

CHRISTMAS CHIEF PLEAS

Minutes of the meeting held in the Assembly Room, Sark
on 17th & 18th January 2007 at 10.00 am on both days.

Present:

J.M.Beaumont OBE, Seigneur; Lt.Col. R.J. Guille MBE, Seneschal; A.W.J. Adams, Prevôt;
T.J. Hamon, Greffier; Mrs.W. Kiernan, Treasurer; and the Constables.

Members were present as follows:

Wednesday 17th - 25 Tenants, 12 Deputies
Thursday 18th - 23 Tenants, 11 Deputies

Apologies for 17th : Sieur C.H.P. Harris, Sieur C. Spence, Sieur D. Spence, Sieur D. Willis.

Sir Peter Miller (unable to attend because of the forecast of severe weather which could delay his return to an important medical appointment the next day).

Apologies for 18th: as above and Madam H. Carré, Sieur C. Teers, Deputy A. Le Lievre

Opening Remarks

Seneschal The Seneschal announced that His Excellency the Lieutenant Governor, Vice-Admiral Sir Fabian Malbon, KBE, was unable to attend because of the forecast of severe weather delaying his return to Guernsey.

Seneschal Additional papers have been circulated to Chief Pleas Members in the last 24 hours and one even distributed by Sieur Donnelly in the last five minutes. These papers are not admitted to this meeting.

1A. Minutes of the Michaelmas Meeting 4th October 2006

Accepted as a true record; proposed by Deputy Le Lievre and seconded by Deputy Olsen –

CARRIED

1B. Matters Arising

Dep. P. Williams The Douzaine and Public Works Sub-Committee have agreed to call a public meeting, once the new refuse disposal charges have been sent out, to give the opportunity to explain the new charges and to answer questions. Details of disposal charges through Guernsey are awaited and once known a meeting date can be fixed. Charges for commercial establishments will be set following personal visits to assess need and the amount of rubbish generated.

Whilst composting and burning garden waste and non-toxic combustibles is still encouraged, all other household refuse, including plastics, can now be dealt with by collection.

Representatives from both Alderney and Guernsey have asked to view the operation of the Sark incinerator and Chief Pleas should be congratulated for taking a lead in this form of rubbish disposal.

Dep. Olsen Asked if there had been any resolution on the lower than expected income from impôt; Sieur Raymond replied that it was unresolved but still an open investigation.

Sieur Donnelly He has just written to the School and Hall Trustees to follow-up his question relating to the provision of accounts.

Sieur Baker Wished to update the figure shown in Item 3 on Page 2. The Harbour Café rental should be £1,580 pa with RPI increases annually. This rental does not include Tax which is paid in addition.

Sieur Baker Item 12 on Page 7 was broken by the lunch break and Deputy Jan Guy left the meeting whilst discussion of the Visitor Officers pay rate was discussed. Apart from establishing that an hourly rate of only £6.40 was currently being paid, the meeting did not continue with the issue upon returning. Could an update be given? Sieur Guille (President of Tourism) was unable to answer without notice and the Seneschal advised that a written request and answer should be supplied.

Sieur Baker Considered that an annual meeting of Spending Committees with the Finance Sub-Committee should be re-introduced ahead of the budget drafting process, to better assess bids for new spending.

Mr. P. Perree Both Guernsey and Alderney had been subjected to media criticism on their incinerator proposals and he warned that Sark should be careful in any dealings on this issue. Deputy Melling confirmed that, although not compliant with EU regulations, the Sark incinerator met UK standards.

2. Questions not related to the business of the day

Dep. Melling Enquired about the progress of the new cargo boat. Sieur Raymond said that delays were due to the Classification Agency determining that the survey period for the shafts would be four years but for the rest of the boat, five years. This impasse had been resolved yesterday and agreement reached that both would be five years. This should clear the way for swift progress on completion.

3. Propositions by Mlle.K.Char and Mde.P.Rang

The Opinion Poll and Composition of Chief Pleas

Sieur Rang Asked for the Rules of Procedure to be suspended. The Seneschal was prepared to suspend for this item only and asked for the House's approval - **CARRIED**

Mlle. Char Started her introductory statement, questioning the way the Opinion Poll had been presented at the last meeting, leading to a misunderstanding by many Members. New advice had been received, showing alternatives to "Option A" could be introduced without fear of compromising Human Rights. The final draft of the Projet de Loi was also considered to be incomplete as it had not dealt with issues involving the Seigneur or the Seneschal.....

Seneschal Censured Mlle. Char for straying into areas not included in her report.

Mdm. Rang Continued the introduction and said that information had not been sought but sent by a mathematician, pointing out the error of expression used in describing the majority in the poll. She had been assured that the issue was open to challenge.

Dep. Guille Was invited by the Seneschal to read a statement by Sir Peter Miller, who had formerly supported Mdm. Rang in promoting alternatives to "Option A" and who had sat on the Opinion Poll Working Party. Sir Peter was unable to attend today for medical reasons. This statement is attached as an appendix to these minutes. Dep. Guille concurred with Sir Peter's statement.

Sieur Baker Remonstrated with the Seneschal for allowing the statement to be read out.

Seneschal Sir Peter is a member of the Working Party, could not be here today for medical reasons and had asked another member of the Working Party to read it out. Deputy Guille supports the statement and is entitled to read it out on Sir Peter's behalf.

Sieur Donnelly It was unfortunate that Sir Peter felt it necessary to defend himself. There is no accusation against him or the Working Party. Deputy Guille had referred to a 27% majority for "Option A" in the report to the Michaelmas meeting of Chief Pleas (Item 8). Again, any criticism was not personal but the misinformation that the poll showed such a high majority, misled Members and influenced their voting. This together with the threat that voting for other than "Option A" was not Human Rights compliant. He did not see why it was necessary to debate the issue.

Seneschal The propositions challenge the decisions of Michaelmas Chief Pleas and must be debated to establish justification for overturning them.

Sieur Donnelly Quoted the expert opinion received as to the true interpretation of the Opinion Poll figures. Chief Pleas were confused by the presentation of the figures but there is a need to accept commonsense as we need to move forward.

Seneschal Proposition 3 uses the word "misrepresentation" which is why the Working Party felt it necessary to defend its position.

Sieur Hurden Agreed that misrepresentation was the wrong word as it was a misunderstanding. Chief Pleas had specified a 20% majority was needed but 56% for and 44% against was a 12% majority. Statistics could be interpreted in many ways – a 20% majority of the required 60% turnout would mean an actual majority of 56 people was needed. The actual majority was in fact 50 but in a 90% turnout.

Mdm. Rang Had requested Mlle. Char to change the wording from misrepresentation to misunderstanding. She has spoken to Sir Peter to apologise. The error has crept in because the Electoral Reform Service introduced a new word into its report, showing that a 1.2 ratio was required with a 1.27 ratio achieved. It was a clear misunderstanding and was never intended to mislead.

Dep. Cole Supported Dep. Guille's reading of the statement and applauds Sir Peter's words. It was agreed before the Opinion Poll that for anything other than "Option A" to be accepted, a substantial majority was required. That wasn't achieved and so the proposition to adopt "Option A" was passed. If that decision is now reversed we will be holding the public of this Island in contempt. He called for this report to be set aside and, after seven years of advice, consultation and drafting, for this Projet de Loi to be approved and for the Island to move on.

Dep. Dewe Mlle. Char has suggested that "Option A" and the Projet could be challenged but to challenge something, you need a victim. Who is the victim? He referred to the meeting with the Department for Constitutional Affairs (DCA) when it was clearly stated that an alternative to "Option A" would only be considered if a substantial margin supported it in the poll.

Mlle. Char Apologised for not changing the proposition and accepted that Madam Rang had asked for that to be done. Misrepresentation should have read misunderstanding. She was concerned that Chief Pleas was adopting double standards by accepting this legislation when new advice was available, showing alternatives options were possible.

Dep. Olsen He had held a surgery last week for Islanders to speak on issues coming before Chief Pleas. Of those attending, everyone commented that Chief Pleas should acknowledge that the majority was only 12%. Of the public attending there was a 50/50 split of opinion on the outcome.

Seigneur Gave examples of how % and statistics could be expressed to indicate different things with the same figures. However, we shouldn't be debating this as the DCA had made it clear that "Option A" was Human Rights compliant and "Option Z" would only be compliant if supported by a significant majority. Even Nigel Fleming QC, in giving his legal opinion, had admitted this. The Seigneur was anxious that Chief Pleas, in turning down the Projet yet again, would be made a laughing stock.

Sieur Gommoll It is important to establish the factual interpretation of the numbers correctly and for the Working Party to admit that there had been a misunderstanding.

Dep. Guille The Working Party worked under the auspices and instruction of Chief Pleas which selected the company to carry out the poll. The use of a wrong word in the propositions did not offend him and Mdm. Rang had resolved the issue with Sir Peter Miller. The Working Party had presented the facts as supplied by the organisation selected by Chief Pleas to carry out the poll and the notification letter was included with the report at the Michaelmas meeting. There was no attempt to manipulate the result.

50 votes was the winning margin and is 27% of those who voted for "Option Z" (184). The Working Party accepted the facts and presented them. The Seneschal asked if the Working Party believed the results, as presented by Electoral Reform Services (ERS) was in the form required by Chief Pleas. Dep. Guille said the Working Party believed this to be the case and it was presented by Sir Peter in the format supplied.

Sieur Gommoll We are talking in the past tense here and no accusations are being made. What we are trying to establish is whether the Working Party or Chief Pleas NOW accept that 27% should have been 12% as the correct majority margin.

Sieur Hurden By discussing ratios and percentages, we are not comparing like for like.

Dep. Guy Whichever way the figures are presented the result remains the same and that a clear majority of the voting public wanted "Option A". The historical importance of the tenants is not denied and as far back as 1611, they defended their land and others working and living on their land. The tenants also looked after their peoples' legal and financial interests because the people almost certainly could neither read or write and doubtless were not rich. The tenants, between them, looked after Sark and the people of Sark. Things have changed. The concept of the benevolent tenant is no longer fashionable as paternalism is frowned upon, although we do still have some benevolent tenants. People leasing the land are just as well educated and may be wealthier than the tenant. The tenants however are still in government and their role is to act in the best interest of Sark and its people; indeed Sark is its people. They have a clear mandate from the people and should delay the Projet on the Constitution no longer and, above all, be prepared to stand for election under "Option A". As a Deputy of the People, I would be ashamed to delay the clear will of the people.

Dep. Armorgie Had misunderstood the figures and would have voted against "Option A" had he realised.

Mlle. Perrée The whole argument is very shaky and if the shoe had been on the other foot, would Chief Pleas have been so positive in its decision. She was resentful of the remarks that her ancestors could neither read nor write.

Dep. Guy Will forward a copy of what she said as it was not intended to be derogatory only factual.

Sieur Donnelly Referred back to the Seigneur's remarks and said he would prefer to look stupid than be stupid by being misled. It is time to move forward and although not wishing to delay for the sake of delay, he felt sure that the proposed Working Party should at least consider the Nigel Fleming QC opinion and any other new information. Quick solutions are not the best or right way forward. Throwing away links with the past would harm Tourism which sells Sark because of its uniqueness. He developed the argument, quoting from papers unavailable to the meeting. He suggested setting aside the arguments and forming a group to consider new opinion and come back in short time (possibly a month) to reflect public preference although Chief Pleas would not need to be bound by it. Anything transitional is not challengeable. It needs more input from the Working Party or another new group brought back to Chief Pleas for a more considered view of the new information and opinion. He thought 27% quoted was the majority and voted accordingly. He needed Deputy Guille to accept that the majority was only 12%.

Seneschal Chief Pleas accepted "Option B" a couple of years ago yet it was challenged. That challenge was accepted which is why more work was done by the Constitutional Steering Committee (CSC).

Dep. Dewe On a point of order – much of what Sieur Donnelly has just raised was quoted from the document circulated this morning and which the Seneschal had declared not admissible.

