

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 23rd OCTOBER 2019

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[9.31]

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

PUBLIC BUSINESS – resumption

The Bailiff:

1. Draft Shops (Regulation of Opening) (Amendment) (Jersey) Regulations 201- (P.93/2019)

Before continuing with Public Business, I would just announce the Guidelines for Busking in Jersey: proposed changes have been lodged yesterday by Deputy Tadier, P.113/2019. We now revert to the debate on P.93/2019, the Regulation of Opening and I have next to speak the Deputy of St. Peter.

Connétable A.S. Crowcroft of St. Helier:

Sir, could I raise a point of order before we start, please?

The Bailiff:

Yes.

The Connétable of St. Helier:

In previous debates which have involved local retailers, Members have declared interests when they may have been shareholders in them. It seems to me that this debate revolves very much around the interests of medium-sized supermarkets, which currently are not affected by our ruling today and a number of large supermarkets that will be affected. Therefore, if Members are shareholders in the smaller supermarkets, the Co-op, for example, it would be only right for them to declare their interest.

The Bailiff:

That is an interest that Members would hold with a large number of other people within the community. If Members are simply Co-op shareholders, I do not think it is necessary for them to declare that interest.

The Connétable of St. Helier:

I would just add that, in past debates, we have been given the opportunity to declare the fact that we are shareholders, simply for the sake of transparency.

The Bailiff:

I am grateful for that. I certainly would not object if individuals wish to declare that they were Co-op shareholders.

Deputy M. Tadier of St. Brelade:

Could I suggest that we do it by a show of lights, for the Co-op, as I suspect a lot of us are and that it is recorded, but we do not have to excuse ourselves?

The Bailiff:

I do not think we need to record it in that way, Deputy; if people, when they speak, wish to say that they are shareholders then that is a matter for them. As I have already said, in my view that is a status held by a large number of individuals within the Island and it really is not something that needs to be declared.

Deputy M. Tadier:

Could I raise the *défaut* on Deputy Southern, please?

The Bailiff:

Yes, of course. Thank you very much. The next person I have to speak is the Deputy of St. Peter.

1.1 Deputy R.E. Huelin of St. Peter:

Good morning, all. Yesterday, I was firmly on the fence, but luckily I have had time overnight to reflect; the joys of working long into the evening. I am not going to repeat the many arguments. However, I get the ones of choice and convenience. Ultimately, the success will be decided by the market; a positive. My concern is the size of the pie. Will, by opening 30 large stores, increase the total retail spend in Jersey over the week and still be viable? If the big stores make 6-day sales in 7 days, they will review their strategy. My real concern is that the Sunday spend will remain the same, but with the big stores taking a significant share of spend from the smaller privately owned and other convenience stores. If that is the case, again, the market will decide and business strategies will adjust. That is a neutral. However, my other concern is that staff will be press-ganged, or coerced, into working on a Sunday. If it is voluntary, albeit with payment and time off *in lieu*, I would be happy. However, as discussed *ad nauseam* yesterday, this cannot be legally enforced. I see that as a bit of a negative. Here is my cop-out, I will support this Proposition; however, I will make a diary note to remind Senator Farnham to go and ensure that the working practices of these organisations are making sure their staff are working voluntarily on a Sunday. He knows how tenacious and how annoying I can be on such matters, so I look forward to doing that. Thank you.

The Bailiff:

A ping went off during the course of that debate. I cannot identify precisely who pinged, but whoever pinged they are honour-bound to make a contribution to the Greffier's charity fund in the way that is normal in circumstances like that. **[Laughter]** I wonder if the laughter is because people do not think anyone is going to confess.

1.1.1 Deputy K.F. Morel of St. Lawrence:

Yes, it was quite a debate yesterday. I imagine it is going to be quite a debate today. What I heard yesterday were many understandable objections to the idea of this Sunday trading, particularly based around the idea of family days and religious observance. The reality is that the horse has bolted and it did so in 2011. It did so when this States Assembly, comprised of many other faces, decided to open up Sunday trading to 99.9 per cent of all the shops in Jersey. For some reason, it decided that it would impose an arbitrary 700 square metre limit - it could have been 701, or it could have been 699 - and decided that those shops alone would be stopped from opening on Sundays. Yet, every other shop in Jersey can open. It is an interesting decision made by the States then. It is an interesting decision, because it is difficult to fathom the rationale for saying one type of business should not do this and another type of business should. I do not quite understand why that 700 square metre limit was set, but it was. We have heard from people about the issue of the struggling retail sector. We heard yesterday from the Constable of Trinity that the internet has done for retail and nothing is going to change that. It is right that the internet has changed retail and had a huge effect on retail. But what we must not underestimate is the effect that the decisions in this Chamber have on the retail industry. It is this Chamber that has decided to impose and then not to rescind the 20 per cent tax on large retailers. That was imposed essentially on these 30 businesses. The 30 businesses that we deny the opportunity to choose whether they wish to open, or not open, on a Sunday. We take, but we choose not to give, as an Assembly. I find that a very hard position to put ourselves in. We decide to discriminate against these businesses. Then we decide to tax these businesses in the way that they are competitive. Businesses are not taxed. We choose to maintain a *de minimis* level on G.S.T. (Goods and Services Tax), which puts these businesses at a competitive disadvantage to retailers outside of the Island. The logic here, Minister for Treasury and Resources, still defies belief. We enable people to import fresh food on a daily basis, delivered to their door, through the imposition of the *de minimis* level in G.S.T. Yet, we will not even allow shops that are based here to open on a Sunday. If you can see the point I am trying to make then you have a logical mind. Because what

we are doing is tying ourselves in knots of illogicality, basically. It is really difficult to understand and as members of the public it must be incredibly difficult and, as members of the retail sector, even more difficult to understand what this Chamber tries to achieve with regard to this particular sector.

[9:45]

We want to have a thriving economy, yet we shackle those who are trying to make the economy thrive and we boost their competitors. The fact that we are more willing to help Amazon than we are to help local supermarkets, or local garden centres, defies belief. I was shocked the other day to see a postal van ... they now deliver 2 million parcels. I am not sure that is something Jersey Post should be proud of. That is 2 million parcels, mostly, that are diverting funds away from our retail sector. I saw inside the postal van as it drove past, all these fresh food deliveries. These are fresh steaks, fresh veg, stuff which can be bought here locally, but people are not, because it is so difficult for the local retailers to achieve the price points which make them competitive with the people overseas. That is largely our doing. It is not the internet's doing. It is largely the fault of this Assembly, by imposing taxes, by refusing to change the *de minimis* level on G.S.T. I ask the Assembly to reflect on that, that we take from this sector, but we refuse to give. It is really important as well, when discussing the right to family days, *et cetera*. I love Sundays. I used to hate them as a child. I like them now. It is a day when I can take a break. But I take that break by essentially cloistering myself at home. It would not affect many people in this Island if shops were open. I suggest that the way many of us do avoid the world outside on a Sunday is just to spend time with family, not to go too far afield. It is interesting that I have spoken to people and I have seen correspondence from people, who say - and I personally agree with them on this - that by not allowing Sundays to be similar to other days in terms of where you can shop, you put huge pressure on families to do everything on a Saturday. I find this. I have come to resent Saturdays. Saturdays are the days where you have to do everything, get through everything. I am sure people with families in this Chamber will know exactly what I mean, because if you do not do it, do not buy it, you do not get it on the Saturday then you have to wait until the week after. Saturdays have huge pressure, precisely because on Sundays we have these irrational restrictions on who can and cannot trade. I ask Members, please, to focus more on the work we do as a retail sector. I ask Members to think about the perception of what this Chamber is doing to those businesses, who really do not know where to turn. If I was a supermarket, or garden centre, owner, or manager, I would question why I am in Jersey at the moment, because there are decisions being made in this Chamber, which quite clearly are telling them that they are not welcome. Why would we then deny them the opportunity to open for 6 hours on a Sunday? Quite rightly, as far as local noise, *et cetera*, is concerned, the Constable of the Parish has every right not to give them the permit. If the Constable feels that houses in the vicinity will be unduly affected on a Sunday, the Constable does not have to issue the permit to allow it. I ask, please do think about the message that this Assembly wanted to give to retailers in the Island and think about whether it wants to deny choice to Islanders. It is a long time since I lived in a world where the Government told us what we can do and when we can do it. I do not see why the Government should be telling us what we should do and what we cannot do on a Sunday between the hours of 10.00 a.m. and 4.00 p.m. We do need flexibility in our lives. We do need to be able to choose when we take time out and not have it imposed upon us. For some people it is easier to spend time with your family on days in the week, for other people it is not. It is up to us to decide for ourselves, as our families and not for the Government to impose that. I have to say, I have huge sympathy when speaking to people about the issue of workers' rights. The Deputy of St. Peter is quite right to make his diary note. In our Retail Review, as the Economic and International Affairs Scrutiny Panel, we clearly wrote in there that while we expect Sunday trading to come in, we do think the Minister should pay attention to the issue of workers' rights and should make sure that there are protections in place in the law that he brings. We also ask that he monitor independent stores and the effect that this law has on those independent stores once brought in. It is really sad that he has done neither of those things. It is very sad, because you can see the result of not doing that is in the Chamber now, rather than people jumping on and saying: "Yes, the

Minister has done good work on everything that is necessary.” It does feel like not all the work has been done. I do not believe, though, that that should stop this Proposition passing. The other issue which I have to raise - and I was surprised that the Minister for Children and Housing did not say it yesterday - was the issue of children. It was this Economic and International Scrutiny Panel that brought it to the attention of the Minister, that precisely because there is an issue about family days this law has an effect on children. So, we asked the Children’s Commissioner to take a look at the law. It is interesting that the Council of Ministers did not do that themselves. It took Scrutiny to point them in the direction of the Children’s Commissioner. You can see, through the comments papers, the results of those deliberations and consultations. I feel it is right to support this. I feel that to not support it will be kicking again business that does not quite know what Jersey wants from it at the moment. We need to support local businesses. We need to support the local retail sector. We need to help it deal with the challenge of the internet, not just throw up our hands and say: “Well, the internet has done it: that is the end of that sector.” It is not. People want to buy. People want to live and work in a vibrant economy in Jersey. We have taxed them 20 per cent. We have made it easier for outside competitors to operate against them, by not removing *de minimis*. It is time we gave a little back to the retail sector, by allowing it to open for 6 hours on a Sunday. I ask you to, please, support this Proposition, despite some of the reservations I know people have. Thank you.

1.1.2 The Connétable of St. Helier:

I want to firstly just respond to a query from the last speaker. I thought it was an excellent speech from Deputy Morel. He queried why a previous Assembly had fixed the limit on 700 square metres, rather than another number. I guess there are only a handful of Members in the Chamber today who recall those early debates. We seem to debate it, along with school milk and free television licences, almost every year. They may remember, as I do, when the Assembly attempted to fix the limit at a lower level, I think it was 500 square metres, we received intense lobbying from a chain of local medium-sized supermarkets, whose staff were incensed that we were going to take away their job opportunities. We did not get much lobbying from the public. I suspect we would now if we said we were going to close all the Locales on a Sunday. I think there would be an outcry if we said we were going to close Iceland and all the other shops that are opening, which are really quite big. That is why, in my speech, I am going to call them medium-sized supermarkets, because that is what they are. Of course, hundreds of people work, without any protection, in those medium-sized supermarkets at the moment. I just want to make that point to the Deputy, because I agree with him. That was probably a mistake, but it is an evolutionary process. Before that, as the Constable of St. Clement was saying, they used to distinguish between shops on the basis of what they sold. That was truly ridiculous. I want to refer, if I may, to some of yesterday’s debate. As the Dean said, the ship has sailed, so long ago, in fact, that not even its burgee can be espied from the ivory tower in which some Members yesterday seemed to be sitting. At times yesterday, it reminded me more of a circus tent around which certain Members were cantering on their hobby-horses. At other times, it reminded me of a rabbit hole down which I had fallen into Wonderland. The only speech yesterday, which seemed to me at all intellectually sound, that did not leap to conclusions, or jump on any band wagons, was that of Deputy Maçon. I will come back to his speech in a minute. I too put before the Assembly 4 things that I believe we know about this subject. First of all, we know there is a great appetite for food shopping on Sundays. Many medium-sized supermarkets, who employ hundreds of staff across the Island, are already in that market, in spite of the absence of opt-out clauses, or the kind of additional employee protection, that some Members were calling for. We heard yesterday, examples of how busy those supermarkets are on Sundays. We may deplore that, we may think people should be better organised and to do their big shop on another day, but for some people that works and that is why they do it on a Sunday. The second thing we know is that there is a demand from local youngsters for more employment opportunities on Sundays. I am just going to quote from the helpful note that was circulated by the Minister. I quote: “Jersey Business ...” They are at the sharp end, they should know what is going on in the employment market: “Jersey Business has

reported extremely strong demand from students for weekend positions. This has been expressed during the past month at school careers events where young people were supported by their parents. They greatly value this first step into the world of employment as an important part of their child's development. Weekend work develops a first sense of self-reliance, team-building, friendships with older people outside their peer group and develops confidence. It is also an added advantage in both university applications and building life-long customer service skills. Schools have asked Jersey Business to set up direct links with retailers to meet this demand." I must say, it is a pity we did not ask our Youth Assembly to debate this matter before we did, or fill the gallery with some of the primary school students, who take advantage of the few hours they get in the programme, organised so capably by the Greffier. My only concern is that the ushers would have been hard-put to quell the snorts of laughter that would have been coming from the gallery as States Members presumed to put across their idea of the ideal Sunday. Their idea of how our young people should be spending it: playing jigsaws in front of the fire, **[Laughter]** perhaps, or stepping out on a crisp St. Ouen evening to evensong. Not only is some Members' idea of how young adults should spend their Sundays wholly out of touch with reality, but in opposing these Regulations they are being wholly inconsistent. As for young people who wish to, as well as older people, can find work in the scores of shops already allowed to open on Sundays. The third thing we know - and again I have evidence to prove it - is that the current staff, or some of them, who yesterday were sitting in the gallery biting their tongues through yesterday's debate, are upset, offended and astonished by the sweeping statements and the ill-informed assumptions voiced by some Members yesterday. I have been given permission to quote from some of those. This is from a member of one such large supermarket: "Sunday trading may ease the pressure on Saturdays and allow us, the workers, an occasional Saturday off for family occasions." "People without children prefer to work Sundays, so they can have midweek days off and shop and eat out without the crowds." That is good for their well-being: "It is our choice." "We have contracts." "In the current labour market, we could just leave and choose alternative employment." "It is on 10.00 a.m. to 4.00 p.m., not full days." "The option to do community work on a Sunday is provided by my employer." Finally: "My employer ensures I work a maximum number of hours in a maximum of 6 days, ensuring a good work-life balance. My good mental health is in everyone's best interest. I personally do all my hours 4 days a week." The large supermarket in question is really the bone of contention. Here, for the interest of transparency, I need to state that Waitrose - and I think I can use the name, because it has been used a fair bit already, Sir - do a great deal to support the Parish of St. Helier. Their employees help us on special days. They give up free Sundays in the run-up to Christmas, when the stores are currently allowed to open and come and serve dinner to our senior citizens.

[10:00]

A lot of them give up their Liberation Day, which is a Bank Holiday and they come and serve Liberation Breakfast and Liberation Tea in their Waitrose aprons. These people give up a lot of time to do that. Interesting, they are not called "employees" at all. They are called "partners". Is there not a clue in that name, as to what Members are getting wrong? Are we going to prevent a trio of larger supermarkets from opening, which are in the vanguard of employment training, protection and support - and in particular mental health training - and who turn out on these special days to assist in the community? Are we going to prevent local people from getting further opportunities with this firm, which I believe offers better opportunity, better protection and better support than existing food outlets? Now the fourth thing we know and Members have already referred to this, is that Jersey is not the U.K. (United Kingdom). We have a Parish system and we expect the Constables to condition permits in such a way as to protect nearby residents, who are clearly concerned and rightly concerned, about an increase in Sunday opening by the large supermarkets. Here I return to Deputy Maçon's intervention yesterday, a beacon in the swirling fog of confusion that seemed to predominate. He raised this very concern on behalf of some of his constituents. But the Constable can condition the permits, as I say, to prevent deliveries, or confine them to certain hours. While Deputy Maçon's

argument was compelling, he admitted that from his own canvassing, it is not the whole story because some people living close to these larger supermarkets will welcome the fact they no longer have to traipse down to the nearest Co-op Locale, that they can pop into Waitrose. Some people living close by will prefer the job opportunity, employment protection and support and training that they can get from working in the larger firm. Now, we are frequently lobbied by groups who provide very compelling reasons why we should support them and I am just going to give an example: 50 families who want houses built on good agricultural land. Really difficult, because I empathise with their wish to live on a new estate in the countryside, but I cannot ever vote for that because of my principles about the greater good for Jersey, which is keeping the Island good for the future, preserving the countryside for future generations. Not 50 people, not 50 families, but thousands of families will benefit if, on that particular issue, I stick to my principles and persuade fellow Members not to build in the countryside. I hope that Members who want to build in the countryside will not disregard my comments about this matter just because I used that example. But the point I am trying to make is that we will get lobbied by groups who have a genuine problem, but we need to work out how we can mitigate those problems. As I have said, the Constables have the ability to do that in this case. I think it is also important - and this was really at the heart of the point of order I attempted to raise at the beginning of today's session - that Members have to think very carefully where there is not a level playing field in local business. It is clearly not a level playing field here, because medium-sized supermarkets can open and larger ones cannot. Members need to be really careful before they weigh into that debate and start favouring one business over another. We had a Member yesterday saying we should not support these Regulations, because it will hurt the medium-sized supermarkets. That is, frankly, uncompetitive and I do not think we should be in that position. We should be allowing a level playing field to operate across all of these businesses and the Constables will mitigate problems that arise. The final point - and I am conscious Members, I can tell from their expressions, they want me to wind up - I am not going to make a big argument about tourism. I probably did in 2011 and I think that there is additional business to be had on a Sunday because people come over on the ferries, in increasing numbers I am told and they want to shop in town and they want to find a vibrant town. The reason I am not going to try and make that argument is I think town is already pretty good on Sundays, without the bigger stores opening. I am not even sure that the bigger stores would open if we approve the Regulations. I think the supermarkets will, but I have dealt with those arguments, so I am not sure the tourism argument is right. But what I do want to mention is the fact that it is not just about food. In my Parish and, I believe, in other Parishes, there are some large fuel outlets where people like to go on a Sunday to fill up their cars. The Constables have debated this matter for some time and it is only because we have been told these Regulations are coming that we have not shut the doors of those garages. I must say that I would have a problem anyway in shutting the large garage in town that supplies fuel on Sundays for 2 reasons: firstly, hundreds of local families go there for their petrol, or their diesel, on a Sunday and who am I to say: "Thou shalt not fill up thy car on a Sunday"? I think that is wrong. But the second reason is that the fuel market in Jersey, as we know, needs more competition. If we close that one down, other smaller fuel outlets will be laughing, will they not? They can all open. All the other garages can sell fuel to their hearts' content on a Sunday and they will do better out of it, but who are we, as States Members, to get involved in that kind of business competition? I think C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities) should probably be looking at it, but I do not know if they are already. So I say to Members, I think many of the fears are unfounded, I think some of the comments yesterday were ill-informed and caused genuine offence to people who work in the larger supermarkets to which we are alluding. I think Members forgot altogether about the hundreds of people who work in medium-sized supermarkets. I would urge Members to be reasonable and to be fair in how they vote in the Proposition and I ask Members to support the Regulations.

1.1.3 Deputy G.J. Truscott of St. Brelade:

Excellent speech, Constable. I totally agree with everything you say and it is about fairness. Now to just explain briefly; I have a share in the Co-operative Society, I have a daughter that works part time for one of the large supermarkets. I just thought I would make, for public transparency, that point. It is all about a level playing field and fairness. For me it is, to a degree, about light hand of Government, it is about choices and I will explain that as I go on. We are talking about level playing fields and I am going to use St. Brelade up at Red Houses where we have 3 very good supermarkets: we have Waitrose, we have the Co-op Locale and we have Iceland down at the precinct. Now it is rather bizarre, our trading laws, which says that the Co-op - I do not know the square metreage - but for argument's sake it is 300 metres and they employ 10, 15 staff. Then you have got Iceland, a bigger store, say 500 metres square and they, for example, employ 20, 25 staff on a Sunday. Then just a stone's throw away, you have an excellent Waitrose store, 700 metres square plus, possibly on a Sunday employing 30 people and they cannot open. Now where is the logic in that? It is totally about logic and fairness. I have been a retailer all my life and I realise how difficult it is to make money these days, to trade in a world where the internet is so dominant and it has had such a squeeze on margins, so I really do feel that we should, as a Government, be light of hand and give shops the choice. They do not have to open; we totally know that they do not have to open on a Sunday. I think Gerald Voisin has already mentioned the fact that he will not be opening, but I just wonder when he sees one of his competitors, de Gruchy, for example, that may well open, if they are doing well he may well change his mind. But he has got that choice and it is, for me, all about choice. Market forces play a big thing in this and I think, as a retailer, if you do open and you realise you are not making money, that it is just not worth you doing something, then you take the logical step and close, or restrict, the amount of Sundays that you trade on. So it is about fairness. The Constable spoke very shortly there about tourism. I think it is very important for tourism. We have Visit Jersey looking to bring in one million visitors a year and if we can offer tourists a 7-day offering, a vibrant offering - Deputy Tadier, quite rightly, would like to see more buskers, would like to see more entertainment in St. Helier - we would have the vibrance then with the shops open. We would have more tourists coming in from France, we would have more tourists coming in, so a 7-day vibrant offering is far more attractive to tourists than a 6-day offering and one dead day where the place is absolutely dead. There is nothing worse. I am sure we have all been to places around the world where you turn up on a Sunday and there is tumbleweed going down the middle of the street, it is so depressing. So, for me, it is about bringing in fairness to the trading playing field in Jersey for all the retailers. I have concerns for families, quite rightly, too but I do know that all of the supermarkets and retailers, we really do treasure our staff. They pay well, they pay above the minimum wage, they provide much-needed jobs, it is about investment, it is about tax, it is all those things and we really have got to send that message. Deputy Morel is absolutely correct, we have got to send the message that we want to encourage them, we want them to grow, we want them to play an important part in our economy. So, for me, this is really a no-brainer, I will be supporting the Minister.

