late now. Thank you, Sir.

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

I must first of all respond to the Deputy of Grouville. Quite rightly she pointed out that at the time of her asking the question no talks had taken place between the Connétables and the Minister for Housing. That of course did not mean that the Connétables had not done anything. The criteria across the Parishes were very different from Parish to Parish because of the fact that they were not necessarily looking at the same thing. Deputy Jeune pointed out about the age and certainly, as far as St. Ouen was concerned, the criteria that we had set for Parish housing was for 65 plus. Now, it is very difficult to marry that up with 55-plus or with first-time buyer housing. The Connétables had identified the problem, which Housing had identified at the same time, of the data protection

issue, and I am glad to say that having discussed the matter with the data protection officer we have come to a way round this problem, and we are all now attempting to gain permission from those people on our housing lists, to forward their names to the Housing Department so that there will be one definitive list. The Assistant Minister had already responded to that prior to the Deputy asking the question again, in saying that of the ones that they had identified so far, there is very little duplication. I suspect that that is the case because certainly I am aware, as far as senior citizen housing in St. Ouen is concerned, that the people who apply are aware of the criteria of St. Ouen, which is that we would allocate to people with a strong parochial link first, and also of course the fact that they have to be of a certain age. So, I think that the Deputy's criticism of lack of criteria cannot be directed at the Connétables. It could well be that the lack of criteria is something which this House should have decided on. I believe that various decisions of this House have meant that there is quite a lot of confusion about 55-plus, 65-plus, first-time buyer, all the various elements that the Housing Department deal with, and that the Parishes deal with. There was in the Deputy's speech some veiled criticism of the Connétables as far as these sites that have been already identified are concerned, and I would say that although I know nothing of the Connétables' work in these sites, I know from talking to them that they have spent quite a lot of time talking to interested parties as far as these developments are concerned, and that they have done so, not for personal gain but for the gain of their parishioners, and I think that is important. Turning to the Deputy's proposition, I would like to ask a question of the Deputy. Is the Deputy trying to tell us that, let alone the demand not being there when the proposition was brought in the first place, that it has gone down, that there is less demand now than there was then? I suggest to him that there is a lot more demand now than there was then, and so bringing this proposition is not going to solve anything. Bringing this proposition is only going to make the matter worse. The Deputy of St. Mary this morning questioned whether we should be debating this while under the pressure of needing to house. **[Laughter]** When is this House ever going to debate a housing issue unless there is a pressure? I suspect that it would be on the back burner. We would never discuss it if there were not a pressure to house. I think that this House, and Deputy Hilton pointed it out, is a very poor planning committee, as a House, very poor planning committee, and that is why our predecessors put in place the planning process, which we have at the moment. This House continually tries to stick its oar in as far as the planning process is concerned, and it has never achieved in doing anything in those debates, and I suspect that this one is another one of those. I urge Members not to support it.

2.3.13 Connétable J.M. Refault of St. Peter:

What a sorry debate we seem to be getting ourselves in here. We have got Deputy against Constables, Constable against Deputies, Senators against, in some cases, just about everybody **[Laughter]** but it is a very, very sad debate. I would really like to try and lift it slightly by complimenting; my greatest compliments to the Constable of St. Saviour and Deputy Hilton for their absolutely superb deliveries that they gave to this Chamber. The one thing that really does bother me; that most of these sites have been driven by the Parish Connétables, not from themselves but with the support of their parishioners, by Parish Assemblies who have all supported them into bringing these principles forward. In St. Peter, back in the late 1970s the late W.P. Le Marquand, the Connétable of that time, brought forward a plan for Maison Le Marquand. There were no lists; nobody was known to require them. He had built 14 flats in St. Peter and within 6 months they were all full of elderly people resident in St. Peter. Sometimes one has to consider the potential of need rather than having an actual need, and respond to that. It may mean, if we look at the L'Hermitage development in St. Peter, which were built on spec, they did not have a list of potential buyers but within a year or so they were all full because they knew there was going to be a need and a demand for them. Currently in St. Peter we are about to start work on building our 14 lifelong bungalows, we do not have official lists yet but I have already had approaches and taken names and telephone numbers of approximately 40 people. Some who wish to buy, some who wish to rent. I get stopped in the street: "What is happening about our lifelong homes? We are not

seeing any movement, we would like to know more about them.” There is demand out there. I am not going to stay too long with this. I have just one last thing I would like to come back to, the big house issue. I am sorry, I apologise to the Deputy of Grouville for my outburst about where they are going to live. The reason I say that is because many old Jersey people will not live in a flat. They would rather live in a cold damp house in very sub-standard condition than even consider the thoughts of going into a flat. A flat is just not in the psyche of the traditional Jersey person; they want a house. When we did going back, as Deputy Fox, one of his favourite statements “in a former life”, well when I was in a former life doing a slightly different job to this, I assisted quite a number of these elderly people, which had ... they were property rich but cash poor, to find houses so they could release their large Jersey houses, which were then re-developed using barns(?), to provide a significant number of additional units of accommodation without running into the green zone. The only sad part about that is many of those people bought houses on housing estates, which were intended to be family houses, because they were smaller and more manageable than what they had. What we are bringing forward here is something, which is purpose built. They are lifelong homes, 2 bedrooms, in our case 2 bathrooms, properly developed to enable people to live the whole of their life in that accommodation. I am not going to go any further with this, just I had rather hoped that most people would not vote for my ex-very good friend, the Deputy of St. John’s proposition in this case, and support the Connétables and the people of Jersey who have supported their Constables via Parish assemblies in foreseeing the need. Thank you very much, Sir.

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

I will be brief. I empathise with the proposer’s sentiments. I do not want to labour planning and housing issues, which have been well aired, I am surprised at him bringing this proposition because it seems to me that it is his own constituents who will be hardest hit. With regard to the St. Brelade site, I will just briefly tell Members that the land ownership issue at St. Brelade was over Parish land. There was no land acquired for the purposes of the building. It is for probably over-75s it has been targeted at rather than 55s. We do not keep a waiting list because we have got nothing tangible to offer, and the first phase of the development is imminently ready to go. I am concerned particularly over the disparity between the financial implications suggested as being none on the proposition, the suggestion there could be legal action on the comment, and the comments of the Connétable of Grouville. I would ask, Sir, whether the Attorney General might enlighten Members as to exactly what the situation is with regard to financial risk on this proposition should it be accepted? Thank you, Sir.

The Bailiff:

No doubt he can do that after the adjournment, yes. I, at the moment, still have 6 Members who have indicated they wish to speak. It is a matter, of course, entirely for Members but it is hard at the moment to think of many points that have not already been made, so perhaps they would like to just think about whether they have something new to contribute.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Yes, very well the adjournment is proposed, we will re-convene at 2.15pm.

LUNCHEON ADJOURNMENT

[14:15]

The Bailiff:

Yes, we are continuing with the debate on P.152/2010, I see next the Connétable of Trinity.

The Connétable of Trinity:

Would it be possible in half an hour to ask for the closure motion please, Sir? I have not spoken on this one, Sir.

Senator T.J. Le Main:

No, I would like to speak.

The Bailiff:

One moment please, the Constable has not spoken on this one so he is entitled to give notice, and we have been debating it for more than one hour so, yes.

The Deputy of St. John:

Sir, as the proposer of this, and I am a back-bencher, is it usual for it to be adopted in that manner?

The Bailiff:

Yes. [Laughter]

2.3.15 The Deputy of Trinity:

Having brought the re-zoning proposition back in 2008, it was a long couple of days, everybody had their, you could say, 2 pennies worth at the time. It was a very good debate, be it quite long, but it was a good debate. Every - and I think this is very important - site was taken as a separate vote, and the outcome is that all the re-zoning was approved with different amount of votes. But prior to that, as the Minister for Planning and Environment said, he did go to the Constables and we had full support of the sites that we took for re-zoning. Also, along with Deputy Hilton and I, we did a lot of consultation, and I found the summaries of the responses somewhere deep in all my information at home. There was a public response and there were 86 written responses. There were 5 public meetings at various Parish Halls attended by about 500 people, and apart from that we consulted with interest groups, Island-Wide Strategy for the Ageing Population, Jersey Homes Trust, and in conference with women organisations, Age Concern, Alzheimer's, M.P. Agencies, the Council for Protection of Jersey's Heritage, Family Nursing Services, Farmer's Union, Land Trust and landowners, and there were some political responses too from individual politicians, Comité des Connétables, Environment Scrutiny Panel, Health and Social Services and Housing Scrutiny Panel, States Members, Constables and Deputies of St. Saviour's meeting. The results of the various consultations are there on the website for people to see. But one question I think, which Deputy Jeune asked about the 55s, this took a lot of discussion at the time, and it was a result of a survey that came out, which said 69 per cent of people who responded, who were involved in the consultation, saw that as the minimum age. So, nobody is forcing anybody at 55 to move into the lifelong homes, so that should be brought in, but the Deputy wants some more information but at that time we did have quite a bit of information and evidence. The Housing Needs Survey was carried out in 2005, which estimated a shortfall of some 250 sheltered housing, and the 2007 Housing Needs Survey was shortly to be published, and this is back in May of that time, as well as the Island's Strategy for the Ageing Population Survey. So all the work, all the evidence was done yet the Deputy is still asking for more detailed assessments, but I would like to know, where has he been all these 2 years? We know that ... I should think the evidence would still be the same, perhaps there is even more demand because we are a population that are living longer, and that is a fact. I think the Deputy just wants, because he was not there at the time, to come back to this, but we had a long debate at that time and the House approved that. Quite a few of the sites have been granted planning permission and it is, as the Minister said, it could end up with just St. Saviour and perhaps St. John, and then the knock-on effects could be that it could affect Grouville but these are people waiting for their houses, and I ask what has it achieved? The St. Saviour site, as the Constable has said, is going to be a big plus benefit for the Parish with 30-odd homes for the Parish citizens, because they have not got any lifelong homes within their Parishes. This is, as has been

said, very much a community spirit, Parish involvement; the Parish identified the need with the Constable and it was worked out from there. More importantly it was St. Saviour's site that there was dementia care, nursing care, whatever, included in that proposition. I am glad to say that the developers are still putting it in as a go-ahead if this is not approved today, and that is something which my Health and Social Services have that we desperately need. If this is approved today, which I am certainly hoping it is not, there is an added effect that it will just add more problems to Health and Social Services as we look at the ageing population, and we know that the number of people suffering with dementia is going to increase in the years ahead. These developments are not just going to happen overnight. There is a lot of lead-in time, the sites will probably go to the Planning Application Panel, they will ask for all the necessary evidence, environmental studies, et cetera, and still it is a public meeting and people can still put their objections in or support in as it seems fit. This is just rehearsing what we did in 2008, and you know the States are very good at wanting to go back again on their decisions. I think we should vote this out and move on.

2.3.16 Deputy J.A.N. Le Fondré:

I am going to be disagreeing with much of the Deputy of St. John, in terms of not supporting the proposition, but I do just want to say that I do support his right to bring a proposition just as much as I defend my right to disagree with it. I did not necessarily agree with some of the comments that were made earlier in the day. It is down to each Member to assess whether or not it is a responsible proposition that they are bringing. The reason I wanted to stand, as a principle I am not a great fan, along with many other Members of greenfield development, and when the original proposal was brought to this Assembly I did take the view that I would only support the proposals that were backed by the Connétables and the majority of the Parish Deputies. It did not have to be 100 per cent because I felt in those instances I was not going to impose my own personal opinions on something of this nature, and basically all but one of the proposals that were brought to this Assembly were supported by the majority of the Parish, so that influenced the way I voted. That also has an impact therefore on my reactions to today. What I will say, where I do have a degree of sympathy with the Deputy of St. John is, I for example would endorse the comments made by the Minister for Social Security in the ... I think it was the earlier debate this morning, time is starting to compress slightly, about the overall provision of housing in the Island. I think, personally, we do need far greater analysis and clarity of both the market, the overall provision, and also most importantly the potential impacts of any potential proposals perhaps coming out of varying departments that have an impact on this area, and also any alternative options. Very often we rightly focus on people and the environment, not enough sometimes I think, on the financial aspects and the impact on our bottom line within the States. So, to that extent, I am sympathetic to the sentiments of the Deputy of St. John. However, just to go back to the main proposition though, excluding Trinity now, as far as I can see there is only one site that does not have an application that has been submitted, and as far as I understand, that is certainly significantly supported by the Parish of St. Saviour. There are one or 2 sites where applications have been submitted, and I say one or 2 because it was unclear whether Grouville had been approved or not. I believe from the Constable I had heard it had been approved but obviously on the proposition it says its decision is pending, and so that just leaves then ...

The Connétable of Grouville:

Could the Deputy just give way?

Deputy J.A.N. Le Fondré:

Yes.

The Connétable of Grouville:

He should have got an email this morning from the Minister for Planning and Environment saying that the Grouville site was approved. Everybody else got it.

Deputy J.A.N. Le Fondré:

Possibly but I have not checked my emails this morning.

Senator F.E. Cohen:

It was sent yesterday.

Deputy J.A.N. Le Fondré:

Therefore, all we are looking at is one application in the Parish of St. John, which was submitted over 9 months ago, relative to this proposition now and I can see that definitely puts the Minister for Planning and Environment in a very difficult position. I think this puts this Assembly in a rather difficult position, and so on that basis I am not aware of significant opposition within the Parish. Certainly the Constable of St. John is, as I understand it, not supporting the proposition. On that basis then I cannot see any justification for supporting it. Thank you, Sir.

2.3.17 Deputy M.R. Higgins:

To quote Shakespeare, this debate strikes me as “much ado about nothing”. The reason I say that is just look at the proposition. The Deputy of St. John has stated in part (b) of the proposition that (1) no land that has been granted planning permission will be delayed, (2) those that have not been granted planning permission will only be delayed until such time as a detailed assessment of the current demand for lifelong homes for people over 55 has been prepared by the Minister for Planning and Environment and the Minister for Housing, and presented to the States. Well, how long will this take? Are the Ministers for Planning and Environment, and Housing, and their departments so incompetent that they cannot do this quickly and ensure, first of all, that there is no double counting and prevent undue delay if there is such need, or secondly, if there is no need for these homes, to prevent open fields being built on and open land lost for ever? I am also puzzled by the Constable of St. Saviour’s comments. He mentions about claims for compensation but if no planning permission has been granted for the development, on what ground is there claims? Sorry, I believe the Attorney General is going to speak on this as well so we will hear his views. So the question is, what compensation would be payable, how much and so on? I believe it would not be that great if it was. I was also surprised by Deputy Hilton’s statement about the latest housing figures. She mentioned how the price of 3-bedroomed houses had gone up. I have got the latest housing survey here and in every single category, whether it be one-bedroom flats, there was almost 6 per cent - this is the first 2 quarters of the year - below the average recorded for 2009; 2-bedrooms almost 8 per cent lower than the average for 2009; 2-bedroom, one per cent below; 3 bedroom houses 3 per cent lower; 4-bedroom houses 7 per cent lower than the average. They have not being going up, they are going down or they are relatively stable, so I was surprised by that. What I would also say though is that the housing market, in my opinion, needs to be looked at closely. Are prices being kept artificially high? When you look at the number of homes that are being processed through the system at the present time it is quite low compared to how it was previously, and especially when you think that in other jurisdictions house prices are falling quite considerably. So, is our market being artificially manipulated? I do come back to, I believe, that we got have serious problems with our housing market. I wonder how many of our children can afford to buy these properties when their wages are being frozen or constrained, when it takes 2 earners and probably their parents to get them on the housing ladder in the first place, and probably to keep them on the housing ladder because they are not earning enough to keep going. So, we have got major problems with our housing market and I do believe that it needs to be looked at. Going on to another issue that I found concerning, and that was the issue of data protection. We are being told that the Data Protection Law is the reason why they have not been able to gather all this data. Well, I think it is total nonsense. It is like the blunt pencils at the Home Life Exhibition, you know, for Health and Safety grounds.