Seneschal Repeated his position on accepting late papers. It was unfair on Members to expect them to read, appreciate and discuss papers circulated late and which did not officially form part of the papers supporting the Agenda.

Dep. Guille Has no problem with the challenge by Mlle Char or others in Chief Pleas. He has tried to keep clear of the debate and when the media rang him over the Christmas period, he refused to make statements. He will vote against Proposition 1 but Chief Pleas is at liberty to vote as it wishes. After six years working on the Constitution, he would like to see Chief Pleas move on but that is their decision as a body and not his as an individual. This report should not be withdrawn and a decision on the Projet de Loi should be made today. Chief Pleas should vote as a government and take the responsibility for its decision.

Mdm. Hester Accepted all the impassioned speeches but the present situation could be open to challenge. Let a new Working Party be formed to give an unbiased analysis of the recommended proposal.

Mdm. Rang Chief Pleas has already accepted that the Tenants were no longer in the frame. What will Chief Pleas do if it is challenged?

Dep. Cole It is proposed that we have more meetings, consider more legal advice and obtain more public opinion. After six years of just that, how much more do we have to endure before finalisation?

Mdm. Baker Her family all voted for "Option Z" but accepted that the clear majority was for "Option A" and they respected that decision and the will of those voting.

Sieur Rang In July, in setting up the parameters for the opinion poll, Chief Pleas was clear about the targets to be met and a group of Members joined the Working Party and specified that a 40-60 split in the vote was the clear margin required. Would Chief Pleas Members admit to having misunderstood the result figures presented. He questioned whether the Working Party too had misunderstood and if so why was it not investigated.

Seneschal It is true it was expected that ERS would give the result as a percentage and not a ratio but the Working Party were satisfied that the margin was within the parameters agreed by Chief Pleas.

Dep. Guille He was quite happy that the poll gave a clear majority and he could accept it.

Senschal The actual figures of the poll were 234 for "Option A" and 184 for the "Rang/Harris Option".

Sieur Donnelly Was disappointed that the public had been misled into believing they had only two options to choose from if more could have been made available. He requested another "burst" of debate and then pass it back to the public with all the bias taken out. To go forward now would be foolhardy as elements remained open to challenge. There was a need to reflect and make all information available to the public and go forward after that. There will always be controversy if it is not sorted.

Sieur Hurden Agreed with Deputy Guille. Sieur Donnelly urges us to go forward in short order by collecting more views and more lawyers option. It all started this morning by requesting clarification of figures and percentages. He now understands. What happens if you give the people another chance – is anything likely to change?

Seigneur The DCA have made it clear, they would defend Sark against any challenge if it went forward on "Option A". Richard Heaton, the DCA Lawyer, commented on the significance of the poll before it was held. Fleming's view could be accepted if no clear mandate had been given by the poll.

Mdm. Rang How can you change something so fundamentally important on only a 12% majority?

Seigneur Reminded the House that staying with the status quo was not possible.

Sieur Rang Is the Working Party clear that Chief Pleas understood the parameters being set. Why was no report given to explain them at the last meeting.

Dep. Guille Repeated key statements from Sir Peter. Chief Pleas has approved the opinion poll results and understood them. Just vote on this report so that by the end of the day we know where we are going.

Sieur Donnelly Agreed that a vote should be taken but what is being voted on?

Seneschal The Rules of Procedure are suspended allowing propositions to be amended or added.

Mdm. Baker Went to see the Seneschal after the opinion poll figures were posted to clarify her understanding of them. It remains clear that "Option A" is still the significant majority.

Sieur Gommoll Suggested a break and changing the wording of the propositions.

Mlle. Char Reiterated elements of her original statement. She was concerned about the dual standards implied by asking for a 20% clear majority in the poll but accepting 12%. There was much outside influence being put on Chief Pleas to make this decision quickly and this was not conducive to a correct decision being achieved.

Sieur Rang This is not about changing "Option A" for "Option Z". It is to establish there was a misunderstanding on the poll figures presented and did that have any undue influence on the decision made by Michaelmas Chief Pleas?

**A 15 minute recess was called between 11.50am and 12.05pm
and to allow propositions to be reviewed**

Seneschal Invited Mlle. Char to indicate how she would wish to proceed with the existing four propositions.

As no alternative propositions had been prepared, there followed a series of exchanges between Mlle. Char, Sieur Gommoll and others to try and revise the propositions. Deputy Guille was even invited to assist. Various forms of words were attempted.

Dep. S Williams Suggested abandoning voting on this paper, letting Chief Pleas Members go away to read the new paper submitted that morning, speak to the public to assess their views and return at a future date soon, to vote on new propositions.

Seneschal It was clear that the will of the House was to vote today and these propositions as now drafted will allow that to take place.

Dep. Cole Asked for a name vote which was accepted by the Seneschal.

Mlle. Char
Mdm. Rang **Proposition 1A –
That Chief Pleas recognise that the vote of 4th October 2006 on propositions 1 & 2 of Item 8 of the agenda for that meeting was compromised on the basis that the true majority was 12% and not 27% as reported to Chief Pleas by the Constitutional Steering Committee.**

The named vote resulted in - 23 POUR, 12 CONTRE, 2 NO VOTES – **CARRIED**

Mlle. Char
Mdm. Rang **Proposition 1B –
That Chief Pleas recognise that the vote on 4th October 2006 on propositions 1 & 2 of Item 8 of the agenda for that meeting was compromised on the basis that the result of the opinion poll was misunderstood in Chief Pleas and by the People of Sark in that it did not fulfil the 20% majority criteria provided for by Chief Pleas by its decision of 9th August 2006.**

The named vote resulted in - 18 POUR, 17 CONTRE, 2 NO VOTES – **CARRIED**

Mlle. Char There then continued more exchanges to establish the wording for the remaining propositions. Having been curtailed in her original introduction to the paper she returned to her theme, acknowledging the work of the existing Deputies and their role in trying to represent the people of Sark. She referred to the original proposals and the response from the then HM Procureur Rowland who suggested that Counsel should be instructed to achieve a revised Constitution with the minimum of changes to ensure compliance with human rights law. It was clear that Sark has more independence than thought, as Guernsey cannot legislate for us and the UK cannot legislate for us domestically. Sark reports to the Queen and not Parliament and the UK can only intervene if there was a grave breakdown or failure. She has been advised by Leolin Price QC that we are not represented in the Privy Council, and our not being represented is unacceptable. Sark should be judicious about what legislation it accepts from outside. Examples today include the Financial Services Legislation and the attempt to charge Sark £195 per hour for legal services.

Dep. Dewe Questioned the assumption that the UK cannot make laws for Sark. It provided papers on a wide range of issues that had relevance to Sark and which had to be accepted by Chief Pleas.

Sieur Gommoll This was all getting too technical and it was wrong to quote laws without having the papers in front of us.

Dep. Cole Was disappointed in Mlle. Char's remarks about the Deputies. They were elected to represent the people of Sark but their voice was not always heard.

Sieur Donnelly He understood that he had come here today to vote on Constitutional issues and felt it helped nobody if remarks became personal.

Dep. Guille Agreed and didn't take Mlle. Char's words personally. He was surprised that Mlle. Char was quoting from HM Procureur Rowland, as he was the starting point when he first became involved. He understood that the proposition was attempting to look at new advice, not go back over old ground that has been assessed and regularly presented to Chief Pleas over the six years it has taken to reach the present level of introducing and approving a Projet de Loi.

Mdm. Rang The newly introduced paper has interesting up to date information.

Seneschal Who is paying for all this new legal advice from the current QC?

Mdm. Rang It is by a small group of people on the Island.

Mlle. Char Apologised to Deputy Cole and had only wished to acknowledge the problem of being a Deputy in finding a balance between making difficult yet popular decisions.

Dep. Dewe Ask for clarification on the intended proposition 2. Did the constituency members mean Chief Pleas and the People of Sark and not consultation with those outside.

Seneschal Agreed with that interpretation and Dep. Guille pointed out that consultation outside was included in proposition 3.
Further edits to the final wording of the propositions were negotiated and accepted by Mlle. Char.
Mlle. Char **Proposition 2 –**
Mdm Rang **That Chief Pleas suspend its decision taken on the 4th October 2006 in relation to the composition of Chief Pleas.**

The named vote resulted in - 21 POUR, 14 CONTRE, 2 NO VOTES – **CARRIED**

Seneschal Proposed a break for lunch and requested that the remaining propositions should be drafted in readiness for the return.
Sieur Gommoll Asked whether he could ascertain the position of the Constitutional Steering Committee before breaking for lunch.
Dep. Guille If Chief Pleas decides to set-up a new Working Party the CSC would stand down in favour of a new group as the Committee's mandate was completed and it had no further relevance.
Dep. Melling Questioned the need to look at Proposition 3.
Seneschal Deferred more discussion until the return.

Lunch Break from 1.00pm until 2.00pm

Dep. Guille Confirmed his comments before lunch. Later in the agenda, Chief Pleas will be asked to disband the Constitutional Steering Committee.
Mlle. Char Information was coming to light suggesting that too much concentration had been given to the Membership of Chief Pleas and not enough to many issues within the Projet de Loi that could be challenged.
Dep. Olsen Would prefer proposition 3 to have some reference to consulting the People of Sark abandoned in Proposition 2 and suggested a public meeting.
Sieur Baker More debate continued on the wording of the remaining propositions by Mlle. Char and others. Felt this assembly was being manipulated from outside this room. Chief Pleas should think very carefully before voting.
Sieur Donnelly The essence of "the document which cannot be referred to" is giving some control back to the people of Sark, gives Chief Pleas more control and removes some of the pressure coming from outside the Island. It gives back more control to Chief Pleas than it seems to realise it has available.
Dep. Guy Supported Sieur Bakers remarks.
Mlle. Char Regrets the House do not know her well. She has a background in the airline industry and has done all her own investigations and research and has only given instructions and not taken any.
Dep. Cole Sieur Donnelly wants to give Sark people an opportunity to consider but they have already been asked twice as well as all the public meetings held during consultation.
Seneschal Chief Pleas has already consulted the Crown Officers and the DCA.
Dep. Dewe The Queen wouldn't want a legislature in her realm that wasn't human rights compliant.
Mlle. Char It is implementation rather than principle that we are considering here – there are different ways of achieving human rights compliance.
Dep. Dewe Has been advised by DCA that "Option A" is human rights compliant and to say otherwise is scaremongering.
Sieur Gommoll There is a need to put the Projet to rights before moving forward.
Mdm. Rang To move forward we must agree proposition 3 or we are now suspended in a vacuum having suspended the Michaelmas decisions in proposition 2. What rights does Sark really have?
Dep. Cole There is nothing in proposition 3 to show that.

Mlle. Char **Proposition 3 –**
Mdm. Rang **Given a potential misunderstanding of the outcome of the Opinion Poll closing 6th September 2006 to the Chief Pleas, preliminary advice has been received from the highest quarters that this misunderstanding may render the vote of 4th October 2006 potentially subject to legal challenge. Since the consequences of this are potentially severe and have major implications, Chief Pleas should suspend further decisions of constitutional composition legislation ("Option A") until the full constitutional position is properly assessed and established by experts and further consultation with the constituency members.**

The named vote resulted in - 21 POUR, 14 CONTRE, 2 NO VOTES – **CARRIED**

Mlle Char Proposition 4 should be rewritten to put forward the creation of a new Constitutional Review Committee to examine the Projet and report its findings to Chief Pleas.

Seneschal Advised the House to hold back on this measure to consider fully whether such a new Committee should be mandated to review everything again. Don't take such a decision in the heat of the moment and hold this proposition in abeyance.

Mdm. Rang We cannot wait until Easter before instigating a new Committee.

Seneschal Proposed that it should be considered at the end of this agenda. It is unlikely that the rest of the business will be completed today and that will give Members the opportunity to discuss overnight and come back with a new proposition tomorrow.

Dep. Dewe It will also need to contain a mandate to define what the Committee is expected to do.