1.1.4 Senator S.W. Pallett:

I just want to declare that I am a Co-op shareholder, but I do not share their view on this subject. Unsurprisingly, I am supportive of this Proposition, as I have been since I was elected in 2011, but there were moments yesterday, listening to this debate, I thought that I was in a time warp. Sometimes we look back at times past with rose-tinted spectacles and yearn for the less-cluttered and complex lives we lived as we grew up. I was a child of the 1960s and 1970s; I know I look younger than that, but I was. I look back and have to come to terms that life has changed, family life has changed in that intervening period. Family life, for my own children, has changed in that time and they have come to accept that. It seems like it was less complicated then. Yes, it was for some, but back then the idea that Sunday was a rest day enjoyed by all is simply not true and, as now, businesses traded on a Sunday. In what we now consider to be the boom years of our tourism industry, hotel bars, restaurants, cafés served not only visitors but locals on a Sunday, as they do now. The airport and harbour were open, bus and coach operators worked, toilets were cleaned, hospitals open and we

expected to be entertained on a Sunday, even if we could not dance. Shops, though, were a different matter and, as the Constable of St. Clement pointed out yesterday, we had a ridiculous situation where some goods could be bought and others not. Thank goodness we rectified that to a large degree. What would the public say now if we reverted back, as somebody has already mentioned, to those shopping arrangements? At that time there was an outcry by a vocal minority when Sunday trading was overhauled and, surprise, surprise, we have it again with some considering that changes will spell the end of family life. It will not. The Jersey I love and know is a warm, welcoming, diverse, visionary, dynamic and fair Island and definitely not a place stuck in the past trying to preserve life in aspic, or unable to embrace change, which is why this Proposition will soon be, within a short period of time, respected and right or wrong for some local businesses and also provide a retail market that many, especially our young people, expect in this day and age. We need to move forward. Sunday trading is not the issue here. We had Sunday trading when I was growing up, as we do now, with many having to work on a Sunday. But if this Proposition is rejected, are we really saying that it is all right for the majority of the working population to work on a Sunday, but for a select few, who work in stores over 700 square metres, it is not? That simply just does not make any sense to me, as it does not for many people locally. This will create new jobs, it will create local opportunities for young people and also for those entitled to work. I do not want to go too much into single organisations, because this is an issue that affects many businesses.

[10:15]

There have been some comments around registered permissions, or importing more staff from overseas. There clearly are difficulties in employing staff within the lower-paid sectors, but my experience recently shows there are strict criteria being applied to any new registered and licensed permissions. This change to Sunday legislation should not lead to any further permissions being granted, as it is unlikely any such application would meet the necessary criteria. Let us be clear though, we already have Sunday trading. Shops under 700 square metres can operate on a Sunday now, not all do, but they have that option. I have never seen the fairness in stopping, or denying, a few larger shops the opportunity of trading at a time when there are so many difficulties for many in the retail sector, including the growth of internet sales and uncertainty over Brexit. In terms of internet sales, it is estimated on figures that I have been given overnight that currently we are importing 1,000 boxes a week of fresh food. That is £2 million being taken out of the local produce market. I do not know how long we can go on for before that causes a serious problem for the local supermarket sector. As I said, it would be wrong to single out the operational benefits of one single business and the protection that they provide staff that do not wish to work on a Sunday, as I am sure there are different practices with different businesses. But Sunday working should, I agree, be by choice and I will support any legislation changes that may be necessary should it become a problem for some employees. Again, I have said, I think in a Scrutiny meeting some months ago, that if this legislation is endorsed, I think there does need to be, probably after a year, a review of where we currently are and where the problems exist. Sunday working will be a good choice for many who prefer to have a day off, or 2 days off, during the week. Many over-16s prefer to work to augment their earnings, or it may offer the opportunity for those still in education to earn some money, increase their independence, improve their skills, learn a good work ethic and also support the local economy. I like to think every Member in here have enormous faith and hope in our young people and their ability to decide what is right for them as they develop. I understand concerns from the Children's Commissioner around over-burdening and unnecessarily complicating young people's lives. But over-16s, while still being considered children, have, for example, the right to vote, to decide who will govern them and make decisions on their behalf, so I have absolute faith that our young people can make their own decisions about entering the workplace and can decide for themselves what is right for them individually and whether Sunday working fits into their lives. I do though agree that we should be consulting young people on issues like this and it is a shame that the Youth Assembly, or Youth Council, is not up and running yet, because I think it will give a conduit for young people

to voice their opinions. Comment has also been made locally that the changes within this Proposition will destroy the local corner shop. I am afraid that if any damage was done to this sector, it was done years ago when many local supermarket chains expanded, sucking up independent corner shops, offering 7-days-a-week trading. We have seen it, it exists now. This move merely offers the public more choice in the supermarket sector, while enabling other larger stores, such as garden centres, to open if they wish on a Sunday, again, giving the public more choice. There will no longer be any excuse for me to duck out of gardening on a Sunday, so maybe I should re-think about how I am going to vote in this vote. Another consideration for supermarkets, that could potentially open under the acceptance of this Proposition, is a reduction in food waste. It has been mentioned by others, but it is an important point to make. I have seen emails raising concerns over extra disruption on a Sunday around supermarkets that could open, certainly from some Constables. These concerns are reasonable and need to be mitigated. As a previous Constable of St. Brelade, I have worked collaboratively, with Waitrose in particular, to minimise any disruption to nearby residents, not only at weekends, but also during the week. These proposed changes still offer the Constable of each Parish the opportunity to place restrictions, for example, on deliveries and deal with any issue at any time - and I stress at any time - that may become problematic for neighbours of a shop, or supermarket. Clearly, trading on a Sunday for any shop that currently does not trade, will cause some disruption, but I believe any unnecessary, or excessive, disturbance can be controlled and, if the business does not comply, the permit can be removed. In regards to choice, it should be remembered that some large supermarkets do not run a convenient pricing model. Is it right that we, as an Assembly, limit the choice of the public and deny shoppers the opportunity to buy products at the most competitive prices? To be clear, food retailing is an extremely competitive market and I understand the concerns raised by smaller shops and supermarket chains that are under the 700 square metres. The threat though to the local market, as I have said, lies more in the growing online presence. If we really want to maintain the choice in the local marketplace, we need a truly open playing field for all competitors. Local large supermarket chains have worked hard with Government to maintain supplies, irrespective of the outcome over Brexit. All chains should be treated equally and revising the Sunday legislation will go a long way to doing that. To conclude, the vast majority of shops of all sizes and types can open now if they choose. This change will affect only a small number of those shops, which currently do not have that choice. I have always felt it is unfair that those few businesses have not got the ability to open on a Sunday. I do respect and I do understand the issues around staff working on a Sunday but, as I have said, I think we need to review that once this law has changed, so that we can consider whether any harm has been done. There is no evidence to suggest there is not currently any harm being done. The vast majority of shops can open now; this is just around a small number of larger stores opening. I think we need to be forward thinking around this, not live in the past and move forward, so I would urge people to really think about how they are going to vote on this, because I think the public are looking closely at this. From the people I have spoken to, the large number of those wish to have that choice and, at the moment, we are taking that choice away from them. Thank you.

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

Make no bones about it, this Proposition is less about the benefit to the population of Jersey, but more about the financial bottom line of some U.K.-owned large stores. It seems to me to be all take and no give with the benefits to staff being opaque and the effects on those living in close proximity arguably detrimental. Public opinion seems to me to be diverse and while some may wish to see supermarkets open and not anything else, others wish to see only garden centres open and nothing else. Visiting day trippers to the Island would wish to see the town centre open and are unlikely to visit a supermarket. The difficulty we have is that most of our large commercial outlets are hemmed in by domestic accommodation, unlike the U.K., or France, where they are often found in out-of-town locations and thus not affecting neighbours. I believe that those who shop online will continue to do so and will be unaffected by Sunday opening. Truthfully, there is nothing to stop local outlets

offering an online service. There will be, however, unintended consequences as a result of large outlets opening regularly on Sundays in terms of increased traffic, parking implications and necessary associated management. That is not just with regard to client parking, but also staff parking which, in my Parish, is a particular issue in the adjacent areas. It is always interesting to look in these situations to other jurisdictions and how others deal with the issue. Suffice it to say, it seems to me that everywhere is different and influenced by the influences of local traditions, employment laws and, of course, tourism. In the event that this Proposition gets adopted, it seems to me that there will be a significant onus placed on the Connétable of the affected Parishes to appease local residents, while simultaneously trying to accommodate the desires of a public wishing to shop on Sundays. I have not noticed in the Draft Regulations any appeal process being available to dissatisfied retailers and I wonder if the Attorney could give a view on the process, should an application to open be refused by a Connétable.

The Bailiff:

Mr. Attorney, are you able to assist the Assembly?

Mr. R.J. MacRae, H.M. Attorney General:

I hope I am, yes. Any refusal would be subject to a process of review in the first instance under Regulation 20 of the 2011 Regulations. The review, effectively an appeal, is to the Comité des Connétables and the Chairman shall convene a panel of 3 Connétables, excluding the one who made the decision in question, who reviewed the decision and, if an applicant is not satisfied with the decision of the Comité, there is an entitlement to appeal to the Royal Court under Regulation 21.

The Connétable of St. Brelade:

I thank the Attorney. I suggest to Members that I see no reason why we should simply copy other jurisdictions and be influenced by U.K. supermarkets. We can retain the *status quo*, keep our own identity and preserve family life and working conditions as has been well outlined by others. Notwithstanding that, I am not oblivious to the significant public desire to shop in the larger outlets on Sundays and that opposing it could be likened to the little Dutch boy putting his finger in the dike. Like several others, I look forward to the Minister's summing up.

1.1.6 Deputy K.G. Pamplin of St. Saviour:

As ever, I have taken out research on this subject and sought the facts from the fiction and, also importantly, I stood outside some supermarkets and small shops in my district of St. Saviour No. 1. As well as engaging with friends, who work in some of the supermarkets mentioned, who, also like me, have children. Guess what? The feedback was split down the middle; however, the clear theme from all I spoke to said that anything that can help bring costs down and provide more choice and the protection of workers they would support. Indeed, a former director of the British Retail Consortium showed that market research suggested people wanted Sunday shopping to make it easier and would embrace the changes only if it was fair. There are more recent studies that show the change of the shopping economy based on the rise and fall on the face of uncertainty in a local area, due to market pressures and, yes, Brexit can also have an effect. I have not heard other Members mention this, but allowing careful consideration and considerable discussion at a recent meeting of the Jersey Consumer Council, as emailed to all States Members, their members gave unanimous support to the Proposition, which effectively relaxes the Sunday trading laws as we are talking about, but their obvious conclusions, you could argue, were reached on 3 counts: consumer choice, food wastage, interestingly, which I have not heard so much - large amounts of unsold goods, with use-by dates, rather than best-before dates are disposed of on a Saturday evening if unsold - and job opportunities, as well. In fairness, the current Jersey Consumer Council members range in ages from teenagers to pensioners and all from very different backgrounds and career paths and sections of society. Back to my parishioners. As my counterpart has mentioned, in our particular district of St. Saviour, we

have, as well as the wider Parish, the majority of the Island schools in the week. We also have a range of supermarkets, including the aforementioned one on Rue des Près in our district. I understand the concerns of local residents on the impact of their well-being and, in recent months, I have helped some residents and managers crucially come together as neighbours to try and work through the issues. Where this has not worked, I have relied on the stern, but always welcoming, approach of our Constable. As Senator Pallett has mentioned, given the regulations that the Constables will then have if these Regulations are approved, this will play very important in protecting the well-being of our residents over the inconvenience of the business of some, if they just do not use common sense to look out for each other and work with us in the Parish.

[10:30]

Saturdays for families can be incredibly busy with sports activities and I just want to talk about this on reflection of yesterday's debate, standing here as a parent of young children. It is often tricky to get any shopping done nowadays, truth be told, as it can be in the working week, yet on a Sunday it would give greater choices to Islanders if they choose to, though we do have to be mindful of a few things, I believe. Life is changing. The reasons why we mention mental health and I know I do a lot here, is that we have a challenge in modern life. The 24-hour, 7-day week, where anything can be got if you want it, is showing its effect on a jaded generation. Again, something I have stood here and said many times is that good mental health is dealing with the now, not the past which cannot affect us in the now, or crucially let us define it and the future, of course, which is yet to come. What is the reality for Islanders in 2019 and the world that faces all of us in the now today? Children continue to attend schools in a structured Monday to Friday way and for a lot of workplaces also they fit that old Victorian model of the Monday to Friday 9.00 a.m. to 5.00 p.m., but that is changing. The reality is, children, like mine, often have after-school activities and also crucially, something not mentioned a lot yesterday, very busy Saturdays representing their schools in cricket matches, football matches, netball matches, school sports days, workshop clubs, homework clubs, swimming lessons, homework, course work to achieve and, most importantly, as my daughter reminded me this morning, a lot of birthday parties to attend on a Saturday. As parents know, who host birthday parties on a Saturday, I need a week to recover, not just one day. We parents of young children, live in very different times due to the pressures of modern life and the rising costs and limited time we get to spend with our children because of these factors. Anything that helps anyone to have a more balanced life and the choice to do so must be encouraged. Delivery of shopping to those who cannot access larger shops with disabilities or, again, anyone with a mental health issue, needs to be improved and local supermarkets seemingly are working on this. The success of HelloFresh, as mentioned by some should, in my opinion, spark local companies to respond to its success as an opportunity. Do you remember, about 10 years ago, the local vegetable bags of fresh, local produce grown on local farms, ordered online or over the telephone and delivered to your doorstep? Or how about those good old honesty boxes around the Island like some really good potatoes on sale out west, for example, that spring to mind? There is no doubt you can provide more choice, but crucially I believe we are coming into an area that we will be debating sooner, rather than later: flexible working hours, more choice. Crucially, this must bring lower prices that will only help the well-being and pressures that we have on this Island to put food on the table on a tight budget that is only getting tighter. What is more convenient and better for the well-being of workers and shoppers alike is also very important. Later opening hours, 24-hour shopping, no Sunday supermarkets over or more immersive shopping experiences, or even more competitive, cheaper prices. I thank the Constable of St. Clement and others for making a very clear point the role the Constables will have in the Regulations and they are the best placed in this moment to stand firm, to find harmony with the local businesses we welcome and need in our Parishes, but also, crucially, the residents to ensure the permits are given and people stick to them. Indeed, a recent survey for the campaign group Open Sunday, no surprise, found that 72 per cent of people support being able to shop whenever it is convenient for them. During the 2012 Olympic and Paralympic Games, shops were open for a prolonged period of time for 8 consecutive

weeks and the positive bounce-back effect there, well, everyone was a winner. Shopping is no longer simply a chore, though anybody who has come shopping with me will maybe disagree with that. For many people it is a leisure activity for some. I enjoy shopping with my children on a weekend. It is a good time to show them how not to shop like Daddy with sugary treats and shop better for better food. For those who are treated well and enjoy working on the days they choose to will have more flexible choices of working, which improves their well-being and in turn their customer service. Like my great nan used to always say, who loved working in a shop: "Be happy, customer is happy." There are a number of economic advantages for which the Minister is trying to do here. Economic growth would be encouraged, as proven in many research papers. Many European studies have found that deregulation nets employment increases by 7 to 9 per cent. As Deputy Morel has concluded, by certain local tax choices we have made locally, would have caused some issues where we need to support, can get better and drive change and get fairness back with these Regulations. But we must say - and I think we are all saying it - we will not stand for the ill-treatment of workers in 2019. So to conclude, Sunday jobs provide a perfect opportunity for young adults, especially students. My son, currently right now, has a job on a Sunday where he works to get pocket money, but we still find time to spend time as a family, though anybody with a teenage son knows that is not an easy thing to do. At a time when online shopping is available 24 hours a day, a rising cost for everyday folk, we have to give the chance to the industry to grow and improve, but not to the degradation of the workforce. They have to be competitive and the retail industry has to play their part now. To conclude, it is clear that there are economic advantages to be gained by the updating and the including of fairness of Sunday trading laws. In addition, there is also the virtue of ending the unjustifiable policy of forcing businesses to be closed at certain hours. But to say this is not simply the answer, only a chance of opportunity and I hope the retail industry take it if other Members like me support the Minister's Proposition. Thank you.

1.1.7 Deputy J.H. Young of St. Brelade:

I have taken careful note, I have listened carefully to the 27 speeches so far. Unless I am wrong, I think they are pretty evenly divided and that reflects the nature of this problem that there is no question there are advantages in the proposal, significant ones and there are desires, strong desires in the community for the change. Indeed, when I first heard the proposal I thought, yes, I could see the pure logic. We have got inconsistencies in the system and if we iron out those inconsistencies in principle that seems to be a good thing. But, of course, as we have gone along and we have received all the various emails and clearly there are elements of both commercial lobbying, particular interest groups lobbying, which is all very valid and I think the point is that we have to find where that balance is. I have listened, trying to take note of what the arguments are. First of all, we had some very valid arguments about the issue of internet shopping. There is no question that that is a massive issue, but I do not believe, I have not heard an argument yet, that says to me the proposal is the complete solution to that issue. There are much wider problems. I think that those people, who are ordering food online now, I ask myself: if they are getting the convenience and it is working for them, are they likely to change practice with this new model? I have not yet heard that argument. Then there is the argument of employee protection and, of course, that relies very much on I think anecdotal information. Of course, we have heard there are concerns potentially and there are means and certainly that needs to be monitored because there are potential solutions there. We have heard about the possibility of protections in the Employment Law, that may be possible in the future, but the big one for me is the living wage. We really cannot continue with this low-wage economy which is where people are put under pressure of life and they have to do 3, 4 jobs in order to sustain a living job. That is part of the problem: living wage. I do not know how many of these large retail outlets pay the living wage; I would like to know. Then we have got the argument about limited size of the market, which seems to be logical for me, because I have seen in small communities and other places where retail is struggling the traders then do reduce their hours of opening, because there is a finite market and that is kind of self-regulating. So, of course, I can see the argument that says if you

extend the hours and the volume then what happens is that the overheads increase and that means, of course, lower pressure on wages again, so again I see a problem there. Then I understand the special quality of Sunday and the increases in stress and mental health of people, probably from this very thing. Everybody is chasing around trying to get everything done on a Saturday, people are doing jobs on jobs, not having enough time for their children, which I think, as we are reminded, should be one of the issues. I am going to put on the record here, I enjoyed the Constable's speech, the Constable of St. Helier's speech, immensely, but I am going to make a confession. Not only do I like jigsaws, but also I like Saturday. I go to rugby. I like Sunday because I can get politics wall to wall, so I think we should not denigrate these things. People make their choices about how they share their time. It is not just: "Well we have got to do this, because this particular group have this dispute." No, we have got to find a balance. Then we have got the issue of young workers and this I find a little bit more persuasive. I am very troubled that I am hearing that young people, who are at the threshold of entering working life, are not able to get part-time work. I myself, at my age, started work at 11, I think; you would not be allowed to do that now. But I worked in part-time work, working at 5.00 a.m. in the morning delivering newspapers when I was that age. I could hardly carry the bag of stuff. All the way through I have always done that part-time work; in fact, several times I had several jobs. I am worried about denying youngsters that opportunity, because it really is a good way of learning life skills. But I ask myself: is this the solution? No, I think there has got to be other solutions, because it occurs to me, can Waitrose - and I will name them because they have been spoken of - can they just run a shop with millions of pounds of stock and so on, on the basis of some really good young people? No, they are going to need other people. There are going to be managers, supervisors and all that to make sure the thing runs properly. That leads me, I think, to the issue of migration. The Constable of St. John clearly highlighted this; he is Chairman of the Migration Group. Of course, I have listened to all the representations of all the industry groups, because we have met them all: "What are your views about the need to recruit workers?" What we are hearing, the employment market is very tight. It is very difficult to recruit and retain people. So I see here - and I have not heard an answer yet - is this not putting further pressure into the Island for those registered jobs? Now, I think this comes to be what I think is the most material item for me that up until now has not really come out in the debate. Various Members have kind of highlighted this as being competition between the smaller supermarkets and the bigger players. I do not think it is that. This takes me very much into a land use planning issue. I think there is an analogy here with the big issues that have arisen in the U.K. with out-of-town retail. In the U.K. we know in other places our towns and our urban centres are being denuded of ordinary corner shops and smaller outlets that serve those units. The best example I think, that Deputy Ward mentioned and I am going to highlight this, because I have been there, he mentioned Bluewater. Bluewater, I know that place very well [*Please note that the Deputy later clarified that he in fact meant to refer to 'Lakeside'*]. For those that do not know it, it is on the north bank of the Thames just on the outskirts of London in the Essex hinterland and in particular I want to mention a town called Grays. It is, of course, an area of industrial activity and I went there and looked around for a shop. I got off the train: "Where is the centre?" "Oh, we do not have any shops anymore." "Well, where are they?" "Oh, we all go to Bluewater." The centre, if you have not been there, it is vast. I accept it is an extreme example, but what that centre has done has sucked the life out of that whole area in terms of the decline of those urban areas, so I think there is an analogy here. We know locally there is, over the years, planning issues. When you come along and say you want to put in a large retail outlet in the Island of Jersey in a full land space, the issue that comes is: what market is it going to serve? I think that the major outlets are serving a whole-Island market. They are not serving a more local confined area. So, for example, I quite like to go gardening on a Sunday. I might even be forced to do some D.I.Y. (do it yourself). I am not really keen on that, but I am sure voices might come and say: "Get on and do this."