[14:30]

Health and Safety, yes, gives protection to people to keep their data fully secret but there are certain things. When it comes to something like this where we are trying to prevent double counting on records, I am sure if they got together with the Data Protection Commissioner this thing could be resolved pretty quickly. It is nonsense for it to be otherwise.

The Connétable of St. Saviour:

Would the Deputy just give way a moment?

Deputy M.R. Higgins:

No, I will just finish; I am going to be finished in a second anyway.

The Connétable of St. Saviour:

Well, tell the truth.

Deputy M.R. Higgins:

I am telling the truth.

The Bailiff:

Who said that? Yes, you withdraw it, I trust?

The Connétable of St. Saviour:

Sorry. I do apologise.

Deputy M.R. Higgins:

Sorry, did the Deputy withdraw it, Sir? I did not ...

The Bailiff:

Constable, do you withdraw it? Yes. It was the Constable, was it not? You do withdraw it.

Deputy M.R. Higgins:

Thank you. So, basically my view on the Data Protection Law, if the law itself is proving to be an obstruction, it is about time we started amending it to stop this type of nonsense. We do need this data and it is not overriding privacy things. If people are on 2 lists, at the same time we need to know it to prevent us making the wrong economic decisions and the wrong planning decisions. They are basically my comments. I am going to support the Deputy on this because I do not believe it should take any real delay and I do believe it is important that the States should be working from accurate data. Thank you.

Deputy J.A. Hilton:

A point of clarification, please. I believe I said this morning - and I believe this was what I said - that the average price recorded in quarter 3, 2010 was 5 per cent higher than the previous quarter. I think that was the comment I was making; that house prices, on average, were beginning to rise again.

Deputy M.R. Higgins:

Could I just comment on that? I pulled the States Statistics Office schedule of publication releases and quarter 3 is not due out until 8th December.

Deputy J.A. Hilton:

I have got it in my hand here.

Deputy M.R. Higgins:

It is quarter 2. Quarter 3 is the ...

The Bailiff:

The position was Deputy Higgins quoted quarters 1 and 2, and I think you quoted quarter 3. Where the figures come from ...

Deputy J.A. Hilton:

This comes from the very latest figures; the House Price Index has gone up, on average, by 5 per cent over the last quarter.

Deputy M.R. Higgins:

If I can just clarify the position? I have got the second quarter of 2010, which is the index that has been produced. Quarter 3 is not due out, according to the States Statistics List, until 8th December. So we must be talking ...

The Bailiff:

Well, the Deputy has it. So obviously that is not right.

Deputy J.A. Hilton:

I believe the Deputy will find, if he checks his States email, that he will have it.

Deputy I.J. Gorst:

Perhaps I could help. Not that I ever wish to be nosey but if I look over the Deputy's shoulder I think the date he is thinking of for the release in December is the R.P.I. (Retail Prices Index) and not the Housing Index.

The Connétable of St. John:

Could I just clarify for the last speaker on the data protection issue? I thought I mentioned it in my speech. Data protection was an issue. It has been dealt with. All of the Parishes are writing out to the relevant people on their list but we do need to be covered on the data protection issue. But it is underway.

Deputy M. Tadier of St. Brelade:

Can I ask if you have seen Deputy Martin's light, Sir? I thought she was before me.

The Bailiff:

Yes, Deputy Martin is next after you.

2.3.18 Deputy M. Tadier:

That is good. First of all, I would like to inform Members that I am working on a proposition which, if agreed, will mean that when a Member brings a proposition or an amendment, it must be seconded before it comes to the House; have a signature on so we know. The idea of that is really just to formalise things and to make sure that when a Member brings a proposition he has at least discussed it with one other Member to make sure that that other Member is happy that the ideas in it are coherent and willing to put their names in.

The Deputy of St. John:

Can I challenge the Member, Sir?

The Bailiff:

No. [Laughter]

Deputy M. Tadier:

Hopefully that will simply be a procedural matter that should go through and I think should help things. Like many Members, I think the length of this debate has indicated that housing in general

is certainly an issue which is still problematic in Jersey. It's an issue which many feel that they need to speak on and I am no exception to that. So, in one sense, I do welcome this proposition being brought but I do feel that there is definitely a lack of clarity; first of all, as to what the purpose of the proposition is and, secondly, of the report itself. We have seen half a page being presented in a report. Reading through it, you have got this second paragraph that makes a random, it seems, comment that the population in Hong Kong is 7 million, just slightly over, and then shortly after it says: "As elected representatives of the people, it is the States of Jersey's duty to ensure a higher standard of living is possible." As far as I knew we were not making decisions about Hong Kong and I certainly do not know what this particular reference is there for. I presume it is there to warn about the dangers of over-population in an enclosed area, but it really was not that apparent. I am concerned that we do get these propositions and these rumours that we are all potentially subject to. We hear something down at the pub, at the club or at the lodge and we are worried that, without doing the research, we bring a proposition on the back of a fag packet and it really does not do the States too much credit. But there are, nonetheless, serious issues here that need to be addressed; more questions than answers, I suspect. In St. Brelade we do have a planned development for over-55s, which is a mixed development at the Lesquende site. My colleagues and I certainly have raised concerns about the adequacy of parking areas. We know that these plans have been put in. There is basically less than one parking space per bedroom and we know that the over-55s at the moment often have, certainly in my area, Les Quennevais and Don Farm ... are not old by any means. I do not see 55 as being necessarily a particular age for judgment as to whether one is old these days. Members of the public often have sons and daughters still living with them, possibly even grandchildren, right up to that age. So in one sense I do think that more scrutiny does need to be given to this subject because we are saying that there is a certain demand but it is not necessarily clear about what is happening. I think simply, again, developers are trying to build as many units in small spaces and not considering the wider implications for amenities and parking issues that, later on, Deputies of the area will have to deal with. I also think what this proposition highlights is the absolutely ridiculous nature that in Jersey, which is 9 by 5 miles - which is 90,000, give or take a few thousand, which is comparable to a small town in the U.K. - we have 12 separate jurisdictions who look after housing matters, who formulate lists. We also have a Housing Department, which is a central organisation, which deals with its own housing issues. There is not any communication, it would seem, or certainly there is not adequate communication, between the 2. It seems that this is basically one of the continuing vestiges of feudalism which we need to get rid of, and certainly there are certain improvements that can be made in that area and that will be controversial. But I think just look at the income support system. It was not so long ago that we had Parishioners coming cap in hand to the Constable of the Parish pleading poverty.

The Bailiff:

You will come back to this debate, I trust, Deputy?

Deputy M. Tadier:

Thank you, Sir. I will do that. I got carried away. But the underlying problem I am raising here is the fact that quite clearly there are issues with housing that could be solved very easily. We know that in Jersey, as Deputy Hilton has quite rightly pointed out, there is a problem that supply does not meet demand but this is deliberate. This is something which is managed because we know it favours developers and the ultimate solution, I think, is that we need to start not pandering to developers. Rather than simply saying: "We will give you planning permission if you give us half of the homes for us to develop", what we should be making sure we do in these cases is acquiring the land ourselves, making sure that planning permission is not granted and that rezoning is not granted unless it is done and houses are built by the States. If we are really serious about tackling the affordable housing issue we need to cut out the element of speculation and this can only be done if the States intervenes, builds homes itself, we take out the profit element and that they are ring-fenced. So I am grateful in that respect to the Deputy of St. John for raising this issue. I may

yet support the issue because I am not convinced that we know what the waiting lists are in the Island. How can we know what the waiting lists are if there is not proper communication between Housing and the Parishes?

2.3.19 Deputy J.A. Martin:

It is really following on from Deputy Higgins and something that the Deputy of Grouville was saying this morning. We were told in 2008 that there was an urgency; we must have these particular ... and, again, we do not really know how we got to these particular sites in each Parish but that is another story. It was discussions with the Constable and some Parishioners. Were there better sites? We do not know. But what the Deputy of St. John has said in (b) is to assess the current demand for lifelong homes for people over 55 has been prepared by all the relevant Ministers and we did vote. We did vote in early 2008 to get a policy; to get a criterion, as Deputy Jeune says. Is 55 the age we should be looking at? I think we did need this debate again today because I have now ... I am told in St. Saviour we absolutely need this. It is not the same person who the land was rezoned for. They have now either got so fed up with Planning or the Parish, I do not know which, that they have sold. We do not really know what they are going to deliver yet because there is no planning application in. What a way of galvanising the Ministers and the Constables to work together to get a proper policy. I got involved with the States Tenants Action Group in 1992 and they said to me: "We should have a 20-year plan for housing and we are going to start it now", and we are no further forward. We are in a total muddle. I love how the Constable of St. Peter says: "Older people do not want to live in a flat." Well, statistics tell me, from the figures in Jersey: "The most common type of household is a one-bedroom flat maisonette with about a fifth, 19 per cent, of resident properties being made up of this property type." I have put in brackets: "Yes, and I bet 18.99 per cent of them live in St. Helier" or probably St. Saviour; some possibly in St. Clements. This is it. We are not talking an Island-wide plan. When we debated this in 2008 there was such urgency we could not wait for the next Island Plan which, I have just been told by the Assistant Minister for Planning and Environment, we will be debating next March. So why can we not have a policy? Why are we running around like headless chickens saying all these emotive statements about: "We need to do this and we need to do that"? I hear the Constables of St. Saviour and St. Peter, who have not even built yet, say they have got a list. They have gone out for expressions of interest: "Would you like a nice 3-bedroom maisonette in the Parish of St. Saviour or St. Peter?" I express my interest in that. Yes, please, very much. I really want one of those! I mean it absolutely beggars belief when you listen to where we have got with our housing policy. Firstly, we went out to the Constables. Now, all the Constables agreed and now we have got one Constable who is holding over a valuable prime site in his Parish with the Minister for Planning and Environment's consent that he is not going to have any housing built on that; absolutely social ... first-time buyer, absolutely made for it. But suddenly we have a new rule that unless the Constable of the Parish agrees it does not happen. I have never heard of anything so silly and that ... we run our business. I know the same people as Deputy Hilton who live in their terribly maintained flats. Who took millions of pound out of the housing budget? Who sold off prime sites for £10 to outside developers? Well, you would not because the Minister for Treasury and Resources - who is not here and he was not the Minister for Treasury then - would not let us borrow on the strength of our own land. We have no policies. We jump around. Even the old Minister for Housing - and I do not mean old in age, I mean old in the old Minister - would admit now he might have not got Housing Trust completely right, not all of them. He will admit that now. Treasury would admit that behind closed doors as well. But we are still rushing ahead. We cannot take stock. We could not wait for the Island Plan, so we are where we are today. Everybody's vision for everybody: the over-55s, the over-60, do they need this, can they downsize. I mean it was supposed to be all done in the Whitehead Report. That has all been buried somewhere. We have not got a plan.

[14:45]

I will support this because I want someone to go away and galvanise their minds to find out exactly who is out there. The new Assistant Minister for Housing said he has just started the work and it is looking minimal that they are on to ... Well, I am sorry, if you have got another 2 Constables who stand up and say: "I have gone out for expressions of interest" what have they got to prove? What is the proof? What is the criteria? I know the proof to go on housing, and it is a very high check and I totally agree. You are checked out. Your income is checked. If you own property, it is all checked. I totally agree. That is fine. Is it the same in St. Ouen? Is it the same in St. John? Is it the same in St. Peter? I do not know because they have not got one. The Housing Trust, again, everyone has forgotten their list. They have got about 2,000 properties between them now in different Parishes and different states of repair, but mostly they are all new. So I am very sorry, I mean we have got ourselves into this and I have been on the housing bandwagon since 1992. We are no further forward and I just ... and it has sort of been underlined, we are no further forward and yet ... and I look back at the Strategic Plan when the Deputy of St. Mary brought his: "Let us keep the population as it is until we know where we are going", and only one Constable voted against it and 16 people voted for it. It is a bit of a mixture, from a few Deputies, myself included. But I really think we do need to step back. We need to step back, do what the Deputy is asking, and if anyone thinks that somebody is going to come ... there is no planning permission. It was not as urgent as we thought because nobody has turned a sod up there yet, as far as I know, in St. Saviour. I do not know and the Assistant Minister for Health has ... my Minister says: "Are they still going to do a residential home? It is going to take up a lot of space. Is it residential? Is it nursing? That is what we need." The Constable of St. Saviour is nodding but, as I say, the urgency was the ex-owner had plans. I am a St. Saviour resident although I am a St. Helier Deputy. He sold to the Parish Assembly his plans on the residential, the long-time buyers. He has now sold this site on. I will not mention the name. I have quite a respect for them. We might as well be called after them, the Island of Dandara - I did say it - because that is exactly where we are. But just to step back, we do not have a plan. The Island Plan is now things are going in, things are coming out, Constables ... Constables are running more in the Island Plan than they have anything to do with about the power of the Minister, what can go in and what can come out. We have not had the debate yet on Samarès Nurseries and that will be another debate for another day. But I am very sorry, when you think you can have 12 people hold this House to ransom because they are the father of the House; they have about 16 people turn up to a Parish Hall and they say this is definitely the right place to build these houses. No, that is not a plan. That is not the way you run politics in this House and I am sorry if I upset them. I am sorry. But they tell me they are big enough, they are the father of the House and they can take what I can say. As for someone who was born in Hackney, I do not think I come on any of their waiting lists so I really am not bothered.

The Connétable of Trinity:

I did not want to interrupt the Deputy, Sir, but I think we have had the half an hour. I think there has been a fair debate on this projet and it is really time for conclusion.

The Bailiff:

Are you proposing the closure?

The Connétable of Trinity:

I propose the closure motion, Sir.

The Bailiff:

Is that seconded? **[Seconded]**

Senator J.L. Perchard:

Would it be possible to have some information on how many people wish to speak?

The Bailiff:

Yes, of course. Yes, I was about to do that. I, at the moment, have 4 Members who have indicated that they wish to speak, including Senator Le Main. It is a matter for Members. The closure motion has been proposed. We, therefore, move straight to the vote.

POUR: 16		CONTRE: 35		ABSTAIN: 0
Senator T.A. Le Sueur		Senator P.F.C. Ozouf		Connétable of St. Mary
Senator B.I. Le Marquand		Senator T.J. Le Main		
Connétable of St. Ouen		Senator J.L. Perchard		
Connétable of St. Helier		Senator A. Breckon		
Connétable of Trinity		Senator S.C. Ferguson		
Connétable of St. Brelade		Senator A.J.H. Maclean		
Connétable of St. Martin		Senator F.du H. Le Gresley		
Connétable of St. John		Connétable of Grouville		
Connétable of St. Saviour		Deputy R.C. Duhamel (S)		
Connétable of St. Clement		Deputy of St. Martin		
Connétable of St. Peter		Deputy J.B. Fox (H)		
Deputy R.G. Le Hérisier (S)		Deputy J.A. Martin (H)		
Deputy of St. Peter		Deputy G.P. Southern (H)		
Deputy J.A. Hilton (H)		Deputy of St. Ouen		
Deputy A.T. Dupré (C)		Deputy of Grouville		
Deputy E.J. Noel (L)		Deputy P.V.F. Le Claire (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S. Pitman (H)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy M. Tadier (B)		
		Deputy A.E. Jeune (B)		
		Deputy T.M. Pitman (H)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy D.J. De Sousa (H)		
		Deputy J.M. Maçon (S)		

The Connétable of St. Peter:

Could I make a point of clarification? If I could just make a point of clarification on the last speaker who said St. Peter did not have a list. St. Peter has a list which has been compiled of people that have come forward and inquired and want to put their name on a pre-list, but we have not opened an official list among the 42 people we already have awaiting houses.