Seneschal Chief Pleas has had two public opinion polls to consider and after today's vote, the peoples opinions seem to have been rejected. Whatever comes back to Chief Pleas for final ratification must have public support.

4. Constitutional Steering Committee Report The Reform (Sark) Law, 2007

Dep. Guille Suggested that following the outcome of the previous item, this report should be withdrawn with Chief Pleas' agreement.

Seneschal Advised that the propositions could be withdrawn but that the Projet de Loi should stand and would allow a debate to give the House a view and to see from where the objections were coming.

Dep. Cole Enquired about the Rules of Procedure and was told that they had now been reinstated.

Dep. Guille Explained the amendments shown in the report. These, the title of the Projet and the name of Conseillers, were the only outstanding issues following previous consultation with Chief Pleas and had been incorporated into the document by the Law Officers. Chief Pleas had already decided to include the option of postal voting, making it available to possessors of property, and the law had been written in a flexible way so that the ethos remains changeable by ordinance in the future should that be required.

Issues relating to the Seneschal and Seigneur have the safeguard of approval by or at the discretion of the Lieutenant Governor, HM representative in the Bailiwick, who has the right of veto. Subsequent considerations would then be returned for Chief Pleas to decide.

When the DCA were shown the draft Projet de Loi, the only two issues raised were those changes now incorporated by the Law Officers. Chief Pleas fought hard to retain the rights of the Seigneur and the Seneschal as they appear in the legislation today, and the House should be wary of outside influences being brought to bear. For those who are still criticising the Projet, you should consider carefully at what you are trying to undo and for what purpose.

Deputy Guille remained confident that the Projet would be approved by the Privy Council.

Dep. Cole Questioned the definition of "ordinarily resident in Sark".

Seneschal Chief Pleas had agreed to follow the tax definition as shown in Section 29 (5).

Dep. Guille Said that there was a danger of people not living here, having the right to vote (including through postal voting) or standing for election and being automatically voted in if 28 or less nominations were received.

Sieur Gommoll Asked who the "he" referred to at the end of Section 65 (1)

Dep. Guille It referred to the Chief Officer of Guernsey Police.

Seneschal He works very closely with the Sark Constables. It is a clause carried forward from the 1951 Law but in today's language.

Dep. Olsen Surely the "he" refers to the Sark Constable.

Seneschal Could be interpreted anyway and as many way as the number of lawyers involved.

Dep. Guille Warned that if such individual points are to be teased out, one should be careful if tinkering with this final draft, not to compromise the integrity of the whole.

Seneschal Pointed out the catch all clause at Section 65 (3) which gave the Lieutenant Governor authority if the Sark Constable does not call for "professional" help if it is considered necessary.

Sieur Teers Asked why Lieutenant Governor should approve the salary of the Seneschal.

Seneschal The level of salary was made by Chief Pleas as the Government of Sark but needed the consent of the Lieutenant Governor as HM representative.

5. Finance Sub-Committee Report Resolution at Chief Pleas on 4th October 2006

Sieur Raymond Introduced the series of reports, starting with the approved proposition from the Michaelmas 2006 meeting of Chief Pleas, following with a summary of the present position, as outlined in the report and a reminder that Chief Pleas has never interfered with land ownership. The Sub-Committee now felt the time had come for this issue to be progressed. He emphasised that it was not setting up a Land Registry but a register of property interests, expanding on what was already held in the Cadastre.

Sieur Raymond	<p>There were two basic terms of entitlement and these were explained in the report. This would allow maximum usage of land, especially agricultural land. The Tenants are more restricted in their buying and selling than are those with leaseholds and such restrictions must be unique in the western world. It is questioned whether to maintain such restrictions are in the Islands best interest. The Letters Patent of 1611 introduced the restrictions to maintain a defined garrison for Island defence but cost escalation and growth means the restrictions have no justification in a modern economy and are acting to Sark's disadvantage.</p> <p>If we are to introduce mortgages, there is a need to have a mortgage register alongside the property register in order that would-be purchasers can check as to whether there is a charge on the property involved. Propositions are attached to this first report.</p>
Seneschal	Pointed out that the right of Retrait Lignager (incorporated in Proposition A as the first item) is now embodied in the modern 1999 Law.
Mdm. Rang	Is against the removal of Retrait even if it is no longer effective for newcomers, it should be retained for Sark families if required.
Dep. Guy	Although the benefit for young Sark families was understood, is there a danger of more people buying in Sark because it's easier. If re-mortgaging the property, the ownership moves to the mortgage company or bank.
Sieur Raymond	One can't restrict the option to Sark people only; the market will find its own level. Prices have already risen without mortgages being available. People are buying, using funds from the sale of business outside the Island and are not coming to Sark to work or set up new business. There is a need to encourage development of commerce other than that directly associated with tourism.
Dep. Cole	It is an interesting proposal but has concerns about the social implications and the impact on Sark infrastructure. An increase in population could have a negative impact – the additional cost of schooling at £3K per child per annum could be used as an example. We don't want Sark to become another Jersey or Guernsey. Already "400million people are allowed to live on Sark" so we don't want to encourage too many.
Sieur Raymond	The proposals are aimed at the young people already here to lower the cost of their borrowing requirement. The object is not to increase the Island population significantly.
Seneschal	The restriction by nationality is really to restrict ownership of tenements to avoid foreign political involvement. If the tenants no longer have automatic involvement in a newly constituted Chief Pleas, the safeguard can be removed.
Seigneur Sieur Donnelly	<p>There is already pressure to allow residential rights to people from EU countries.</p> <p>As someone born an Irishman, he agreed with Deputy Cole and has no wish to slow the process but advised proceeding with caution. We must give local people priority if possible. Sark people have no track record against which the Banks can assess applications. We must try to avoid an influx of outsiders at the outset and adopt a softly, softly approach with careful management as has been done, for example, in the Cayman Islands, where it heavily restricted in favour of local people.</p>
Sieur Raymond	Reminded the House that Sark people are protected by the existing housing restrictions which require those wanting to build new property or occupy property built since 1976, to live on the Island continually for 15 years in order to qualify.
Dep. Olsen	Having gone through the rigours of becoming an English National, the nationality restrictions should be retained.
Sieur Rang	Suggested that mortgages should not be allowed without a 15 year qualification of residency.
Mdm. Hester	Supported the concept of mortgages on Sark and, if available, young Sark people could also purchase on the open market and not just local housing.
Sieur Rang	His idea would allow young Sark people to buy their own property.
Sieur Gommoll	Leaseholds are usually owned by Sark residents. It wouldn't be human rights compliant to restrict who was able to buy with a mortgage.
Dep. Dewe	Declared a personal interest in that he had nine grandchildren on Sark and Guernsey. There was a need to provide an opportunity for them to remain here and give them the ability to accumulate sufficient earnings through a commercially generated all year round job.
Mdm. Hester	Almost agreed with Deputy Dewe but we mustn't be too restrictive as there is no wish to deter those who could offer jobs.
Mlle. Perrée	There used to be a Trust from which local youngsters were able to borrow money at favourable rates.
Seigneur Seneschal	<p>Confirmed that this was La Ville Roussel Trust, but the money had run out long ago.</p> <p>Less than £40K left in the fund and you need available land on which to build.</p> <p>(NOTE: Chief Pleas recently spent £53k from the fund on upgrading Ivy Cottage [Teacher's House]).</p>
Dep. Guy	The Sub-Committee will have clearly received the message from the remarks made in debate, that some form of restriction must be included in the remit given to the Law Officers before drafting legislation.

Mlle. Perrée
Sieur
Raymond

It must be possible, surely?
Reiterated the need for commercial development and people who might want to start a business, who will not do so if the mortgaging of property is not possible. He agreed with Deputy Dewe that there is a need to introduce more wealth and prosperity to the Island.

Mlle. Char
Sieur
Raymond

There is a need to have Business Mortgages not just residential ones.
We must concentrate on removing the restrictions and leave it to the Banks to find their own level of lending.

Dep. Dewe
Sieur Rang

If you mortgage a property you can use the money for any purpose, not just to purchase it.
Agreed with Deputy Cole – it needs to be carefully managed and restricted by a 15 year residential qualification.

Mlle. Perrée
Seneschal

Where did all the money go from the Trust?
Directed her to the Trustees who would be able to provide her with the information.

Proposition A1 –

That Chief Pleas resolves to amend the Letters Patent of 1611 to exclude the restriction which prohibits the imposition of any charge payment or encumbrance other than those that are required by the Seigneur.

Proposition A1 was CARRIED

Seneschal
Sieur
Raymond

Before dealing with Proposition A2, definitions were requested for removal of the nationality clause.
The current restriction is on Tenements and Freeholds only
Given the earlier points raised, his Sub-Committee wished to withdraw Proposition A2.

Proposition A2 was WITHDRAWN

Sieur Rang

Before considering Proposition B, he assumed there was nothing compulsory here and that the House should ensure that it was only an exploration by the Law Officers for advice only.

Dep. Dewe

Having been on the end of litigation on a leasehold property, which fortunately went his way, the validity of a lease needs to be clarified to give peace of mind to the purchaser.

Proposition B –

That Chief Pleas authorises the Sub-Committee to explore with the Law Officers, whether there is any other necessary step to ensure that long leaseholds of a fixed term confer the implied security of tenure.

Proposition B was CARRIED

Proposition C –

That Chief Pleas authorises the Sub-Committee to explore with the Law Officers what other matters may be necessary to enable property to be mortgaged on Sark.

Proposition C was CARRIED

A 10 minute recess was called between 3.50pm and 4.00pm

5a. Finance Sub-Committee Report The Mortgaging of Sark Property

Sieur
Raymond

Introduced the report which advised on the working arrangements of the system. The Cadastre already existed but a lease register would become available at the Greffe Office. All the details are in the report and much has already been said on mortgages.

Sieur Hurden

Asked who would undertake the documentation in the Greffe Office, to which Sieur Raymond responded that it was only filing as the papers were prepared by a lawyer.

Dep. Cole

Suggested that this would be useful for a number of reasons but how was it funded? Sieur Raymond said it would be covered by Property Transfer Tax.

Dep. Guy
Sieur Rang

Could the quarters also be registered. Sieur Raymond confirmed this was already in the Cadastre.
In the last report we voted for mortgages to be explored by the Law Officers so why are we voting now for a mortgage register.

Sieur
Raymond

Because we are trying to put a system in place ahead of any introduction of property tax etc. We are establishing the machinery before we press the go button.

Mlle. Perrée
Sieur
Raymond

Must try other ways of raising money for young people
The initiative must come from the Banks and they have accepted this as a way forward. Any drafting by the Law Officers has to come back to Chief Pleas for approval before anything can go ahead.

Dep. Dewe

It will take an Order in Council – an enabling law which can be instigated by Ordinance.

Mlle. Char
Sieur
Raymond

Could Proposition 4 be clarified? Is there sufficient support for the Law Officers to do the drafting.
Law Officers will not talk or draft without the approval of Chief Pleas. They also have wide knowledge of the overall and sometimes particular laws pertaining to the Channel Islands.

Sieur Teers

The previous proposition was to ensure that nothing has been overlooked. This is an authority to set-up an enabling law.

Seneschal

You won't get this back from the Law Officers in time for the Easter meeting, probably not until late in 2007, which is why Chief Pleas needs the enabling approval now.

Sieur
Gommoll

Supported Sieur Raymond – it may be possible for the Law Officers to adapt existing Guernsey Law which would cost less.

Proposition 4 (taken out of order) -

That Chief Pleas authorise the Sub-Committee to request the Law Officers to draw up legislation to give effect to the above.

Proposition 4 was CARRIED

Proposition 1 –

That Chief Pleas authorises the creation of a property register to identify the nature of the interest and geographical extent.

Proposition 1 was CARRIED

Proposition 2 –

That Chief Pleas agrees to introduce compulsory registration of assignable interests from the occasion of the next transaction.

Proposition 2 was CARRIED

Proposition 3 –

That Chief Pleas authorises the creation of a mortgage register to record all charges against Sark property raised to secure indebtedness.