[10:45]

But that is an example of a whole-Island issue and I think that does change, that does impact. What we have heard from other speakers, Deputy Morel spoke about imposing, Government, Big Brother, saying things: “You must do this.” Well, I consider the views of those residents living in those areas because there are not many out-of-town areas ... well I cannot recall what you might call a larger out-of-town retail outlet being put in a greenfield location. Generally, they are on urban fringes around residential properties. I know that over the years that when those planning applications come up for those developments, they are very contentious, because people know that the hours will extend, the activities will extend, they will get more noise, they will get more disruption and so on. That is what happens. Of course, what we are told is: “Look, there is a safeguard here, the Connétables.” We have all been to Parish meetings, what happens is I think there is an analogy with the Licensing Law. A number of people turn up who have an interest and the vote goes through. I agree very much with my Constable that that situation puts the Constables under pressure, having a system that relies on the Connétables to make those decisions. Then we heard again: where is the appeal to the other Constables and so on? But I would guess that the evidence is what was the attendance at that meeting and what was the information that was put and who gave those views and so on? So, I do not really see that as a fair answer. On balance, I struggle with this, because it is an issue of balance. It is an issue of balance: which side of the line? I am torn. I was OK with it at the start, but I think since my own personal brief is Planning and Environment, I am concerned about the impact on out-of-town residents. I am concerned about the diminution of small corner shops like where I live. I go to the Co-op at St. Brelade, I go to Woodbine Stores. I want to see those left; I want to see them thrive. I think, for me, my side of the line and I am sorry, Minister, but it is going to come down against.

1.1.8 Deputy M.R. Higgins of St. Helier:

As others have said, the argument is finely balanced. I know that every time this matter has come before the States in the 11 years I have been here, I have opposed increasing Sunday trading. But this time, I must admit, I am wavering and it is not because of the lobbying of Senator Farnham. The argument is finely balanced, there are pros and cons and, to be honest, I am not sure how I am going to vote until I have got to press the button, I think and that is going to be what it is going to be. I want to make some observations first. I do not believe that if we allow more people to trade on Sunday it is going to increase sales. I agree with the argument that says the sales are going to be spread over 7 days, there will not be a vast increase. It is also said that we have to protect retailers from the effect of online shopping. I do not think it is going to stop online shopping. People are getting value and choice online. It is also said that we have got to safeguard retailers. Now I accept the employment argument, but many of these retailers have ripped off the consumer in the past. I have gone on repeatedly about those shops that are still charging U.K. prices that include V.A.T. (Value Added Tax) and are selling them to Jersey consumers. Now, the V.A.T. in the U.K. would be paid to the U.K. Government. The 20 per cent extra they are getting is going in extra profit margin. Now, they complain, for example, that they are paying very high costs to landlords. That is an issue that should have been looked at long ago and we need to look at as the States, because I accept that could be a problem. But I do not believe that certainly because of the V.A.T. argument ... I must admit I resent what they have done in the past and I will never forgive them for it. In my first year in the Assembly, I brought a Proposition to try and penalise those employers who did it and I failed. I regret that, because for 10 years, or more, those same employers have been making that extra money at the expense of the Jersey consumer, so do not expect my sympathy if you are doing that. We talk about the pressure on workers to work and there is no opt-out as in the U.K. This is a failure of Government, this is our failure. We should have put in an opt-out beforehand and we need to address employment issues in this House. Yes, the composition has changed in here, this particular Assembly compared to previous ones. Before, vested interest had a major influence on what was going on and there were no changes, but we need to come back to these issues and address them. The economic pressures on the workforce. Now, I agree totally with Deputy Young. Many workers are earning below the living wage and that is a scandal, I think. We know that Jersey has a very high cost of

living and we know that many workers are having to work all hours, or to have multiple jobs, not helped by zero-hour contracts. It is also not helped by, say, the high cost of living. What do we do about it? Very little, to be honest, as an Assembly. We say: "Oh, inflation has come down" and the Government make out that it is down to them. The truth of the matter is, it is not down to them at all. If we look at the likes of the proposed car park charges, increasing the hours, we are going to push up the cost of living. Government in this Island tends to put prices up, or cause the cost of living to go up, more than they bring it down. Can you think of anything that we have offered that brings down the cost of living? I cannot think of anything. Jersey as an Island is very much dependent on goods coming into the Island and we have to pay for that. But we also know that landlords are charging an awful lot and we do not bring in, I think, sufficient control sometimes with what they are charging and for what they are charging for. So, there are a lot of issues around this that we, as an Assembly, have failed to address. As I say, on this particular issue, it is difficult to decide what we are going to do here. It is our failure, to a large extent. What I would also say is: it is going back to this idea of lack of family time. It has got so bad that people now have less leisure time with their families because many of them - and I am talking about the majority of the people in this Island who are not working in the finance industry and have the good wages - do not have the time, because they need to earn the money to survive and try and provide for their family. Again, as a Government, we failed to provide childcare. A lot of the income that people have is being spent on childcare. Again, as I say, our failure. I might add, it not only divides people in the Assembly here, it also divides families. I know my wife has been telling me one opinion, which I do not necessarily agree and I do not always agree with my wife anyway, but on this particular issue I may oppose her again and face the consequences. I honestly do not know what I am going to do until I press the button, but I do say that, on this particular issue, there are no winners, I do not think particularly on one side of the argument to the other. I think that, as an Assembly, we have got to go back to basics and start dealing with the underlying problems we have. If we fail to do that, then we are wasting our time in this Assembly. Thank you.

1.1.9 Deputy G.C. Guida of St. Lawrence:

I apologise this will be a little bit disjointed, because I am trying to answer a few questions that have been raised. The question about opting out and the damage to the employees, we are talking here about the larger shops in the Island, the ones with the most staff and, therefore, with the most flexibility. The shops where employees are going to be compelled to work on a Sunday are the small ones, who have 2 or 3 staff and, I am sorry, but we did that in 2011, so they are the ones suffering from this. In the larger shops, where you have 100 staff, it would be extremely easy to find somebody who wants to work on a Sunday and is better off with it. I would love to talk a little bit about how supermarkets work, but there is one figure that I can give you which is pretty much general for retail. On Monday, a shop can expect to do about 10 per cent of its turnover; on a Tuesday, another 10 per cent. Guess what Wednesdays, Thursdays and Fridays are? On Saturday a shop will do 50 per cent of its turnover. It will do half of its work on a Saturday. So, when you are designing your shop, counting your cash registers and hiring your staff, you are doing all this for your Saturday and you need all hands on deck on the Saturday. That is compelling people to work on a specific day where they might want that actual day off for other reasons, they might have other things to do. Their kids might be doing competitions that they want to attend and all this happens on a Saturday where, because it is all hands on deck, they have to work. If we open up Sundays for those express shops, we are talking about 25:25, at the most is 30:20 and that spreads the workload in a way that is very favourable to all those employees. It is also very favourable to the shoppers, because 50 per cent of the business happening on Saturday means 50 per cent of the shoppers do their shop on that one day. Everybody is in the shop at the same time. It is not terribly pleasant and most people hate it. A few take pleasure in retail therapy, but having to fill up your trolley on a Saturday with another half of the population is not terribly pleasant and being able to spread that is better for well-being and it is better for traffic. It is much better for traffic. Yet, one thing that was alluded to and I think this is

quite important, is the Saturday night waste. It is bin day for supermarkets that cannot open on a Sunday, because if you can sell every day, they have one more day a chance of selling things that are getting to their sell-by, or sell-before, date. So, it is really the time of the week where you fill up the bins and that waste is absolutely unacceptable. Last thing about overheads, just because the doors are closed does not mean that the shop is closed. Do not think that the large supermarket officer then can switch off all the refrigerators and all the lights and everything, just because there are no shoppers in it. Most of the overheads are present on a Sunday. The shop is, for all practical purpose, working, it just has a few less workers in it. For those who have travelled to Britain and America, you will know that this is so true that many shops can open 24 hours a day with only a few dozen people shopping during the night, because they are technically open 24 hours a day. It just needs a handful of employees to make them run during the night and it is not much more expensive. So, much better for the shops, better for the employees and way better for the public. I do not see why we are holding this up. Again, if I put my other hat on for the environment, spreading the traffic, spreading the noise pollution, spreading the pollution and stopping some of that unacceptable waste can only be a good thing. So I urge everybody to vote for this Proposition.

1.1.10 Senator S.C. Ferguson:

I will not say very much, I think a lot of people have said things already. Saturday shopping, well, interestingly, I meet all the local pensioners on Saturday evening about 5.00 p.m. who are getting all the bargains. Deputy Morel was talking about how unfair we are taxing the large supermarkets, but perhaps we should consider where these large companies pay tax under the Zero/Ten regime. These large companies used not to pay tax in Jersey. I was a small shopkeeper and I did try opening on high days and holidays, but I do not think I was selling the right kind of goods in order to benefit from it; I was not a supermarket. Interestingly, in the U.S. (United States) the city centre shops do not open on Sundays, but the shopping malls in the suburbs are open for a limited period. My gut feel, like Deputy Higgins, is that the spend will be spread over 7 days, instead of 6. If this Proposition is passed, I would require the Minister to obtain figures to support, or disprove, the assumption. The Connétable of St. Helier was pretty scathing about the more conservative speeches, but however much he may relish the thought of additional rates, or profits for the town, he will need to provide extra services and extra cleaning.

[11:00]

He waxed lyrical about the job opportunities for youngsters but, as Deputy Young said, we have already cut off the ability for them, at a young age, to be able to deliver newspapers and so on. Are we giving with one hand and taking away with the other? But I must query: is this to support the retail market? Should we not be encouraging them to update their business models? We talk about these food deliveries and so on. I do not think the extra opening is going to provide people buying the extra goods from supermarkets when they can have it delivered to their door at a lower price. Surely the supermarkets should be starting to think about maybe we should have a delivery service. How do we make life easier for the consumer? It is not just making life easier for the retailer; it is making life easier for the consumer. What are the outcomes? What is the objective of the retail industry? OK, they want to make a profit, but what about the poor old consumer who is going to buy the stuff? I will listen to the Minister's closing speech with interest.

1.1.11 Senator I.J. Gorst:

We had a good debate yesterday and today and these debates are not easy; one or 2 Members have tried to suggest improper motives to other speakers and that is, perhaps, a little unfair saying that they have had their heads stuck in the sand and that they do not want to see change. So, perhaps I should start by making a declaration of interest: the Gorst family is a shareholder in the Co-op. I was pleased to hear from the Constable of St. Clement that my dividend ... I think we are inordinate.

The Bailiff:

I think we are inquorate. Could you ask Members to come back in?

Deputy J.M. Maçon of St. Saviour:

The roll call please?

The Bailiff:

I will give just a little bit more time. Yes, thank you very much.

Senator I.J. Gorst:

I was pleased to learn from the Constable of St. Clement that dividend is improved by the allowance of Sunday opening of the local stores. But simply having a Co-op shareholding does not mean that we do not also, like many families across the Island, shop in a whole variety of supermarkets, food retailers and other retailers up and down King and Queen Street, as well as buying off the internet. For me, I fundamentally believe in freedom of choice; that individuals can make better choices, broadly speaking, than Government. That my money is better in my pocket than being distributed, no disrespect to the Minister for Treasury and Resources, or the officials in the Treasury Department, than the decisions that Treasury might make in spending and gathering that money. But I recognise that, in a democracy, we are governed by the people for the people and being part of a community means that I must and we must responsibly pay our taxes and come together to decide how to spend those taxes. So we will be doing in the Government Plan, on something like 26th November. Those decisions are difficult; they are important; and they affect Islanders' everyday lives. We have heard today that some Members think that we must deliver completely unregulated, albeit for only 6 hours, shopping on Sunday. That is the right and the fair and the level playing field approach that we ought to take. We have heard also other Members mention concerns about protections for existing employees, who currently do not have to work on a Sunday, because the shop that they work in is not open and do they now have to be forced into working on a Sunday against their will? We have heard, it has to be said, some confusion about what the approach will be, because we heard the Minister in his opening speech tell us that there would be no compulsion. We heard the Chair of the Migration Advisory Group telling us that no extra licences, while he did not quite say die in a ditch not to give extra licences, but he did say that he would not be giving extra licences to retail operations to open on a Sunday. So there is something there, which needs to find a way through. We know that the Minister, in his comments paper, said that he would keep this under review. We know that the Deputy of St. Peter has set himself a diary reminder to do so. If this is approved today, I implore the Minister, in his closing comments, to say that he would work together with his fellow Minister for Social Security, who is responsible for employment law, to ensure that protections are put in place. If it is necessary to have level playing field protections across all of the retail sector then that is something that the Minister should not shy away from. Because I know, fundamentally, he is a fair man and therefore I am sure he would wish to see such protections in place. My good friends in Economic Development, a Minister who is still in Economic Development, my good friend up in the gallery, who is trying to deliver economic growth and development from another job, they have commented on 2 important proposals today; this is the first. The second is about maternity and paternity provision. A number of comments that have been made in this debate also have relevance to that next debate. It is the questions that we must answer in this Assembly about where that balance lies; about where Government should intervene for the benefit of Islanders and we have heard a lot of Members talk about well-being, about mental health and for one family well-being and good mental health might mean going to the shop and shopping together on a Sunday. For another family it means protecting that one day of the week where there is not the need to be pressured to go shopping. This is not a straightforward, clear-cut, black and white issue. At some point, that personal choice is slightly constrained by the good of the community. We have also heard and Deputy Maçon spoke to this point, about some of his constituents who have contacted all States Members about the potential noise pollution and the relief that they feel on a Sunday when those large shops are not

open. So, whatever the decision of Members today, it should not be taken, I do not think, for a minute of this Assembly not supporting the retail sector. I know that the Minister is coming forward and continues to think about his retail strategy, together with his economic framework and he has lots of good things up his sleeve that he will be delivering, if that is a parliamentary term, throughout the course of the next 2 years. These are difficult decisions; I have not changed my personal position from every other time I have been asked to vote on this particular proposal and it has changed over the years, as the Constable of St. Clement said. It is a fine balance. It will not be the end of family life if we vote to extend Sunday shopping, as somebody has said, the experience that they have seen in Guernsey. Nor will it be the great silver bullet for the retail sector. It is a finely-balanced question for some families; it will add extra pressure on already difficult circumstances for other families. It will allow them to have other things to do on a Sunday, other than making jigsaws. Like Deputy Young, I see nothing wrong at all with doing jigsaws, or playing games, on a Sunday, or going to evensong, although maybe not in St. Ouen in my case. We are a community that is becoming more tolerant, more open, more accepting and that can only be a good thing. But in the decisions that we make in this Assembly we try to protect the vulnerable; we try to provide for all; and yet we also know that jobs and economic growth are fundamental to a successful future. I know which way I will be voting and I ask Members to think about those issues as the Minister sums up and they themselves decide where, on this issue, the balance lies.

The Bailiff:

Does any other Member wish to speak on the Principles? I call on the Minister to respond.

1.1.12 Senator L.J. Farnham:

I was about to give way for Senator Moore to return, but I think she has changed her mind when she saw me stand up. Members might want to write this down: 71809 is my divvy (dividend) number at the Co-op and if anybody who does not have one would like to pop the odd thing on that it would be very much appreciated. **[Laughter]** I thank Members for their contributions today to this debate, which have been wide-ranging and thoughtful. In summing up, I would particularly like, though, to remind Members of the points that a number of Members made so well. That is that Sunday trading is already a reality in our society and it has been for many years. The principle is well-established and is part of our weekends. It is also successful, providing work for people who want to earn extra, access to shops for people who cannot get to them at any other time and an economic cushion for our retailers and those businesses who can and want to open. The debate today is simply about adding to our weekend routine by adding a limited number of establishments, for a limited number of hours and handing over to retailers and consumers and workers some of the decisions that should really be theirs, not ours, but theirs. We have, as Members have pointed out, allowed anyone up to 7,500 square feet to trade all day on a Sunday for many years and for rather longer than 6 hours. Benest's is open, M.&S. (Marks & Spencer) shops open, many more open and the complaints to J.A.C.S. (Jersey Advisory and Conciliatory Service), to politicians or elsewhere, have not come. On the contrary, you have employers such as Waitrose telling you that they have employees asking for Sunday work and they have filled half their planned Sunday positions already. Ironically, well it is not really ironic at all, but it is a fact that there does tend to be better working conditions and better rates of pay in the larger businesses.

[11:15]

There are about 30 businesses that currently cannot technically open, of those 2 already do, Motor Mall and Jacksons. No one seemed to want to stop this, Motor Mall, when their petrol was the cheapest on the Island. Neither have sales divisions that are labour intensive. Another one is a carpet and furniture retailer with a low staff count, another is a furniture retailer with a low staff count, one is Ransoms, which does not intend to open, one is Voisins, which does not intend to open, one is M.&S. in King Street, which does not intend to open, 3 are Waitrose supermarkets, which I believe

do intend to open, but are having no difficulty in recruiting for Sundays, 2 are Co-ops, which are citing, quite rightly, their very responsible employment practices, as are many of the other retailers and businesses large and small. Believe it or not, since the progress of modern employment legislation, the state of our labour market and the responsible attitude of the vast majority of businesses, most employees enjoy good working conditions. Having run through that list of businesses, I want to turn to staff that already work on a Sunday. Of course, we know that there are essential jobs that need to be done; police, fire, ambulance, health and social services, hospital staff, doctors, nurses, and their ancillary staff, cooks and cleaners, incinerator staff and the technical staff, household recycling facility at La Collette, Customs and Immigration and civil servants, a lot of us, whether we are backbenchers, or Ministerial Government, or Scrutiny, work with our officers through weekends. Pub staff, hotel staff, restaurant staff, chefs, waiters, kitchen porters, hotel staff, receptionists, chambermaids, managers, assistant managers, supervisors, marketers, supermarket managers, assistant managers, check-in desks at the harbours and airport, in fact all of the Ports of Jersey, not just at the harbour at St. Helier and the airport, but in some of the smaller ports around the Island, delivery drivers, radio and television staff, the media, emergency plumbing and heating staff, stores workers and shelf-fillers in shops and garden centres that are not allowed to open, they work, they all work currently. Having said that, I recognise that we need to be alert to issues around staff welfare and family pressures, but we also need to be careful on imposing our personal and potentially rose-tinted views of Sundays. I like puzzles too, as a few Members have mentioned it, I have just finished one, it took me 6 months and I thought that was very good because it said: "3 to 4 years" on the side of the box and I was very pleased with that. But we have to be careful about rose-tinted views of Sundays and to everyone becoming too prescriptive about how we force people to live their lives. As Deputy Gardiner pointed out, some people want and need Sunday work, they see it as an opportunity to make their particular circumstances work more effectively for their families. The needs and requirements of families are all different. Some might be similar, but many are different. I want to read an extract from a letter I received and many of us during this debate have received a number of items of correspondence. But if I can just refer to a couple of paragraphs in this particular note. It is from a family and the author says: "At the weekend I almost fear Saturday for all that it entails, it is a day, the only day I can get the weekly shopping done, the only day I can shop for the children's clothes, the incidentals they will need in the week and those bits and bobs for the parties, school events, and more of the things they all need regularly. We also need to get the house renovation work underway, so of course we need to visit the usual D.I.Y. and garden centres. Around this we have to go to the dance lessons and the sporting events to get to and there is also the weekly cycle of washing, ironing, house cleaning. Getting to one of the great events held in Jersey mostly on a Saturday is rare for us. Saturday is exhausting, an exhausting logistical race for our family from one end to the other. I do not think this is unusual, or anything I have a right to complain over. These are my life choices. However, I do sometimes imagine the freedom we as a family would have if we had 2 days in the weekend where the opportunities to enjoy Saturday and enjoy Sunday were given to families in Jersey, where we did not become forced to limit our family's social world into one day, where I, or my husband, could spread the essential jobs and work we all have to do over the whole weekend, so that the precious family time could also be shared over those 2 days. The unintended consequences of limiting our choice on a Sunday is that we have to attempt to cram everything into the Saturday, which of course we more than often fail to do. Oddly, despite some things I have read on keeping Sundays special, by not giving families a full weekend to manage their modern lives better, limiting our choice on a Sunday is causing more stress and I do not believe it is good for the family unit." In fairness, I have had other items of correspondence similar to that and I have had some that are against what is being proposed here today. But the ones that are against are really in relation to noise and disturbance and that is something that that difficult issue, as a number of Constables have pointed out, that important authority to issue a permit will stay with the Parish and the Attorney General helpfully pointed out the appeals process, should a Connétable decide, for whatever reason, not to issue a permit. That appeals process is very fair. We have had another item