2.3.20 Senator S.C. Ferguson:

I am losing track of the number of lists. A couple of comments. The Apart-Hotel, yes, I agree with the Deputy of Grouville. When it first came up we were told it was for tourism and it is actually for short-term contracts for business people. Deputy Jeune mentioned the L'Hermitage site. Now, the L'Hermitage site started as being for over-65s but they could not get people to fill it, so they had to drop the age. So they had to drop it to 55. We have heard a lot of talk here about setting up little estates for our older generation. Not many people want to live in a geriatric ghetto, and I do

question this overriding principle of putting older people into a fixed area. But it seems to me, if I return to the main proposition, that the main complaint is the suspicion that the information we have is incorrect or incomplete. I must say I have not heard any valid reasons as to why Housing have got an increase in applications. The Deputy of Grouville had one very sensible suggestion but I do not know what work has been done on this. Is it the lowering in the qualification age? Is it an unforeseen rise in population for matters other than those suggested by the Deputy of Grouville? I think it is time to revisit the analysis and Housing and the Connétables should get together and come back to this House with a proper analysis of where the increase in the requirement for all this additional housing is. On the other hand, it seems to me that if we pass this proposition we are effectively holding up one site. I really do not feel that we should support it but I do call on Housing and the Connétables just to get their minds together and get into gear and produce a proper analysis of where the rise in housing is coming from.

The Bailiff:

Before calling the next speaker, the Attorney General had been asked, I think, for his advice prior to the adjournment. Mr. Attorney, are you in a position to respond?

The Attorney General:

I have been asked about the possible financial risk in the event that this proposition was passed by the Assembly. The Planning and Building Law of 2002 puts the Minister at the centre of the planning application and determination process. It puts on him both the power and the duty to determine any planning application, either personally or under the provisions relating to his delegated authority. It is clear law that the Minister must determine any application before him within a reasonable time. Precisely what that reasonable time is will depend upon the nature of the application but he has to do so within a reasonable time. Article 19(1) of the Planning and Building Law requires that he take into account all material considerations in reaching his decision. Article 19(2) of the same law says that, in general terms, he shall grant permission if the proposed development accords with the Island Plan. So there is an extremely strong presumption in connection with any application that if it accords with the Island Plan as then applies the Minister would normally grant permission in connection with it. A simple expression by the States of a desire for the Minister to postpone the determination of a planning application would not, to my mind, be a material planning consideration. If the Minister, therefore, felt bound to do so - which he is not, in my view, in law required to do - he would risk taking a non-planning consideration into account in dealing with a planning application. He would also run the risk, in adopting any delay, of moving into the area of unreasonableness in terms of the time within which he must consider and give a consent. Now, I am assuming, for the purposes of what I am telling the Assembly this afternoon, that the Minister still holds the view that he has expressed in the Assembly, namely that there is sufficient evidence about need and demand for him to determine whatever application is before him at the current time. On that assumption I have made those observations. So what then might happen in the event that there was a delay or, alternatively, the Minister, taking perhaps the mood of the Assembly into account, were to refuse applications that are currently before him or that might come before him in the near future? If he is delaying for an improper reason then he would be subject to an application by the applicant before the Royal Court for a direction that he consider and deal with the planning matter within an appropriate period. If that application were made and if it were to succeed there would be a costs consequence for the Minister because, generally speaking, the Royal Court will order the costs in favour of a successful person making an application. If the Minister, on the other hand, were to turn down a request for permission then, if he did so for grounds that were not proper planning considerations, he would be subject to the appeal provisions within the Planning Law and, again, that would be the correct course for a disappointed applicant to take. He would appeal against the Minister and, if successful in that appeal, there would be a costs consequence that would flow in favour of the successful but disappointed applicant against the Minister. I am not able to comment on the likelihood of either of

those possibilities because I am not aware of the detail and I would need to consider the detail of each planning application as and when it came up and all the circumstances surrounding it. As to whether there is a general right to compensation, however; there is not. Article 19 provides that if the Minister exercises his powers under Article 19, the way in which he exercises them cannot give rise to a claim for compensation under the law. I am not able, within the time available, to consider whether or not the situation is different if he wholly fails to exercise his powers and obligations under the law as opposed to exercising them in one direction or another but the general point of principle I think, is that there is no normal right for compensation. The risk that the Minister faces is that applications will be made either that he acts or to appeal against a decision he has taken, and there will be costs consequences for him that flow from that. That seems to me the most likely form of financial risk. One occasionally, in connection with these matters, hears the expression "legitimate expectation" bandied about. It is not, in my view, in this case, a matter about legitimate expectation. A legitimate expectation has very little planning application. It is seldom successful within a planning context, as the court has indeed determined relatively recently. But even if legitimate expectation were a consideration, the most that that would do would be to require the Minister to give a consent. It would not, of itself, give rise to a financial claim. There are circumstances in which money can be claimed from the Minister but they do not relate to the determination either for or against a planning application. That is where an application has been granted and then subsequently altered by the Minister after people have incurred expenditure. That would not, in my view, apply in the present circumstances. The last point that I should make is that the courts, from time to time, when dealing with a matter even where there is no right to compensation under the law, occasionally express the view that because an applicant has been disappointed and has gone to expense - even though they are not able to succeed on appeal - then they should receive an *ex gratia* payment from the Minister. But that is not something that is legally compellable and that is simply an indication that the court has given in cases in the past.

[15:00]

The Deputy of St. Mary:

May I ask for a point of clarification on that statement? Yes, it is a point of clarification. The Attorney General said that the Minister for Planning and Environment has to take into account material considerations. I remember that well from looking at the law myself. Then he said that a simple desire - and I tried to write it down as he said it - expressed by the States would not be a material consideration. I was fairly astonished and put out by the fact that if the States pass a proposition it is then not a material consideration for the Minister for Planning and Environment. So I would just ask him to clarify that point, please.

The Attorney General:

The States is not a planning authority. It does not have planning powers. The most it can do is indicate a preference but all of the obligations are those of the Minister. The material considerations that the Minister must take into account are material planning considerations; not considerations of another nature, including those which might be termed political considerations. The States can express its view but, in determining the application, the Minister has to take planning matters into account. That, in my opinion, is the way that the law is structured.

2.3.21 Senator T.J. Le Main:

Members will have had the figures this morning from the Assistant Minister for Housing where he is saying, very hot off the press, that there are around 700 people on the waiting list. I have had "hot off the press" from the Housing Department only in the last couple of days that the department are saying they have recently completed a comprehensive review of all the active applications on the waiting and transfer lists and they are confident that the information held in respect of housing demand is, therefore, wholly up to date and 100 per cent accurate. This project involved re-interviewing all those applications that were older than 12 months and a huge amount of others in

order to develop and ultimately implement the new affordable housing gateway. They tell me that the average age of a tenant or a person to be housed in the over-55s bracket is 68 years. So it is not 55; it is over 55, it is 68 years. I have no intention of repeating what everybody else has said about the need. I maintain what I maintained during the debate in 2008 on P.75 when I said at that time that we had on the housing list then a real demand of 360 real ordinary Jersey people who needed to be housed in affordable accommodation to suit their needs. They were people that had been interviewed, seen in their homes in the private sector and people within our Housing Department at that time and, as I say, they were real, real people. It is quite clear, from discussions with housing officers again this week, and still the amount of calls that I get from people, there is a growing demand for people to be housed who are in need. I said this morning that the Connétables have ... thank goodness, in the last few years that we have had the 12 Connétables in this Assembly, and I compliment them for the wisdom and the vision they bring to this Assembly because I do not support what Deputy Martin said about the Connétables. I am afraid that my job when I was Minister for Housing or any States Member would be more difficult if we did not have the rapport and the feedback from the Connétables from their parishioners. It is very important to me, with an Island-wide mandate, that I have this feedback on any point that I need. I could stand here for one hour or 2 hours and repeat probably what everybody else has said, but I am adamant that the need is there and I am adamant that I want to see continue the Connétables representing their Parish in this Assembly. It is most important. What they are trying to achieve, when we discussed all this with the Connétables and put the ball in their courts on selecting the land and the parishioners with their Parish Assemblies, is that ... as the Connétable of St. Martin quite rightly said, the average price of the majority of the properties or the average price in St. Martin was something like £800,000 and properties selling up to £1.8 million or £2 million. But if we do not provide young people the opportunity in the Parishes where is the honorary system going to go in the future? Where are the shops going to survive and the buses? We need to regenerate some of the Parishes, I submit. We need to regenerate the honorary system. There is a huge amount of vacancies in the honorary system. It would be a crying shame to lose that part of our Island life and the huge amount of free time they give to the people of this Island. The Connétables know very well the need to regenerate, to bring back young people into their Parishes. I would like to comment on Constable Crowcroft who took me to task this morning on the fact that they have no greenfields in St. Helier to build. Well, I perhaps would like to ask Constable of St. Helier; had the Parish or the Constable not sold out their prime sites like Lempriere Street, like the old quarry, to U.K. developers to make huge profits instead of perhaps using those sites for local people, affordable homes. Now we see that the land on top of the quarry is being promoted for category (b) homes. We had an opportunity in St. Helier to really make a difference in providing affordable homes for elderly people. No, the Constable wants to sell at the highest price; sell it all to the big developers; let them build the homes that ordinary local people cannot afford. I am sorry, had I been in that position I would have certainly made sure that I would have made some provision in some of the last of the commercial sites left in St. Helier - the big commercial sites - that could have made a huge difference to the people of St. Helier and to the people of this Island.

The Bailiff:

Can I bring you back, Senator, to this proposition, which does not relate to ...

Senator T.J. Le Main:

I am, Sir. I would like to just comment on the Deputy of Grouville. I have no intention to lower myself in regard to the allegations made by the Deputy. That matter will be heard very soon in another place. But I would like to take issue with the Deputy of Grouville when she, I believe, castigated the then Minister for Housing and myself over the Park Hotel in Liberation Square; that it was for unqualified people. Can I assure Members of this Assembly, as I have explained in the past to the Deputy of Grouville, that the application was made and the application was determined by the Planning Department, and the Housing Department had no say whatsoever in determining or

putting conditions on that property in Liberation Place. An application went in and, as I say, I tried but we did not have any say in the matter. It was purely a planning matter. Going on to the proposer of this quite ridiculous proposition, I submit that he made an error when he started mentioning 14 and 12 year-olds on lists, parents putting names down on lists. I presume, because it is getting nearer Christmas, that is Father Christmas' list he has been putting them on. **[Laughter]** But I just cannot understand the logic in this most stupid proposition. It is one of the worst ones I have seen or heard ever. The facts are quite clear. The Assistant Minister has made them. The current Minister for Housing, in response to questions recently, made them. There is a growing demand by the Connétables. The Connétables now, since 2008, have ... in fact their lists have increased, some by 100 per cent. I urge Members, if you really care about the people you represent, about the good ordinary Jersey people, this is what we are talking about. We are talking about Jersey people. Most of them, with the average age of 68, have lived through the Occupation, a lot of them, are Jersey-born people. We need to make sure that we have got our priorities right and that the elderly people are looked after, the young people are looked after and we make a determined effort to increase the home ownership in this Island from 50 per cent to more like 75 per cent, so that at least in years to come we do not end up as an Island where everybody will be on benefits; everybody will be in social housing. People have got to take the responsibility for themselves and I urge Members to throw out this quite ridiculous proposition from the Connétable of St. John. **[Laughter]**

2.3.22 Deputy R.C. Duhamel:

The mechanics and dynamics of our unstructured debates have been a constant source and still are a constant source of fascination to me and it is one of the highlights, I must admit, of being a States Member. Inherent in our system, which does really work, is the difficulty we have of only being allowed to speak once without repetition or interruption and it does not work. There have been some occasions where perhaps we have all had a particularly good lunch or whatever and we do gel together as a body and deliver important issues to the public and add value to the propositions that are being brought. But in this particular instance, I think, for the time that we have invested in this particular debate we have not really gone anywhere and, if we bring it back ... you may ask whether or not this is relevant. I think it is. If we ask what the Deputy of St. John is asking us to do, he is asking the Minister for Planning to look at a particular policy that has been put in place by this House. What mechanisms do we have to do that? Well, we can debate the issues in the States Chamber as we are doing now without the evidence, which means it is going to take longer and we are probably going to arrive at the wrong decisions, or we can employ the mechanisms and functions and the organisation that this House has set up to deliver the very thing that the Deputy of St. John is asking for. What is that? Well, we have got several bodies. There are the Scrutiny Panels. The Scrutiny Panels were set up to review policy setting, in its widest context, of the Ministers for each of the particular departments and to report to this House as to whether or not it was operating properly, which is quite clearly where the Deputy of St. John is wanting us to go. Indeed, if monies had been expended, and perhaps improperly or not efficiently, then we have the mechanism set up to allow for the Public Accounts Committee to do the very self-same thing but from a slightly different point of view. I have been scratching my head and I cannot understand - and I am hoping that when the Deputy of St. John sums up he will tell us - why, as chairman of the particular Scrutiny Panel, he has insisted on bringing to this House and wasting our time. Why he has not presented a Scrutiny Panel report or asked for the very questions from the people that he is looking for answers to be given using the mechanisms that we have got to deliver the job. It is absolutely bizarre.

[15:15]

I think there is probably not much more I want to say about that. I really think that the Deputy of St. John has shot himself, as chairman of the Scrutiny Panel, a little bit in one of his feet, but I think he will overcome it. But, at the end of the day, if this debate in Chamber is going to mean anything

in terms of holding our Ministers to account or indeed trying to add value to any of the decisions that the Ministers are going to take then we really have to get our act together and to use the mechanisms that we have got at our disposal or pack up and just pass the thing over to the Ministers and let them get on with it.