Proposition 3 was CARRIED

5b. Finance Sub-Committee Report

The proposed surrender of the Seigneurial Right to Trezième and the Seigneurial Congé

Sieur
Raymond

Introduced this paper following the decision of the Seigneur to relinquish these rights. The Seigneur will remain as the titular head of the Island government and of the land ownership chain, and consequently needs to remain on the Island. He cannot seek employment or gain income from elsewhere and has asked for a recompense for these duties of £28K per annum. The introduction of a Property Transfer Tax in place of the Trezième would be sufficient to pay this annual reimbursement and in addition would generate an estimated £100K income for the Island.

The surrender of the right of congé has implications which Chief Pleas should consider and it would mean that the Island would rely on immigration control through Guernsey.

Seigneur

Accepted that the loss of the right to congé would need to be considered carefully but it only applies to purchasers of tenements and freeholds and in future such ownership will no longer give an automatic right to a place in the Island government.

As to the trezième, Seigneurs in Guernsey were replaced some years ago and were compensated by receiving annual payments of half the average trezième for seven years following which payments ceased. However, the Seigneurs had no further responsibilities or duties. The Seigneur of Sark would remain responsible to the Crown, through the Lieutenant Governor and would be the Queen's representative on the Island of Sark. If the Guernsey formulae were applied, the reimbursement would be much higher.

By introducing a Property Transfer Tax, this would more than cover the cost and would assist in dealing with any problems relating to changes in land tenure and mortgages for leaseholds.

He was willing to support this proposal.

Mlle. Bull

Is concerned with the loss of congé and the purchasers having to receive permission to buy property. Is there anyway to ensure purchasers are "clean". There should be some form of built-in safeguard.

Seneschal

Reminded her that there were no checks on anyone moving into a leasehold property, only tenements. The only safeguard is immigration law.

Seigneur

Has only once refused congé on advice from lawyers. With human rights legislation, any refusal could be challenged.

Dep. Dewe

Sark should be no haven for undesirables but there were no safeguards anyway.

Sieur
Donnelly

When dealing in fiduciaries, checks have to be made and could be similarly applied here. Surely the Seigneur's duties could be defined to make it easier for him.

Seneschal

It is not a job description as it would be if we were employing the Committee Secretary! The Seigneur's duties were embodied in law.

Mlle. Char

The removal of trezième and congé could have some impact on the Crown.

Sieur Teers

If the £28K is not realised, does it come out of taxpayers pockets?

Sieur
Raymond

With thanks to Mdm. Hester (Sark Estate Agents), it has been possible to calculate from past experience that over £100K could be expected from a Property Transfer Tax which would cover it comfortably. Income may vary from year to year but should always be sufficient to cover the outlay.

Mdm. Rang

Is worried about mixing the two together. She is happy to recompense the Seigneur using income from a Property Transfer Tax, expected to be at a rate of 4% but why not keep it at the existing Trezième at almost 8% as a form of stamp duty.

Sieur Raymond: The figures shown are purely illustrative and show that such a method is feasible. Trezième and congé would not be removed until the Property Transfer Tax was in place.

Sieur Teers: Preferred the trezième because it was paid by those buying. He remained worried about where all the money was coming from to pay for all the new Deputies.

Seneschal: Explained that there were no proposals for Deputies to be paid.

Sieur Teers: Does this mean we could see a reduction in Island Taxes?

Mr P. Perrée: There remained a need to check incoming purchasers.

Sieur Guille: Could tax on leaseholds be introduced first and let the removal of trezième and Seigneur's "salary" come later.

Sieur Raymond: His main concern is the implications of removing congé.

Mlle. Char: Could the Law Officers draft legislation and Chief Pleas still turn down the surrender of the Seigneur's rights later – she was concerned about control and sovereignty.

Sieur Raymond: Nothing will happen until legislation is drafted and approved by Chief Pleas.

Sieur Donnelly: Could the same thing be achieved by the Seigneur keeping £28K of the trezième and giving the rest to the Island. General laughter and cries of "nice try"!

Dep. Dewe: Reminded the House of the legal procedures which will be fully transparent – why are we worrying?

Sieur Curtis: Asked whether the Court could not demand a criminal check on any new purchaser.

Seneschal: It would have to be written in law but could be possible.

Mlle. Char: Concerned at the wording of the first proposition and Sieur Raymond agreed to add "in principle".

Dep. Le Lievre: There is no safety valve on the Seigneur's duties included in the propositions.

Sieur Raymond: These will be embodied in the Law.

Proposition 1 –

That Chief Pleas accepts in principle the surrender of the Seigneur's rights to grant Congé and to receive Trezième, and in exchange grants the Seigneur an annual payment at a commencing sum of £28,000 per annum, such sum to be increased in line with progressive movements in the retail price index of Guernsey, or any other suitable indication of inflationary trend.

Proposition 1 was CARRIED

Proposition 2 –

That the Finance Sub-Committee be instructed to request the Law Officers to draft the necessary legislation to give effect to the above, and to the Property Transfer Tax from which fund payments to the Seigneur will be made.

Proposition 2 was CARRIED

5c. Finance Sub-Committee Report A proposal for a General Property Tax

Sieur Raymond: Reminded the House that the previous attempt to introduce this Tax had failed because of objections from Sieur Gommoll. This had been overcome by including him on the Sub-Committee and his help in the preparation was appreciated.

The proposal was simply and clearly defined in the report but he drew attention to the excess of £50,000, included as a "relief" for young Sark residents.

Under B, the assignment would be embodied in the law.

Chief Pleas could add-in the differentials of 7½% for tenements/freeholds and 4% for leaseholds, as previously discussed, but this could invite manipulation, would increase the complexity of legislation and would need to be policed.

Sieur Donnelly: Asked if there was anything for young people to obtain a rebate to assist them when purchasing?

Sieur Raymond: Have tried by introducing the excess of £50,000. If this is not adequate, Chief Pleas can tell us.

Seneschal: This excess catches and benefits all and not just the young.

Sieur Gommoll: There is no need to set the rate of tax today but he favours keeping the percentages the same to avoid complications. There are benefits either way and he gave examples. He assumes the rates could be changed at some future date by Ordinance.

Mdm. Hester: Long term, if rates were split, the tenement house could be leased out, which was just one way around the legislation and should not be encouraged.

Proposition

That Chief Pleas authorise the Finance Sub-Committee to request the Law Officers to draft the necessary legislation to introduce a Projet de Loi to tax all registrable Sark property interests.

Proposition was CARRIED

The days proceedings were concluded at 5.10pm with a resumption at 10.00am the following day

DAY 2 – 18th January 2007

6. Agreement between Sark and Brecqhou

Proposition by Deputies A. Guille and Ms. J. Guy

- Dep. Guille At the Michaelmas 2006 Chief Pleas meeting (Item 10), during a suspension of the Rules of Procedure, an opportunity was given to introduce a proposition to restrict any agreement with Brecqhou ahead of a newly formed Chief Pleas, which at that stage was considered could be as early as Easter 2007. This was not done then but a report with proposition is submitted today. Although he supported the setting-up of the Brecqhou Liaison Sub-Committee and did not wish to delay any agreement, he considered that the issue was an outside pressure which could well wait until the constitutional arrangements are sorted.
Brecqhou should not be treated any differently to other parts of Sark. Requests to limit tax burdens, as the whole range of services cannot be given to Brecqhou because of the physical separation of the Island from Sark, as well as concessions in Housing Law, have all been considered and special arrangements made. What would Chief Pleas do if any of the other 39 tenements asked for special consideration? Once a benchmark is set with Brecqhou it could create a precedent for others. He agreed that Chief Pleas should look at an arrangement in the future but not until we have put our own House in order.
- Dep. Guy As co-author of the report she too was not trying to stop negotiations – jaw/jaw was better than war/war – but an agreement at this stage would be premature.
- Sieur Gommoll Declared an interest as a member of the Sub-Committee, but its views are independent without pressure from Brecqhou or anyone else. He is against the proposition as it binds Chief Pleas in the future. There are all sorts of agreements required before the newly constituted Chief Pleas is formed – the agreement with St. James' Chambers on legal fees is one such. Discussions towards a Memorandum of Understanding (MOU) should continue with Chief Pleas having the option to hold the MOU, once reported, in abeyance if it so wished.
- Mdm. Rang Was surprised to see this report on the agenda and thought it contemptible and it ostracises a Member of this House. Wished the item to be withdrawn.
- Dep. Olsen The report was raised at his surgery – it should include all tenements not just Brecqhou.
- Dep. Cole Supported the report as resolving the Sark Constitution issues should be the first priority.
- Sieur Donnelly Had hoped to bring a report to this meeting of Chief Pleas but members of the Sub-Committee were travelling before Christmas and could not come together to resolve the report in time to meet the deadline required for submission and despatch. The Sub-Committee has now submitted the report to GP&F and discussed it at a meeting with the Committee on 10th January.
He saw the work of the Sub-Committee as a three stage approach with this new report being the second stage. Once the document is discussed, refined and agreed with both parties, the Sub-Committee intended to move onto drafting a MOU or to take whatever course of action Chief Pleas directs. There is no intention to force anything through Chief Pleas but anxious to move forward.
- Sieur Hurden There is nothing in this proposition that stops negotiation. It only stops the signing of an agreement.
- Dep. Dewe Has a copy of the report – it was received ten minutes before the deadline for Chief Pleas' reports. It needs to be circulated to GP&F Committee members for initial consideration and comment before being released or taken forward. Sieur Donnelly has now presented the report to GP&F at a meeting last week and given permission for the Committee to consult more widely once some minor edits and refinements are made to it by the Sub-Committee. It will be sent to HM Procureur, in Guernsey, for comments as well as to others who may wish to comment.
- Sieur Baker Agrees with Mdm. Rang and Sieur Donnelly that the Guille/Guy report suggests that Chief Pleas are unable to make decisions about the Brecqhou issues. The MOU is not an agreement; at present Brecqhou do not recognise that they are a part of Sark and anything to move forward on promoting a better understanding of those issues should be encouraged.
- Sieur Rang Supports Sieur Baker and agrees this report is an insult to Chief Pleas Members, especially the Tenants. How would a new House, possibly with inexperienced Members, be able to make a better decision than Chief Pleas today?
- Mlle. Char Agrees with Sieur Gommoll and that the proposition should be turned down. What is the difference between the new Assembly and this one?
- Dep. Guille If Chief Pleas throws out his report he has no problem with that but he was asked to prepare a report at Michaelmas Chief Pleas. Agreed we should continue talking and supports the work of the Sub-Committee. He lost six years of his work yesterday on the Constitutional Steering Committee issues but that is Chief Pleas' decision which he respects and the same will apply to the House's decision on this report as well.

Sieur Gommoll Supports Deputy Guille's attitude – nobody should take offence with the reports submitted – they can be rejected if it is the will of the House. Why this issue should be singled out from any other, surely puts the Seneschal in a difficult position.

Seneschal In future, if he remains Seneschal, he will continue to accept any report submitted on its merits. This proposition was written on the assumption that "Option A" and the Projet would be taken forward yesterday. As that proves, nothing is binding on Chief Pleas; the Assembly can overturn any decision in the future.

Mlle. Char Still wanted to know what the difference would be between this House and a new one.
 Dep. Guy The new House would be fully elected.
 Dep. Dewe There is a perception that Chief Pleas is being pressured into making a decision before the new government is formed. He would have liked the Brecqhou Report to have been considered today but the GP&F Committee and then Members of Chief Pleas need time to give it proper and unhurried consideration. Yesterday, the constitutional issues were delayed because Members didn't want to rush into anything, today they want to push on for an agreement.

Sieur Donnelly Couldn't understand why the Guille/Guy Report came up today and why it was not held back until the Brecqhou Sub-Committee's Report was submitted and considered by Chief Pleas.
 Sieur Guille Agreed with Deputy Dewe that proper consideration should be given to reports brought to Chief Pleas.