of correspondence that was sent to all Members last night from a Waitrose partner, asking why many of us were offended on her behalf. Why were they deciding about her life choices? How do they know what the individual circumstances are of many people? That dovetails with the points that Deputy Gardiner was making earlier. Can I just take a moment to remind Members about what these Regulations will achieve? These Regulations will provide shops over 700 square metres or 7,500 square feet approximately the option to trade for up to 6 hours between 10.00 a.m. and 4.00 p.m. on Sundays throughout the year. They would also recognise the position for petrol stations and remove the red tape that obliges every small shop applying for their first permit to pay for a surveyor's plan. I just go back to the issue on petrol for the moment, because this is an issue that the Connétable of St. Helier is going to have to resolve one way or another and I am not sure how he is going to do it if these Regulations are not passed today, because we have the very busy and successful petrol forecourt that could well be forced to close and I am not sure how the many thousands of consumers that use that on a Sunday will react to that. These Regulations will also respond to a major consumer survey, the first one that we have done on Sunday trading and a number of Members have quite rightly said we need facts and figures to back these Regulations up and we have got those facts and figures. We need to collate more facts and figures and I am going to undertake to do that, but I will come back to that in more detail in just a little while. But this survey conducted by 4insight was very telling and identified very clear support for broader Sunday trading throughout the year, allowing for a lot of shops to open between 10.00 a.m. and 4.00 p.m. The call from consumers is now being supported by similar calls from industry stakeholders, including the Jersey Chamber of Commerce and the Hospitality Association and a number of other retailers while, of course, recognising that not all retailers will open, as is their right. The changes proposed in recognition of the intensifying challenge from off-Island internet retail sales, we have heard just how much that has transcended into food retail, providing an even bigger challenge for our food retailers. That is important, given the way we store and manage our food supplies and we have been doing, with Senator Gorst, a lot of work on that recently in light of the pending Brexit situation. That work has made me realise even more so than I did before just how absolutely critical maintaining our food supply is to Islanders, because of the way it is distributed, stored and shipped. So, we have to do everything we possibly can to ensure that our food retailers, especially our bigger food retailers, who supply the majority of the Island's food, are viable and remain fully operational. Most shops that wish to open will continue to need a permit from the Connétable, so Parishes will still have the power, as I have said, to take action if shops cause undue nuisance in the locality. My officers have worked with the Parish administrations to change the application form and to help the Constables with this process. In future, applicants seeking a permit for a large shop will need to provide an operating statement, summarising how they will work to mitigate the risk of noise, traffic and other nuisance. If that statement is poor, or the Connétable finds out that the shop is not taking the steps promised, they can take action. The need for changes to the Employment (Jersey) Law to protect retail employees has been considered and again I will come back to that in a minute. A number of Island residents continue to regard Sunday as a special family day is absolutely accepted. Town centres - and I always refer to Town as a town centre, not the high streets, as I am often quoted as saying - Town, as we know it and shopping centres that are still thriving in the British Isles are doing so by broadening their leisure and entertainment offerings to attract families and to be open at times when their customers want them to be. Where this has been particularly successful in the British Isles and in Europe and in many popular French towns and cities, opening hours and staff structures have been adapted over a 7-day period and, as a number of Members said, employees; that has led to more-flexible working hours for retail employees. Jersey remains a quality tourist destination, a broad range of commercial activities are permitted on Sundays, as part of the tourist economy. Visit Jersey is clear that permitting a wider range of shops to open on Sundays, even for a limited period, would have a positive impact on the visitor economy.

[11:30]

I just want to turn to the issue that a number of Members raised, and Deputy Higgins was the last Member to raise it and that is about the spend. There are questions about whether we are just spreading 6 days' spend over a 7-day spend and that is one of the areas that we can monitor. The Co-op itself cited that in Guernsey they did see growth in their own business when they started opening on a Sunday, but of course it is fair to say that growth would have come from some of their competition. Some of it was incremental and added, because people were able to do large shops where they had not been before. We all know, as Senator Pallett said, many of us have saved hours of unwanted chores at the weekend by not being able to get access to plants, or soil, or a bit of gardening material and if you want to pop out on a Sunday and buy some soil, or gardening, or groceries, if you do not do it, it is gone, you are going to consume less products. Consumers will consume more. Every international study shows that where shop hours have been extended, takings have increased, so there is anecdotal evidence for that and I have no reason to believe that will not be the same here. But I hear Deputy Higgins and other Members and that is something we are going to monitor and work closely with through the Chamber of Commerce, with retailers and businesses, to ensure that it is going to be good for our economy and improve the productivity as it makes shops more sustainable, which is really important right now. Retailers tell us also that the risk over the medium to longer term is that if larger shops are not given greater freedom to choose when to trade, the number of retail jobs will continue to fall and job opportunities for Islanders and for part-time staff, for young people and especially some senior citizens who want to work, opportunities will be limited as well. We have thousands of teenagers, according to demographic statistics, in our Island and we know that there is huge demand from them for Sunday and weekend jobs, which provide, as the Constable of St. Helier said, a chance to earn their own money and enhance their own job experiences and have something to put on their C.V. (*curriculum vitae*). The up to 30 new positions announced by Waitrose are a one-day maximum 8-hour position and they are confident, they have already said they can fill them internally, or from within the Island. Next; the shop Next will survey their existing staff, giving them priority if they want shifts. Sunday work is a shorter day and there is the childcare issue again that Deputy Gardiner mentioned and they will survey their staff and then employ additional Sunday staff for gaps, as required. I would like to also address the points raised about protection for workers, which is very important and there are protections for workers. Although there is not an opt-out clause at this stage, there is the right to flexible working hours and there is a very clear process set out in the current legislation as to how that works. I know it may not be an opt-out, but most employers will participate in that with their employees. The Human Rights (Jersey) Law continues to apply in Jersey of course and, as I said previously, there is no evidence of a problem among the existing Sunday workforce, either in retail or in other industries that rely on Sunday to do business, or on other days that are of significance in other religions. If workers were being, or are to be, pressured to work on Sundays against their will, we will know about it via J.A.C.S., who are already in regular contact with my officers, but we do not have any evidence of a problem at present and we will watch that very closely. I understand the calls for an opt-out, such as England and Wales, but I do not believe that a U.K.-style solution is the right answer in a small community where we can more easily and more quickly monitor the impact of the change. We do this through unions, through Citizens Advice and through J.A.C.S. and via States Members, all of us are in regular contact with our constituents when they are in difficulty. Many of us do this job to help people and I am sure we are going to continue to want to help them if this becomes a problem. If it does become a problem, or any of the issues concerned become a problem, then I would expect this Assembly to act as it has done in the past and as it will do in the future. Because this has to be a success for everybody if it is going to work. I am also aware that the opt-out for Sunday retail employees could create more disparity with the workers in other sectors, including those in hospitality and agriculture, which, as I said in my opening remarks, I believe are a much bigger part of our economy and our community than they are in larger countries. Those industries would simply be unsustainable, if we were to apply those opt-outs across all of our workforce. As Deputy Tadier said earlier, how can it be right to give an opt-out to a retail worker in a larger shop and not a smaller

shop, or a larger shop, but not a hotel, or restaurant, or another place of business? We need to be vigilant though and if there is a problem we need to and we will act. I would like to be clear that if the States agree to these Regulations, I will ensure that certain aspects, as discussed during the course of this debate and any other areas of concern, are monitored by working with the relevant Ministers, and I cite the Minister for Social Security and the Minister for Children and Housing and the Children's Commissioner, if we agree this today, because, as I said, I want it to be a success for all parties. I will undertake to report back to the Assembly with an official report by the end of 2020 addressing - having monitored the issues - the economic issues, benefits, or impacts, having monitored it by working with J.A.C.S. and other organisations, to ensure that there is no enforcing of retail workers to work on Sundays. When you sign a contract, as the Attorney General pointed out in his advice earlier on in the debate, whether you work on Monday, Tuesday, Wednesday, whatever day, if you sign a contract to work, you tend to be bound by that. If you are contracted to work Monday to Friday and suddenly you decide you do not want to work Wednesdays, well you could be made to work Wednesdays, or the option is you go and find another job. We are seeing a lot more flexible hours working right across the spectrum of the economy, which is very helpful for some people. I also just wanted to go back, because I forgot to mention the findings of the Children's Commissioner's report, which said clearly that children surveyed wanted more to do, more opportunities to shop and that cannot be ignored. So, I will lodge, by the end of next year, a report citing the research we have done and I will also make a statement to the Assembly at a similar time in order to take any questions and answer any concerns. For me, though, I would like to think all Islanders, every day with the family is special. As a husband, a father, States Member, I have witnessed all extremes of family life from the near perfect to the most challenging. I am sure that we all agree we should nurture family life wherever possible. It is the talking over breakfast, being there after school, the care of the pet, walking the dog if you have one, sharing the chores, shopping together, the family dinner, talking about your day, sharing a favourite T.V. programme, or a movie. The bedtime stories or, in my case, the robust political row. The point I make here is that it is the quality of these everyday activities that enhance family life here in Jersey and provide a safe and caring environment for our children and for each other, not a few hours extra shopping hours on a Sunday. Thursday, Friday, Saturday, Monday, special family time should not just be reserved for a Sunday. So I would like to start, I would like to finish where ... **[Laughter]** I am just going to go back to the beginning. I would like to finish where I began and invite Members to consider a typical Sunday. Under these Regulations, a typical Sunday day now will be no different to a typical Sunday if we approve these Regulations. So, as I have said, Sunday is like every other day, it is special, the society is divided, but the majority of Islanders want this. It is up to us now to give businesses choice, to give consumers more choice and to give workers more choice. Sunday is special, like every other day and it will remain special and Jersey will remain special if the changes are passed today.

The Bailiff:

The *appel* is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 29		CONTRE: 17		ABSTAIN: 0
Senator L.J. Farnham		Senator I.J. Gorst		
Senator S.C. Ferguson		Senator S.Y. Mézec		
Senator T.A. Vallois		Connétable of St. Saviour		
Senator K.L. Moore		Connétable of Grouville		
Senator S.W. Pallett		Connétable of Trinity		
Connétable of St. Helier		Connétable of St. Martin		
Connétable of St. Clement		Deputy G.P. Southern (H)		
Connétable of St. Lawrence		Deputy of Grouville		
Connétable of St. Brelade		Deputy K.C. Lewis (S)		
Connétable of St. John		Deputy J.M. Maçon (S)		
Connétable of St. Peter		Deputy of St. Ouen		

Connétable of St. Mary		Deputy L.M.C. Doublet (S)		
Connétable of St. Ouen		Deputy R. Labey (H)		
Deputy J.A. Martin (H)		Deputy J.H. Young (B)		
Deputy M. Tadier (B)		Deputy of St. John		
Deputy M.R. Higgins (H)		Deputy J.H. Perchard (S)		
Deputy S.J. Pinel (C)		Deputy R.J. Ward (H)		
Deputy of St. Martin				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy S.M. Ahier (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Bailiff:

Deputy Morel, I assume that your panel does not wish to call this in, in light of what you said earlier? Very well, Minister, how do you wish to deal with the matter in Second Reading? There are 16 Regulations.

1.2 Senator L.J. Farnham:

I would like to take the Regulations all together if I may. Could I just point out that we have spotted a small clerical error in Regulation 8? I am not sure if that has yet been brought to your attention, but I understand we might be able to address that in the Third Reading.

The Bailiff:

Yes, it has. It is I think in Regulation 6, it has been brought to my attention.

The Attorney General:

Can I say I started this hare running and I have looked at the Regulations as a whole and in view of the contents of Regulation 10, there is not the error that we thought there was in the earlier Regulation.

The Bailiff:

It appears there is nothing to correct in Third Reading.

Senator L.J. Farnham:

Second Reading. So we will go to the Second Reading if we may.

The Bailiff:

So we are in Second Reading at the moment.

Senator L.J. Farnham:

Do the Assembly have an appetite for me to read through the Regulations? Well, I propose them as presented.

The Bailiff:

The Regulations are proposed *en bloc*. Are they seconded? **[Seconded]** Does any Member wish to speak on the Regulations or any of them? All those in favour adopting them? The *appel* is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 33		CONTRE: 11		ABSTAIN: 0
Senator L.J. Farnham		Senator I.J. Gorst		
Senator S.C. Ferguson		Senator S.Y. Mézec		
Senator T.A. Vallois		Connétable of St. Martin		
Senator K.L. Moore		Deputy K.C. Lewis (S)		
Senator S.W. Pallett		Deputy J.M. Maçon (S)		
Connétable of St. Helier		Deputy of St. Ouen		
Connétable of St. Clement		Deputy L.M.C. Doublet (S)		
Connétable of St. Lawrence		Deputy R. Labey (H)		
Connétable of St. Saviour		Deputy of St. John		
Connétable of St. Brelade		Deputy J.H. Perchard (S)		
Connétable of Grouville		Deputy R.J. Ward (H)		
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Deputy of Grouville				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy S.M. Ahier (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Bailiff:

Do you propose them in Third Reading?

Senator L.J. Farnham:

I do.

The Bailiff:

Are they seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting in Third Reading?

[11:45]

Senator L.J. Farnham:

There is nobody to respond to, but I just wanted to thank Members for a very thoughtful debate. I undertake to come back to the Assembly, as promised, after monitoring many of the issues and concerns raised. Could I also thank my officers, they know who they are and the Comité and the administration staff for very many long hours of work over the recent weeks. Thank you.

[Approbation]

The Bailiff:

Those in favour of adopting the Regulations in Third Reading kindly show. The *appel* is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 33	CONTRE: 11	ABSTAIN: 0
Senator L.J. Farnham	Senator I.J. Gorst	
Senator S.C. Ferguson	Senator S.Y. Mézec	
Senator T.A. Vallois	Deputy of Grouville	
Senator K.L. Moore	Deputy K.C. Lewis (S)	
Senator S.W. Pallett	Deputy J.M. Maçon (S)	
Connétable of St. Helier	Deputy of St. Ouen	
Connétable of St. Clement	Deputy L.M.C. Doublet (S)	
Connétable of St. Lawrence	Deputy R. Labey (H)	
Connétable of St. Saviour	Deputy of St. John	
Connétable of St. Brelade	Deputy J.H. Perchard (S)	
Connétable of Grouville	Deputy R.J. Ward (H)	
Connétable of St. John		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy M. Tadier (B)		
Deputy M.R. Higgins (H)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy J.H. Young (B)		
Deputy L.B.E. Ash (C)		
Deputy K.F. Morel (L)		
Deputy G.C.U. Guida (L)		
Deputy of St. Peter		
Deputy of Trinity		
Deputy S.M. Ahier (H)		
Deputy C.S. Alves (H)		
Deputy K.G. Pamplin (S)		
Deputy I. Gardiner (H)		

2. Draft Criminal Procedure (Jersey) Law 2018 (Appointed Day) (No. 2) Act 201-(P.95/2019)

The Greffier of the States (in the Chair):

We now come to the debate on the next item on the Order Paper, which is the Draft Criminal Procedure (Jersey) Law 2018 (Appointed Day) (No. 2) Act 201-, P.95/2019, lodged by the Minister for Home Affairs. If I can ask the Greffier to read the citation.

The Assistant Greffier of the States:

The Draft Criminal Procedure (Jersey) Law 2018 (Appointed Day) (No. 2) Act 201-. The States make this Act under Article 119 of the Criminal Procedure (Jersey) Law 2018.

2.1 Connétable L. Norman of St. Clement (The Minister for Home Affairs):

This Act is the next step in bringing into force the Criminal Procedures (Jersey) Law, that we approved in March of last year and that follows the first Appointed Day Act, which we approved in July. To remind Members, the Criminal Procedures (Jersey) Law sets out the modernised procedure to be followed in criminal proceedings. It provides the courts with all the legal tools to enable proceedings to be dealt with expeditiously, efficiently, but, most importantly, justly and fairly. The introduction of the law has been divided into phases, to ensure that the courts and indeed the legal profession can be fully engaged with the significant changes that it makes to criminal trials. This second phase will implement several improvements to the operation of the trial process. It will empower judges to play a more active role in case management, which means telling parties how to proceed and setting clear timetables for cases. It will place the operation of the prosecution and defence on a more structured basis, by requiring that defendants set out their case at an early stage by means of a defence case statement, balanced with an enhanced and clarified right of disclosure of material from the prosecution. It also allows an additional 2 reserve jurors to be appointed in long trials. In addition, this phase also applies amendments to the Police Procedures and Criminal Evidence (Jersey) Law 2003, which will make changes to the admissibility of evidence in Jersey criminal trials. For the first time, the rules on the use of hearsay evidence will be placed on a clear statutory basis. It would also expand the admissibility of evidence of bad character, which deals with the facts around relevant crimes that the defendant may have committed in the past. These evidential changes will be of particular use in cases where words spoken at the time and the past behaviour of the defendant are particularly important, for instance, in prosecutions for domestic abuse. Lastly, this phase implements the provisions which will allow the Court of Appeal to quash an acquittal and order a retrial where significant new evidence has emerged which points to a person having escaped justice. I propose the Act.

The Greffier of the States (in the Chair):

Is the Proposition seconded? **[Seconded]** Does any Member wish to speak on the Proposition? If not, those Members in favour, kindly ...

2.1.1 Deputy G.C. Guida:

I have just got a general question for the Constable. I do not know whether he might, or the Attorney General might, be able to help, or whether it is the right place to ask the question. In terms of part 2 and part 3 where the overriding objective is to ensure that cases in criminal proceedings are dealt with justly, could the Minister tell the Assembly whether there is a process in place to learn from any mistakes that may be made during court cases, so that there is learning from any issues that come up during a criminal case and, if so, what that review process might look like? I do not know whether that is admissible within this but ...

The Greffier of the States (in the Chair):

I have just admitted this, so ...

Deputy G.C. Guida:

Thank you.

The Greffier of the States (in the Chair):

Does any other Member wish to speak? In that case, I ask the Minister to reply.

2.1.2 The Connétable of St. Clement:

I find that a difficult question to answer, because it seems to be a very general question. I think, in all facets of life, whatever we do, whether it be in this place, in our personal lives, or in the courts, we are always learning and improving the processes that we have and the courts are not immune from that process. In fact, I find the courts to be always learning and improving and, indeed, it is through the Law Officers and the courts that we have created this new criminal justice law, to improve the processes of criminal justice which was approved in March of last year. I am confident that any mistakes, any changes, any improvements and learning from other places is always taken onboard by the courts and the Law Officers and all those involved with administering the law. I maintain the Proposition.

The Greffier of the States (in the Chair):

Those Members who are in favour of adopting the Act, kindly show. Those against? The Act has been adopted.

3. Draft Criminal Procedure (Transitional Provisions) (Jersey) Regulations 201- (P.96/2019)

The Greffier of the States (in the Chair):

We move on to the Draft Criminal Procedure (Transitional Provisions) (Jersey) Regulations 201- also lodged by Home Affairs. This is P.96/2019 and I ask the Greffier to read the citation.

The Assistant Greffier of the States:

Draft Criminal Procedure (Transitional Provisions) (Jersey) Regulations 201-. The States make these Regulations under Article 115 of the Criminal Procedure (Jersey) Law 2018.

3.1 The Connétable of St. Clement (The Minister for Home Affairs):

I have stood here several times in the past and said that these Regulations, or this law, is very technical in nature. This one absolutely takes the biscuit and is the most technical that I have ever asked the States to approve. The reason for it is that the Criminal Procedure Law runs to about 120 pages, consists of 119 Articles plus 5 Schedules and amends, or repeals, a number of other enactments. As Members might imagine, careful thought is needed to bring it into force in 3 separate phases. These Regulations seek to assist doing so by making temporary amendments to internal cross-referencing to ensure that phases 1 and 2 of the law operate smoothly and work until phase 3 is brought into force, hopefully early next year. I propose the citation.

The Greffier of the States (in the Chair):

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? If not, those Members in favour of the principles, kindly show.

Deputy M. Tadier:

Can we have the *appel*?

The Greffier of the States (in the Chair):

The *appel* has been called for on the principles and I ask Members to return to their seats. The vote is on the principles of P.86, Draft Criminal Procedure (Transitional Provisions) (Jersey) Regulations 201-, and I ask the Greffier to open the voting.

POUR: 34		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator K.L. Moore				
Senator S.Y. Mézec				
Connétable of St. Clement				

Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Greffier of the States (in the Chair):

Deputy Ward, I think this falls within the remit of your Panel. Do you want them?

Deputy R.J. Ward (Chairman, Education and Home Affairs Scrutiny Panel):

No, Sir. We received a briefing. It was quite a technical briefing on this and we do not feel it requires us to call it in any further. We can understand the long process that is required and the staged nature of it and we say that is a very good process. Thank you.

The Greffier of the States (in the Chair):

Thank you very much. Minister, how do you want to propose the Regulations?