2.3.23 Senator A. Breckon:

I will just pick up on a point that Deputy Duhamel has made there about the Scrutiny Panel. The Scrutiny Panel did look at some of these issues and I will touch on that in a minute. Included in those who came to see the panel were the Minister for Planning and Environment, the Assistant Minister for Planning and Environment and also Housing; there was a busload came from the department, as I seem to remember, at the time to answer questions. First of all, I would like to declare that I am over 55 and in the original P.75/2008, from memory, I voted against every part of it and I was the Deputy of St. Saviour at the time. I did that because I knew what was promised would not be delivered. I knew what was said and that question was asked: "Are we voting for this?" The answer was: "No, because Planning will decide what goes there." So we were not voting for what we thought we were. The only one I did vote for was the one in St. Brelade because the land belonged to the Parish at the time and the others did not, although deals had been done. I did question at the time: "Why over-55s?" The answer is it is for people downsizing. It has got nothing to do with age and, as Senator Le Main has just demonstrated, in actual fact ... and I have been shown around Trinity. That is an excellent scheme and most of the people there are probably over 70 and that, to me, was what this should have been about originally but unfortunately it was not. The other thing, I think, that was mentioned by Deputy Hilton was this has all been agreed by Parish Assemblies. Well, it has not. There were meetings in Parish Halls. There were meetings for residents in different areas but there were not Parish Assemblies. So that is not a fact. Obviously where the Connétables have been involved, Procureurs, money and things like that, then things have to go through a process. That is a different issue but certainly these proposals did not go as Parish Assemblies and they did not get that part of democracy. I think the Constables are to be congratulated on being where they are. I am pleased the Minister for Treasury and Resources is back again because in the not too distant past schemes like the Parishes are talking about would have got funding from the centre at 4 per cent; some on a pound-for-pound basis and some just given and done. I know there are some issues about raising funds privately for the Parishes and how they do this and I do not think, personally, they should have been put in this position if it is an Island issue to house the population, especially the elderly. We need to come back to this, I think, and make some funding available. The other thing, something that the Deputy of Grouville has mentioned and I want to come back to, is about the criteria for lists. How do you qualify for being on a list? I have joked with the Constables at the time because in my misspent youth I used to play a lot of darts and I played in the Royal St. Martin's and St. Peter's Bars; Trinity Arms - the old one, not the new one. So how do you qualify? I have lived in St. Helier. I have lived in St. Saviour. I have lived in St. Lawrence. I now live in St. Brelade. So I am probably well qualified. I could say: "Well, pick me. I have got an oasis in St. Ouen." So how do you qualify? That is what the Deputy of Grouville wanted to give you. The other thing is can I sell properties which I do not have for millions of pounds and then live in one of these schemes because the idea ... I remember the discussion we had at the time was: "Are we rezoning land for the needy or for the greedy?" Which is it? Now, if it was for the needy then perhaps we could have lived with that. These questions were never answered. The other thing, from a scrutiny point of view, we questioned some of this and there were lots of questions that were not answered. Deputy Duhamel has just mentioned this. It was outside the Island Plan, which as we know is now in the process, in the final stages, of review. So why bring it outside of that? We asked that and nobody answered that. They just said: "Well, it was a need." But we never got the information. There was a Housing Needs Survey but then "need" is different to some of the other classifications. If you say to somebody: "Would you like this", they say: "Yes." But then when it comes to paying for it or qualifying to live in it, it is a different issue. The other thing is, of course, as I mentioned before, what we voted

for in that proposition was not where we are now. I think Housing at the time stretched the statistics that were produced to get the maximum out of it. There is a terminology for that. The other thing I said at the time is we should do a whole Island survey of the housing situation. What housing have we got? Who lives in it? Somebody else has mentioned it and, from memory, in the 2001 census there were 1,600 properties empty. Why? Because people might have been holiday; somebody might have passed away; they might have been empty for 5 months; they might have been empty for 5 years. No evidence was brought forward on some of this. There were proposals to sell States homes and it was said there was a mismatch of the existing. Well, that situation has changed in the last 2 years. We are hearing the Assistant Minister and the Minister for Housing standing up now and singing a different song. So that situation has changed. So, for me, there was no robust information on which to base it and there still is not. Now, the Deputy of St. John is questioning some of this and I was accused yesterday: "Well, you do not have all the information." I have heard a number of figures today but nobody has co-ordinated all of this stuff to say: "This is where we are and this is what we are going to get and this is where we are going." Now, that is a planning issue, it is a housing issue and those other things. Now, what the Deputy of St. John is asking us to do in part (b) of his proposition is: "a detailed assessment of the current demand." That is what he is saying and I have never heard anybody yet who has spoken who has been able to do that. We have heard figures or: "There are people waiting," or: "We need this, that and the other," But it does not seem joined up. The other thing, I remember at the time Senator Le Main was Minister for Housing, and before, and when he went to the Connétables - who, as I say, are coming out of this very well as far as I am concerned - it was: "Find me some land and come up with some schemes." I think that is what they are doing. I know, for example, that the Constable of St. Martin is particularly frustrated because he has put a lot of work into schemes and so far he has not been able to get them off the drawing board. The other thing is things go back further. When we talked about the waterfront, the waterfront was going to alleviate all this stuff into the countryside. So what has happened to that? Other Members have mentioned: "Oh, we have got lots of flats." Well, we have got lots of flats. We have created lots of flats. Somebody has done that. We might criticise them but they have done it and they have given people choice to buy or to rent or whatever it may be. The question is how many have we created, who bought them, who lives in them and how many more are to come. Now, if we knew some of these and nobody - Planning, Housing or anybody else - to me, has given the answers and I think that is where the Deputy of St. John is coming from. That is where the background and the discussion of the previous debate comes from and that is probably where we still are today. As Deputy Martin said, some of this is not new. It is a problem that has been going on for many, many years. So then how do we get round this and perhaps what is the Deputy of St. John looking for? He wants, I think, some robust information about what is the Island's housing stock. Who is living there? Are they over-housed? Now, we have that already. We have a database - I know there are issues about the exchanging of information - through the Parishes, through the post office. This is not rocket science and we probably have a group of people out there who could do it on a contract basis within 6 months and get the information aside from the census and then, if we start looking at the age and gender profile of the population, maybe we can move forward and make some sense out of it all. I think that is where the Deputy of St. John is coming from because what we have done is in 2008 we agreed to do certain things and then we were saying: "Well, is it the right answer? What has happened there? There are trade-offs here with the Parishes and there is whatever else. The progress seems to be slow and then one development is consequential to another because there is a swap over of the 45-55 social and sales." For me, a lot of these questions have not been answered and that is really why I will support this; because it is not a point of stopping something. It is a question of what are we doing and why? For me that case has not yet been made. The other thing is Deputy Duhamel talked about Scrutiny. We, as the panel, looked to see what Guernsey was doing. They have got an elderly housing officer who does not work for Housing and does not work for Planning and it is based on needs. It is needs-led rather than developer-led. We leave it to developers and say: "We will create something. People can live there." That is where the basis of

this proposition is, saying: “Are the developers doing that?” I think the comfort really is the involvement of the Parishes because their involvement, I think, gives that cushion in between. But I think the Deputy of St. John is right indeed to raise this matter because there are things in there that concern me that have not been answered and it is supposed to be ministerial joined-up Government. It is not the silo mentality. We are supposed to be working together. Health will have an issue if it is about housing the elderly. Social Security should have some issues; planning should and Housing should. So how often have they met to discuss it and bring this together? I have seen no evidence of that whatsoever and I think it is good and healthy and right that the Deputy of St. John should be questioning this. Also there is the finance of it; who finances the thing? It is good and healthy that we have this debate because it is a check and it is a balance and it is the right of any Member, Back-Bencher or whatever, to do that. Although it might be a frustration for some Members to have to be here to listen to some of this, it is a very, very vital issue for many people: how they are housed, where they are housed and how much it costs. I think we cannot ignore it and every time we meet, if there are housing issues on the agenda addressing those issues, then it has got to be a good thing. It is not those particular Ministers or Departments probably. It is an issue for all of us. It is an issue for the community and that is how we need to address it. If this proposition delays for a few months then that is not a problem because this is a problem that is 40 years old at least. So that is the reason I will be supporting this.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon the Deputy of St. John to reply.

2.3.24 The Deputy of St. John:

I will do my best. I will not answer everybody’s questions or queries but I will do my utmost. I would like to thank the last speaker in fact. He answered Deputy Duhamel’s query about Scrutiny. Given that Deputy Duhamel himself had been chairman of the Environment Scrutiny Panel for a number of years, why did he not do this work when it was required? I would like to thank Senator Breckon for raising the issue of need or greed because what has not come out in this debate is that, out of 8 sites, 5 of them all belong on to one developer and that had not come out for whatever reason. I thought that Senator Le Main, when he was castigating me for various things, would have been upfront and given us all the information but he did not appear to want to go down that route. I thank Senator Ferguson for raising the issue of the L’Hermitage sites where houses were built for over-65s and then they had to change the policy to over-55s because they had problems selling them. That is of concern. Why did Senator Le Main not pick up on that when he spoke?

[15:30]

Needless to say, I have a reason for believing why; because he did not want to tell the Members exactly where people stood, given he had said that the housing needs were for over-68s. I thank the Attorney General for being so clear in his summing up of where we would be if this was accepted. Constable Crowcroft I would like to thank for ...

The Bailiff:

No, the Constable of St. Helier.

The Deputy of St. John:

Sorry, my apologies. The Constable of St. Helier; for putting a question and his support but the Deputy of St. Mary has asked a question: “Where are these places?” Well, he has not got to look very far. If he looks in St. Helier alone he will see above most of the shops in town there is empty accommodation. I am sorry he is not in the Chamber at the moment, but that is one area alone. We have just got to drive along many of our roads and see many empty properties with signs for sale outside: “There is another.” The Constable of St. John asked for the evidence. The reason I brought this in fact laid out somewhat differently at the time, and after consultation with your Deputy, with the help of the Greffe, I rephrased the proposition. So in fact I did not introduce what

was introduced by Deputy Hilton, the comments about the police court, because I wanted this to be a debate that was worth something instead of an argy-bargy of what had happened in another place. So I clear that up. Deputy Martin, she is absolutely right: where is the 20-year plan? I have been in this House not continually, but over 15, 17 years and I am still waiting to see a 20-year plan from Housing. The former Minister for Housing was there for a good number of those years and he always came and gave us the same old story: “We have got hundreds of people needing houses.” We never saw the numbers. He gave us numbers, but we never saw how he did the work, and the work still has not been done. We were told by the Deputy of Grouville that data protection issues were a problem or had been a problem for the last few years, of getting all the information together, and I believe that.

The Connétable of Grouville:

Can I just correct that, Sir? It was the Constable of Grouville, not the Deputy.

The Deputy of St. John:

I am not giving way, Constable. You have had your turn.

The Connétable of Grouville:

I would just like to correct it.

The Bailiff:

No, you cannot unless he gives way, Constable.

The Deputy of St. John:

So we were told by the Deputy of Grouville about data protection issues, and we were told that on 9th February 2009 no criteria developed for lists by the Constables. I am aware that my own Constable, since the short time he has been as the Assistant Housing Minister, in fact is pulling something together, but that is years later than what my proposition was asking to have happened. I wanted the information from 2008, not what is happening now. I was looking for the historic information and that historical information has not been given to me. We had the Constable of St. Ouen, who confirmed that double-counting had taken place, albeit by smaller amounts, but I have it down as the Constable of St. Ouen, who made the comment: double-counting. [Aside]

The Bailiff:

I think it was the Constable of St. John.

The Deputy of St. John:

No, Sir, I have got it down under the Constable of St. Ouen, Constable Vibert. He was totally muddled and confused and double-counting did exist.

The Connétable of St. Ouen:

If the Deputy would give way, I will put him out of his misery.

The Deputy of St. John:

No, Sir, I am not giving way. The Constable of St. Brelade thought I was hitting up my own people; not at all. My own people, we know what we voted for in St. John. I know the Minister for Housing at the time was not a happy bunny because he did not get the 40-odd houses that he wanted on land in St. John. We only passed one field. The Constable of Grouville: no, I do not think I will pass comment on that one because he will be jumping up and down and wanting to interject.

The Connétable of Grouville:

At least he got the name right.

The Deputy of St. John:

Deputy Jeune, she is absolutely right: senior citizens over 65. Whether she supports me or not on this, she raised a very good issue. What age do we class persons as senior citizens for homes over 55, as is in the proposition? Deputy Hilton: well, Deputy Hilton, is this not the same Deputy who took something to her own Parish Hall or Town Hall in support of developing land in the Le Pouquelaye area who is now against it? She gave us chapter and verse of the right way to do things, but is her way the right way? I do not think so. The Deputy of Trinity: well, of course she would, she had been the Assistant Housing Minister ... Planning Minister, sorry. She gave us chapter and verse of her time as Assistant Planning Minister and she brought proposition P.75 to the House. Well, she must remember that if she brought P.75 to the House that the site in Trinity, the statutory group told her that they would not support it; the Agricultural Strategy Group said they would not support it, but she did not mention that. I wonder why? I would like to thank the Deputy of St. Lawrence for his comments, whether he supports me or not, we need to know the numbers. We do. Let me read the proposition: "Refer to the Act dated 16th July 2008, in which they approve the rezoning of approximately 58.5 vergées of land for the provision of lifetime dwellings for people over 55 and first-time buyers; (b) to request the Minister for Planning and Environment to defer the granting of any planning permission in respect of any of the rezoned sites where permission has not already been granted until such time as a detailed assessment of the current demand for life-long homes for people over 55 has been prepared by the Minister for Planning and Environment and Housing and presented to the States." That is all I am asking for. Let us see the facts and the figures, and to date, it has been admitted by Members, they have not got all the numbers. Whether it is the former Minister for Housing - and I am sorry to see the current Minister for Housing is not here, I am sure he is listening on the radio, and I hope you get well soon, Minister - but I am sure he would have given us probably a good update of exactly where we are. But I am asking him over the airwaves, along with the Minister for Planning, to go away and in a couple of months' time come back with the actual numbers. Do the work that we expect the Council of Ministers to do. We have got a different type of government to when I was in last time. We have got this all-embracing Council of Ministers and through the Chief Minister, I would like the Chief Minister to take a whip and get his Council of Ministers to work as a team and give us the numbers, not expect Scrutiny to do their work for them. Go out and get the work before they come to the House and bring to us the numbers. That is all I am asking for, no more, no less. I make the proposition and I ask for the appel.

Deputy J.A. Hilton:

Excuse me, Sir, a point of clarification. I think it is very important information given in the debate, which obviously the public are listening to, is factually correct. I would just like to challenge the Deputy of St. John on his 5 of the 8 sites listed in the proposition are owned by the same developer. I believe he is incorrect.

The Bailiff:

I am sorry, but I think that is a new point. This is not clarification of your speech.

Deputy J.A. Hilton:

Is it a point of order?

The Bailiff:

No, I do not think it is a point of order really. It is a matter which has been raised during the debate by various people.

Deputy J.A. Hilton:

But the Deputy of St. John is incorrect, and I think it is wrong for incorrect information to go out to the public of this Island.

Deputy M. Tadier of St. Brelade:

Can I suggest we will be here all day if we were to pick up on every incorrect statement that the Deputy of St. John made.

The Deputy of St. John:

Can I help, Sir? Can I rephrase it then: a number of the sites within the 8 sites are owned by the same developer.

Deputy J.A. Hilton:

The actual number, Sir, is 3, not 5.

Senator T.J. Le Main:

Sir, could you introduce drug testing because ... [laughter]

The Bailiff:

Very well, we are going to come to the vote. The appel has been called for in relation to P.152.

POUR: 16		CONTRE: 35		ABSTAIN: 0
Senator B.E. Shenton		Senator T.A. Le Sueur		
Senator A. Breckon		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Senator F.du H. Le Gresley		Senator T.J. Le Main		
Connétable of St. Helier		Senator F.E. Cohen		
Deputy R.G. Le Hérisier (S)		Senator J.L. Perchard		
Deputy J.A. Martin (H)		Senator A.J.H. Maclean		
Deputy G.P. Southern (H)		Senator B.I. Le Marquand		
Deputy of Grouville		Connétable of St. Ouen		
Deputy S. Pitman (H)		Connétable of Trinity		
Deputy of St. John		Connétable of Grouville		
Deputy M. Tadier (B)		Connétable of St. Brelade		
Deputy of St. Mary		Connétable of St. Martin		
Deputy T.M. Pitman (H)		Connétable of St. John		
Deputy M.R. Higgins (H)		Connétable of St. Saviour		
Deputy D.J. De Sousa (H)		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy of St. Martin		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy P.V.F. Le Claire (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		

		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

The Bailiff:

Very well, before we move on, can I inform Members that there are 2 matters which have been lodged. The first one is P.173, Data Protection Commissioner reappointment, lodged by the Minister for Treasury and Resources; and secondly, a third amendment to P.157, lodged by Deputy Green in relation to the budget. Now, the next matter on the order paper is the appointment of the Chief Officer, which has to be done in camera. It occurs to me, but is a matter entirely for Members, whether it would be more convenient to move on to P.166 and then deal with the other matter at the end. Do Members agree with that? Very well.