Sieur Gommoll An MOU is still a long way off. Could understand the need for this report if GP&F had submitted the Brecqhou report or some form of agreement today. The Brecqhou Sub-Committee has no powers and all its findings have to be filtered through GP&F anyway. Would be surprised if this proposition was even voted on. Can understand the argument about a fully elected House to vote on any agreement but we are still a long way from reaching that stage.

Mdm. Rang Stated that when she brings matters to Chief Pleas she uses her head and not her heart. Are we going to wait on any new decision being made until a newly elected House is voted in?

Seneschal Not at all – the report has now been submitted and it will be brought to Chief Pleas for discussion in due course.

Sieur Raymond Considered that this proposition is premature and should wait until a report to identify the issues is brought before the House and can be fully considered.
 Mlle Char By not withdrawing this report, is it suggested that this House is prejudiced? Surely it is wise enough to consider what is best for the Island? She trusted Sieur Gommoll's view and supported it.
 Deps. Guille Is glad there has been a chance to debate the issue. He reiterated the Seneschal's earlier remarks that it had been submitted believing that the Constitutional Projet would go forward and be concluded. Accepted that Chief Pleas is suggesting this is the wrong time to go with it and would be foolhardy to persist because it is too soon. There was never any intention to slur anyone here.

A five minute adjournment was taken to allow Deputies Guy and Guille to confer.

Dep. Guille Withdrew the report but asked that Chief Pleas note the issues raised in it.
 Sieur Rossford The owners of the Brecqhou tenement choose not to attend meetings of Chief Pleas. Could he
 De Carteret have a special agreement if he too chose not to come?
 Seneschal No!

Dep. Melling Asked why HM Procureur would see the report before Chief Pleas.
 Dep. Dewe Would not like to bring anything contentious before Chief Pleas before taking legal advice. This is no different.

Seneschal Supported that statement – any agreement has Crown consideration and to which they might have objection. St. James' Chambers sometimes ask for papers. Any agreement with Brecqhou does not just involve Sark and Brecqhou, it has implications for the Crown as well.

Sieur Donnelly The draft report recommends that it should be seen by HM Procureur but had not realised the report needed to be vetted by HM Procureur. Glad the issue has come to light.
 Seneschal St. James' Chambers is there for any Committee President to consult for advice and assistance. There is nothing improper in the President of GP&F seeking legal advice.

Mdm. Rang May not be improper but impractical – it's only a report and could be amended before going to St. James' Chambers.

Seneschal It is impractical for all papers to come to Chief Pleas without sometimes taking legal advice to ensure the House was not being misled.
 The report is withdrawn and this closes the debate.

7. General Purposes & Finance Committee Report

Proposed charges by St. James' Chambers for legal services

- Dep. Dewe Informed the House of a meeting fixed for next week (24th January) between HM Procureur and Members of the GP&F Committee. Some items for charging are cut & dried but others are negotiable. The following will be attending – Dep. Cole (GP&F and President Education), Sieur Baker (GP&F), Dep. Guille (President DCC), Dep. Dewe (President GP&F) and the Treasurer.
- Dep. Olsen Asked if the payment of £195 per hour is retrospective or is the clock already ticking?
- Dep. Dewe HM Procuruer has suggested that it is as of now. There had been no official approach but two Presidents (DCC & Education) had received e-mails warning of the imposition of charges. The fee quoted was the amount that is recoverable when charges are made by the Royal Court. It is suggested that Sark legislation takes up half a legal draughtsman per year but he will be better informed after the meeting next week. Chief Pleas is increasingly using St. James' Chambers with the amount of new legislation required. Bailiwick legislation will not be charged
- Sieur Hurden 1000 hours at £195 per hour seems to amount to a considerable sum.
- Sieur Guille Asked when the initial e-mail was received to which Dep. Dewe confirmed November 2006.
- Seneschal Has raised his concerns with St. James' Chambers about the way we had been informed. They were reminded that Sark had just fixed the 2007 budget and he had supported Deputy Dewe in calling for a meeting with HM Procureur.
- Sieur Raymond Gave warning of the budget implications. There were ways of reducing such rates. A reimbursement could be applied rather than a rate which involves an element of profit. Nevertheless, we shouldn't let the cost of St. James' Chambers govern our preparation of legislation. There was another issue that should be taken up with HM Procureur during this opportunity and that was for Sark to be sent copies of recommendations sent by HM Procureur to the Privy Council on issues involving Sark.
- Seneschal Looking ahead to Item 22, where it is recommended that the Finance Sub-Committee should become a Full Committee, would it not be advantageous for the Chairman of the Finance Sub-Committee to also attend. (There was a murmur of approval from the House).
- Sieur Rang Asked why Deputy Guille was going?
- Dep. Dewe Deputy Guille had been one of the two to receive the original notification and, as President of Development Control Committee (DCC), he makes considerable use of the Law Officers. Sieur Raymond had been excluded because it was well known that he did not see eye to eye with HM Procureur.
- Dep. Guy It must be stressed to HM Procureur that this was bad timing and could the fees start from 1st January 2008.
- Mlle Char Was still finding out facts and gaining knowledge but is concerned that we are not putting our best people forward for the benefit of the House. She supported Sieur Raymond attending.
- Dep. Dewe Refused to go if the House has no confidence in him.
- Sieur Gommoll How sad it was to hear such an exchange. He would be surprised if HM Procureur and Sieur Raymond were not professional enough to set aside any differences. Deputy Dewe, as President of GP&F should also act professionally. The discussions at the meeting could be wide ranging and cover many issues. Is this someone, close to having a monopoly on legal work, levying a charge on another party which has little choice to go anywhere else for legal assistance? Presumably, there is a liability for charges already incurred in November/December 2006. He outlined his own charging practise when dealing with clients in Guernsey who can claim legal aid.
- Seneschal Asked who was attending from Guernsey.
- Dep. Dewe HM Procureur and probably Crown Advocate Richard McMahon.
- Seneschal Suspect that this initiative has come from Guernsey politicians,
- Dep. Dewe The States departments were unaware of the issue when it was raised at one of the recent meetings with them. The recent letter from HM Procureur had a copy to the States Treasurer and Resources. Starting date was unclear and the £195 hourly rate was not necessarily what Sark would be charged. Constitutional issues will be free.
- Dep. Cole He agreed with Sieur Baker that we know too little about the detail and should not debate it as it is conjecture. He had no objection to Sieur Raymond attending. Surely, Chief Pleas can leave the decision of who attends to GP&F.
- Mlle. Perrée Could the Seneschal not speak with Crown Advocate McMahon?
- Seneschal No!
- Mlle. Char Although we are in the Bailiwick of Guernsey we are not subjected to Guernsey Law apart from strategic issues.
- Seneschal We know that criminal legislation can only be made by Guernsey. Chief Pleas alone can decide what Guernsey civil law is acceptable for Sark and the House is frequently asked to consider the application of such legislation and can adapt it for Sark needs if necessary. There is no need to go off researching on the internet.

Mdm. Rang Seneschal Can the deputation consider that Jersey might give us a cheaper rate?
 Chief Pleas has the right to buy legal advice from anywhere but it still has to be submitted through St. James Chambers in Guernsey to go to the Crown for approval.

Mr P. Perrée Dep. Dewe Does the Island Insurance cover issues of litigation?
 Present Island insurance does not cover for litigation but this is currently being investigated. There were moves taking place in the Islands to clarify and review the relationship with the UK and the EU. He had managed to open doors in Guernsey and was establishing a better relationship with both politicians and officers and much help is being given. In the discussions, Guernsey wants Sark to be an economic success and has no wish to take Sark over.

Seneschal Will Deputy Dewe attend next week?
 Dep. Dewe If he cannot specify, as President of GP&F who should attend, he will resign.
 Seneschal Perhaps we had better wait until Item 22 before we resolve that issue.

8. Finance Sub-Committee Verbal Report Financial outturn for 2006

Sieur Raymond Thanked the Treasurer for assisting in the preparation of this verbal report.
 The following points were critical in appreciating the successful outturn for 2006 –

Revenue

- o Impot was down £50k on budget but up £50k against 2005;
- o Investment income was up £15k;
- o Direct Tax – Poll Tax – Import Duties – were all up and other revenue sources show small improvements.

Expenses

- o Shipping support saved £40k;
- o Unforeseen and miscellaneous charges saved £67k;
- o Douzaine (Constables) saved £25k.

The net result is £140k better than budgeted, probably in part due to freak circumstances this year.

9. General Purposes & Finance Committee Report

The Personal Property (Succession)(Sark) Law, 2007

Proposition –

That Chief Pleas approve the Projet de Loi entitled “The Personal Property (Succession)(Sark) Law 2007”

The proposition was CARRIED

10. General Purposes & Finance Committee Report

The Financial Services Legislation (Bailiwick of Guernsey) Law, 2006

Dep. Dewe A similar report was withdrawn at the last moment from Michaelmas Chief Pleas 2006 at the request of the States of Guernsey and HMP following consultation through the GP&F Committee which, having consulted Sark Association of Corporate Administrators (SACA), found an area of disagreement within the Fiduciaries Law. This is now returned with revised wording and SACA have been consulted and have agreed the amendments.

Sieur Gommoll Could Deputy Dewe explain how much legislation, drafted by Guernsey gives Sark the power of veto over decisions being adopted by Guernsey?
 Dep. Dewe The purpose of this legislation is to give Guernsey the opportunity to change the legislation through Ordinance to avoid delays and react more quickly to changing financial situations.

Sieur Gommoll Clause 4 of the Projet - “Amendment of Regulation of Fiduciaries Law” - in which reference is made to Section 57A, sub-section 4(a) with GP&F being consulted before an Ordinance is drafted. If Guernsey do not consult, the ordinance is not invalidated and Chief Pleas can only veto in retrospect if it is aware of what has been passed through the Guernsey’s States.

Dep. Dewe Chief Pleas has the opportunity to comment and veto on changes by Ordinance to Fiduciary Law,
 Sieur Donnelly Declared an interest as he was involved in fiduciaries. He considered that such legislation handed more power to Guernsey and removed the rights of Chief Pleas. He was anxious to work with GP&F on fiduciary issues. Guernsey has been looking after our interests but Sark needs more input because St. James’ Chambers, when drafting legislation are advising both Guernsey and Sark and there could be a conflict of interests. It may be necessary to expedite new legislation specifically for Sark. He requested that approval of the proposition should be delayed for more consultation.

Seneschal Explained the procedures of law making in Guernsey. With the Financial Services Legislation, it can only be changed at present by Projet de Loi which has to go to the Crown and results in significant delays before the changes can be enacted. This current Projet gives Guernsey the ability to make changes by Ordinance, speeds up the whole process and allows the finance industry to react more quickly to changing situations.

Seneschal Guernsey are committed to consulting but agreed that if they forgot, the law would stand. The exception here is Fiduciary Law where they are required to consult with GP&F before and during drafting and an Ordinance has to be approved by Chief Pleas for the legislation to apply to Sark. Currently Guernsey has to seek Chief Pleas' approval to any amending law before enactment procedures can start.

Sieur Gommoll Declared an interest as he was involved in fiduciaries and thanked the Seneschal for his explanation. Clause 57A was now understood but Deputy Dewe had suggested that GP&F do not have to report changes to this House.

Dep. Cole There are four parts to this Financial Services Legislation which is Bailiwick-wide. Banking and Business Insurance have no base in Sark and therefore legislation can embrace Sark but does not require a power of veto. Fiduciaries Law is different as Sark does have direct involvement which is why a power of veto has now been included in this element. In Clause 57A, sub-section 5(a), Sark has four months to object and pull-out of any approved ordinance if it so wishes. The revision was passed to SACA for their views and was approved.

Mlle. Char Seneschal Remains concerned that if Guernsey fail to consult, the legislation is automatically applied to Sark. Receives every Billet of Guernsey Legislation and copies are kept by the Seneschal, the Greffier and the President of GP&F. There is also prior notification of legislation coming-up. There is a system set-up to keep us informed of what is happening in Guernsey and the same works in reverse.