3.2 The Connétable of St. Clement:

I would like to propose the Regulations *en bloc*.

The Greffier of the States (in the Chair):

Are they seconded? **[Seconded]** Does any Member wish to speak on the Regulations? Those Members in favour of adopting the Regulations, kindly show. Those against? The Regulations have been adopted in Second Reading. Minister, Third Reading, do you wish to propose?

The Connétable of St. Clement:

I propose it be Third reading, Sir.

The Greffier of the States (in the Chair):

Is that seconded? [**Seconded**] Does any Member wish to speak on Third Reading? All those Members in favour of adopting ... the *appel* has been called for. Members are invited to return to their seats. The vote is on the Third Reading of these Regulations and I ask the Greffier to open the voting.

POUR: 34		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.Y. Mézec				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
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Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

4. Draft Criminal Procedure (Qualifying Offences) (Jersey) Regulations 201- (P.97/2019)

The Greffier of the States (in the Chair):

We come next to the Draft Criminal Procedure (Qualifying Offences) (Jersey) Regulations 201-, P.97/2019 and I again ask the Greffier to read the citation.

The Assistant Greffier of the States:

Draft Criminal Procedure (Qualifying Offences) (Jersey) Regulations 201-, the States make these Regulations under Article 115 and Paragraph 28 of Schedule 2 to the Criminal Procedure (Jersey) Law 2018.

4.1 The Connétable of St. Clement (The Minister for Home Affairs):

As I mentioned just now, provisions will come into force that are intended to promote the interest of justice, by allowing the Court of Appeal to quash an acquittal and order a retrial interfaced with new and compelling evidence and where it is in the interests of justice so to do. These Regulations provide a list of offences where the Court of Appeal can quash an acquittal. These are offences with a maximum life sentence. Where offences capture a wide range of behaviour - as in the case with some of the sexual, or drug offences - the Regulations are intended to be selective and only applied to the more serious incidences, which do carry a life sentence. These offences have been listed in full for clarity and transparency. Members will note that the arrangements for quashing acquittals would extend to historic offences and acquittals and, accordingly, relevant offences that have been abolished, or replaced, are included in the list. I propose the principles.

The Greffier of the States (in the Chair):

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

4.1.1 Deputy M. Tadier:

Would the Minister clarify, perhaps in lay person’s terms, that part of what this does is to get rid of what, in other jurisdictions, might be called “double jeopardy”, so it means that you can be tried for the same offence twice. If you have been acquitted, for example, of murder and new evidence comes to light, then you can go through that process again. Is that what is being asked for and is he comfortable that that is the right thing to do? Clearly, he must be.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on the principles? Minister?

4.1.2 The Connétable of St. Clement:

I am absolutely comfortable and the States were absolutely comfortable with this provision when they approved the law last year. The Deputy is absolutely right. It does remove what is commonly known as the “double jeopardy” situation, but only where compelling new evidence has come to light and the Attorney General is able to convince the Court of Appeal that it should be done. I think it is more than appropriate now, with the improvements in D.N.A. (deoxyribonucleic acid) technology and even in unusual situations which can happen where, later, a confession is made by the perpetrator of a crime. Yes, I am comfortable. It is totally appropriate, it is fair and it serves the interests of justice. I maintain the principles.

The Greffier of the States (in the Chair):

Thank you. Those Members who are in favour of the principles, kindly show. The *appel* has been called for. Members are invited to return to their seats. The vote is on the principles of the P.97/2019 Regulations and I ask the Greffier to open the voting.

POUR: 36		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.Y. Mézec				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				

Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Greffier of the States (in the Chair):

Deputy Ward, these Regulations fall within the remit of your Panel.

Deputy R.J. Ward (Chairman, Education and Home Affairs Scrutiny Panel):

Again, Sir, it was part of the briefing we received and we saw no problem with it. In fact, it is a much needed change. Thank you.

The Greffier of the States (in the Chair):

Thank you very much. Minister, how do you wish to deal with these Regulations?

4.2 The Connétable of St. Clement:

I would like to propose the Regulations *en bloc* and the Amendment to the Schedule.

The Greffier of the States (in the Chair):

Are the Regulations seconded? [**Seconded**] Does any Member wish to speak on the Regulations? Those Members in favour of the Regulations, kindly show. Those against? The Regulations have been adopted. How do you wish to deal with it in Third Reading, Minister?

The Connétable of St. Clement:

I propose the Regulations in Third Reading.

The Greffier of the States (in the Chair):

Seconded? [**Seconded**] Does any Member wish to speak on the Third Reading? If not, those Members who are in favour of adopting the Regulations ... the *appel* has been called for on the Third Reading of these Regulations. I ask Members to return to their seats and I ask the Greffier to open the voting.

[12:00]

POUR: 39		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.Y. Mézec				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

5. Draft Criminal Procedure (Form of Juror’s Oath) (Jersey) Regulations 201- (P.98/2019)

The Greffier of the States (in the Chair):

The final item in this run of criminal justice matters is the Draft Criminal Procedure (Form of Jurors’ Oath) (Jersey) Regulations 201-, P.98/2019 and I ask the Greffier to read the citation.

The Assistant Greffier of the States:

Draft Criminal Procedure (Form of Jurors’ Oath) (Jersey) Regulations 201-. The States make these Regulations under Article 72 of the Criminal Procedure (Jersey) Law 2018.

5.1 The Connétable of St. Clement (The Minister for Home Affairs):

These Regulations, if adopted, will replace the jurors' oath, which dates from 1864 and, as Members will see from the report, is quite lengthy and, of course, is in French, but repealing the 1864 Law, something must be put in its place. In the interests of transparency, the new oath is shorter, simpler and in English. It also gets to the heart of the issue that the responsibility of the juror is to give a true verdict, according to the evidence. Of course, it is still possible to solemnly affirm rather than swear before God under the Solemn Affirmations (Jersey) Law. I propose the principle.

The Greffier of the States (in the Chair):

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

5.1.1 The Connétable of St. Brelade:

The implication in this Proposition is that there is something wrong with the French language being used in an oath. Would the Minister confirm that is not the desire and that the French language, being the official language of the States, is the pure and proper way to conduct an oath, as is done with many of the Honorary Police Officers in a law court?

5.1.2 Deputy M.R. Higgins:

On the subject of that, I would welcome the fact that it is in English, mainly because how can people understand what they are doing, if they do not speak French and everything else? It could be in French, but it should also be in English. People should have the opportunity of understanding what they are affirming, or what they are doing and so I welcome it and I hope more of our laws will be brought up to date.

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

I just wonder if the Minister can advise us how many people choose to swear the oath and how many people choose to affirm when they are sworn in as jurors.

5.1.4 Deputy K.G. Pamplin:

Could the Minister give us a bit of background as to how the final coming together was on this simpler statement and what research was undertaken comparing to other jurisdictions around the world? Thank you.

The Attorney General:

It may be that I can assist on that. It may be the Minister knows the answers to all these questions, in which case I will sit down, but I can assist. In terms of the current process, the current process is that the long oath that you see in front of you is read to the jury, so no one at the moment takes an oath. That is read to them and it is read to them in English, but the law is in French. Under the new system, then every juror will take their own individual oath, as they do in many other jurisdictions. In relation to Deputy Pamplin's question, the shorter oath that we have taken, we have taken from the practice before the courts in England and Wales.

5.1.5 Deputy J.M. Maçon:

I wonder if I can pose a question to the Attorney General and, forgive me, I will be exposing my ignorance, because the question I would want to ask the Minister is are there translations, perhaps for other members of our community, such as Portuguese and Polish, for this change going forward? Is the Attorney General therefore able to confirm that a certain level English is required in order to be a juror because, otherwise, they would not be able to hear the evidence? I would like to understand that a bit better.

The Attorney General:

It is essential that any juror is able to follow the evidence.

5.1.6 Deputy M. Tadier:

It is not a question for the Attorney General, but I am probably minded to stand up and talk a little bit in French, because I would ask the question *Combien d'anges peuvent danser sur la tête d'une épingle*. I do not know if anyone understands that. It is the French for: “How many angels can dance on the head of a pin?” Of course, another way in French would be to *couper les cheveux en quatre*, so it is to “split hairs” or to “cut a hair into 4”. I do not think it really matters in what language individuals are making an oath to a god, who may or may not exist, but if he, or she, does exist, probably is conversant in both the French and the English language. If they choose to affirm, it probably does not matter either, because they are doing so on their conscience. It is very much the content and the spirit of what they are agreeing to do on their conscience that matters and not the language in which they do it. I am quite comfortable with any changes. I do not think it signals the demise of the French language either in our Assembly, or in civic society. I think that is happening and started happening a long time ago and there are, quite rightly, ways in which we should defend the French language and its use in this Assembly. One of those ways would be to make sure that all Ministers are conversant in the French language, so that when they go to Normandy and to Paris, they can have conversations in French, rather than necessarily needing to use translators, *et cetera*. This is probably not the final nail in the coffin when it comes to French and the complexities that surround our relationship with it and what has become, as Deputy Higgins has said, a vastly Anglophone island.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on the principles? In that case, I call on the Minister.

5.1.7 The Connétable of St. Clement:

I am grateful to the Attorney General for his intervention and being able to answer a couple of questions. I would say to the Constable of St. Lawrence, I have absolutely no idea how many take the oath and how many affirm currently. That is not something which I would know, but I am sure she could ask the Greffier of the court for that information. To the Constable of St. Brelade, of course there is nothing wrong with the French language, except that I cannot speak it very well and understand it even less. Nevertheless, the 1864 Law, which was in French, has been repealed. We repealed that last year and, therefore, with it, goes the oath, so without approving these Regulations, there is no oath for the juror to take. As the Criminal Procedure (Jersey) Law is in English, it seems to me more appropriate that it be in English, rather than the old French of 1864 where an oath is given which most people - let us be honest - would not understand and I maintain the principle.

The Greffier of the States (in the Chair):

Those Members who are in favour of the principles, kindly show. The *appel* has been called for. Members are invited to return to their seats to vote on the principles of P.98/2019, the Jurors’ Oath. I ask the Greffier to open the voting.

POUR: 38		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.Y. Mézec				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				

Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Deputy R.J. Ward (Chairman, Education and Home Affairs Scrutiny Panel):

Again, it is the full understanding of the Panel that the changes that were mentioned in terms of the oath are necessary to have any form of oath and it also includes a non-religious oath, so we are happy with it. Thank you.

The Greffier of the States (in the Chair):

Minister, how do you propose the Regulations?

The Connétable of St. Clement:

I propose the 2 Regulations, Sir.

The Greffier of the States (in the Chair):

Are they seconded? [**Seconded**] Does any Member wish to speak on the Regulations? Those Members who are in favour of the Regulations, kindly show. Those against? The Regulations have been adopted. Minister, Third Reading?

The Connétable of St. Clement:

I propose the Regulations in Third Reading.

The Greffier of the States (in the Chair):

Is that seconded? [**Seconded**] Does any Member wish to speak in Third Reading? Those Members who are in favour of adopting the Regulations in Third ... the *appel* has been called for in the Third Reading of the Regulations. If Members are in their seats, I ask the Greffier to open the voting.

POUR: 40		CONTRE: 0		ABSTAIN: 0
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Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.Y. Mézec				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

6. Draft Intellectual Property (Unregistered Rights) (Application, Transitional Provisions and Savings) (Amendment) (Jersey) Regulations 201- (P.99/2019)

The Bailiff:

The next item is the Draft Intellectual Property (Unregistered Rights) (Application, Transitional Provisions and Savings) (Amendment) (Jersey) Regulations 201- lodged by the Chief Minister. I ask the Greffier to read the citation.

The Assistant Greffier of the States:

Draft Intellectual Property (Unregistered Rights) (Application, Transitional Provisions and Savings) (Amendment) (Jersey) Regulations 201-. The States make these Regulations under Article 408 of

the Intellectual Property (Unregistered Rights) (Jersey) Law 2011 and Article 2, 5A and 5B of the European Union Legislation (Implementation) (Jersey) Law 2014.

Senator J.A.N. Le Fondré (The Chief Minister):

The Connétable of St. Ouen is acting as *rapporteur*.

6.1 Connétable R.A. Buchanan of St. Ouen (Assistant Chief Minister - *rapporteur*):

The States recognise that copyright and the related rights are an important area of legislation when the Intellectual Property (Unregistered Rights) (Jersey) Law was passed in 2011. Law paved the way for the extension of the Berne Convention and to meet corresponding standards, set out in the Agreement on Trade-Related Aspects of Intellectual Property Rights, shortened to T.R.I.P.S. Implementing Regulations made in 2012 made provision to deliver a smooth transition when the copyright law in Jersey at the time and the extension of the U.K. Copyright 1911 Law into the new law. Those Regulations made provision, in some cases, for works originating from other countries that were in existence when the new law came into effect. The treatment of existing works from the United Kingdom, in a few cases within those Regulations, derived its virtue by membership of the European Economic Area and the Rome Convention. The Assembly today is being asked to approve amendments to the 2012 Regulations to take into account the U.K.'s exit from the European Economic Area if and when that happens. From time to time, it is necessary to make changes to our intellectual property laws and these Regulations form part of a response to the challenges of Brexit. I therefore propose the principles to this legislative change.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Do you deal with the matter in Second Reading, Connétable? I beg your pardon. I should first ask Deputy Morel: do you wish to call this in as your Brexit Review Panel? Thank you very much. Yes, do you wish to deal with the matter in Second Reading?

The Connétable of St. Ouen:

I would like to take the Regulations *en bloc*, Sir, if the Assembly is in agreement.

The Bailiff:

Very well. Are they seconded? [**Seconded**] Does any Member wish to speak on the Regulations, or any of them? All those in favour of adopting the Regulations in Second Reading, kindly show. Those against? All right, only about 8 or 9 people stood up that I could see, so those in favour, kindly show. [**Laughter**] Those against? They are adopted in Second Reading. Do you propose the matter in Third Reading, Connétable?

The Connétable of St. Ouen:

I do, Sir.

The Bailiff:

Is it seconded? [**Seconded**] Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading ...

The Connétable of St. Ouen:

Sir, can I call for the *appel* to save everyone having to rise? [**Laughter**]

The Bailiff:

The *appel* is called. I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 40		CONTRE: 0		ABSTAIN: 0
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Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

7. Draft Employment (Amendment No. 11) (Jersey) Law 201- (P.100/2019)

The Bailiff:

The next item is the Draft Employment (Amendment No. 11) (Jersey) Law 201-, lodged by the Minister for Social Security and I ask the Greffier to read the citation.

The Assistant Greffier of the States:

Draft Employment (Amendment No. 11) (Jersey) Law 201-. The law to amend further the Employment (Jersey) Law 2003 and to make consequential amendments to the Discrimination (Jersey) Law 2013. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

7.1 Deputy J.A. Martin of St. Helier (The Minister for Social Security):

Finally, I am so pleased to be here today, proposing the final part of my family-friendly legislation under P.100/2019. I am going to give the Assembly a brief history of where we have moved from February of this year when I lodged P.17/2019. Very similar but I have moved. There were some questions in this Assembly and I was asked to meet with the Chamber of Commerce urgently. The main concerns were 4 blocks of leave over 3 years and some concerns around breastfeeding. Then Scrutiny, rightly so, asked me to move the debate, so they could do a review. I have watched most of the interviews and I have read and re-read many of the transcripts. I have done all Scrutiny and businesses asked me to do. I am also today accepting all of Scrutiny's amendments, but not the 26 weeks.

[12:15]

All the others, I accept. I have changed the blocks of leave to a maximum of 3 over 2 years, as was asked for by Chamber and business and a recommendation of Scrutiny. This still works well with our commitment to the first 1,001 days of a baby's life. Best educational outcomes for children are getting the first 2 years right. It also works well with this Assembly putting children first. I then had to look at our benefit system and speaking to companies, who were only employing men and could not claw back the money that an employer who was employing women could do. I heard all their concerns and accept that amendment. Today it cannot be the end. I want to introduce a new parental benefit, a gender-neutral benefit, that will be longer than we have now; it will be for 32 weeks. When this is passed today, it cannot come into force until I get the support in the Government Plan from this Assembly to make this happen; again, more time. Some say I am moving too quickly. Please, let me ask you to look at page 9 of P.100/2019: "Prior to 2014, Jersey was one of only 2 jurisdictions in the world that did not provide statutory maternity leave." Are we moving too fast? Yes, I am moving fast, because we have been back-peddalling for years. We had no rights at all in 2014. As I said, we all signed up to putting children first; there was no dissent. Today is a real chance to endorse that commitment. Today P.100/2019, even after all the amendments I have made, will, for the first time, introduce breastfeeding rights. It will equalise rights between all types of parents, introduce rights for the first time for a surrogate parent and extend the right of unpaid leave to one year for each parent, in line with the critical first 1,001 days of a baby's life. We have an average of 900 babies born each year. We are losing far too many mums, great mums with great roles to play in our local workforce, because they need more choice, so they can return to work when they and baby are ready. This also supports the S.P.3 (Strategic Priority 3): we will create a sustainable and vibrant economy and skilled local workforce for the future. These are all local mums. If we had had this law in many years ago, we would be on a rota now; mums would be leaving work, having babies while others are returning, in the same job. It would be all working. We are so far behind, we really need this in and we need it in as a whole. Families need to know we support them, especially mums. Let them have flexibility to ask themselves: where are they in their career? Who takes the leave? Help them, give them time. Take the stress off of them. Let them think about it and let them be ready to return to work. We also have one of the largest numbers of women waiting to have their first baby at the age of over 35. They know how to make sensible choices. They have got their ducks in a row. They want to stay in their career. But we must give them more flexibility. On 8th March this year, for International Women's Day, PricewaterhouseCoopers, who produce a Women in Work Index annually, comparing 33 O.E.C.D. (Organisation for Economic Co-operation and Development) countries for the first time into Jersey and Guernsey regarding the gender pay gap. We are 20th, the U.K. is 13th and Guernsey, I think from memory, is 14th, but we are one of the highest. These numbers were reinforced by our own excellent Scrutiny review on the gender pay gap. We need to do more to close this gap. Fully supporting P.100/2019 today will go a long way to do this. This keeps the job open for 52 weeks, so a woman, or a man, can go back to work in the same position they left. This will be great for them, but also very good for our local economy and that will see the ceiling go up. You will see women getting further and higher in their careers, which is what I know

everybody in this Assembly wants. Pricewaterhouse goes on to say: "Gender equality is now on the Government and business agenda in the Channel Islands." Yet progress has been slow; yes, very slow. It then goes on to say: "Other benefits to increasing female employment include introducing fresh ideas and diversity and protecting Jersey's international reputation, as customers increasingly look at gender diversity when making decisions about where they will do business." This is about finance business. I will not talk about our international reputation. There are far more experienced Members in this Assembly, who go around the world to promote Jersey and attract new business; I will leave that to them. But I will say, PricewaterhouseCoopers and our own excellent report on gender pay has put us on the radar. We need to get this right. About 6 years ago, I went to a conference on the first 1,001 days of a baby's life. The then Deputy of St. Peter, who is now Senator Moore and me were invited by Brighter Futures. It really opened my eyes and I know it made a lasting impression on Senator Moore: "The first 1,001 days of life, conception to 2, is a critical phase, during which the foundations of a child's development are laid." That is a powerful statement, it has been proven, getting the first 2 years wrong you will never catch up, that child never catches up; that is what this conference told me and Senator Moore. After this - and she was still a Deputy then - the now Senator Moore, took on the role as the 1,001 days champion and was, I think up to a few days ago, I still thought she was the breastfeeding champion, because she believes in this. I hope she speaks and I hope she is allowed a conscience vote on this. Deputy Perchard spoke yesterday and she was complimented by the Dean on her understanding of the importance of the time families need to spend together and the pressures and the stresses they are under. I also call Deputy Perchard my diversity champion. She has opened my eyes and she is halfway opening a lot of other Members' eyes. Again, I hope she is allowed a conscience vote on this, or speak to her Chairman and ask him to support the 26 weeks. I think for Senator Moore and Deputy Perchard, they will find it very hard to vote for anything that holds women back, but we will see. I know some of you have been contacted by small businesses, saying that this will put them out of business. We have 900 babies born each year, approximately 62,000 workers. I am not going to give all these workers, or businesses, a baby overnight. I am good, but I am not that good. This Assembly really needs to look at the big picture, 900 babies, planned-for babies. We have also had emails from parents, who are desperate for more choice; 900 planned-for babies a year. Parents must give 4 months' notice of the set time they want off; 4 months. All of it, it can be one block, it can be 2 blocks, the notice has to be given 4 months before. I am trying to get this into perspective and when I was talking to the Deputy of Trinity the other day I said: "How can I make this easy?" We have 900 babies, we have short-term sick notes going down the road at the rate of 500 a week; 900 babies a year, 500 sick notes a week. None of it planned leave, some might be short term, some might have broken a leg; they are all out of the workplace. That is not putting small businesses out; I cannot compare it. Somebody emailed me and said I should be encouraging people to stop having babies, because I want to stop population growth. No, the babies, on average, have been going down. We have 100 less babies than we had in 2012. It is not good for the future, but it is what we have. On top of this, our parental rights are a total mismatch. English companies just follow the U.K. law, then we have businesses who provide much better than we have now. They are probably finance, they have probably got the eye on the international stage and then we have the States, the biggest employer. We have just confirmed better rights for breastfeeding mums; absolutely. To me, all babies are born equal, all babies need the same rights and our laws, as far as possible, should reflect this. I know we are going on to the Amendments later with the Constable of St. Mary, the Deputy of St. Martin and the Deputy of St. Peter. But, honestly, when I read them I thought they had been written by a well-known Dickens character. I could see him sitting there by candlelight with a quill pen scribing them out. They take us back years. They take out established rights. They do not see a father to have any input in a baby's life. We need to see these off quickly, absolutely quickly and then we can get into the debate on which is the correct length of unpaid leave; my 52 weeks, or Scrutiny's 26. In the Scrutiny report, they rely a lot on a submission from the Jersey Childcare Trust and I hope you all read the email that was sent around to us on Monday from the Childcare Trust, who say they support 52 weeks very clearly. They

do ask me to do some work and I am going to do this work. With a helpful Amendment from Deputy Doublet we can work together. We need to know, we need to see why people are not taking leave. But the survey said 52 per cent are not taking leave, because of financial reasons, 48 per cent said because the law does not allow it; it is very even and 26 weeks is not enough. We will get into that debate. I am sure the Assembly will support me and the 52 weeks and all the other rights I am proposing. We are not moving too fast; we are catching up. I have to repeat, we all signed up to putting children first, putting babies first. They are in families, they are with mum and dad. Mum, who we want to keep in our local workforce. It will help our economy. We want to see the gender pay gap get smaller and we need to help mums, who want to breastfeed and stay resting for longer. Take the stress of the pressure of you have got to return to work after 26 weeks. No, today we extend that right. Make our laws better for baby, protecting them for the first 1,001 days from conception to birth. We need to make sure our laws help our mums and dads and puts babies first because, as I said, all babies are born, to me, equal. I ask for the Assembly's support today. To me it is very simple. I maintain the principles and look forward to the debate.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. The *appel* is called for, I invite Members to return to their seats. The vote is on the principles of the amending law. I ask the Greffier to open the voting.