3. Napier Report into the suspension of the former Chief Officer of the States of Jersey Police: action on findings (P.166/2010)

The Bailiff:

Then we move on to P.166, the Napier Report into the suspension of the former Chief Officer of the States of Jersey Police: action on findings - sorry, may we have quiet, please - lodged by the Deputy of St. Martin, and I will ask the Greffier to read the proposition. The Greffier has reminded me this is a very long one. Are Members content to take the proposition as read? Very well.

Senator A. Breckon:

While the Deputy of St. Martin is looking, may I ask a question of you, Sir, on this one on paragraph 4? The Deputy is asking on formal publication of the report to Members... but that has been lodged as an R now, so I wanted ...

The Bailiff:

Well, I think it is paragraph (c), really. Paragraph (c) has clearly been overtaken by events, Deputy, has it not, in a way - or I suppose related to that - but (c) is the main one, so you will not be proceeding with that? Very well, Deputy.

3.1 The Deputy of St. Martin:

Some 2 years ago, some of the Island's senior Ministers and civil servants and a police officer were involved in the unprecedented suspension of the Island's Chief Police Officer. Since then, there has been a disproportionate amount of time and money spent by Ministers defending that decision, and regretfully, attempt to conceal what really happened. There has been a disproportionate amount of time spent by Members seeking the truth, and indeed, it must well be probably a record, I suppose, of well over 100 questions have either been asked orally or written, and I think that sort of displays the interest that so many States Members have shown in this matter.

The Bailiff:

Deputy, I am sorry, you have just said Ministers have been concealing the truth. That is imputing improper motives to another Member, which you may not do.

The Deputy of St. Martin:

Sorry, Sir, I did not hear what you had to say.

The Bailiff:

I said you just said the Ministers had been concealing the truth. That is imputing improper motives, contrary to Standing Orders.

The Deputy of St. Martin:

Okay. Ministers have been making it very difficult for those trying to get to the truth, Sir. That may be an easier way of saying it. It has been apparent also that those wishing to suspend the police chief were given a very short window of opportunity, which they took with complete disregard to the advice given by the Crown Officers and the provisions contained within the Discipline Code made under the 1974 Police Force (Jersey) Law.

[15:45]

Following reviews, court cases and answers given during the question time, it is now evident that some Ministers and civil servants conspired or colluded to suspend the former Chief Officer some weeks before 12th November. It is also apparent that they botched the suspension process. Those responsible have now been identified in a report paid for at the public expense. Some serious failings have been identified and it is quite evident that the Chief Minister has avoided taking the appropriate action to address the failings. This has led to my proposition being lodged. The purpose of my proposition is to request the Chief Minister to respond to a set of proposals which he should have dealt with ages ago. However, at the eleventh hour, the Chief Minister has lodged his comments which he hopes will be sufficient for me to withdraw part of my proposition. I regret this cannot happen. Had the Chief Minister come up with responses that were clear, convincing and offered a prospect of closure I would have led the Assembly in congratulating him on his achievement. However, the sad truth is that neither myself nor, I suspect, other Members can genuinely claim to be convinced, or in most cases, understand just what the Chief Minister is saying in most of his responses to my proposition. Members will note that the Chief Minister has now, at long last, published the Napier Report via Report 132, but he has not stated why it took a Back-Bencher's proposition to make him do so. He is the Chief Minister. He is not supposed to be continually reacting to initiatives of others. He is supposed to lead this Assembly and inspire all by his vision. The controversy arising from the suspension of the Chief Officer of the States Police in November 2008 has continued now for some 2 years. This is because States Members and ordinary Islanders had genuine concerns regarding those events. These concerns deserve to be treated with respect and they do not deserve to be dismissed out of hand or fobbed off by shallow promises or evasions. I must take exception to what the Chief Minister had to say on Channel Television on Monday night, when he described Members making a mountain out of a molehill. If anyone has made a mountain out of molehill, it is certainly not those who have been seeking to find out really what happened on 12th November. I regret to say that unless the concerns arising from the issue are addressed today in a clear and transparent fashion, they will not go away. My proposition offers Members a chance to bring the matter to a close in a proper, transparent way and not brushed under the carpet. My proposition is also about an important principle. It is about a key position in the good governance of our Island, namely the post of the Chief Officer of the States of Jersey Police, so the position of the head of police is important, but it is also inevitably controversial and, to a degree, vulnerable. That is why our predecessors were careful to put in place a strict set of rules to ensure that any difficulty should be addressed in a way which allows for political independence of that office to be preserved. Break those rules and we are on a slippery slope on which none of us are safe. However, we now have the evidence that the rules were indeed broken, deliberately and with intent. The authority to dismiss the Chief Officer of the force is vested in this Assembly by law, so if Members feel that the authority of the Assembly has been usurped - and it has indeed been a dismissal by stealth, outside the legal process - then as States Members, we have a duty to do something about it, irrespective of whether we are on the Members' Executive or the non-Executive part of Government. Today we have the opportunity to grasp this issue and seek some form of resolution, because there have been other opportunities in the past that have been not taken by Ministers. I remind Members, in January 2009, the chance was lost by not approving the proposition by the Connétable of St. Helier. In the summer of 2009, another chance was lost, when the Royal Court heavily criticised the manner of the original suspension. Ministers who were duty-bound to act with neutrality took no notice. The Wiltshire investigation was concluded last

November, yet no attempts were taken to instigate disciplinary proceedings. In January this year, the Chief Officer announced his long-expected retirement and said he would leave the service by the end of July, and again, no one took a grip on the matter, yet more inquiries were authorised, more money spent and more time wasted. In February this year, Members had the opportunity to support my proposal for a local and public Committee of Inquiry to review the suspension. However, Members still pinned their faith in the Chief Minister and rejected that opportunity in favour of the Chief Minister's allegedly simpler and quicker review by a commissioner. That report has proved to be at least 5 times over budget and months late. However, even though the terms of reference were watered down, the Commissioner had concurred with the Royal Court's view, in that the suspension process was unfair. I will repeat: the suspension process was unfair, and the Commissioner has gone even further in that he has identified serious failings and named the individuals concerned. In normal circumstances, the person commissioning a report would accept the findings, deal with them and then move on. However, our Chief Minister just chooses to declare that enough is enough without even publishing the report. I will now turn to the specifics of my proposition and the purpose of which is to request the Chief Minister to report on the outcome of the review commissioned on behalf of the States. By now lodging the Napier Report under R.132, the Chief Minister - with some reluctance, but with no explanation - has complied with part (c) of my proposition. Perhaps the Chief Minister will inform Members why he did not officially publish the report. So I will start with part 1 of my proposition and I ask what action, if any, the Chief Minister has taken in respect of the destruction by the Chief Executive of the original notes taken of the suspension, and I repeat - of course it is a 2 part - what guidelines, if any, the Chief Minister has issued regarding the recording of the suspension meetings in the future. The Chief Minister has completely ignored the first part of my proposition. In fact, from answers given in the past by the Chief Minister, he said that the original notes were destroyed before the typed copy had been agreed by the 3 participants, and only signed by the former Minister and the Chief Executive. When the former Police Chief asked for the original notes, because he was taking the matter to court, he was told they had been destroyed. When handed a typed copy, they were not an accurate account of the suspension process. I maintain this process is totally unacceptable. The destruction was not by a junior employee, but by the most senior and highest-paid civil servant, who apart from being aware of the need of accuracy, must have been aware of the seriousness of the suspension and for the need to safeguard the integrity of the process. The Chief Minister gives no explanation for the Chief Executive's action, other than to say that he is satisfied with the answers he has received. This is not good enough. We cannot accept that explanation as a final answer if we do not know what the explanation is. The second explanation regarding the policy is again unsatisfactory. The Chief Minister is sidestepping the matter. He said that policies and guidelines of suspension process are already in place, but Members have not been provided with a copy. Deputy Le Claire asked the Chief Minister way back on 3rd February last year during an oral question: "Could we have these brought to hand?" They have not. However, it appears that there is a policy in existence and it advises officers to use their discretion, but no doubt err on the caution. I hope that that does not apply to police officers, because goodness knows what sort of trouble they would get into once they get into court. The Chief Minister's explanation is unsatisfactory, and should be rejected. If lessons are to be learnt, then a written set of policies should be drafted as a matter of urgency. I move on to part 2, which is about the legal advice. I asked the Chief Minister if he accepts the conclusions set out in various parts of the Napier Report, that action taken on that basis was contrary to the advice of the law officers, and what action, if any, he proposes to take in respect of that matter. It is interesting to note that on a number of occasions where Ministers do not take the action expected of them and when challenged, they say it is because they are acting on the advice of legal advice. However, we now have a case where Ministers and senior civil servants have blatantly acted against the Law Officers' advice and Members are expected to accept that failure without any explanation, or indeed, without question. Members may feel that Mr. Napier is particularly straightforward on this matter. In his report, he sets out the advice of the Law Officers in respect of the matter upon a police report. In paragraph

69 and 72, Mr. Napier expresses the strong view that the Metropolitan Police, when it arrived in heavily qualified terms, and that it did not meet the stringent terms of the legal advice. We know how this difficulty was dealt with by those involved in the suspension process. Part of the Metropolitan Police report which suited the argument for suspension were extracted and included in the letter from the heavily conflicted Deputy Chief Police Officer. Those parts of the Metropolitan Police report which did not fit the argument, and in particular the heavy qualifications described by Mr. Napier, were excluded. Like Mr. Napier, I have seen copies of all the documents and as a former police officer I am absolutely appalled that a police officer could draft such a letter to get his boss' job. There is a sentence which reads: "The cellars are not cellars. They are voids under the floor." I have been to Haut de la Garenne. I have been with former residents. We have measured parts of Haut de la Garenne. I accept there are some voids. The voids are at the top end of the building, but lower down, one will find there were cellars. We do not know if the then Minister was part of the arrangement or whether he indeed was misled, but what we can be sure of is that the stringent terms of the legal advice was not followed, and as a consequence, this sorry, totally expensive and futile saga was set into place. Now, what is astonishing is after paying for a Queen's Counsel, an experienced barrister who specialises in employment discrimination law, to receive a suspension process, the Chief Minister is now telling Members that he accepts but does not agree with the Queen's Counsel's conclusions. The Chief Minister has appointed his own referee, yet he does not abide by the referee's decision. Again, what example is he setting to those outside this Chamber? Originally it was claimed that the suspension was as a result of a letter received from the former Minister for Home Affairs the day before the suspension. The Minister's statement made under oath to the Wiltshire Police has now been proven to be untrue. There were movements or plots afoot months before the actual suspension. Apparently a discussion between the former Minister and the former Minister for Home Affairs about the possible suspension was overheard by a States Member in the corridor outside this building or outside this Chamber, and I hope that Member will clarify that position today.

[16:00]

Mr. Napier has been clear in his report: the legal advice which was given by the Solicitor General was not followed, and no matter what excuses the Chief Minister is attempting to make, the facts speak for themselves. Those involved with the suspension got it wrong, and Members have every right to expect a Chief Minister to accept and agree with Mr. Napier's findings and inform Members what action he has taken. Part 3 deals with the Discipline Code, copies of which I circulated to Members over the weekend. I am asking whether the Chief Minister accepts the conclusions set out in various parts of the Napier Report, that is that the suspension process did not meet the requirements of the Disciplinary Code for the Police Chief issued under Article 9.1(a) of the Police Force (Jersey) Law 1974, and again, what action, if any, has the Chief Minister taken regarding the breach of this procedure or process specified in the code. Members will have noted that the discipline code has a set procedure to be followed before a suspension can be implemented. Mr. Napier has stated that the procedure was not followed. Mr. Napier is of the view that there was no justification for an instant suspension. However, again, we have a Chief Minister disagreeing with the referee he has appointed, although graciously stating that Mr. Napier is entitled to a view. Well, we paid over £50,000 for a view and I would hope that we would respect his findings. However, the Chief Minister states that in his view - that is the Chief Minister's view - Mr. Napier's conclusion is not the only one which could be drawn. However, unlike Mr. Napier, the Chief Minister has not stated how his view can be justified. It should be noted that in the answer to several questions on this matter, the Chief Minister has gone on record as describing these matters as procedural errors. In other words, until lodging his comments he accepted the errors had occurred, but has now done a u-turn without any explanation. Given the seniority of the participants, it can hardly be said that their calculated breach is no more than procedural, it is a gross interference in the constitutional framework which exists to protect the liberties of us all, nor should we be deceived into regarding these breaches as coincidental. The resignation of the

Minister for Home Affairs, just 3 weeks previously, the brief elevation of the former Assistant Minister to Ministerial office and his imminent retirement, along with that of the former Chief Minister, and the absence of the Chief Officer for a few days' leave, provided a window of opportunity which was ruthlessly and cynically grasped. In his comments the Chief Minister has stated that he has had to weigh-up the different views when determining what actions needed to be taken, but again, he has not said what action he is going to take. Part 4 asked why there was no formal presentation of the Napier report to Members and no opportunity to discuss the findings with the author. The Chief Minister knows that it is customary for Ministers who commission reports to arrange for the authors to be present when the report is released. At first he gave an undertaking that there would be a presentation to States Members. Later, he reversed his position and said that such a presentation was not possible. This is because the customary need to make a presentation was not included in Mr. Napier's contractual responsibilities. Members will note, however, that the Chief Minister has not chosen to tell us why the customary requirement was not included in the contractual arrangement and who took that decision. We should insist that he tells us more on this issue; such as why did Mr. Napier change his mind. The Chief Minister has also not informed us why he did not make the usual presentation to Members when the report was released. Part 5 now requests the Chief Minister to inform Members what training, procedural and other corrective measures have been taken to ensure that personnel and disciplinary issues are managed appropriately in the future. He tells us such matters are regularly reviewed as part of normal activities. But I ask, how often are they reviewed, because in July 2008, only a few months before the suspension, the former Chief Minister lodged R.75 of 2008 which reported on the findings following a review undertaken by Professor Upex. The professor was highly critical of the mishandling of the dismissal of another States employee. We had the usual platitudes that lessons must be learnt and we must move on. But lessons were clearly not learnt because 3 of the main participants in the dismissal process were later involved in the Police Chief's suspension. The Chief Minister says there is room for improvement in the disciplinary code for the Chief Officer of Police. Now I agree, but that was apparent 2 years ago. So what has he done about it? What action has he taken to date? What changes does he propose? When will he be presenting these proposals to the Assembly? The Chief Minister's response is shallow, dismissive and should be rejected by this Assembly. I think we should tell the Chief Minister that he must do better and offer something more convincing. Part 6 asks the Chief Minister to clarify his position with any disciplinary action in consequence of what has emerged from the report. Given the gravity of the suspension and the failings that have now been identified, Members, and the public, are entitled to know what disciplinary action has been taken as a result of the Napier findings and if so, inform Members of the outcome of these proceedings. I am not the only Member who has asked what action the Chief Officer has or is taking. Members will recall that I received a confidential email from the Chief Minister on 27th September regarding a disciplinary matter. Members will also recall that at the last States sitting I asked if the Chief Minister would make the contents of the confidential email available to all States Members, but he declined on the grounds that it contained the name of the States employee. In the Chief Minister's comments he now tells us that the disciplinary process is now complete, but the outcome remains confidential to those parties concerned. It is not disputed that the Island's most senior civil servant destroyed the suspension notes. Mr. Napier has also reported that the same civil servant chose not to follow the Crown Officer's advice and went ahead with the suspension process, which was also contrary to the disciplinary code. The suspension set off a chain of events which saw a former Police Chief dismissed by stealth and has cost the taxpayer around a £1 million. It is not disputed that the Wiltshire Report produced a set of allegations which were later withdrawn. Therefore, legally, the allegations do not exist and taxpayers' money has been wasted. Wiltshire Police have also seen their efforts wasted although, no doubt, their officers will have enjoyed spending over £200,000 of Jersey taxpayers' money on wining and dining while in Jersey carrying out this investigation. What is fact, is both the Royal Court and Mr. Napier have concluded that the suspension was unfair and wrongly conducted. Yet, despite the repercussions, States Members and the public are not

allowed to be told what disciplinary action ensued. As the Chief Minister has stated, he has taken disciplinary action. I believe I am at liberty to divulge the contents of the confidential email I referred to earlier, but I shall not divulge the States employee's name.