Mlle. Char Seneschal We are obligated by Guernsey Laws but how we implement them is down to us? Chief Pleas has already approved the Laws that apply to Sark. Regulation of those laws is passed to Guernsey but we have the power not to apply it in Sark.

Sieur Gommoll Dep. Dewe Also remained concerned at the potential failure of Sark's power of veto.

Dep. Dewe The Law will apply in Guernsey but only in Sark if Chief Pleas has approved its application within the four months.

Seneschal It could become law if Sark does not refuse application within the four months. This applies to all three parts of the Bailiwick – Guernsey, Sark and Alderney. The four month period recognises the interval (under the new Constitution) between Chief Pleas' meetings. This Law in its revised form was passed by Guernsey in December and is being considered by Alderney next month.

Mlle Char Dep. Guille Recommended that the House did not approve it as it was giving away Sark's powers. When this was previously withdrawn, it was because SACA were not happy with the provisions. The mechanism of opting out has been included and Deputy Cole states that SACA have been consulted and are satisfied.

Sieur Rang Dep. Cole In any new Ordinance wouldn't it be better if Sark could opt-in rather than opt-out? Had understood that SACA were accepting of the rewrite following a consultative meeting. To refuse today would delay the implementation of the Guernsey legislation with wider implications.

Sieur Raymond Seneschal Declared an interest as a Member of SACA.

Sieur Gommoll Is not a member of SACA. We must not give away Sark rights to govern.

Seneschal Changes through Projet can take up to nine months. By doing this through Ordinances any change is speeded up.

Sieur Baker Was present at the GP&F meetings with Guernsey Officers and Politicians. The right of Sark to veto legislation was discussed and it was not thought this could be included. Following negotiations, including those with SACA, we now have a veto. It is very unfair to suggest that the Projet should not be approved after all that GP&F has achieved to meet the original objections.

Mlle Char Seneschal Guernsey and Sark are approaching the same legislation from different perspectives.

Sieur Donnelly There is a need to deal with Guernsey in a more transparent way. There are no specific consultation arrangements in place to ensure all interested parties are involved during consultation. He warned of going down this avenue with this legislation.

Dep. Dewe Any amendment now would require Guernsey to pull the Projet again and delay it being sent to the Crown. HM Procureur was clear that Sark cannot veto Bailiwick Ordinances and can only be voted on by Guernsey only. This particular one gives Sark veto without mentioning the word. There has never been a Bailiwick Ordinance with a Sark veto.

Seneschal An Ordinance on Bailiwick Law can be made by the States of Guernsey as a Bailiwick Ordinance but only where Sark and Alderney have approved this within the Law. This has been mainly used for European Union, United Nations and Sanction Laws

Sieur Gommoll Thanked the Seneschal for his explanation. Could the Seneschal or Greffier compile a list of the Laws where Guernsey have these powers.

Seneschal Can supply the internet address for a 500 page document with just that information. A listing is held in the Greffe Office with e-mail addresses for contact.

Sieur
Donnelly Called for a named vote.

**Proposition –
That Chief Pleas approve the Projet de Loi entitled The Financial Services Legislation
(Bailiwick of Guernsey)(Amendment) Law, 2006.**

The named vote resulted in - 8 POUR, 26 CONTRE – **LOST**

Seneschal Guernsey had expected it might be rejected. He asked the GP&F Committee to note the feeling of the House. It may satisfy Guernsey's requirement but not those of Sark.

11. Shipping Committee An application from Alderney Shipping for the Management Services for Isle of Sark Shipping Company Ltd

Sieur
Donnelly The proposal from Alderney Shipping had only recently been received and the Shipping Committee has not yet met to discuss the request. At this stage it is just for Chief Pleas' information. He needed to speak with the Sark Directors of Sark Shipping before responding.

Dep. Guille As a Sark Shipping Director, he had asked Alderney Shipping Managers to provide information for Chief Pleas. When they took over, the implications were unclear and it needed someone to take the responsibility of running the company. A public meeting was held here just after the take over but none since. Now it was time to review the arrangement.

The Managers of the Company have come under criticism from Islanders. True the Managers have been more forceful in trying to encourage people to come to Sark and there have been true concerns at deals offered on carriage-rides and 'cycle-hire. He apologised for the delay in organising a meeting on those issues but one has now taken place and hopefully, the outcome will prove acceptable to carriage owners and those hiring 'cycles during the 2007 season.

However, there was a need to look at the fuller picture. The *Sark Venture* had broken down at a critical time during the season and therefore the *Isis* had to come during the *Sark Venture* absence. This was only a weekly visit but brought large quantities of cargo and he would like to acknowledge and thank the carters for their co-operation during that difficult period.

Alderney Shipping had been moving along well and in the right direction.

Delivery of the new cargo boat, *Sark Viking*, had become farcical but the impasse appears to have been resolved and looks promising now. The handling of cargo and the care of passengers in the Sark Harbours have also changed and the previous commercial company paid directly by Sark Shipping has been replaced with a new arrangement, administered by Sark Harbours Committees. Sark Shipping pay the Committee direct for the service.

Sieur
Raymond As another Sark Shipping Director, he asked that the House focus on this document. The management fee proposed was £57½k per annum (less than half that paid to the Drakes, the former in-house management team). Alderney Shipping has employed additional managers to oversee the operation. The Sark Directors do not recommend this arrangement and further meetings with the company are needed.

Mlle. Bull Are we going to get a new cargo boat?

Seneschal Yes – it was stated yesterday.

Dep. Melling Supported Sieur Raymond's efforts to secure a satisfactory arrangement but could any renewal be at a time other than mid-August with the potential for upheaval at the busiest time of the season.

Sieur
Raymond Accepted the point and suggested 30 September which coincided with the end of the company's financial year.

Sieur Hurden The new Management Team seemed to be doing well but there should be regular meetings with the Sark people as users. For years there had been no contact. Now there should be a "shareholders" meeting when operators and users come together and difficulties can be discussed, including timetable issues. Have accounts been submitted yet?

Drafts of the accounts arrived yesterday and needed checking before they can be circulated.

Sieur
Raymond
Seneschal Asked that these be sent out before the Easter meeting of Chief Pleas.

Dep. Guy Supported renewal out of season not necessarily to coincide with the company's financial year.

Sieur
Donnelly Shareholders meeting needs to have appropriate notice and be properly minuted. He has been unable to obtain written information about the previous public meeting.

Seneschal Must pass that back to the Shipping Committee to organise. He had a copy of the notes taken at that meeting but there were no formal minutes.

Sieur
Donnelly The Shipping Committee mandate needs to be clarified so that everybody knows where they stand.

Seneschal If the Shipping Committee is not happy with the mandate, it needs to re-write it and bring it to Easter Chief Pleas for discussion and ratification by proposition.

Sieur Hurden One of the complaints fired at the Shipping Committee has been that Chief Pleas may know what is going on with the Shipping Company but nobody else did. So meetings were set-up with "shareholders" but they were really public meetings. One meeting only had 17 attending.

Seneschal One only had 6 attending!

Mr P. Perrée Asked where any profits made by the company went?

Sieur Raymond At present they are being retained by the company.

Sieur Rossford de Cateret Requested the Shipping Committee to organise occasional but regular public meetings to better inform the boat users.

Seneschal Asked the Shipping Committee to note this request.

Sieur Donnelly To do that the Committee would need a pre-meeting with the Directors but he will try to implement the request.

Lunch Break from 1.15pm until 2.15pm

12. Tourism Committee Report Accommodation Permit Charges

Sieur Guille The charges had remained the same for 9-10 years. Need to draft legislation to increase the charges and this will be brought back to a future Chief Pleas so that increases will apply for the 2008 season.

Sieur Rang Declared a vested interest. Camp sites were only really used near capacity for two months of the year. The increased charge is a disproportionate amount compared to other accommodation types. Could further consideration be given to the amount to be charged?

Sieur Baker Supported keeping the charge unchanged at £3 per person for camp sites.

Sieur Curtis Agreed as the season was so short.

Sieur Guille As the House has indicated, the camp site charge will remain unchanged.

Proposition –

That Chief Pleas approve the Tourism Committee requesting the Law Officers to prepare legislation to raise the cost of accommodation permits for the 2008 season and to an annual rise in line with the Retail Price Index.

The Proposition was CARRIED

13. Agriculture Committee

Application for the Gouliot Caves and Headland to be designated a RAMSAR site

Dep. P. Williams The consideration of the Caves as a RAMSAR site is likely to coincide with the screening of the last ever instalment of the BBC series *Coast*, which will feature the Gouliot Caves and Headland and be screened in the early part of 2007. It is the only designated wetland in Europe that is a cave system. The Land Owner has been consulted throughout and has been most co-operative.

Dep. Guy Asked for thanks to be recorded to the Agriculture Committee for their excellent work on this project and in particular to Ms Jo Birch who has co-ordinated work on the application.

Mlle. Char Are we signed up to the legislation or not; do wetlands include land on the Island or just the caves?

Dep. P. Williams The site is only designated at the moment and applies to just the cave system.

Seneschal The Convention has been extended to Sark during the last six years.

Mr P. Perrée Thanks should also be recorded to landowners for allowing access across their land.

Proposition 1 –

That Chief Pleas approve the Gouliot Caves and Headland be submitted by the Agriculture Committee to the appropriate bodies as a designated Ramsar site.

The Proposition was CARRIED

Proposition 2 –

That Chief Pleas approve an equal amount of £250 to that already contributed by La Societé Serquiaise towards the official recognition ceremony.

The Proposition was CARRIED

14. Medical Committee Report The Children (Guernsey & Alderney) Law, 2006

Mdm. Hester The Committee, having reviewed the whole draft Projet prepared for Guernsey, has decided to wait until the Law is enacted in Guernsey and then to adapt those parts relevant to Sark as separate legislation. She asked that Chief Pleas noted the intention.

Seneschal The draft Projet was started in Guernsey in 2004 and part of it is criminal law which will apply to Sark. As to the civil law, there will be a report brought to Chief Pleas at a later date.

15. Road Traffic Committee Report Harbour Hill Transport

- Dep. Cocksedge Gave a potted history of how the contract had started. Initially Charlie Falle's carrying of persons up Harbour Hill was illegal because the trailer was carrying more than the Island legal limit of 10 passengers. Chief Pleas amended the law to allow 24 to be carried by the official carrier. The contract remained with Charlie Falle but was officially taken over by his step-daughter, Jane Cox. Nobody was aware of a formal hand over to Peter Cox and no written application or permission can be found. It has therefore continued by custom. There was also no formal approval by Chief Pleas of the increase to numbers allowed to be carried on each trailer, 30 now being accepted as the norm.
- Chief Pleas had asked in 2002 for the contracts to be reviewed and HM Procureur advised that the current providers should be given 5 years notice of termination; this was notified to both providers in 2002 and has featured in every annual renewal since.
- Dep. Cocksedge The intention is to regularise the operations which are different for the two the operators providing transport. There is no intention to take anyone's living away and at this stage the Committee are seeking ideas from Chief Pleas and through a wider consultation.
- Sieur Guille Declared a vested interest and was invited to leave the meeting by the Seneschal.
- Dep. Cocksedge Felt that would only be necessary if anyone wanted to discuss the proposals in depth. Nobody felt it was necessary.
- Sieur Baker Concessions to operate the contract have been in place since 1975 and surely need to be brought up to date and new, possibly more advantageous, concessions sought. He was concerned that as the contract had been given to Mr. C. Falle at the outset for a five year period, it seems to have passed to his step-daughter, who died shortly afterwards, and then on to her husband by default.
- Dep. Cocksedge The passing to his step-daughter was done with Chief Pleas' approval but no record can be found of Chief Pleas sanctioning the operation being continued by her husband.
- Sieur Baker When considering Road Traffic Law in 1987, Chief Pleas raised the issue of public transport and suggested that it might be covered in the legislation.
- Dep. Cocksedge Crown Advocate Day said it should be included.
- Dep. Melling May not be necessary for the Island to retain ownership of the other "toastrack" trailer which only operates for the main season.
- Dep. Guille If we are to restrict the numbers being brought up the hill by other means, the contract must specify that every boat is met by both trailers.
- Seneschal Asked for comments to be forwarded to the Committee. A proposition must accompany the report at Easter Chief Pleas.
- Mdm. Rang Asked if the present contractors would be able to continue to provide the service as there was no reason to remove them.
- Dep. Cocksedge That will be taken into account in the report and proposition but it will be a decision for Chief Pleas.