POUR: 37		CONTRE: 5		ABSTAIN: 0
Senator I.J. Gorst		Senator S.C. Ferguson		
Senator J.A.N. Le Fondré		Connétable of St. Brelade		
Senator T.A. Vallois		Connétable of St. Mary		
Senator K.L. Moore		Deputy L.B.E. Ash (C)		
Senator S.W. Pallett		Deputy of St. Peter		
Senator S.Y. Mézec				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy K.F. Morel (L)				
Deputy of Trinity				
Deputy of St. John				

Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

[12:30]

The Bailiff:

Deputy Morel, is this a matter that you wish to call in?

Deputy K.F. Morel (Chairman, Economic and International Affairs Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Very well, then we come on to Second Reading. Minister, there are Amendments to Articles 3 and 4, as you know, so do you wish to take Articles 1 and 2 first and take then *en bloc*? It is a matter for you of course. Yes, the Deputy of St. Peter.

The Deputy of St. Peter:

I do not know if it is appropriate at the moment, but it is my intent to withdraw my Amendment. **[Approbation]** Do I say why now, or do I sit down and do that later?

The Bailiff:

I think entirely it is helpful you have made an indication, so Members know how to prepare. It seems to me rather than have you stand up again and say the same thing again, if you wish to explain briefly why, that will be helpful.

The Deputy of St. Peter:

It was clarified late last evening by the A.G. (Attorney General), that the drafting of my Amendment inadvertently did not fully reflect my intent. Unfortunately, should you have accepted it, which you clearly would have done ...

The Bailiff:

Through the Chair, please.

The Deputy of St. Peter:

... the consequence was that there would have been no provision for parents of surrogate, or adopted, children before the 15-month period had lapsed. With respect to any couple who may fit these criteria, I have no option but to withdraw this Amendment. I apologise profusely to you all for wasting your time, especially those who prepared speeches and I know the Deputy of St. John is desperately disappointed, so I apologise to all of you.

The Bailiff:

Thank you very much, the Deputy of St. Peter. Yes, Minister.

Deputy S.G. Luce of St. Martin:

I also wish to give notice that I would be withdrawing my Amendment also. **[Approbation]**

The Bailiff:

You will be withdrawing your Amendment.

The Deputy of St. Martin:

May I speak to that briefly, Sir?

The Bailiff:

Yes, of course you may, yes.

The Deputy of St. Martin:

The first line of the report to my Amendment starts: “Lodging Amendments to necessary legislation is never easy” and never has an opening line been truer. Members will have seen that my intentions were to exclude small Jersey commercial businesses, those that we all know that do not pay G.S.T., from additional legislation. It was never my intention to take us back to 2014 or before and it was certainly never my intention to include large businesses that, for whatever reason unbeknown to me at the time, are also not registered for G.S.T. I apologise to Members, I did not do enough research. I did not know my facts well enough. But I say this in passing, it just shows how difficult it is for backbenchers, without any support at all, to come with Amendments to complicated legislation and get the wording right. I thought my instructions were clear, obviously I have to leave it to others to come up with the wording. But I apologise to Members, it was never my intention to go backwards. My intention was to not move further forwards for certain parts of our economy and I will be withdrawing.

The Bailiff:

Very well. How do you wish to deal with the matter then in Second Reading, Minister? There is still an Amendment outstanding to Article 3, so you may wish to deal with Articles 1 and 2 first.

7.2 Deputy J. A. Martin:

Absolutely, Sir. I appreciate the difficulty the 2 Deputies have been through and appreciate it is not to waste any more time. I appreciated their intent, but I did not agree with it either. Yes, I would like to propose Article 1, which makes the provision for the interpretation of the law and Article 2 providing the definition of breastfeeding.

The Bailiff:

Very well. Are those 2 Articles seconded? **[Seconded]** Does any Member wish to speak on Articles 1 and 2? All those in favour of adopting Articles 1 and 2. The Connétable of St. Helier calls for the *appel*. I invite Members to return to their seats. The vote is on adoption in Second Reading of Articles 1 and 2 of the law. I invite the Greffier to open the voting.

POUR: 41		CONTRE: 1		ABSTAIN: 0
Senator I.J. Gorst		Senator S.C. Ferguson		
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				

Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Bailiff:

We now move on to Articles 3 and 4. Did you want to propose these together, Minister? Once they are proposed and seconded, if they are, we will then come on to deal with the Amendment.

7.3 Deputy J.A. Martin:

Article 3 inserts a new Part 3 into the Law with 3 new provisions for mothers relating to pregnancy and breastfeeding. Article 15G is an important health and safety protection. Article 15H gives the right to request a temporary variation in terms and conditions. Article 5K, where an employee requests that employers will have to take reasonable steps to provide a breastfeeding place in the workplace for mothers, or to express and store milk. Article 4 replaces much of existing Part 5A of the employment law to introduce new parental leave. Article 55B to extend the right to time off work for antenatal appointments to surrogate mothers and adoptive parents. Articles 55D to 55L are to amend and replace the 3 separate types of leave for different parents with parental leave for all parents. These Articles are set out in the entitlements, conditions and arrangements around the leave, including the requirement to the quality of leave for each category, or parent, the period and blocks in which leave that they may be taken, the 6-week period of paid leave, notice of leave, dates and changes to those leave dates and the right to return to work after that period of leave. I maintain those Articles.

The Bailiff:

Are the Articles 3 and 4 seconded? [**Seconded**]

7.4 Draft Employment (Amendment No. 11) (Jersey) Law 201- (P.100/2019): second amendment (P.100/2019 Amd.(2))

The Bailiff:

Very well, then there are a number of Amendments, the first of which has been lodged by the Connétable of St. Mary and I ask the Greffier to read the Amendment. It is a quite lengthy Amendment. The Greffier blanches at the possibility of having to read it all. Are Members prepared to take it as read? I am sure Members have had the opportunity of reading and considering the Amendment.

7.4.1 Connétable J. Le Bailly of St. Mary:

The purpose of this Amendment is not to hijack the Minister for Social Security's proposal. It is just to throw a lifeline to the very small businesses that are out there that really will be affected if this whole thing goes through. I have been inundated by horrified business owners, who are concerned with the parental leave legislation, which is currently in place at 26 weeks and are extremely worried that the leave time is now proposed to double to 52 weeks. Many small businesses are not even aware of the present legislation; 6 weeks paid leave by the employer, plus holiday entitlement, plus 26 weeks leave taken over a 2-year period. But if we analyse the vote, which was just before the 2018 elections, so a lot of things were being rushed through, in order to get through the immense workload, we find as follows: 10 of the Members who voted for are no longer in this Assembly; of the 18 who were absent or in the coffee room, 8 are no longer in this Assembly. It appears that the Employment Forum made recommendations to support the Proposition, but it also appears that there was very little consultation with businesses and representative bodies. At that time, Social Security paid 18 weeks maternity allowance for the 18 weeks' leave to the mother. The introduction of 26 weeks leave for the mother and partner, to include 6 weeks payment to both parents, has already caused great hardship, especially with small businesses. It has totally disrupted 2 businesses at once. Of course, if both parents are employed by the same employer, it could be total disaster for that business. I mention this in the context of businesses employing 5, or less. Jersey has an employment problem, people are just not available for even the most basic jobs. It is impossible to fill positions on a permanent basis for unskilled labour and trying to fill positions as cover for someone taking maternity leave is totally impractical. Every job entails some form of training, so even if this was possible there are hidden costs to the employers during the times of parental leave. A small business cannot sustain these costs, which include 6 weeks initial payment, plus holiday increments. It is totally irresponsible to contemplate doubling the leave time to 52 weeks. The financial burden is too much for many of these small businesses to survive. As indicated, there are no costs to implement this; of course there is a cost. It may be hidden, but it would need to go on the product. As they say, there is no such thing as a free lunch. If it goes on the product, that will increase inflation. Where do we find temporary replacement staff? We will need to look outside of the Island, something that will have a drastic effect on our non-existent immigration policy. Seven thousand people are employed by the States; if parental leave is paid to just 1 per cent, 70 people, at an average wage of £540, that would be approximately £250,000 per year just to cover the States' 6 weeks paid leave. There could be more in claims, which would come in by the private sector to help them out, again, all paid for the taxpayer. The same parents could repeat the procedure for a second year, which will only add to that cost and disruption. All this when we are supposed to be making cuts in States spending. All of this when the result of Brexit will seriously impact on our labour market. The Minister for Social Security has presented the Proposition with a revised draft Law, as amended by P.100/2019, a document taking 155 pages. Parental leave is referred to on page 74; there has been no consultation process with businesses on these changes, which are basically imposed on business. This is dictatorship, not democracy. The Proposition is perceived to be an equality thing, it is nothing of the kind. I believe in equality, regardless of gender, race, or ethnic minority. There are jobs that are undoubtedly more suitable for either a man, or a woman. Having babies is a good example, women are physically different to men, having been designed as being able to have babies; men only need to deliver components at the start of the process.

The Bailiff:

I am not sure we need to violate into those areas particularly. [Laughter]

The Connétable of St. Mary:

I will withdraw that bit, Sir.

The Bailiff:

Thank you very much.

The Connétable of St. Mary:

It is, therefore, natural that the mother has a close bond with the child due to the 9-month process. There is a reason for a woman to have greater time off in order to recuperate and adjust to motherhood. There is no logical reason to have parental leave for the father, or partner, whether they live as a family, or in a remote situation. In the interest of fairness, how do we even that with other employees, who may be unable to have a family, or simply do not want one? Yet these people will, without doubt, have to share the burden of extra hours and tax implications upon their lives, as well as having to alter their holiday time to suit, which is totally unacceptable. This is severely compounded in businesses employing 5 and less. Having been self-employed for 45 years in the building industry, I have seen many changes to employment legislation, the majority relating to health and safety issues, all considered to be welcome and necessary common-sense additions. This parental leave is not one of them. Every employer is required to have a written contract with the employee; the terms and conditions agreed by both parties. This appears to no longer be the case, the terms are now being set by Social Security. So much for democracy. This attitude will only encourage small businesses not to employ on contracts, but to employ self-employed staff, short-term staff, or zero-hour contracts. Many have said they will not employ, others will find loopholes around the system. Employment contract terms and conditions are referred to on page 16 of the P.100/2019 document. It allows the employer to set terms and conditions with the employee, that includes maternity leave, paragraph 2(g)(4). There it is, employers, write your contracts to suit. Allowing an exemption to businesses of 5 and under will encourage them to employ and grow their business, thereby employing and training more people in an Island where we have a severe staffing problem. That, in itself, indicates that the principle that we are discussing is wrong by the fact that we had so many amendments at the start of this process. This is only an exemption to apply to small businesses of 5 and under. This is a simple Proposition. It will not affect the Minister for Social Security's main Proposition, but it will save small businesses. I urge you all, help small businesses, throw them a lifeline and reject the Minister for Social Security's proposal, which refers to parental leave in the form that it is in draft P.100/2019 of the law.

The Bailiff:

Is the Amendment seconded? [Seconded]

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Yes, the time has come when it is appropriate to call for the adjournment. It was called for; the States stands adjourned until 2.15 p.m.

[12:48]

LUNCHEON ADJOURNMENT

[14:15]

The Bailiff:

Yes, then we start the debate on the Connétable of St. Mary's Amendment. Does any Member wish to speak on the Amendment?

7.4.2 Deputy J.M. Maçon:

I will be referring to the Council of Ministers' comments in response to this Amendment. It was interesting to listen to the proposer when he presented this Amendment. I will be drawing out some technical reasons as to why Members should not support this particular Amendment, but just also some on principle. While I am standing here as an Assistant Minister for Social Security, of course, my hat for Health will also come into play and I will explain when I get there. So, looking at what this Amendment does, this Amendment is not just about the rights that the Minister is trying to increase. It also affects the rights that people already have and how they are going to be affected. In the comments from the Council of Ministers, it talks about how this Amendment is for businesses that employ 5 or less staff. Fathers and partners will have no right to take parental leave during any duration with no right to return to the same job against dismissal and only the birth mother, or one of the parents, would be entitled to 26 weeks of unpaid leave. Now, turning to the issues around health, as I mentioned, the existing periods for paid leave would be removed for all parents, including the paid compulsory maternity leave which provides a fundamental protection for women following the child's birth. I will repeat that. It removes the automatic right for mothers who have just had a child to have their 6-week statutory protection in a small company. The reason why we brought that in is for the obvious biological reason that a woman will need after childbirth, although I appreciate some are champions and do carry on, but for the majority of mothers they do need that period of time to recover. This would remove that. Now, consider the implication on, say, a mother from a poorer background. What exactly is that going to do to her family, her children, when she does not have the right to minimum 6 weeks' paid leave, just because she happens to work for a small company? That is what this Amendment technically does and Members should be aware of that. I would object to this Amendment on health grounds as well as the ones which we were talking about. I would also object that this Amendment also removes the entitlement to attend antenatal classes. We have done so much work in trying to support mothers - and in some cases fathers - through the antenatal process and how important that is when preparing for the birth of a child. Again, this Amendment, the way that it is structured, would again also remove that right. Now, what it would also do is with the extended rights that the Minister is trying to propose today is again it would remove the up to 52 weeks of unpaid parental leave as a right. It would remove the 6 weeks of paid leave for each parent; so, again, when the proposer spoke, he really focused on the mother's role around raising a child but I thought this whole Assembly was trying to do what it could to encourage and support fathers that wanted to be part of a child's early life and how important that is. Of course it is important. It is important for role modelling of men. It is important for the development of the child. It is important for that bonding experience, not just with the mother, but with the father as well. That is why the Minister has structured this as it is. The psychology which is behind this legislation is so important. Why for a young child, just because their parents happen to work for a small company: "Oh, well, you do not have to have that right, that right would not apply to you, you do not get the benefits from that as well?" It just seems bizarre, when the majority of the States Assembly have signed up to putting the child first we want to take this retrograde step. Again, if Members work through the comments from the Council of Ministers they will understand that, but there is one technical point as to why Members should reject this Amendment due to bad drafting and it will be hard to implement in that, because the Minister is proposing a blanket right, what we have not done is, therefore, gone to a definition of exactly what an employee is, or is not, which therefore means that in this Amendment, because there is not a definition of what makes an employee ... so, for example, do rights apply to a full-time equivalent, are they shared, if it is part-time how does that work, how is

that calculated and how is that seen, all these types of things. Again, because the definition is not provided in this Amendment, technically it does not work. So, on those grounds - I am sure there are many more grounds that Members will want to contribute after the opening speech - we have not been able to support this Amendment. I think what we also have to consider is, in the Constable's report he mentions how there are issues around employment, almost aghast that we might be bringing in people from Nepal but, of course, that takes no account of the wider economic aspects around the devaluation of the pound, the reason why other immigrant groups do not want to come to this Island. It is not because of the maternity benefits that people are choosing not to work in Jersey. It is more so to do with the devaluation of the pound from eastern bloc countries. I have had a few Polish friends who have returned and who have said: "We are not coming back to Jersey, because of the way that the currency has gone." So, I think the Constable is really overegging this one. It does not work on principle. It does not work on health and it does not work technically and, therefore, I would ask Members to reject this Amendment.

Deputy I. Gardiner of St. Helier:

I would like a point of clarification.

The Bailiff:

Yes. Are you asking the Deputy for a point of clarification in his speech?

Deputy I. Gardiner:

I would like first of all points of clarification, or your ruling, on potential conflict of interest, my conflict of interest, because I am ...

The Bailiff:

Very well. What do you think your ... are you intending to speak, Deputy?

Deputy I. Gardiner:

I will decide, but I would like to know if I am fine to continue the debate, or I would need to excuse myself.

The Bailiff:

Very well. What is your potential conflict of interest?

Deputy I. Gardiner:

I am owner and director of 2 small businesses with staff under 5.

The Bailiff:

You are the owner of businesses and those businesses have fewer than 5 members of staff?

Deputy I. Gardiner:

Yes.

The Bailiff:

It clearly is a potential conflict of interest. I just want to consider the Standing Order as to what the consequences for that may be. Yes, Deputy, I think having considered the Standing Order this is potentially a direct interest and having declared it, it is appropriate for you to withdraw from the Chamber for the duration.

Deputy I. Gardiner:

Thank you, Sir.

The Deputy of St. Martin:

Could I have another ruling, please, not to complicate things? I own a business, which currently employs no persons, but could do in the future.

The Bailiff:

I do not think that is sufficiently direct, just because it is simply speculative as to whether that may, or may not, happen.

The Deputy of St. Martin:

I am grateful.

The Bailiff:

I think that would be something you may well have in common with a lot of people in connection with that, so no, I do not think that is a conflict.

The Connétable of St. Brelade:

Likewise, I not only employ 5 people, but also we employ people in Parishes. I just wonder what your ruling might be on that.

The Bailiff:

Sorry, you employ ...?

The Connétable of St. Brelade:

I employ 5 people myself, Sir and I also employ more than that in the Parish.

The Bailiff:

Well, I think employing more than 5 people is not going to have any effect because ...

Deputy J.A. Martin:

Under, Sir, so it ...

The Bailiff:

No, excuse me, employing more than 5 people was not going to cause any particular difficulty. I think if you employ 5, or under, having made the ruling that I have in connection with Deputy Gardiner, a similar ruling would almost certainly apply.

The Connétable of St. Lawrence:

To be clear, Sir, the Constables obviously employ staff within their Parishes. Are you advising those of us with 5, or fewer, staff to withdraw?

The Bailiff:

No, I am giving a ruling as to what may be a conflict of interest under the law. The ruling was raised in the context of Deputy Gardiner, who has a commercial business, which employs 5, or fewer. As far as I am aware, I have not been asked for a ruling and I am not sure the same principles apply to the municipal authorities, the Parishes. It is not a business *per se*.

Senator I.J. Gorst:

As you well know, the declarations of interest in this place are rather archaic, mirroring the Treasury Law when it comes to tax. I must, therefore, under those declarations, declare that my wife owns a company. I am not my wife's keeper. I think it is under 5 employees, I am pretty sure it is, so I must make that declaration. I am not sure, therefore, Sir, whether you wish me to withdraw, or not.

The Bailiff:

I think that has to be a matter for you, because you are not in a position to say whether you fall within the requirement for a declaration in that regard, Senator. If you think that is the case, then the ruling applies. If it is a business which has 5, or fewer, then you should, yes, as it is your spouse you should declare it and withdraw.

Senator I.J. Gorst:

OK, Sir, I am grateful for your ruling. In that case, I declare it and withdraw.

The Connétable of St. Brelade:

On a point of clarification, could you confirm that the withdrawal is for the period of the Amendment only?

The Bailiff:

Yes, entirely for the period of the Amendment, not for the entirety of the debate by any means, no.

The Connétable of St. Ouen:

I have to also declare an interest. My wife and I own a lodging house and we have one employee, who looks after and is the manager for that business.

The Bailiff:

Then I think a similar principle applies, unless we are going to become inquorate, in which case ... [Aside] This is outside of the Parish, is it?

The Connétable of St. Ouen:

Outside the Parish.

The Bailiff:

Very well, thank you very much. [Aside] Well, in which case, we reach a point where clearly Standing Orders move us into the area where if it is an interest that is shared with a large number of people then it no longer becomes a conflict which requires the withdrawal. It appears to me we are now moving into an area where it applies to a significant number of people.

The Deputy of St. Peter:

I have a caretaker in a lodging house, who effectively works for me, even though I do not pay him because it is ... [Aside] It is a company, it is a lodging ... it is a company, yes.