The Greffier of the States (in the Chair):

Deputy, it is a matter for you, but you are speaking to the Assembly under parliamentary privilege but I have seen that email and it is headed: "Strictly Private and Confidential." It is a matter for you if you think that it is proper for you to ...

The Deputy of St. Martin:

I think it is in the interests of the House because it is going to be used to make a point.

The Greffier of the States (in the Chair):

It will make Members, in the future, cautious of sending each other emails that are marked: "Strictly Private and Confidential", if they feel they are to be read out in the Assembly. It is a matter for you, Deputy. I am not going to stop you; it is a matter for your judgment.

The Deputy of St. Martin:

I will advise the Members of the House that I was informed, outside the Chamber, also, that the Chief Minister was instituting disciplinary action. However, at that time, the employee concerned was out of office and he had to wait until the employee returned. I was also told that there would be a statement made in the House that week; again, I was told that outside the Chamber. I did believe the absence was ironic because the former Police Chief was also out of office, but he was called in to be suspended. Given the time it normally takes to collate the evidence and arrange for a disciplinary hearing, I am most impressed by the speed in which the process was completed, because it is apparent that the process was concluded within 3 weeks. It appears, yet again, that we have an apparently firm resolve followed by back-tracking and evasion. The Chief Minister is not appointed in order that he can be an advocate on behalf of his staff. He is supposed to be the person who holds his staff to account. I get the feeling, sometimes, that the tail is wagging the dog. In his response to this part of the proposition, the Chief Minister seeks to hide under the confidentiality rules which he says normally apply in discipline cases, but this is no ordinary case. This disciplinary matter strikes at the heart of our government. In this debate we should not be hindered by rules created for the protection of civil servants. We are the government of this Island, we make the rules. We should demand that the Chief Minister comes clean. We deserve to be told the truth. We do not deserve to be told that matters relating to the conduct of the highest paid employee are none of our business.

The Greffier of the States (in the Chair):

Deputy, sorry to interrupt you again. You said: "We deserve to be told the truth." You must not imply the Chief Minister is not telling us the truth. I think you can rephrase it to say you would like to know what has happened.

The Deputy of St. Martin:

Yes, we deserve to know, then, what has happened. But we do not deserve to be told that matters relating to the conduct of our highest paid civil servant are none of our business. Part (b) of the proposition: I ask the Assembly to seek a closure of this long running issue by agreeing that an apology should be made to the former Chief Officer. Members will note that the proposed apology is specific in its terms and relates entirely to the Police Chief's treatment during the suspension process and, in particular, to the denial of those rights and protections which he is entitled to through the code. The entitlements are clearly set out by Mr. Napier and are, in any event, no more than basic decency, common sense and justice. The disciplinary code, which has been circulated to officers, forms part of the Chief Officer's conditions of service. They are his entitlements which are intended to ensure fair play and dignity of treatment. The Police Chief was entitled to have

these concerns drawn to his attention at an early stage and given an opportunity to seek a resolution. That did not happen. He was entitled to argue his case at a preliminary hearing before the suspension was considered. Again, that did not happen. What he was not entitled to was to be called into work in the midst of a family holiday and suspended without warning, in the space of a few minutes, without representation and without a hearing. The process which was applied on that day in November was not only a breach of the code, I believe it was shameful and, by association, shames us all. Let us not forget the service background against which these events occurred. The Chief Officer had a long and unblemished record of service which remains unblemished until the day of his retirement. Members will recall that yesterday when answering questions, the Chief Minister agreed that following the abandonment of the disciplinary action, the former Chief Officer was entitled to be presumed innocent of all allegations.

[16:15]

The Chief Officer has been decorated by the Queen for distinguished service. Her Majesty's Inspector of Constabulary, committee members, the Minister for Home Affairs and even the local media have gone on record as praising his leadership of the force. He was described, and I quote: "As a high-performing Chief Officer who was able to ensure the operational independence of the police is never compromised and who continues to modernise and enhance the professionalism of the service." Members are entitled to ask who made that comment. I will say who it is. It was none other than the Chief Executive to the Council in the Chief Officer's most recent appraisal. So here we have someone praised very highly and yet this is the way we treat them. In responding to this issue the Chief Minister has sought to confuse the situation by inappropriate references to the Haut de la Garenne investigation and making more derogatory remarks relating to the abuse victims. He has referred to the now abandoned disciplinary case and has chosen to compound matters by making further unsubstantiated allegations against the former Chief Officer. I will, again, remind Members that all disciplinary proceedings were abandoned. No charges were brought, no hearings were called, no compromises were reached and no deals were done. From day one, the Chief Officer challenged Ministers to come up with the evidence to justify why they alleged, or what they alleged, and to take the allegations to a fair hearing. In spite of nearly 2 years and over £1 million of expenditure, they failed to do that. Allegations which were emanated from the Wiltshire debacle were withdrawn because, I submit, it was not in the Minister's interest to pursue them. If the Chief Minister was able to complete a disciplinary action within 3 weeks, why did it take so long to deal with the Chief Police Officer? It was 8 months from the time the Wiltshire Report was allegedly handed in, in November, and the end of July when the Chief Officer retired, 8 months should have been ample time. The Chief Minister should accept that the Wiltshire investigation was a disaster which began with a botched suspension. The Chief Minister now should have the grace to seek closure. There is no honour in hitting after the bell, the contest should be over. The Chief Officer retired with an unblemished record. It is now apparent that the entitlements of his conditions of service, quite clearly, were not met. I would ask that we apologise for that and that alone and move on. I will not dwell on the Chief Minister's suggestion that the former Police Chief and his deputy should apologise to those who suffered at Haut de la Garenne. I do not know who drafted the comments, on the Chief Minister's behalf, but Members should ask each one of the 11 former residents whose allegations of abuse, some 30 years ago, are now being considered in the Royal Court. We should ask them if they concur with the Chief Minister's call for an apology. Without the former Police Chief and his deputy's dedication to service to this Island, those allegations which had been swept under the carpet 30 years ago would still be kept under the carpet. I make the proposition and ask for someone to second it.

The Greffier of the States (in the Chair):

Very well. Just to confirm to Members and you, Deputy, paragraph (c) is withdrawn is it not because that has been complied with, so we are dealing with paragraph (a) and (b), are they seconded? **[Seconded]** Does any Member wish to speak?

3.1.1 Senator T.A. Le Sueur:

Members may well be relieved to learn that I do not intend to speak very long in response to this proposition. The impression I get from most Members is that this subject has been done to death in recent weeks. The proposition originally called on the Chief Minister to do 3 things, now 2 of them. Firstly, to provide more comprehensive information on a range of issues which the Deputy of St. Martin, and others, feel to be deeply significant and worrying. Secondly, to provide a formal apology to the former Chief Officer of Police for a failure to deal with the suspension in accordance with the disciplinary code relating to his position. The third request has now been withdrawn. I believe that I have dealt with the first point in the presenting of my comments to this proposition. I have outlined my answers to the questions and concerns raised by the Deputy of St. Martin. I have tried to keep my answers succinct and to the point but I hope that they do, indeed, deal with these issues in a complete and satisfactory manner. I am sure there will be a few Members who may disagree with one or 2 of my views. That is human nature, but I cannot change my opinions. I have arrived at my opinions only after detailed consideration of a number of papers and reports from a variety of people. I could embellish my answers. I could make each one take up half a page or more, but it would not alter the fundamental thrust of my views; views, which I have already expressed in this House on numerous occasions in response to written questions, oral questions and questions without notice. I took the view that less means more and I indicated, quite clearly, my views to all the issues raised by the Deputy, not just in my written comments here today, but in the numerous questions which I have answered and which the Deputy acknowledges have been numerous. As I indicated in questions yesterday, we have to distinguish between the suspension process, which Mr. Napier found to be flawed, and the decision to suspend the former Chief Officer, which I and others find to be entirely justified and which has, indeed, be borne out by subsequent events. So that leaves part (b) of this proposition, the issue of an apology. On that, I have made my position abundantly clear. I have expressed a view verbally in answer to oral questions and in written form including my comments to this proposition. My opinion, my robust opinion, is clear and I hope understood by all Members, even if I know some may disagree with me. I do not want to go over the events of the last 2 years. I am sure that all Members have had ample opportunity to reach their own conclusions and I am sorry to see that even last night, the former Deputy Chief Officer of Police was writing to the local media attempting to justify his actions. An apology to the former Chief of Police could well be seen as a slap in the face for the former Minister for Home Affairs, the former Chief Minister, the Chief Executive of the States and the current acting Chief Officer of Police. It would also, in my view, be offensive to a large number of people in Jersey, many of whom hold the former Chief Officer, and his deputy, responsible for portraying a grossly misleading image of the Islands. So in saying that, I am not in any way condoning any child abuse which may have occurred at Haut de la Garenne, or anywhere else; nor do I wish to offend any members of the Jersey Care Leavers Association or any other victims of abuse. In the pursuit of justice the police have my full and unwavering support. But, that is not the issue here today. The issue today is whether we consider that I, or the States, should give an apology to the former Chief Officer of Police for his suspension. I accept that the Deputy of St. Martin sometimes gets carried away in his strong views on this matter. I have to say, nonetheless, I deplore suggestions that I was either misleading the House or that others were guilty of a conspiracy theory. I believe that that is an unwarranted and unjustified allegation. I also, even more so, deplore the fact that the Deputy has chosen to disclose the content of a confidential email, even though that content may be relatively innocuous, a document which contains confidential information is marked confidential, should still remain confidential. So, I hope, we are not lowering the standards of this Chamber. But to come back to the proposition, I hope that Members are in no doubt about my view. I hope that Members share my view and I hope that Members will reject this proposition.

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.

The Deputy of St. Mary:

I would like to speak.

The Greffier of the States (in the Chair):

You should have got up before, Deputy; get up quickly.

3.1.2 The Deputy of St. Mary:

It is absolutely astonishing that no one else has put their light on in a debate of such importance, absolutely astonishing. For the Chief Minister to dismiss, in a speech of not much more than 5 minutes, maybe 10 minutes, a report of such importance, and a request of such importance, is also demeaning to this House or to the Assembly. My words fail me, which is quite something. He said: "I cannot change my opinion", but we are not talking about his opinion. He has accepted Napier. He said yesterday: "I accept Napier." So that is his opinion and I will come back to that later. "I took the view less is more", well I have covered that already; it is an insult to the House, the comments and the speech to say that he does not want to go over the events of the last 2 years. Remembrance Day has just happened, 4, 5 days ago, Cenotaph, Sunday, gathering in the rain, we remembered something that happened 90 years ago. I am sorry, this is an important matter, it happened very recently, the suspension, and yet he already thinks it is old history and we do not need to think about it, talk about it, or, indeed, do anything about it. He takes refuge in the slap in the face for the Chief Executive and the former acting ... sorry it is very difficult when you are not allowed to use the names, but the current acting Chief of Police, a slap in the face for them. Well, what on earth was Napier? Napier, a highly qualified professional in employment law, Q.C. (Queen's Counsel) took a few months to write that report. It is a very thorough report and I must say when the Deputy of St. Martin says: "I wish I had my inquiry", but he came back off that and said: "Napier did do a thorough job." I think we must all be very grateful for that. He has spelt out what happened, or most of what happened. Then the Chief Minister said: "In the pursuit of justice the police have my unwavering support." Well, amen to that. If only that applied to this situation as well, in the pursuit of justice with regard to our former Chief Officer of Police and the whole process of suspension in that pursuit of justice. We should all support that and do whatever is necessary and in this case, that means voting for this proposition. Then the extraordinary phrase: "Lowering the standards of this Chamber by revealing the content of an email", which, by a little bit of deduction one could have guessed anyway, but he used the name of the person so that it would create problems with revealing it. I am sorry: "Lowering the standards of this Chamber", what are we doing? What are we doing if we do not take action on this whole case, if not lowering the standards of this Chamber? The Chief Minister wants us all to close the book, to close the book on Power and Warcup, Haut de la Garenne and move on, but it is on the front of the paper right now. How can we close, how can we close the book? If this were a minor matter, then we could perhaps shrug and say: "It is one affair too many", and we can just live with that and there are many, many things coming before this House, but is this a minor matter?

[16:30]

That is the first point I have to make, this is a very serious matter. We are talking about the suspension of our Chief of Police. We could be talking about the suspension of any chief officer in any department; that would be a major matter, one that would have to be dealt with transparently and fairly. The whole relationship between Ministers and this Assembly and the Civil Service would be at stake and now we are talking about the Chief of Police who, as the proposer pointed out, does have a special status and is appointed directly by this Assembly, so it is really in our court to take action on this. We are talking about the way our Island is governed, is it fair? The proposer mentioned Islanders, but I think he should have, perhaps, made more of that. It is a matter for the Assembly because it is a chief officer who has been suspended, and the circumstances are being questioned. It is the Chief Officer of Police and that raises the question of how the police are accountable and how the States and politicians relate to the police. But, at stake also, is the fair

treatment of all Islanders, of our sons and daughters. If they were in court, would we want to know that the process was going to be fair? Well, of course we would. Many outside and inside the Assembly smelt a rat and claimed that the suspension process was flawed and so it has proved. Napier has shown that it fell far short of what we expect from our top civil servants. The issue is natural justice, and I am still on the point that this is a serious matter, because I am still reeling from the Chief Minister's approach to this issue and the fact that no one else seems to think it matters very much, but maybe others will speak. Someone is saying to me they do think it matters, so good. But my goodness, if we cannot get this right and respond appropriately and request the Chief Minister to respond appropriately I really have little faith for justice on this Island. Natural justice, know the case against you - know the case against you. The right to representation, the right to a fair hearing, those are the 3 things that I come up with and it is now a matter of record that none of those 3 things applied in this case. The former Chief Officer of Police did not know until the suspension meeting that it was a suspension meeting and when he got there he was handed a letter and invited to respond. He had no representation; it was a travesty of a fair hearing. In fact, it was not a hearing at all and he was given the Warcup letter and the extracts from the interim report, and asked: "Do you wish to consider your position?" By no stretch of the imagination, can that be said to have been a fair hearing, or indeed could it be said that he knew the case against him. Now, we hear from the Chief Minister, and he said it again in his speech, words to the effect that subsequent events have shown that the suspension was justified. Every time I hear that I scream inside and we should all scream inside. Because what it means is that there is no justice, it is mob rule, it is: "We decide first, we suspend you and we will find the evidence afterwards." That cannot be right. It implies we know he is guilty, and I was going to make remarks to the Chair about appreciating the gravity of this but we do not have the Bailiff in the Chair. But the fact is that it is a very, very important principle that people are innocent until they are proved guilty. Indeed, when the Constable of St. Helier asked the question yesterday whether the Chief Minister agreed with that principle, he said: "Yes." It was one of the only times he has given a forthright answer: "Yes, people are innocent until they are proved guilty." Innocent until they are proved guilty, but the suspension was justified. The 2 things do not fit together. We do not know he is guilty without due process. We do not know, the officials involved did not know, the Minister for Home Affairs did not know that he was guilty. I am sorry it is going to be difficult, because I do not have a lectern in front of me, it might make the speech quicker if there was. It would help because I will be referring to Napier frequently, for obvious reasons, because this is a matter of great importance. Is it possible to have a lectern because it will take longer to find references without one?