16. Pilotage Committee Report The Flying Christine Accident

- Dep. Cocksedge Assumed those interested had now read the RNLI report on the incident. The accident had been caused by a combination of circumstances including the pressure of the emergency, bad weather, and malfunctioning electronic aids. Captain Fogarty, of the RNLI, had suggested a light on the top of Noire Pierre to assist passage of boats at night or in poor light. Together with the President of Harbours, Deputy Cocksedge would be meeting with the Guernsey Harbourmaster next week when the need for remedial measures would be discussed.
- Sieur Baker Considered that Deputy Cocksedge was kind in what he said. Having read the report he consider it was total incompetence. To round the Bec in such conditions and continue in a westerly direction at 21 knots was incompetent.
- Sieur Donnelly Such a remark was presumptuous. We cannot be that unfair given all the circumstances, extenuated by the emergency situation. The suggestions proposed are helpful but as most of us are land-based, we cannot judge, only in hindsight.
- Seneschal The report makes no condemnation of the skipper and urged Members to read it.
- Mlle. Perrée Requested that Sieur Baker's remarks should not be reported.
- Sieur Baker Accepted that incompetence was too strong and should be replaced with human error. He was concerned that as usual, Sark's generosity had immediately stepped in to raise money towards the Flying Christine. He trusted this would have no implications on the level of compensation paid by insurance.
- Dep. Guille Requested that the recommendations are supplied and pushed with the Guernsey Harbourmaster. Sieur Baker's remarks were outrageous and Sark's collection of money was spontaneous.
- Dep. Cocksedge Thanks had been received from Commander Tucker, St. John's Ambulance, Guernsey, for the funds and for the independent report initiated by Sark using the RNLI.

17. Medical Committee Report The Registration of Nurses and Midwives Law - Consultation

Mdm. Hester The Committee is mindful of the invaluable role that our current informal “home carers” have in the community and, in consultation with Doctor Teunisse, the Committee would not wish to recommend a prospective legislation that might jeopardise that role. In a reply by Minister Roffey to the Doctor’s letter, it is suggested that such “home carers” in Guernsey would need to comply with the Care Homes and Care Agencies Law, also being put forward by Guernsey but not applicable to Sark. It should be noted that there are current and previous residents of the Island who were registered with the appropriate organisations when professionally employed as nurses, who have since played a vital role in Sark and this should also be encouraged in the future. We would therefore not recommend that Sark be included in the new legislation at this stage but should take up the option to review the draft law once prepared, to fully understand its implications and then decide which sections should apply to this Island. As the report was submitted before the Committee had a chance to read and discuss the initial information from Guernsey, we would wish to withdraw the two propositions included and replace it with a new proposition.

Proposition –

That Chief Pleas directs the Medical Committee to review the Draft Registration of Nurses and Midwives Law when available and to recommend to Chief Pleas whether sections of the Law should apply to Sark to ensure that the Island is adequately protected in this regard.

The Proposition was CARRIED

18. Harbours Committee Report

Dep. Guy The report covered a number of issues being dealt with by the Committee. The Safety in Sark Waters proposal has been sent out for consultation and the resulting comments have been very helpful. A final report now needs to be prepared and a map produced and it is intended to bring that, with propositions, to Easter Chief Pleas. The proposition included today follows consultation with the Law Officer and is a tidying-up of current laws.

Dep. Dewe Would the new Harbours Law be an Ordinance or an Order in Council?

Dep. Guy An Ordinance. The Committee have been advised that the need to have insurance could be incorporated into the legislation.

Sieur Baker Fully supported moves for insurance and this was long overdue.

Mdm. Hester Asked why Port du Moulin and Port à la Jument were not included in the restricted areas on the safety map.

Dep. Guy The Deputy Harbourmaster in Guernsey had advised that defining the area would be difficult as there are no obvious points of reference and it would be hard to pin down culprits.

Sieur Donnelly Has received representations and suggested a voluntary code but it needs legislative back-up.

Dep. Guy The Committee must call a halt to representations at some stage. Consultation has been extensive not only on Sark but with authorities in the other Islands.

Dep. Cole Supports the Committee’s work on safety. It is difficulty when at sea to appreciate exactly where you are without properly defined points. Exclusion and speed reductions in bays and moorings are to be welcomed.

Dep. Guy Does the House wanted the north-west coast of Sark included?

Seneschal Comments direct to the Committee please, with a report and propositions at Easter Chief Pleas.

Mdm. Hester Both supported the inclusion of swimming bays into the restricted areas.

Dep. Guille Jersey has specific restrictions 200 metres from the water’s edge.

Dep. Cole How are we to educate boat and ship owners of the restrictions?

Dep. Melling Tide Tables and the Gazette. Similar restrictions for Guernsey & Herm are already included there. The Committee have looked at Jersey restrictions but because of Sark’s wiggly 40 mile long coastline, Jersey have advised us not to go for that option

Dep. Guy Suggested some form of restriction around L’Etac to protect puffins and other wild birds.

Mr. P. Perrée This was considered but, again, difficult to define the area to be restricted.

Dep. Guy Vessels have to come in close to the coast in places and an arbitrary limit would not suffice.

Sieur Donnelly

Proposition –

That Chief Pleas instructs the Harbours Committee to request the Crown Officers to draft a new law to replace The Harbours (Sark) Ordinance, 1987.

The proposition was CARRIED

19. Sea Fisheries Committee Report Annual Review and the Sea Fisheries Officers Report

Dep. Cocksedge Reported that the ongoing dispute between Guernsey and Jersey over fishing limits was now being adjudicated by the UK. He has also received a new Marine Paper from the UK which could have some relevance to Sark. This would be read and discussed by the Committee and, if relevant, a report brought to a future meeting of Chief Pleas.

Thanks go to Guernsey Sea Fisheries for their assistance throughout the year.

Dep. Guille Commended Deputy Cocksedge for the report and identified paragraph 4 and the proposals for scalloping as a welcome move. Reading this in conjunction with the report from the Sea Fisheries Officer, it was alarming that Sark fisherman were abusing the rules. Chief Pleas should take action if this abuse continues.

Dep. Cocksedge Explained that another reason for this scalloping restriction was to conserve stocks of flat fish as fishermen were thought to be using their diving for scallops as an excuse to catch flat fish.

20. Education Committee Annual Review

Dep. Cole Felt the report was self-explanatory and gave a very positive picture of the school at present. The proposal was lacking a name and Mr. Simon Elmont has been nominated.

Proposal –

The Committee proposes Mr. Simon Elmont to be elected as a non-Chief Pleas Member of the Education Committee.

The proposal was CARRIED

21. General Purposes & Finance Committee Report

The conclusion of the Gambling Sub-Committee

Dep. Dewe It was ironic that having submitted this report, the Seneschal has just received papers on gambling which need attention. It is a review of the Law and Ordinances to be drafted for gambling in the Island. This will be done by the GP&F Committee.

Sieur Baker Is there a law covering gambling on the Island?

Seneschal The Gambling (Sark) Law 2002 which repeals the earlier laws of 1899, 1922, 1928 & 1987.

Proposition –

That the Gambling Sub-Committee be disbanded.

The proposition was CARRIED

22. Constitutional Steering Committee Report Amalgamation of Chief Pleas Committees

Dep. Guille Reminded the House that a further proposition will be presented following the discussion yesterday over the work of the Constitutional Steering Committee.

Plenty of responses have been received following the appeal for comments at Michaelmas Chief Pleas. The general view was to leave well alone but there were a number of representations suggesting the Finance Sub-Committee should be mandated as a full Committee. GP&F Committee has far too much work to do without becoming involved with financial issues. As can be seen from the items considered on this agenda, finance is key to the Island's future and a growing factor for consideration.

Dep. Cole Will it have five full Members?

Seneschal Confirmed this to be the case. The second proposition must include the need for a new mandate for the revised GP&F Committee.

Proposition 1 –

That the Finance Sub-Committee should become a full Committee with a mandate to manage the financial budgets of the Island, taking responsibility for the spending limits of Committees and reporting directly to Chief Pleas for decisions on monetary and financial issues.

Proposition 1 was CARRIED

Proposition 2 –

That the General Purposes and Finance Committee report back to the Easter Chief Pleas meeting with propositions giving effect to Proposition 1 contained in this report and a mandate for a newly constituted General Purposes and Advisory Committee.

Proposition 2 was CARRIED

Dep. Guille Thanked all those who have served on the Constitutional Steering Committee, those who have drafted the legislation at St. James' Chambers and to Chief Pleas for their support over the years. He had enjoyed his involvement and the opportunity it had given him to meet and brief so many people including Ministers of the UK Government. It had indeed been a privilege to serve the House. It is clear that the work of the Committee is now over as it has fulfilled its mandate and brought a Projet de Loi for Chief Pleas to sanction.

Dep. Guy Requested a named vote.

**Proposition 3 –
That Chief Pleas disband the Constitutional Steering Committee forthwith.**

The named vote resulted in - 31 POUR, 3 CONTRE – **CARRIED**

Seigneur A personal thanks to Deputy Guille and the Constitutional Steering Committee for the tremendous work they have done over a long period. We will regret Deputy Guille's departure and sorry it has come to this and that the Committee felt it necessary to resign from further work.

Sieur Hurden Felt that paragraph 3 of the report was unfair comment. A few years ago, spending committees had to have a meeting with the Treasurer to make bids for additional funding or special projects.

Sieur Raymond The system has changed with every spending committee now receiving a monthly statement of their current budget position. At the year end there have been fewer increases and if something unforeseen comes along it is discussed immediately. Two years ago, the budget for unforeseen expenditure was grossly underestimated at £15k but this has now been increased to £80k. The schedule for drafting the budget is very tight with bids required by mid-August, the busiest time of the year on the Island, but has to be done to meet the deadline of presenting the budget requirements to Michaelmas Chief Pleas.

Dep. Dewe This need for a meeting is a continuing bone of contention. Deputy Guille has already made his views known that a meeting of spending committees was needed. GP&F receives nothing from the Finance Sub-Committee on its budget proposals and any financial issues.

Sieur Hurden Thanks to Sieur Raymond it would appear the Islands finances are well under control.

Sieur Raymond GP&F has a representative who sits on all Finance Sub-Committee meetings and presumably reports back to GP&F.

A recess was called between 4.00pm and 4.05pm

Dep. Dewe Having taken the decision to go with a full Finance Committee, a new mandate for the GP&F Committee, to remove the financial element, should be reported to Easter Chief Pleas.

Sieur Baker Requested a joint meeting of GP&F and Finance Sub-Committee to ensure nothing was overlooked in the realignment. The Seneschal supported this course of action.

Seneschal Asked the House to confirm if Sieur Raymond should attend the meeting next week (24th January) with HM Procureur.

The request was SUPPORTED on a show of hands

Deputy Dewe was asked to note the will of the House.

23. General Purposes & Finance Committee Report

The timing of closure for Chief Pleas Agenda

Dep. Dewe There are frequently occasions when reports or information arrives too late to be included on the agenda of Chief Pleas as papers are distributed three weeks ahead of the meeting.

Seneschal Reminded the House that the deadline used to be 10 days before the meeting for papers to be distributed but St. James' Chambers said this was too short for Chief Pleas Committees to consult if required and Chief Pleas Members felt there was insufficient time to read the papers before meeting.

It would not be a problem for the Seneschal to go to 14 days.