The Bailiff:

Given the indications that have been given and it looks like the proposer is going to say he potentially has to withdraw from the debate, [Laughter] which clearly must be a nonsense, if and to the extent that it is an interest which is shared by a significant number, a large number of other people, then it is not a conflict which requires withdrawal. I have to say I had not anticipated that it might be shared by a large number and it may be shared by a large number.

[14:30]

Accordingly, it is my ruling that we do not need to withdraw. If Deputy Gardiner is still within the precincts of the Assembly, then she might be invited to return. Deputy, I hope you heard my revised ruling in the light of quite clearly the interest that exists. It is entirely right, however, that Members declare the interest, but they do not need to withdraw. Very well, does anyone else wish to speak on the Amendment?

7.4.3 Deputy L.M.C. Doublet of St. Saviour:

Thank you to Deputy Maçon for his speech, which sets out many of the legislative issues with this Amendment. I just wanted to focus in on one of the principles, which I think underlies this Amendment. It is the completely outdated assumption that women can and should fully shoulder the burden of parental responsibility [**Approbation**] while men remain in the workplace. It is 2019. I was not aware that we were living in the 1950s. The fact is the cost of living in Jersey is such that both parents are usually working. We have, I think, the highest rates in Europe of both parents in the family working. In the home means that there is more equality in the home than we realise and why should the mother have exclusive access to the child in terms of being the main caregiver? I think we are doing men a huge disservice here. It makes me really angry when people portray women as being the ideal nurturing creatures and men as being inept, bumbling idiots when it comes to childcare. Because the reality is that, when you have a baby, men and women are both terrified because you do not know what to do when it is your first child. The mother and the father are both in it together on the day that child is born and one has no more knowledge than the other does. There is nothing innate about a woman that gives her more knowledge on how to change a nappy, or sooth a crying baby, than it does a father. I have said this many times in this Assembly, because I have campaigned for fathers' rights and I have asked questions and I am so grateful that we are finally here today with a Proposition from the Minister for Social Security that puts fathers on an equal footing to mothers. I think it is a ground-breaking piece of legislation and I am so proud that we are debating it today. I have said this before and I will say it again loud and clear: men are just as capable as women are at being nurturing, excellent caregivers. [**Approbation**] Beyond the initial recovery period after giving birth, I find the notion that we would give women more rights and advantages over men in the domestic arena just as wrong as the idea that men may have advantages over women in the workplace. I will be voting today to give fathers equal rights to mothers. I will be voting against this Amendment and I urge the Assembly to do so.

7.4.4 Deputy D. Johnson of St. Mary:

Whatever the result of this Amendment, I would like to congratulate my own Constable on bringing it forward. He did, at his opening address, make reference to the fact that the earlier law, which introduced the 6-month parental leave, was debated shortly before the last election when there was a wealth of legislation and Propositions coming forward. In fact, so much so, Sir, that your predecessor as Bailiff, who I think bore the brunt of presiding at that time, was moved to say he believed passionately in legislation and believed that the weight of legislation being put to the Assembly at that time was such that it did not have the opportunity for full scrutiny. I raise the point, because that law, I think, was one of the victims of that particular time and I think that in another era much of the debate and consideration by Scrutiny would have taken place at that stage and not now. I am simply saying that many of the problems which the Constable has pointed out as to difficulty in replacing staff, *et cetera*, do there remain and would have been better considered earlier, but we are where we are. As I say, we are in a catch-up situation. As to the Amendment itself, I do have difficulty in supporting it. The distinction of 5 employees, or the differential, is difficult to justify and I can think of many situations where in offices, firms where they work in teams, that team will be similarly disadvantaged if one of their number was away on parental leave. So, I shall probably not be supporting the particular Amendment. I may speak again on the main Amendment as a member of the relevant Scrutiny Panel but, again, I do congratulate the Constable in bringing these matters to the attention of the public.

7.4.5 Connétable R. Vibert of St. Peter:

I feel I must speak up for the small businesses that have contacted me over the past few months and they have all been consistent in their view that they were not consulted. I do find that a significant factor that they all believed that they did not have a voice. The financial implications for them are relatively clear. There are additional costs. If we take training, for example, this will add to their bottom line while they train someone for cover purposes. These costs ultimately will have to be

written off, because the original employee will return, whether the 52 weeks is split up into 2 or 3 parts. That could, in fact, compound the problem, because they may have to train several different people to undertake the same job, while providing cover. Deputy Maçon has highlighted the problem when he said people are not returning to the Island to work, because where will these small businesses find that cover from? We are already inundated by businesses telling us they cannot find staff and here we are placing further burden, particularly on small businesses, because large businesses have that cover inbuilt. I would ask Members to consider that. The other factor here is that this is to some extent based on U.K. legislation, except that in the U.K. there is assistance from the Government for small businesses who find themselves in this position. I think we have to build something in which compensates them for that problem, because we cannot just add to their costs, otherwise people simply will not continue opening up businesses, not just because of this, but we keep on adding to the burdens of small businesses. At some point people will say: "Enough is enough." So, although the Constable of St. Mary's Amendment, I admit, has its faults and I would not want to remove any of the current benefits that people have, I do believe that there must be protection in some form, or another, for these businesses. Therefore, I will support his Proposition, even though I admit it has some faults.

7.4.6 Deputy J.H. Perchard of St. Saviour:

I think that if the previous speaker does not want current benefits to be removed, he should not support this Proposition, because as is laid out very clearly in the comments paper and as is alluded to by Deputy Maçon, under the Proposition fathers and partners would have no right to take parental leave of any duration and the existing periods of paid leave would be removed from all parents. This is not about levelling the playing field for small businesses. It is about discriminating against the children of parents who work for small companies. Why do those children deserve any less support than the children of parents who work in large companies? I just think it is completely absurd. If you have something to say about small businesses and if one has comments to make about the impact on small businesses, save it for the larger debate, but do not put something through that is going to have an adverse effect beyond what your issue is. Because that is what one would be doing by supporting this particular Amendment. That was not what I wanted originally to stand up and say. What I did want was just some clarity from the proposer, because in his declaration of interest, which is publicly available online, it is declared that the proposer is a director of a company. I would just like clarification that he is not the business owner of that company and that it does not employ 5 people, or less. Equally, on the other part of his declaration of interests, he states that he makes an income from renting out a property. Again, I would just like clarification from the proposer that he is not a business owner with employees of 5, or less and, therefore, would be obviously conflicted by his own Proposition.

The Bailiff:

I think that will be a matter for the proposer to deal with in any reply, but as I have indicated, the mere fact of ownership of a business with 5 or fewer is a matter to be declared but it is not a matter that give rises to a withdrawal or a disqualification. **[Interruption]** Connétable, thank you very much for your contribution to the Greffier's ... **[Laughter]**

7.4.7 The Deputy of St. Martin:

I just rise to agree with many of the sentiments of the Constable of St. Peter although, unlike him, I am going to draw a different conclusion. I have a lot of sympathy with what the Constable of St. Mary has brought here. Members will know that the Amendment that I have withdrawn was focused very much on small businesses and, like the Constable of St. Peter, I agree that many of them do not seem to be fully aware of what is happening here. I cannot agree with the Constable of St. Mary because, like Deputy Perchard has just said, we cannot go backwards. The proposer of this is quite famous for a stock phrase, which is: "We are where we are" and certainly we are in a position

now where we have granted some equal rights to people and it would be absolutely wrong to go back, because we do need to make progress from where we were many years ago. But I fear that the proposer of this Amendment doth protest maybe too much and he is taking us back to a place we do not want to be. I completely concur with his reasons for trying to do what he is doing and we need to find a way to help small businesses move forward, but I think he is just going a little bit too far for me.

7.4.8 The Deputy of St. Peter:

This is a bit of a whinge, really, because it seems to me that we have 3 Amendments that have been brought by backbenchers, all of whom seem to have different unforeseen consequences of what we were trying to achieve. I notice this particular Amendment allows for the birth mother, or one adoptive parent and, as you know, I withdrew mine, because it had no allowance for an adoptive, or surrogate, parent. So, there seems to be a lot of conflict and I can only assume that is borne by having a 2003 law, which has been amended so many times it has become a bit of a dog's breakfast, if that is parliamentary speak, which is creating, I think, an enormous amount of confusion. I am hoping that there will be some greater support for backbenchers in the Government Plan. I do not know if we need 4 full-time members of staff, but we need to do that, because this is confusing everybody and not helping anybody at all to get clarity for what we really want for this Island. I applaud the Constable for bringing it forward really to make a statement for the small businesses. I have been on the receiving end of it in St. Peter and the Constable of St. Peter has probably had the same, if not more, calls than I have and it is a genuine threat. Anyway, I will speak to that in the main Proposition when we come round to it. However, I would just like to say there are some good points and we must think of the good points that are in this Proposition, both affecting small businesses from one to 5 and above.

[14:45]

Interestingly, there is a common theme from all the emails that we have been receiving over the last 24 hours. If you pick them out, they are all young mothers wanting 52 weeks to be consecutive maternity leave to be with their newborn to breastfeed and relax in a way that is best for their babies, which is great. It is very difficult not to support that. None of them have been saying they want the parental leave as well. Otherwise, I would expect to be equally bombarded with those emails supporting the father to have equal rights. It has not been there. I wish I had a newborn nowadays and I could join the gang of Men Behaving Badly. Did you hear them on the radio? I really want to be in that team. They were fantastic. They are doing exactly what I used to do, go swimming with my little boy when he was one year, or 6 months old, or whatever, with the other fathers. It was great. However, even he admitted that he works for a large bank and he said there would be huge challenges for small businesses. So, we have to bring it back to this particular focus, which is what I will talk about. Anyhow, I am going to support this as a statement for small businesses and I know that I have picked up on one or 2 flaws in it.

7.4.9 Deputy J.A. Martin:

I just have to start with some comments that the Deputy of St. Peter has just made about this being a dog's breakfast. Now, the Deputy of St. Peter did give me the courtesy of a phone call last Thursday. He did not know where he wanted to amend. He was asking me for advice and if it had come earlier and he had told my officers what he wanted to amend, he could have got this right, the same as the Deputy of St. Martin, absolutely. My officers are there to help and I would have had the fight, we could have had the fight, could have still seen off this silly Amendment. I really would have made sure the Constable's Amendment was doing what he told me he wanted it to do when he came to see me. I spent an hour last time with him and I spent an hour this time with him. He says to me this is threatening small businesses, make small businesses under 5 not applicable to these rules. Deputy Maçon did not go far enough. Young people know all their rights today and I am going to be in that

small business training me up as a young person and then I find out when I need some maternity, or parental, leave off I have no rights? Where am I voting? I am voting with my feet. I am going up to work for Bob the Builder, who has 6 employees. If the Constable really wants to help small businesses, this does not do it. People will not stay with small businesses. The comments in his opening speech about them not employing youngsters, women, childbirth, people who are having children, show me a man who has a childbearing age. Charlie Chaplin was how old when he was a father? Absolutely so narrow focused. I am going to go back to the Constable of St. Peter about them having no consultation. They could not find no babies to trot out that had been putting them out of business. There was a year-long consultation by the Employment Forum. Chamber could not believe ... they represent 550 companies, 27,000 workers and they had a 14 per cent response. They could not believe why it was so bad, because, again, they could not find any babies. Nine hundred babies are not putting these businesses out. I will tell you what it is. Finance is doing so well and the other supporting industries are booming. Is that not great? We have us in here as well and I am on the Migration Board and they went: "Hold immigration." Is it hard? Well, there is a tension, but this will not help small businesses. I absolutely refute there was not consultation: 900 babies, they need this time. The Deputy of St. Peter says that it is only mums worrying about themselves. They want some support from dad. This is the forward-thinking Assembly who put babies first. Well, children, but they all start off as babies. Today you cannot support this, even if you think he may have it right. He will, if this did go through ...

The Bailiff:

Through the Chair, please.

Deputy J.A. Martin:

Sorry, Sir. The Constable's Amendment and I really believe this, he would put small businesses under 5 out of business. They need to have the same rights. They need to work ... and to go back to the Constable of St. Peter about small businesses needing some compensation, well, I am bringing a benefit that they can claim back for fathers. It is all in the Government Plan, but when I went to Chamber and when Chamber went to Scrutiny they said: "We would like a bit more protection. Oh, but we do realise we pay half the social security of the U.K. and half the taxes and we do not want that going up." Come on, these small businesses are not that small. It is not really biting. Someone has listened to them and now this was all sailing through, they had the consultation, they knew it was coming, none of them bothered, because they have not seen a baby in years. We have had 2 babies born in this Assembly in 20 years and I think we have 3 fathers who have had babies out of a workforce of 50. Absolutely no evidence, we cannot find the companies that are all affected. They have not contacted me. They never contacted the Chamber. Absolute rubbish that they were not consulted. They just did not know how this law would affect them, because they have not found a baby yet.

The Bailiff:

Does anyone else wish to speak on the Amendment? I call on the Connétable to respond. I am sorry, your light is not on.

Senator S.C. Ferguson:

Sorry, yes.

The Bailiff:

Yes, all right, Senator Ferguson and then I see Deputy Ward after that.

7.4.10 Senator S.C. Ferguson:

I feel very sorry for the various women of childbearing age. Does anyone really think that such women will find job hunting easy, if the whole underlying legislation is adopted? In my youth - and

I can just about remember it - discrimination on the grounds of childbearing probability was more overt. If this legislation goes through, it will be covert. As I have said before, I used to have a small business. Legislation like this could have put me out of business. If you have 2 children within 2 years, then your business is going to be emasculated. It is just going to be impossible to run it, because the people with skills will be off for a year and if there are 2 children they will be off for a full year. The Minister talks of the importance of the first 100 days, so why are so many mothers pushing their small children round in baby buggies from where they can only see knees and feet? The mothers are busy talking on their phones. Is this really the best thing for children, or the best way to spend this maternity leave? No wonder children cannot communicate very well. Under the U.K. system, employers can find that they employ someone and a week later they are asked for maternity leave. Then there is the breastfeeding requirement. Is this really a valid requirement? This is forcing another cost on business, particularly small business. The first thing the businesses knew was the arrival of a letter from the Minister for Social Security, asking if they could provide breastfeeding facilities for their own employees and other businesses in the neighbourhood. Well, if you are paying a high rent for a business, it is a high cost to allocate part of that for breastfeeding. Then the gender pay gap. If the mother takes 52 weeks off, she will be 52 weeks behind her contemporaries, so there is the initial gap. Seventy per cent of our companies are small businesses. We really do have to think very carefully before we inflict another cost on them like this. I support the Amendment.

7.4.11 Deputy R.J. Ward of St Helier:

I am not quite sure what to say now. I was going to try and explain why I think enabling any section of our business community, or employers, to be exempt from a law is simply discriminatory and it is because it is applying a different law to a section of the community because of who they are. We need to remember that. Stereotyping is a thought. Prejudice is a feeling or an attitude and discrimination is the behaviour that comes from that attitude. What we have here is a sequence of those building up to form what would end up being a simply discriminatory action that comes from ill thought through ideas about what parenthood is. I would like to thank Deputy Doublet for pointing out the importance of fathers, because I was fully involved in my children's upbringing and I will state here it is the best and the most difficult thing I ever did in my life. **[Approbation]** I would say something else about business models. If a business model is so reliant upon not giving workers their rights, it is a failed business model. This argument would have been made about small businesses for every progressive thought about workers' rights, about any sort of paid holidays, weekends, sick leave, leave for bereavement. All of those things would have had the same argument to say this is a cost for business. But what we need is to look forward for our society and unless we get that right for our future children, as they grow from baby onwards, we will not have the society that we need. I think - and I will talk on it later - that the Proposition should be paid for longer and I am sure that is not a surprise to anybody, but the very notion that we would say to some businesses because they are small: "You do not have to give the same rights to your employees" to me is fundamentally flawed. As an Assembly, we should not be standing here and accepting that for the wider public. As for talk about ... in fact, I am not even going to go into that. This is about supporting all children when they are born, to give women the right to be with their child and to give fathers the right to be with their child, because that is what is necessary for our children to move forward. The bonds that are made between a parent and I say a parent, not just a mother ... and I am sorry, I fundamentally disagree that it is only women that should be responsible for bonding and looking after their children. I do not know what parliamentary language is, so forgive me, I will be very ... everyone is anxious now, but those ideas are set in the past and they need to stay there. We need to look to the future. We need to do the right thing now and I urge people to really think about the message we are sending out to our young people, future parents and current parents if we vote for this Amendment. I urge you to reject this Amendment.

7.4.12 Senator S.Y. Mézec:

I will be brief. I will say that when the Constable first extolled the virtues of this idea on BBC Radio Jersey a few months ago, I was looking forward to this debate very much, because I thought it was going to be really entertaining. I thought it would be entertaining, because this idea is so outlandish and from a bygone era that, frankly, it beggars belief that it even ends up on the floor of a parliamentary assembly in the year 2019. But the reality has been that this debate has not been entertaining at all so far. It has been quite sad. It is sad, because we are talking about the prospect of creating second-class citizens in our Island, based on the jobs, or the businesses, that those parents work for and it is made even more sad by the fact that this will make second-class citizens out of babies and children, depending on where their parents work. I simply do not believe that that can be justified on any level whatsoever. It is also a Proposition which, for workers who currently work for small business, sees their rights going backwards, being worse than where they are today and they are already behind today from where they should be, which is why I wholeheartedly support the Proposition that the Minister has brought forward, because it takes the Island forward and it puts children first. So, I think that because this debate has been as sad as it is we should not bother with it for much longer and we should just get on with chucking it out.

7.4.13 Deputy K.G. Pamplin:

Fortunately, we know you do have a little bit of time if somebody is going to have a baby with how things work, if memory serves me.

[15:00]

So, for example, 60 to 90 days ahead of time employees requesting leave must present a plan and I know that is detailed in some of the Proposition we will be debating about there. In a small business, especially of under 5, one of which I have worked for, especially a lot of our very important charities are in this regard. We all know and we all knew at the time the work that each of us in this small business would do in their roles and the options that would work best if one of us was to be off for a period of time. We would list the various responsibilities, give recommendations on who could cover on some of those roles, or bring in extra cover if it was needed and then assist during downtime for the person who was off, who wanted to still contribute, but could not be in the day-to-day for whatever reason and then the transition to workplace. This worked very well for our small business. Every small business, in fact every business, is different, especially small businesses who, being small in nature, have to be flexible to survive, to be successful. No matter how big your workforce, one or 1,000, if all your employees do not have rights, equality and the support of your employer, and they in turn do not feel valued, motivated, your business will not survive. To quote a small business, of less than 5 employees, on the parental rights of parents, who have been issuing paid leave who I spoke to only yesterday, he said: "The financial impact to our business was not noticeable at all, but the impact on the morale and the overall feeling of the support in our company is noticeable." If staffing is truly bare bones, then there is no give. If you do not see the positive opportunities of this, there is going to be a problem beyond the question of parental leave. An employee can get unwell due to cancer, or non-cancerous illness and spend a lot, a great deal of time, away from spending the usual day-to-day at the office, or wherever the workplace is. Mental health illnesses, as we see regularly now as well, or called away for jury duty, or the death of a loved one and the funeral of that loved one, the list goes on where a small business could be impacted for any scenario. But my experience of small businesses is they look after each other in those circumstances, so the small business can survive. It would be exactly the same here with parental leave. Earlier today, I mentioned flexible working hours. That is where we have to be heading in 2019 and going forward. This Amendment could be counterproductive also when we want our children returned to Jersey after they are educated in the U.K., to come back, start up their small businesses and, hopefully, if they wish to have children and their families next to our families, but if the Regulations here do not match, or improve on, what is available to them over in the U.K., or wherever, they will not come back to Jersey. In turn, really good hardworking staff of both sectors will leave a small business to work for

a larger one that appreciates their rights to have a family. I agree; this Amendment cannot be passed and I hope all Members will vote it away.