The Bailiff:

It is possible for Members to ask for it before, I think.

The Deputy of St. Mary:

I was rather taken aback that absolutely no one pressed their button because I was hoping that there would be other contributions also, but maybe, we do not know do we?

The Deputy of St. Martin:

In fairness, you were not in the Chamber, but I had it. I have just taken it off.

The Bailiff:

I see.

The Deputy of St. Martin:

It was unfortunate, I still had it in front of me, but I have now taken it down.

The Deputy of St. Mary:

Apologies, I have to get my glasses together and put these back in order because they are now not in order. I was talking about due process and this notion that subsequent events have shown that

the suspension was justified and I was going to refer to the Napier Report in paragraph 77. The reason I referred to the Napier Report here is that one way of thinking that we know that somebody is guilty, is that everybody in the public thinks that they are guilty. Mr. Napier does address that because it is a bizarre way of establishing what the truth is. His comments on this in paragraph 77: "As earlier noted, there was by this time [that is 24th September in the context] a widely held view that the inquiry had been mismanaged [a widely held view, that is the perceived wisdom] and that was independent of any representations made by Mr. Warcup. But that view, those strongly held in some, if not many quarters, was no more than popular opinion and had no basis in any objective scrutiny." That is the way that public opinion works and it is not subject, of course, to any challenge in the court and that is why we have courts. That is why we have moved on from trials of witches by mass hysteria and we have moved on to due process and having courts where you can have justice. Then the other reason that is advanced by people like the Chief Minister when he says: "Subsequent events have shown...", that it was okay to suspend without due process, is that the Wiltshire Report showed, does it not, that the former Chief Officer of Police and the former Deputy Chief Officer of Police, mismanaged the Haut de la Garenne inquiry. But, the thing is that the Wiltshire Report does not prove anything. Now, I do not have to show, one way or another, whether the Wiltshire Report was wrong or whether it was right and it is not necessary for Members to take a view on whether one side or another is right. But the point is there are 2 versions of events, there are 2 narratives, so you cannot say on the back of fag packet or back of an envelope, we all know that these 2 gentlemen made a mess of the inquiry and so we can proceed to suspension and bend a few rules and not give the former Chief Officer of Police a hearing. Now, there are 2 versions; one is the media was mishandled, the inquiry was botched, it was not managed properly and so on. The other version is that the inquiry was protected, confidence of victims was gained, the reputation of the force was maintained, or increased, and the media debacle, as described in Wiltshire, itself was a construct of the media. That is the other view. Now, it does not really matter which view Members take, the point is that there are 2 views. There are 2 opposing narratives and that is what a hearing should have looked at and it is a disgrace that there was no process. Before we go on to that, to strengthen the notion to the 2 versions, one was, of course, the A.C.P.O. (Association of Chief Police Officers) reports. The A.C.P.O. officers who were mentoring the former Deputy Chief Officer of Police, guiding him as to how to conduct the investigation, did report to the then Chief Minister, and the then Minister for Home Affairs and they did not raise any issues at that time, which they could have done. The other factor which was covered in the proposer's speech was that the record of the Chief Officer of Police was an outstanding one in every other respect and was beyond doubt and I will not prove that. I think that is a matter of record but I will jump up if anybody tries to rubbish that statement. So, if you just take any details of the Wiltshire inquiry you can find that there are 2 versions. I will give some examples, because I think they need to be given to establish this point that to suspend without a proper hearing was totally improper and that there are 2 versions. In an email from Deputy Hill, but it is quoting from the former Chief Officer of Police, the Wiltshire summary of the evidence criticises media lines taken by Lenny but when I search through the piles of paperwork, in other words the piles of paperwork that Wiltshire gave him, I discover that a police officer was tasked with researching Lenny's broadcasts and producing a summary. In that exercise he failed to find any record of claims of buried bodies and the like. On the contrary the extracts quote such as: "There is no evidence that anyone was murdered or died at Haut de la Garenne in these rooms but there is evidence of abuse there." This evidence, says the former Chief Officer of Police in his email, is completely ignored by Wiltshire in their report because it does not fit their agenda. He gives another example of conflicting versions of the media agenda. Now, I have asked the Minister for Home Affairs, on several occasions, that he provide a trail of all the things that Mr. Harper, the former Deputy Chief Officer of Police, said to the media, both on tape, in radio, on TV and written statements. I have asked for a trail of uncut evidence going right the way through any of the conflicted items, whether it be the shackles, whether it be the 2 objects, the famous skull, and so on. I have asked for that and the latest reply of the Minister for Home Affairs was: "Find out yourself."

I am sorry, we paid Wiltshire, was it £500,000? I lose track of the colossal sums involved, but we paid Wiltshire something in the order of £500,000 or £750,000, to find out and to provide a report. I would have expected that report to have had at least one, if not several, complete trails so that we can say: "Right, got you, I can see the evidence." But we have not. So there are 2 narratives. There are 2 narratives. There are details on the shackles where the report in the *J.E.P. (Jersey Evening Post)* firstly was quite clear that it was builders who found the shackles, builders went to the media, builders told the media that police are going to find the shackles. Then Lenny Harper's comment: "I refuse to confirm this and refuse to say that I had found shackles." Now, that is just a different version from the other version and all I am pointing out to Members is that there are 2 narratives, there are 2 scenarios, it is not open and shut and, therefore, you have to have a hearing. You have to have a setting side by side of the 2 versions and that cannot be overridden. Now, the second reason this is a very serious issue, and the Chief Minister brings to this Assembly, 2 sides of A4 as his response and a speech that was a disgrace on a matter of such importance. So I would refer Members to the Napier Report paragraph 107 and the good proposer, maybe he is keeping it for his final speech, did not refer Members to this 107. For the Chief Minister to say that we should just let bygones be bygones on the basis of these conclusions, paragraph 107, page 49 of the report if Members have it: "Whatever view may now be taken of the substantive criticisms that may be made of Mr. Powers' conduct, [and I have covered that] the basis on which he was suspended on 12th November 2008 was, in my view, inadequate." So are we going to do nothing? "There was, at the time, a lack of hard evidence against him showing lack of competence in relation to the running of the historic abuse inquiry." Are we going to do nothing? "Too much reliance was placed on information coming from one source, Mr. David Warcup." In fact there sources, there were other sources, they are detailed by Mr. Napier. There were reports coming back from Gold Group, there were reports coming back from the new senior investigating officer and so on. But no reference is made at all in the suspension documents to any of that. So, too much reliance was placed on information coming from one source, Mr. David Warcup. The contents of the letter dated 10th November 2008 from Mr. Warcup to Mr. Ogley were much less clear than they could have been. No reference is made in that letter to the fact that there had been a request from Mr. Ogley to put his concerns about Mr. Power on paper. There is a lot of discussion in Napier about whether that letter on 10th November 2008 was requested by Mr. Ogley or whether it was written off his own bat by David Warcup. Quite gratuitously Mr. Napier, on more than one occasion, says quite clearly that the letter was originated by Mr. Ogley ...

The Bailiff:

By the Chief Executive.

The Deputy of St. Mary:

Sorry, by the Chief Executive. The problem is of course that he uses the names here quite rightly because ...

The Bailiff:

Where you are quoting it is all right but you misused the ...

The Deputy of St. Mary:

Fair enough, Sir, I take that direction. "The letter from Mr. Ogley to Mr. Lewis dated 11th November 2008 informing him of Mr. Warcup's letter does not make clear that the report received by Mr. Warcup from the Metropolitan Police was only an interim one and that its author had heavily qualified its content." So we have a qualified interim report being used as the main tool for suspension. "While there was additional material coming in from Mr. Gradwell and from the reports of the Gold Group, that was indicative of failings on the part of Mr. Power. No effort was made to collate this in a systemised way or to make reference to this material in the documentation provided to Mr. Power at the time he was suspended." It goes on. One thing after the other. The

disciplinary code could and should have been read differently. Too much reliance was placed on the interim report. There should have been a more sustained effort made by Mr. Lewis and Mr. Ogley to get access to the content of the report itself. The interim report could and should have been redacted by Mr. Warcup so that others could look at it. So that is the gravity of what we are talking about here. It is a massive catalogue of criticisms and the Chief Minister referred to Mr. Napier as an eminent professional in employment law. The other aspect is that natural justice has been denied with all the massive implications that that has for the people of the Island and for our public service. Now, I think it would help Members to shed some light on what all this is about and the proposer did hint at this in his speech and described the 2 versions of what happened in the run-up to this suspension. What is being put across to us is 2 different versions to members of the public by Ministers and the officers who advised them. Version one can be summed up by looking at what the then Minister for Home Affairs said to the Wiltshire inquiry. Version one can be summed up as a bombshell version of events. The former Minister for Home Affairs states in his statement to Wiltshire Police, and the source of this is the letter from the former Chief Officer of Police to P.P.C., some time before the 5th of January this year. I do not have the exact date. In that letter, according to the former Chief Officer of Police, Mr. Lewis states: "Up until I received the letter from David Warcup on November 11th I had no reason to believe that they were not managing the investigation well." Now, the good proposer mentioned this in his opening speech and did not give chapter and verse and I think it is very important to give chapter and verse because, as he rightly said, the 2 versions of what the former Minister for Home Affairs said do not correspond. "I had no reason to believe that they were not managing the investigation well up until I received the letter on November 11th 2008." Napier makes it clear, paragraphs 20 and 39 and 40 that this is untrue. Paragraph 20: "His [Deputy Lewis'] position in interview was that the interim report from the Metropolitan Police was important objective confirmation of concerns that he had, in the light of information he had received from Mr. Warcup who had shared with him his concerns about the management of the investigation under Mr. Power." Paragraph 39: "Mr. Lewis had, moreover, been in receipt of constant briefing from Mr. Warcup during the latter's time on the Island." Paragraph 40 is a repeat. So there are 2 versions, one is: "I am getting constant briefings, I know the score, or I know one version of the score, and the interim report from the Metropolitan Police was confirmation." The other version is that: "Up until November 11th I had no reason to believe that they were not managing the investigation well." So that is one aspect of the bombshell version. Everything is going fine until the interim report arrives on the desk of the then acting Deputy Chief Officer of Police on the 10th November. The Chief Minister would do well to reflect that not only did the former Minister for Home Affairs make misleading statements to the Wiltshire inquiry, but current Ministers have made corresponding misleading statements to the Assembly. This is a matter which we cannot sweep under the carpet. Ministers are obliged under their code, and I quote: "To provide accurate and truthful information to the States." That is the first aspect of the bombshell version of events, that the Minister only found out on the 11th when he got the letter from the Chief Executive that something was amiss.

Senator T.A. La Sueur:

Sir, is the Deputy alleging that one of my Ministers has misled the House?

The Deputy of St. Mary:

Absolutely, I am alleging that and we will soon ...

The Bailiff:

Deputy, you must be clear. It is in order to allege, if you think it right, that a Minister has inadvertently misled the House. It is not in order to allege that a Minister has deliberately misled the House.

The Deputy of St. Mary:

Sorry, I will be more precise, thank you for the challenge of the Chief Minister and the direction from the Chair. Let us get this more precise. I have been told that the in camera transcripts, the transcripts of the 2 in camera debates, if you like, discussions of this issue in the House, one apropos of the statement of the then Minister to the House saying: "I have just suspended the Chief Officer of Police" following which there were questions in camera, and the debate on P.9 from the Constable of St. Helier in early 2009, I am informed that on those occasions misleading statements were made to the Assembly. I will, of course, check this and I hope that the transcripts do not mysteriously disappear between now and when I get to look at them. But I do not suppose they will. I do not suppose they will.

The Bailiff:

Please do not make suggestions like that. What are you suggesting, the Greffier is going to ...

The Deputy of St. Mary:

Sorry. No, I am not suggesting, I am getting ... I withdraw that completely.

The Bailiff:

I should very much hope so, Deputy, and please concentrate on what you can and cannot properly say. That was a most improper remark.

The Deputy of St. Mary:

Yes, I was thinking of America I think where such things ...

The Bailiff:

Why do you not concentrate on Jersey?

The Deputy of St. Mary:

Yes, Sir. Then moving on from the Minister for Home Affairs's inconsistency we come to the letters and the dates of the letters, and I would remind Members that the Chief Minister resisted to the bitter end the requests of his Chief Officer of Police, as he then was, to provide information about the origin of the suspension letters, the dates of them and who created them. He resisted, he resisted. The question of course is why would he resist that disclosure? When eventually the then Chief Officer of Police took the matter to the complaints board, the Chief Minister was forced to disclose. Then we all found out that the letters were not drafted on the 10th and 11th, after the interim report had arrived, they were drafted days before.

[17:00]

I will just leave this question in Members' minds, why would the Minister for Home Affairs try to hold the line that there was the bombshell - it arrived on the 10th and we all rushed around drafting letters and suspended on the 12th - and why would the Chief Minister resist everyone knowing what the dates of those letters actually were? Why would that be so?

Senator B.I. Le Marquand:

Can I raise a point of order? The Deputy is referring repeatedly to the Minister for Home Affairs. I am the Minister for Home Affairs, could he clarify when he is referring to the former Minister for Home Affairs because otherwise frankly no one is going to know who he is talking about.