Dep. Olsen Urged that it remain at 21 days to give time to consult with Sark residents at a surgery.

Sieur Rang A shorter deadline would be acceptable for papers that were only for information and required no voting on propositions.

Seneschal Has used his discretion in allowing important items to come in late or provided important information to be added as addendums to the agenda.

Dep. Guy Agreed with Deputy Olsen; Members who were working needed two clear weekends to consult with both report authors and residents.

Seneschal The Brecqhou Liaison Sub-Committee's report was just too late. Might have been accepted two weeks before with clearance from GP&F.

Dep. Olsen Committee Presidents could mock-up a report and give a verbal update.

Proposition –

That Chief Pleas amend the Rules of Procedure to reduce the number of days of publication of the Agenda and relevant documents to, not less than fourteen clear days before the date of the meeting.

The proposition was LOST

24. General Purposes & Finance Committee Report

The Lebanon (Restrictive Measure)(Sark) Ordinance, 2006 – laid before Chief Pleas

Seneschal Apologised for the lack of a covering report to this item.

Dep. Dewe Similarly apologised. This was a fast-tracking Ordinance sent to and considered by GP&F Committee by HM Procureur to instigate early enactment. It can only be annulled by Chief Pleas and he concluded this item by reading the certification from HM Controller.

The Ordinance was NOTED

25. Rotation of Committee Members and Election of Members to Committees

Seneschal The list of Members for rotation is in the agenda. It should be noted with the disbanding of the Constitutional Steering Committee, that reference to it should be removed.

Dep. Dewe Resigned as President of GP&F and as a Member of the Tourism Committee.

Seneschal Noted that as a result there was a vacancy on Tourism and asked for nominations from the floor.
(NOTE: On the following day a written resignation was received from Deputy Dewe in which he resigned, not just as President of GP&F Committee but, as a Member of that Committee)

Sieur Guille The last time nominations for a member were requested Madam Helen Magell was nominated but was unsuccessful in the subsequent voting. He would wish to nominate her again.

The election of Madam Helen Magell to the Tourism Committee was CARRIED.

Seneschal Asked if there were any other nominations for Committees other than those listed who were willing to stand for re-election. There were none.

The re-election of Members as listed en-bloc was CARRIED

Seneschal There should be a consideration of the new Committee to replace the Constitutional Steering Committee. He asked for a proposal and mandate. He reminded those involved that if reference was made to percentages and opinion polls, the figure of 20% should still be taken as the required majority as specified by Chief Pleas.

No proposition was forthcoming and he admonished those who had had an opportunity overnight to draft the appropriate statements. The matter could not wait until Easter Chief Pleas it needed to be resolved and a Committee set-up and working from today.

Various attempts were then made from the floor of the House to draft a proposition and mandate.

Dep. Cole Having heard some of the options being put forward, asked whether a third opinion poll was required and if so, how was it to be funded and how was it intended to achieve the 60% required majority?

Dep. Guille Thought the original mandate would be adequate and that there was no need to go right back to the 1951 legislation. Was disappointed as he had thought he would be coming back today to vote on a new proposition and mandate for a new Committee.

Mlle. Bull Any new proposition must definitely acknowledge the results of the last opinion poll – it hasn't been thrown out. Everyone has agreed we want universal suffrage.

Seneschal Agreed that forming propositions "on the hoof" was difficult.

Mlle. Bull Why not take what has been done and look only at the new information received and the results of the last opinion poll.

Seneschal We have to give a new Committee a mandate. There is no longer a proposed Working Party as there is no longer a Constitutional Steering Committee.

Dep. Olsen Offered the following wording – "To review the Projet de Loi, 2007, the Opinion Poll and new information and advice received, and return to Chief Pleas with recommendations".

Sieur Gommoll It should be in the mandate to take note of the previous mandate and poll and yesterday's decisions.

Dep. Cole The House was trying to overlay seven years of hard work by the Constitutional Steering Committee by steamrolling propositions through after two days of serious and difficult debate. We need time to consider the next step properly and he suggested an emergency meeting of Chief Pleas next week with proper papers circulated before the meeting.

Seneschal Even for an emergency meeting there were procedures that needed to be followed. The House needs to elect a Committee with a mandate before we go home tonight.

Dep. Guille Agreed with Deputy Cole but had sympathy for the new Committee. He suggested a short mandate to get the Committee going and they can come back at a later meeting and edit the mandate as or if required.

Mdm. Rang Both supported Deputy Guille and spoke in favour of his idea.

Sieur Gommoll

Dep. Melling Can the mandate come from anyone or does it have to be Mlle. Char?

Seneschal It can come from anyone.

Dep. Cole Would we have to wait until Easter to receive the next stage?

Seneschal Yes, but the closing date for reports is mid-March.
The House has made it clear that the previous Opinion Poll should be acknowledged in any mandate or proposition.

Dep. Guille
Seconded by
Dep. Melling **Proposition –**
The new Committee should have the mandate to consider all aspects of the Projet de Loi entitled “The Reform (Sark) Law, 2007”, review all available new information and take into consideration the result of the Opinion Poll held in August/September 2006.

The proposition was CARRIED

Sieur Rang Various titles were proposed for the name of the Committee.
Why not call it simply –

THE CONSTITUTION 2007 COMMITTEE

The proposal was CARRIED

Seneschal Invited nominations for the five members required for the Committee.
Mlle. Char Nominated the following –
Deputy Olsen, Deputy Armorgie, Deputy Sandra Williams, Sieur Gommoll and herself, Mlle. Char.

Seneschal Invited any more nominations but none were forthcoming.

The five nominations were CARRIED

Sieur Baker Requested clarification as to whether the Constitutional Steering Committee had stood down or resigned to which the Seneschal responded that it had been disbanded and had not resigned.

Seneschal Addressed the new Committee and informed its Members that he would now inform the Lieutenant Governor, Her Majesty’s Procureur and the Department for Constitutional Affairs of the formation of the new Committee and its mandate.

He stressed the necessity for the new Committee to meet with Members of the former Constitutional Steering Committee at the earliest opportunity for papers to be handed over and he must have written confirmation as to who would be President of the new Committee as the first point of contact.

26. Request by Mr. Brian Green To over-fly Sark to take aerial photographs during 2007

Seneschal Mr. Green has taken aerial pictures of the Island previously and undertakes to exclude Brecqhou from any pictures taken.

Dep. Cole Said he had copies of earlier pictures which were excellent and asked if some copies could be made available for teaching purposes at the School. The Seneschal replied he would provide a contact number.

The proposal for permission was CARRIED

Seneschal Mr. Green has offered to take photographs of the final Assembly and of the first Assembly of the new House. Perhaps the arrangement was premature but the intention remains for that to be done.

EASTER MEETING – Wednesday 11th April 2007 at 10.00am

Agenda closes on Friday 16th March 2007.

Papers distribution to Members by Wednesday 21st March 2007.

The Meeting ended at 5.10pm on 18th January.

After note:

AN EXTRAORDINARY MEETING is called for – **Thursday 22nd February 2007 at 7.00pm**

in the Assembly Room

Agenda closes at Noon on Monday 5th February 2007.

Papers distribution to Members by Wednesday 7th February 2007

Brian Garrard (Sark Committee Secretary) 19-26 January 2007

30th January 2007

Greffier

Seneschal

Statement from Sir Peter Miller

Read by Deputy Adrian Guille at the Chief Pleas Meeting on 17th January 2007

I much regret not being able to be present at the Christmas Chief Pleas meeting on Wednesday.

I wish to make it clear that there was no misrepresentation by any person in the presentation of the Opinion Poll criteria to Chief Pleas or to the people of Sark. It is with the greatest reluctance that I have to disagree with the proposition put forward by Mlle. Char and Madame Rang. I continue to believe in the attractions of "Option Z", but in face of the Poll vote and all that was said publicly as to that result being taken into account by Chief Pleas, I think it is time to accept the result and move on.

When Nigel Fleming QC put forward the suggestion that an opinion poll should be conducted on the subject of the future composition of Chief Pleas he made two points:-

First, that he was not convinced that "Option A" (if I may use the shorthand to which all members of Chief Pleas will be familiar) was the only course which Chief Pleas could adopt.

Second, that if the alternative of "Option Z" put forward (which I wholeheartedly supported) could be shown to have the decisive support of the people of Sark as established by a carefully conducted survey of public opinion, then, in his view, "Option Z" would be a viable way ahead which would be Human Rights compatible.

The principle was accepted by Chief Pleas and much thought was given to determining how to make the opinion poll a decisive expression of the peoples' will, by offering a choice between two different compositions of a future Chief Pleas. Two points mattered, first the size of the turn out of voters and second the size of the majority in favour of one or other of the options. Obviously and most importantly, a small turn out of say, 30% would not command the necessary respect. The bigger the turn out the better and the Electoral Reform Society who we employed to carry out the poll believed that they could achieve a 70% turn out. In the event we achieved a 90% turn out – impressive, but by itself not decisive. To be decisive there had to be a margin between the supporters of the rival options, the only question was: "how large a margin?"

In spite of a large turn out, a majority in the lower single figures would clearly not serve our purpose but at what point would the opposite become true? Only Chief Pleas could decide. The working party appointed by Chief Pleas and consisting of the Seneschal, Deputy Adrian Guille and myself put forward in a report to the Chief Pleas, having checked their methodology with the Electoral Reform Society, a formula which read:

"Chief Pleas should encourage as large a turn out as possible and to set a clear margin to be achieved by the option which is successful in the poll. They therefore suggest that there should be a standard of 60% of returned papers.....as the benchmark for turn out and that there should be a 20% margin in favour of the option which the electorate wish to be adopted over the option which is not to be adopted. Although a high level, the working party believes that this would show a high level of community support of the newly constituted Chief Pleas".

And this concept was repeated in the working parties propositions accepted by Chief Pleas and followed by the Seneschal in his letter to the voters.

An example of the numbers which the formula produced was given to chief Pleas based on a 65% turn out; unfortunately, this example was not clearly recorded and, as written, makes no sense. I have the actual speaking notes which I used verbatim when speaking to Chief Pleas. You will see how closely the recorder has followed my words and I quote: -

"The opinion report in your papers is, we hope, self explanatory. I have a few comments to make in addition.

First, the numbers criteria where we have combined a minimum turn out threshold of 60% with a requirement the option which commends the most votes, must exceed by at least 20% the votes cast for the less favoured option.

Let me give you an example:-

Assume an electorate of 470 persons and (a) 65% turnout: 305 votes will be cast and the first criterion is clearly met. To meet the second criterion, it will be necessary for the voters for the most popular option to exceed 168 which means that 137 votes will have been for the less popular option and the margin of 20% is achieved.

There is no magic in these figures but it seemed to us that it was reasonable to conclude that the combined criteria would lead to an incontrovertible expression of the will of the people.

This leads to the second question:- what does the phrase Chief Pleas agrees "take account of the result mean"? We have no power, short of an enabling project, to have a binding referendum. However, if both criteria are met it is inconceivable that Chief Pleas would reject the chosen option. The difficulty comes if the criteria are not met by a (very) small margin let us say. I have no ready answer to that, save that it is not the time to be discussing it this evening; and Chief Pleas will have to have a special Michaelmas Meeting.

Finally, Public Meeting: we strongly felt that this (a) should be as informed as possible; and (b) that supporters of each option should make a statement (c) teamwork approach including advisers if they want to, (d) answer questions from the floor."

However, "Option Z" failed to attract even a bare majority; had the option attracted, say over 210 voters out of the 418 cast, I am sure that we would be arguing that we could accept "Option Z", but that has not happened; what is suggested in the proposition today actually sets an even higher mountain for the supporters of "Option Z", to climb. The people's will in this matter is quite clear. The votes far exceeded our expectation as to turn out and by a fair margin exceeded the second criterion which we had set.

"Option Z" was decisively less popular than "Option A"; while I still believe "Option Z" had much to offer, I must, however reluctantly accept the clear expression of the will of the people.

Sir Peter Miller