The Deputy of St. Mary:

I do wish that one could refer quite simply to Gradwell, Warcup, Power and it would be so much easier and I am going to write to P.P.C. about this because in a debate like this ... and I can quote from Mr. Napier because he wisely uses the names of the people and you can read the report and understand it. When you have to go acting, former, chief, something, deputy, it is very difficult and I am sorry if I get lost once or twice and use the wrong version. In this case I meant the former

Minister for Home Affairs and, of course, not imputing on, in that case, the current Minister for Home Affairs, Minister. Then we come to version 2: this is not the bombshell version, this is a completely different version because the bombshell version has just been swept away. The letters have been found to have been drafted before. Mr. Napier has done us all a favour in making quite clear what went on and the background, the back story if you like. He makes it clear that there is a history to the suspension. It was not the case that this bombshell, the interim report arrived and everyone went: "Goodness gracious me, the Chief Officer of Police needs to be suspended." That is not how it was, although that is how it was presented at first. So we come to version 2. We have reports coming into the Chief Executive, we are told from Gold Group, and that is at paragraph 80 of Napier, he had a representative from Gold Group which had just been set up in September reporting directly to the Chief Executive. In September we know that - let us get this right - the new senior investigating officer was also making his views known about the previous conduct of the inquiry by the now retired senior investigating officer, and that can be found in paragraph 40 and paragraph 70 of Napier, and I am using paragraph numbers for the record so that anyone can check if they wish on Hansard. On 24th September the Chief Executive wrote to the Law Officers' Department inquiring about the dismissal of the Chief Officer of Police and the implications for this, and that is at paragraph 28. On 10th October the Chief Executive wrote a memorandum to the S.E.B. (States Employment Board) stating that: "There is a significant problem with the leadership and management of the force." Before I go on, those paragraphs are 33, 86 and 87. Now, he does give the context, he does not say whether the Chief Executive then went on to refer solely to the Operation Rectangle - the Haut de le Garenne inquiry and all the other inquiries related to it - or whether the Chief Executive left that as a stand-alone comment. But the fact is on 10th October the Chief Executive wrote to the S.E.B. with serious concerns about the Chief Officer of Police. At some time before 28th October the then Head of Human Resources had drafted a document about the suspension and I think about how to go about that and that is at paragraph 54. We also have reports coming in from the Metropolitan Police Review being asked for by the then Deputy Chief Officer of Police who was getting information from the Metropolitan Police about their review which led eventually to the interim report. Now, Napier says of those that of course they are unreliable and the further back you go the more unreliable they are. So we have a whole new vista of reports winging their way to and fro, people reporting things and doubts and concerns, meetings being held and they are all in Napier and I do not have the paragraph numbers, I did not have time to research all of those but there were many meetings being held between officers and occasionally with Ministers, preparations being made and legal advice being sought. Two of the meetings are at paragraphs 53 and 87. There is just one thing missing from all this carry on, there is one thing missing. The Chief Officer of Police. Why not go and talk to the Chief Officer of Police? Everything was done to prepare for the suspension, nothing was done to forestall the suspension. That brings me to the Disciplinary Code and how that process matches what the Disciplinary Code says. The first Article 1.1: "In the normal course of events the Minister for Home Affairs will raise and attempt to resolve issues arising which concern the performance, conduct, capability, *et cetera*, of the Chief Officer on a personal basis. The procedure described in this code will be used only where such efforts to resolve problems arising have failed." So that is paragraph 1 and paragraph 4, breakdown of normal relationships: "It is possible there could be an irrevocable breakdown in the special relationship between Chief Officer and Minister." 4.2: "In the event of the Minister for Home Affairs feeling that the relationship with the Chief Officer is breaking down, he will bring it to the early notice of the Chief Officer and to the attention of the Chief Executive to the Council of Ministers so that steps to improve the relationship can occur or alternative action be taken." 4.3: "If the procedure described in paragraph 4.2 fails to resolve the problem to the satisfaction of the Chief Officer the issue will be referred to a hearing." So it goes. So paragraph 1 and paragraph 4 of the disciplinary code, which is a code specifically written about the Chief Officer of Police because it is such an important role, those 2 sections specifically say that efforts must be made to resolve issues around the Chief Officer of Police before proceeding even to formal hearings, let alone suspension. The comment of the representative of the former Chief Officer of Police who is the Chief Constable

of ... I am looking around, no, nobody can remind me, but anyway I am not allowed to mention his name. Gloucestershire, yes, Chief Constable of Gloucestershire who represented the former Chief Officer of Police at the suspension hearings conducted by the current Minister for Home Affairs, and he is nodding that I have got that right. What the representative has said at that hearing - the suspension hearing, on I think 13th February, certainly February 2009 - what he said was: "The investigation into the children's home and the investigation into the historic allegations of child abuse have been running for over 2 years. There has, therefore, been ample opportunity to raise any concerns with Mr. Power. No concerns have been raised by the Minister for Home Affairs." The previous one, of course: "No discussion on a personal basis has taken place before 12th November 2008." No discussion on a personal basis has taken place before 12th November 2008. So we have a very strange - very strange - situation. I asked the Chief Minister and I am trying to find it, maybe he is going to get off the hook because I cannot find the document I am looking for. So I crave indulgence to look for a bit and then I will just ... here we are. Yes, I found this a very important matter that no attempt had been made to talk with the Chief Officer of Police to resolve this issue and I wanted to check that this was so. So I asked a question of the Chief Minister - can the Chief Minister explain why, during the time the suspension or disciplinary action against the Chief Officer of the States of Jersey Police was being discussed and prepared behind the scenes, there was no formal attempt to resolve the issues between the Minister for Home Affairs, senior officers - and I clarify that as meaning officials, not officers of the police - and the former Chief Officer of the States of Jersey Police? The upshot of the answer to the question was: "I consider it may not have been in the Napier Report, the information was available within the records which were produced to Mr. Napier. I am quite happy to research these and give chapter and verse to the Deputy." "I am quite happy to research these and give chapter and verse to the Deputy." Well that is a good promise of openness. That email I sent to the Chief Minister on 9th November, I said: "On return from my half-term break I notice that I have not had the information I asked, or have I missed it?" The question was on 19th October, we are going back a month. I then reminded the Chief Minister on 9th November: "I look forward to receiving this information in good time for the debate on P.166 as it is clearly central to considering whether the suspension was handled fairly." I reminded the Chief Minister again 2 or 3 days ago, I have checked on my emails just before coming to this debate and there is no reply. There is no reply. Which leads me to believe that there were no formal conversations at all. So what does Napier have to say about this, because we paid him a lot of money to discuss these matters and he is quite expert. What he says can be summarised; he talks obviously a lot about it but what he says can be summarised at paragraph 65: "The code recognises the serious nature of any suspension by making provision for it to take place only after a preliminary investigation into the facts. In my view, the Minister should have, before proceeding to suspension, asked the Chief Executive to carry out the preliminary investigation envisaged under section 2.1.2. That need not have taken long to complete, given the work that had already been done by way of preparation for the meeting of 12th November, but it would have given the Chief Officer the chance to at least put forward his version of events in response to the criticisms emanating from the interim report." That is precisely what we are talking about. The chance to reply, that is the essence of a fair hearing, as is also of course knowing the case against you. Then Mr. Napier says this: "Save in the most serious of cases, of which this was not one, the step of suspension should only have been undertaken after there had been a preliminary investigation carried out by the Chief Executive and the Minister had been apprised of the result by way of a report from the Chief Executive, and there had been a meeting between the Minister, the Chief Executive and the Chief Officer."

[17:15]

That is what should have happened, and it did not. Mr. Napier makes a lot of comments and I will refer to the paragraph numbers, but I think Members patience might be going short, so I will just refer to the paragraph numbers 53, 54 and 55 he makes comments on the failure to resolve the issue properly in advance instead of proceeding to suspension. But I will quote paragraph 55 as that is

the nub of the matter: “The confrontation with Mr. Power was seen coming by officials weeks in advance of 12th November.” This is where, when the proposer talked about collusion and planning, he was not off the mark but he did not justify it chapter and verse so I am doing that now. “The confrontation was seen coming by officials weeks in advance of 12th November and I do not know why the opportunity to head it off or at least attempt to do so was not taken. Efforts were accordingly concentrated on preparing for that scenario [the scenario of disciplinary action] to the exclusion of other possible mechanisms for resolving perceived failures in performance.” The suspension was completely out of order. Now, going back to that question, why was it that both the former Minister for Home Affairs and the Chief Minister held the line of the bombshell version? Because they did not want us to know the truth which was that there was a long history, that there was a history leading up to the suspension and that meant that there had to be an approach to the Chief Officer in natural justice, and within the Disciplinary Code. So how important is breaking the Disciplinary Code? Should we be worrying ourselves in this Assembly about breaking the Disciplinary Code? I think the proposer said that it was part of ... no, I am not sure he did, so I will spell it out. It is part of the Police Force Law to which the proposer referred. It is part of the law and if Members have any doubt about this I will relieve their doubts, because it is quite convenient, is it not, it would be quite convenient to say: “Well the code is this sort of slightly badly written code and we can, therefore ...” well, it is a badly written code. And so on. Well it may be a badly written code, but it is the code that we have and it is quite explicit on what we should do, which is we should talk. Jaw-jaw is better than war-war; it is better to resolve the situation rather than to suspend. But the position on the legality of the code was stated by a very senior human resources officer, I am not sure whether he is the head of human resources or the deputy head, at the suspension hearing on 13th February 2009. I might have the exact day wrong there, but the suspension hearing in February 2009: “Could I just interject, Minister, with my H.R. (Human Resources) hat on? Having been the officer who was involved in Mr. Powers’ original appointment back in 2000 I can confirm that the Disciplinary Code was issued to Mr. Power as part of his contract of employment and I would say that it is contractually binding on the States.” So I am just wondering whether the former Chief Officer of Police is wondering whether to take that matter up. But anyway, that is an aside. The fact is that at the suspension hearing all parties accepted this, that was the final word and a lot of discussion had happened prior to that statement by the senior human resources officer, a lot of discussion between the current Minister for Home Affairs and the representative of the Chief Officer of Police and the Chief Officer of Police about the relationship between the code and the law. Then finally, it is part of the contract of employment and it is contractually binding on the States. So where does that leave this Assembly when that code is broken? So we have top officials breaking the Police Force Law and ignoring legal advice. They ignored legal advice. I will refer to the detail of that later but the point here I want to make is that there was only one way out. If you want to go around your own disciplinary code, if you want to bypass going to see the Chief Officer of Police, if you want to ignore the legal advice then you use the dramatic 2.3.3 which is the paragraph which they relied on. That paragraph says on the Disciplinary Code 2.3.3.: “In more serious circumstances the Chief Officer may be suspended from duty on full pay by the Minister for Home Affairs, pending the outcome of the procedure. In this even the matter will be referred to the States of Jersey.” In more serious circumstances, 2.3.3. is the bullet to be used when the Chief Officer of Police is found with his finger in the till or doing things that have to have an immediate response. Mr. Napier points out that it was quite improper to use that section and in paragraph 63: “I would also accept that although this is not spelled-out in the disciplinary code there must be provision for the immediate suspension of the Chief Officer in extraordinary circumstances, e.g. where he was apparently discovered committing or about to commit a serious criminal offence. I do not, however, see that the matters of present concern, given the state of knowledge, as opposed to belief or suspicion, of the Minister and his advisers that existed around 12th November 2008, fall within that narrowly defined category.” So 2.3.3., according to Napier, does not apply. Does not apply. That is why there had to be a bombshell, but the bombshell does not even apply, Napier says that it was not that kind of a case. The reason I am

being comprehensive, and I am sorry it is long and I am sorry that I am going into detail, but I know what is going to happen. People are going to get up and say: "Oh, but this and that" and then I will be able to say: "Well I covered that already sorry, mate, and you cannot get away with saying what you have just said." There is only one excuse that remains to pull the rabbit out of the hat and do this suspension in this way. It is not a legally based way of justification but it is, nevertheless, an excuse, if you like. Napier refers to it in paragraph 57: "In the case of Mr. Ogley there was a conscious decision not to raise disciplinary issues with Mr. Power [well that is interesting] until there was an evidenced basis for so doing. His particular concern was that if the matter had been raised at an earlier stage Mr. Power might have responded in a way that put at risk the media announcement that was seen as essential in allowing the criminal prosecutions to go forward in the courts. That was an outcome which Mr. Ogley saw as wholly unacceptable. Accordingly he saw as justified the decision not to tackle Mr. Power informally about the issues which were to lead to his suspension." So although it is not a legal reason that is the reason that was given by Mr. Ogley. It is the only thing left. It is the only thing left. Firstly I would say, in itself, it has no legal basis, it is a matter of practicalities that: "On November 12th we are going to have a press conference and so I cannot talk to Mr. Power." It is quite a stretch. The second thing is that the judgment of the *Royal Court in Attorney General v Aubin* [2009] J.R.C. 035A, and again I give the reference for the record, that judgment shows that there was no danger to the criminal prosecutions going forward in the courts. There was no danger and so the Chief Executive's view that he could not report to the former Chief Officer of Police because it might endanger the criminal prosecutions that might take place, was misfounded and if he had taken advice, which he presumably did not on this point, then he would have no doubt been given something of the flavour of what the real situation was. In the judgment given by, I am not sure whether it is mentioned who gives the judgment, but I have given the reference already, the judge or the commissioner, I am not sure which, at that trial in his judgment he was addressing the arguments of the advocate for Mr. Aubin, I think - sorry, it is very difficult this, is it not - for the advocate in the case, that the idea of long term widespread torture and murder is so entrenched in the consciousness of potential jurors that it cannot be eradicated by any direction from the trial judge. The advocate argues that jurors will either be convinced already that anyone charged must be guilty or they will feel that after this long and expensive inquiry someone must pay. This problem is heightened, the advocate argued, because of the size of this jurisdiction. So that was the problem that the judge was addressing in his judgment. He refers to the 12th November press conference in saying that received a lot of publicity and did much to put the record straight, and he points out that the reporting of the torture dungeons did not have anything to do with the historic child abuse and so on. Then he makes the key point: "I approached this case in the same way as the Court of Appeal did in the case of Abu Hamza then whom no one could have had worse personal publicity." I think there must have been some wry smiles in the court at that point. "It is said that everyone in Jersey will have read of this inquiry and no doubt that is true. Everybody in the United Kingdom would have come across the adverse publicity for Abu Hamza before he faced his trial. When the question of pre-trial publicity was considered by the Court of Appeal Criminal Division in that case, the Lord Chief Justice giving the judgment to the court said this." No, I will not read all the judgment out but the gist is that in spite of the pre-publicity that Abu Hamza had received, he would get a fair trial. If anyone challenges that in the course of this debate then I will refer them to this judgment and I will read it out in full so be warned. The gist of it is that jurors can distinguish between what the media tell them and what is going on in the court in front of them and they know not to take at face value what appears in the media, they know that their job is to find out what the truth is. "For all of these reasons, I do not find that the publicity in this case was such as to prevent any of these defendants receiving a fair trial."

Deputy R.G. Le Hérisier:

At the risk of stopping the speaker in full flight, it is 5.30 p.m., I do not know if he is in his final stages, but would it be rude to stop at this point if he was prepared to do so?

[17:30]

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

If we are going to stop, I rise with great reluctance, but I wonder if before we end it would be appropriate to invite the eloquent speaker just to reflect on the comparison he made 45 minutes ago between what we are doing now and the ceremony over which I had the privilege of presiding on Sunday, when we commemorated the fallen. I am sure he did not mean to cause offence to the families of those who remember those they lost, but it seems to me that there is no comparison and I wonder if before the day ends I might, through you, invite him to withdraw that comparison lest people get the very wrong impression, which I am sure he had no wish to make. **[Approbation]**

The Deputy of St. Mary:

I do thank the ... **[Interruption]** I do thank the Dean for that comment and I wish to make it quite clear that there is no connection in my mind between obviously the abuse inquiry and remembering the fallen on Sunday. I take Remembrance Sunday extremely seriously personally. The point I was making was that we do not shy-off and we are right to remember the people who have given their lives and who still suffer because of war and terrorism and all the rest of it. Even now aid workers get caught up in this awful world we live in, in some parts. The point I was making was that we remember that and we remember that rightly, and some of what we are remembering is quite recent and some of what we are remembering is way, way back in the past. But we still rightly remember and it was said on the media that there is a growing observance of the 11th minute of the 11th hour on the 11th day of the 11th month and I think that is a wonderful thing. I think that is really important. The point I was making was that in this case, when we are looking at justice in a recent case and we are told by the Chief Minister: "It is time to move on, it is time to move on, we are all too busy", I was just pointing out that is inappropriate as well.

The Bailiff:

Very well, the adjournment is proposed so the Assembly will reconvene at 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:32]