7.4.14 Deputy M. Tadier:

The Minister asked me to speak for 2 minutes; I cannot guarantee I will do that, but I will speak nonetheless to humour her. The thing I am concerned about here is that I completely respect the right of any Member to bring an Amendment that they feel passionately about and that is quite right and this should be a debating Chamber, but I am slightly sad as well, because I thought there was a presumption that we all get behind anti-discrimination legislation and that we all support family-friendly work rights and family-friendly principles. Deputy Ward made the point eloquently using some examples and he was essentially saying that you cannot discriminate when it comes to anti-discrimination; it has to apply to everybody, otherwise, if there are any carve-outs, that in itself is discriminatory. My concern is not simply that it would create a disparity between larger companies and smaller ones and it is not the companies who would suffer, it is the employees themselves. There may be very little difference in material circumstances between those employees, you could have a woman, or a man, who has become a parent, or is becoming a parent, who is working on, let us say, a modest wage of £50,000 in a small company, or you could have somebody, who is working for less money, in a bigger company and they would both need and appreciate the same legal rights when it comes to their paternity leave. The other point to make is that, just because a company is small, does not mean that they are struggling. You can get small firms of lawyers and advocates, for example, and I do not suggest that any of those businesses are necessarily easy, or do not require a lot of hard work, but the idea that we somehow only really have in mind the white van man, who is running a business from his home and who struggles and puts in a lot of hours, they are not the only ones. I would suggest that there are things that we need to do for those individuals when it comes to, for example, Social Security contributions. Is it right that they pay the full whack for both sets of contributions when they do not necessarily get everything out? But that is probably a conversation for a different day and something that I think we can all look into. We have also heard about the light hand of Government and we have heard from what I would call some of the more extreme libertarians of the right in the Assembly on this issue and, to a certain extent, I consider myself a libertarian of the left, but I do not take that to the extreme. I believe in proportionality and that any laws that we seek to put forward as an Assembly need to be proportionate. The line is that we make laws for the minority; that is why we have any laws, because we know most people do not tend to steal, they do not tend to murder, they do not tend to graffiti and, whether it is to try to prevent sins of omission, or commission, we tend to do things because there needs to be a backstop. We need to make sure that people are protected and we know that, when something is in law, that is when businesses start to change their behaviour. When something has been put in law, people start to change. I had a chat with somebody a few months ago and it was not in relation to family-friendly legislation, but it was to do with environmental standards in the workplace, this was in Sheffield, visiting a friend and seeing this mutual friend for a while and he said: "I work in-house for a company and we enforce the environmental protections and the image that the company has." He said to me: "It is not until these things are enshrined in law that a company will employ people like me to make sure it is doing the things that are necessary." Unfortunately, the legal backstop is necessary to make sure that we protect all of our citizens, so I do hope that we roundly reject this. The intention to want to help struggling businesses is, no doubt, a laudable one, but there are probably direct things that we can do, if businesses are genuinely struggling, to seek to help them. I am sure there are lots of suggestions that could be forthcoming from Members in a different kind of debate specifically on this situation. But when it comes to anti-discrimination law, let us make sure that we ourselves do not decide who can and cannot be discriminated against and enshrine that in legislation.

7.4.15 Senator I.J. Gorst:

I am pleased to follow the last speaker, because he really made the points that I wanted to focus on. It is fair to say, since the former Senator Routier first brought forward employment legislation in this Assembly, the issue of what effect they might have upon small businesses and, it is fair to say, businesses employing 5 or more, has been a fraught issue and it has been an issue which has been raised in this Assembly every time, in effect, there has been an Amendment, or a substantial Amendment, to the employment legislation. It is an issue, which the Minister's Department has sought from time to time, with various incumbent Ministers, to try to find a workable solution to. But whenever you look at this particular issue, you come back to the straightforward difficulty of why an employee in a small business should have fewer rights than an employee in a large business. There can be no logical, rational, or reasonable argument put forward for why that should be. There is then, however, a question - which I think is the question that the Constable is trying to raise and it is something that the Constable of St. Peter spoke of in his contribution - is how do we more generally and more broadly support small businesses. It is fair to say that Jersey Governments have found that question difficult to answer, as well. We have brought forward amendments to wage levels; we have brought forward proposals for living wages. I personally favour a productivity scheme approach to supporting those businesses, which find it difficult in a short period of time to adjust. It is not necessary in this instance, but it is necessary as we move towards an economy, which is paying across the board living wages. That is the right thing for us to do in this Government Plan. The Strategic Plan proposes that we will support Islanders around standard of living and improving their standards of living. Therefore, we need to find ways of supporting small businesses. It is not appropriate for Members to say that a small business is a failing business model if they cannot afford just simply to introduce increased wages, or adjust to changes to the employment law. They need time to adjust and that is exactly what the Minister has done. This is an ongoing consultation. I do not know how many months, if not years, her Department has been looking at these issues and endeavouring to bring them forward and today progress is being made. When it comes to a Caritas living wage, again that has been on the agenda for now a number of years and yet we still struggled to find solutions. Let us take agriculture, for example, under more pressure than it has ever been, pressure around the environmental impacts of agriculture, pressure around the protection of the countryside and making the Island the beautiful place that it is, pressure around sourcing employees, pressure around paying the minimum wage. We do have a responsibility to support those sectors of industry that find that they require more time and support to implement some of these issues. I know that, despite the answer to the question yesterday from Deputy Southern, the Minister is considering these issues, just like we have been considering support to small businesses in light of the potential no deal Brexit. But they are not straightforward and they are not easy. On another occasion, attached to other debates, this Assembly is going to have to make some difficult decisions about supporting small businesses with concrete financial proposals. But this is not the piece of legislation to simply endeavour to carve out small businesses, because the unintended consequence of carving out those small businesses is that they will find it even more difficult to recruit than they already are. They will be finding a path to the Constable of St. John's door and knocking on it loudly and giving him grief, because they will want more licences, they will want visas from the Minister for Home Affairs to bring in people from elsewhere. These are challenges that businesses already face. That is no reason for us to simply suggest that employees, who are employed in small businesses, should have lesser rights than those employed in large businesses. Others have said why it is so important that parents spend time with their children and I notice on social media that some Islanders are getting terribly excited that we are just talking about children. But extended family also have important roles to play in the raising of children and in attachment to children. But the direct involved parents need to be supported by their Government; that is this Government and this Assembly, to have time to build those firm foundations.

[15:15]

Some would say that without that attachment and without those early years, without that 1,001 days' time with parents - and both parents where possible - without that time you can never overcome it. I think that is simplifying it. We know, from all of the research, that the brain size of a child that has good attachment is larger than one that has not. That is not saying difficult things about families, it is medically proven. But, with good intervention later in life, the sooner the better with that good intervention, those children can overcome those difficulties. But it will be even harder than it would have been had they had that attachment. This is exactly what the Minister is doing in bringing forward these proposals. She is giving the opportunity for the very best start for children and families across this community. As difficult as it is - and in my case it might even be a difficult conversation over dinner this evening - she is absolutely right to do so. We understand entirely the issues that the Constable is trying to address, but I am afraid, in this instance, he is completely misfiring. I do not know what he has done to his sights, but he is completely misfiring and I know, as a shooter, it is unlike him to have maladjusted sights and be misfiring in this manner, but he is and I really ask Members not to support this Amendment at all.

Deputy J.H. Young:

May I give notice, under Standing Order 84, that in half an hour's time, if it is allowed, I will be proposing?

7.4.16 Senator L.J. Farnham:

I am very pleased to follow my good friend and colleague and I do align with him on his comments on this occasion. I cannot support the Constable of St. Mary. It is very similar to the reasons in the previous debate that at this stage I could not support an opt-out clause. It is about equality in equal terms for workers. This is a similar thing, but on a different issue. I am minded, as I said, to be supporting Deputy Martin today all the way through, but I am extremely concerned about how some small businesses will cope with this. I have had discussions with Members and other Ministers and Deputy Martin will, I am sure, be making a commitment today that we have to now put our money where our mouth is when it comes to supporting and helping these small businesses through the hurdles for the right reasons we are putting in front of them, but we can address that when we get back to the main debate.

The Bailiff:

Does any other Member wish to speak on this Amendment? Then I call on the Connétable to respond.

7.4.17 The Connétable of St. Mary:

That certainly provoked a lot of comment. I will try to run through people as they have spoken, but basically, in reply to Deputy Maçon, this does only apply to 5 and less in employment. Maternity leave would still be paid by Social Security for the 6 weeks, or longer, if they wish. Also, it is optional to the employer whether they want to contribute something towards those costs or such and do some arrangement with the employee that is a suitable contract between them. This is the important thing, we have to write work contracts, a contract between the employer and the employee and this only applies to people on this parental leave who employ 5 and less. I cannot see the problem with it. There has to be a bit of give and take on both sides. But this does really protect the small business person, it is absolutely crucial. There are some businesses that employ 5 people that could make massive profits and so they could pay the whole thing; they could pay 52 weeks if they wish. But there are a lot of small businesses that only employ one and 2 and this becomes totally unviable. I have been asked to withdraw this Proposition; I will not do that, because I have also been asked by small business employers to make their case. That is what I am doing. This is their voice. I am only trying to give small business employers a lifeline, an option to be excluded from the main legislation if they employ 5 and less. They can alter their terms if they wish. If an employee, for instance, does not want to accept the terms and conditions of a small employer employing 5 and less, they do not

have to take the job. Many of the small employees have said that; if they cannot have a little bit of leeway on 5 and less, they will not employ. So, who will that help? Absolutely nobody. I take the valid point from Senator Gorst and it could well be that you could look at it on a discrimination point. It is not a discrimination point if you know about the terms and conditions before you employ, or if you take that employment. Surely we can help small businesses as much as we can help the people who require the parental leave. It is absolutely vital that we support these small businesses, because they just will not employ women, for instance, who are below 50 years old and that can quite easily apply to employing men in the same category. So, small businesses can look upon their business on how they want to generate their growth or not and they have to have a little bit of leeway into how they employ. Having this dictated to them is not one of those options. There is not much more I can say on that apart from the fact is I stand by the request of the small businesses entirely. I feel they do need some support and I have carried this through to give it. I thank everyone who has taken part in the debate and the support I have received from the Deputy of St. Mary and Deputy of St. Peter and a few others as well. It is a difficult thing I know for you to do, but I am only just trying to get that lifeline to small businesses that is so important. This will not affect the main Proposition; all the big companies can still pay exactly what is on the main Proposition. I am just giving the lifeline, the choice, to the small employer. On that, I maintain my Amendment and I ask for the *appel*.

The Bailiff:

The appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 4		CONTRE: 40		ABSTAIN: 1
Senator S.C. Ferguson		Senator I.J. Gorst		Connétable of St. Brelade
Connétable of St. Peter		Senator L.J. Farnham		
Connétable of St. Mary		Senator T.A. Vallois		
Deputy of St. Peter		Senator K.L. Moore		
		Senator S.W. Pallett		
		Senator S.Y. Mézec		
		Connétable of St. Helier		
		Connétable of St. Clement		
		Connétable of St. Lawrence		
		Connétable of St. Saviour		
		Connétable of Grouville		
		Connétable of St. John		
		Connétable of Trinity		
		Connétable of St. Martin		
		Deputy J.A. Martin (H)		
		Deputy G.P. Southern (H)		
		Deputy of Grouville		
		Deputy K.C. Lewis (S)		
		Deputy M. Tadier (B)		
		Deputy M.R. Higgins (H)		
		Deputy J.M. Maçon (S)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy of St. Ouen		
		Deputy L.M.C. Doublet (S)		
		Deputy R. Labey (H)		
		Deputy of St. Mary		
		Deputy G.J. Truscott (B)		
		Deputy J.H. Young (B)		
		Deputy L.B.E. Ash (C)		
		Deputy K.F. Morel (L)		

		Deputy G.C.U. Guida (L)		
		Deputy of Trinity		
		Deputy of St. John		
		Deputy S.M. Ahier (H)		
		Deputy J.H. Perchard (S)		
		Deputy R.J. Ward (H)		
		Deputy C.S. Alves (H)		
		Deputy K.G. Pamplin (S)		
		Deputy I. Gardiner (H)		

7.5 Draft Employment (Amendment No. 11) (Jersey) Law 201- (P.100/2019): amendment (P.100/2019 Amd.)

The Bailiff:

Two of the other Amendments, having been now withdrawn, Articles 3 and 4 are proposed together, so we move on now to the Amendment of the Economic and International Affairs Scrutiny Panel and I ask the Greffier to read that Amendment. Shall we take it as read? Would Members agree that we take that Amendment as read?

7.5.1 Deputy K.F. Morel (Chairman, Economic and International Affairs Scrutiny Panel):

Unfortunately, I imagine that a lot of what we are about to discuss is going to repeat what has just been discussed and I apologise for that in advance. I would like to say, first of all, that I am grateful to the Minister for accepting a number of our Amendments. I am grateful for the Scrutiny Panel for undertaking such a large piece of scrutiny into this Proposition. It took a long time and we are very grateful to our officer who helped us. I am also very grateful to the people who took their time to inform our Scrutiny hearings and the briefings that we undertook. It is a concern to me, to be honest, when I hear some of the comments made in this Assembly with regard to businesses and how they are run and how easy it is to shake things off and how things will not affect them. Quite simply, when I speak about education I listen to teachers, when I speak about businesses I listen to businesspeople. That is the way I work, because they are the people who operate inside those organisations and know how best and what affects them. I want to say, as we are going on, this is going to take a long time; there was no question in the mind of the Panel that parental leave is vital. We have been clear that we support the Minister in her aims and we support the introduction of parental leave. We have not tried, at any point, to affect that introduction; we have tried to make the law better. It still comes to us as a flawed law, there are still issues with it and it is a real shame that these have not all been dealt with, but that is partly a consequence of the law packing so much in, let us say. There is no doubt that parental leave will help address the balance in caring roles within the family and there is no doubt that Jersey needs this. It needs this, because the current focus on maternity leave means that women lose in the workplace as a result of taking time out to care for children. They lose in terms of both pay and opportunities. As a member of the Gender Pay Gap Review Panel that is as clear as day to me. That is clear as day to the other members of the Economic Affairs Panel, who also sit on the Gender Pay Gap Review Panel. The Island needs to bring in parental leave, because the children and fathers lose out, as well as the mothers. Children and fathers are not able to spend time together due to the focus on maternity leave, so there is no doubt in my mind and there is no doubt in the Panel's mind, that equal parental leave is a crucial step forward for the Island. The Minister and the Panel closely agree on this. Where the Minister and the Panel disagree is on a couple of issues, one is on the issue of inequality. The inequality in this Proposition stems from the fact that the Minister proposes unpaid leave. This means quite simply that the wealthiest will be able to take the full leave, while their less well-paid colleagues will not. This means the Government is not leading, as it claims, on making Jersey a more equal Island. Instead, it is creating a law that not only passes almost all of its costs on to Islanders and employers, but at its

full extent of 12 months unpaid leave is likely to exacerbate inequalities, most particularly among differently-paid colleagues. People are paid differently in organisations and those who are paid more will be able to take this leave, those who are paid less will be able to take less leave as a result of that. Can you imagine working next to somebody who is able to take more leave than you, purely because of their salary? That is what this law creates.

[15:30]

If left to one year's unpaid leave, these differences will be more clearly set into view. It is far more likely that differently-paid colleagues will both be able to take 6 months' leave rather than one year's leave. That is the first point of difference with the Minister. We also disagree on the issue of implementation and the speed of implementation. The Minister wants to cause a splash, she wants to jump in feet first, by not only introducing parental leave, which we believe is vital and necessary, which gives equal amount of leave to both parents, but she also wants to double the statutory minimum of leave for both parents to one year. Currently, the statutory leave is 6 months' maternity leave. We are doubling the burden on employers and, I repeat, employers are not just businesses, employers are charities, employers are social enterprises. The Minister is doubling that burden and then she is doubling it again. That is a big jump forward. She wants to do this, without having undertaken any analysis of the effects that this will have on the society and economy of Jersey. How do we know this? We know this, because our Panel's review found that consultation on this matter was insufficient and inadequate; that no analysis of the costs to employers had been done. The problem is this: the proposal before you, in its unamended form, doubles and then doubles again the burden on local employers. For larger businesses this may prove to be less of a problem, indeed many already offer a year of paid leave to mothers, whether they will offer the same to partners remains to be seen, but the Panel's greatest concern is not for the large, often multinational, businesses, but for the 3,000 businesses that employ under 20 people in this Island. I do not know if you all knew that 3,000 businesses employ fewer than 20 people. Our concern is even more acute for the 2,000 businesses that employ fewer than 5 people, as we have just been discussing in the previous Amendment. These businesses could lose 20 per cent of their staff, 30 per cent of their staff, 50 per cent of their staff, because of one pregnancy; it is that simple. If you employ 5 people and one of them goes off, you have lost 20 per cent of your staff. You employ 2 people and one person goes off you have just lost 50 per cent of your staff. It is a huge burden. This is at a time when Jersey's labour market is incredibly tight; when any skilled, or even unskilled, position takes months to fill and often requires the bringing in of new people to the Island to fill these roles. As someone who is the husband of previously a small business owner, which is why I did not need to declare any interest there, but who still runs that business, although she does not own it anymore, as someone who has worked in several small businesses myself, I can tell you that hiring people is the single most difficult issue that any business owner, or manager, faces. I have seen my wife and other employers in deep despair at where they will get new staff because, quite simply, in Jersey they are not always readily available. So, to ease this, the Minister has ensured that licences will not be necessary for staff who are imported to fill parental leave positions. This, in itself, creates higher rates of migration for the Island, because many will find ways not to leave once they have got here. Alongside the immense difficulty in finding new staff comes the cost of recruitment, advertising, travel costs if you are employing them from outside the Island, training, the costs of unreliability in new and unfamiliar staff members, all of this causing immense stress to businesses in Jersey, enough stress and cost to ensure that many will consider closing. I heard the Minister previously saying that 800 babies, there will be businesses that do not have any. That is absolutely correct; there will be businesses that will go 5 years without pregnancy affecting their work in any way. But if one business is forced to close, because there is a pregnancy affecting them in this way, because of the parental leave, if one business closes - we believe that is very likely and probably already has happened - then that is other people out of work. To shake your head and pretend that is not the case is just ignoring reality. For those small business owners, who see their own families and children carrying the burden

of the stress, they will ask themselves: is it worth it? I tell you, I know that stress of trying to find people and that is just someone who has sat and watched and lived with someone who is trying to do it. It is immense. Sadly, we have no way of knowing how businesses will deal with the burden of one year of leave being given to both parents. Given this lack of information and the uncertainty that comes with it, the Panel has, therefore, decided the safe and responsible way forward is to limit the length of statutory parental leave to 6 months, rather than doubling and doubling again the burden on employers. This is a careful, responsible, step-by-step approach and it makes much more sense than jumping straight in feet first. Indeed, as we are all guardians of the Island's economy, it is beholden on us to be appropriately cautious. With this Amendment, we, as an Assembly, will be embracing all that is good in the Minister's proposals and there is a great deal of good in these proposals. By accepting the Amendment, we will also be showing the Island and its charities and businesses that create the community and economy that we enjoy and that feeds us all that we understand the burdens we are asking them to bear and we will be careful with all that we ask of them. Remember, they are paying for this, not this Government. By taking a step-by-step approach we are being responsible legislators, showing that we want to see the evidence before we make great change. There is no doubt that, if we introduce parental leave at 6 months, then after a period of one or 2 years we can look at the effects of its implementation and can then decide, with the evidence in hand, as to whether we should push forward on to one year for each parent. What we cannot do is the reverse, because on the one hand it is incredibly difficult and rightly so, to remove rights from people once they are granted. On the other, if businesses have closed and jobs have been lost, it will be too late to reduce the term back to 6 months. So, we can go in one direction; we can start with 6 months today and we can move forward to one year in a year or 2's time, once we have been able to see whether there have been effects, or not. We cannot do the reverse, so, if there is damage, we will have to live with that damage. I, as Chair of the Panel proposing this Amendment, do so while asking the Assembly to embrace the principles of the Minister's Proposition, but to do so in a careful, responsible way that does not cause greater harm or difficulty than is strictly necessary for their introduction. By setting the statutory limit for parental leave at 6 months, this is exactly what Members will be doing and we will be doing it in the knowledge that, if the concerns of business owners prove to be unfounded, then we will be able to extend the statutory minimum of parental leave to one year in the near future. Members, I seem to have come to the end of my speech and so I propose the Amendment.

The Bailiff:

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

7.5.2 Deputy S.J. Pinel of St. Clement:

As the Minister for Social Security, who accepted the Employment Forum's recommendations to introduce the right to 52 weeks of leave for each parent, I am very concerned about part one of the Scrutiny Panel's Amendment. The Council of Ministers has agreed to support parts 2, 3 and 4 of the Amendments, we do not support part one. Restricting unpaid leave to the existing 26 weeks will not support the long-term social changes that we are all trying to achieve. This will not help us move forward towards gender equality. The employer is making no payments to the parent during this time, whether it is up to 26 weeks, as proposed by the Panel, or 52 weeks, as proposed by the Minister. The Amendment would limit the maximum leave that can be taken by either parent to 26 weeks. A parent, who needed a longer period of unpaid leave, would lose all their statutory rights. The employer would not have to keep their job open for them. This restriction is likely to affect mothers much more than fathers. Some women will leave the workforce altogether, because they cannot get back to work within the 6-month period. Others will return to work on a lower salary, or at a lower level and miss out on a promotion. This Amendment will do nothing to reduce the gender pay gap. We know that we have a problem with the gender pay gap in Jersey. The same Scrutiny Panel that has drawn our attention to this important issue is today proposing to limit the rights of working parents. The Assembly needs to take action to reduce the gender pay gap, rejecting this Amendment

and providing the full 52 weeks for each parent is one positive step that we can take. The Scrutiny Panel completed its review earlier this year; it collected evidence from a range of businesses. In response to the issues raised during the review, the Minister has reduced the number of blocks of leave and the period over which they can be taken. The Minister has given extra protection to employers in respect to parents taking more than one block of leave. The Minister has proposed extra benefits to cover fathers and partners, as well as mothers. This removes the financial pressure on businesses. Together, these address the key issues that were raised by businesses during the Scrutiny review. There is no need for this further Amendment from the Panel. The Panel quotes a submission made by the Jersey Child Care Trust as part of its evidence to support the Amendment to restrict leave to 26 weeks. The Trust has today issued a statement to all States Members, clarifying their position. They make it clear that they fully support the 52 weeks' leave proposed by the Minister. The Jersey Child Care Trust does not support the Scrutiny Panel's Amendment. The Panel has argued that the extension to 52 weeks will be socially divisive, with only better-off parents taking longer periods of leave. This is not the case. Every family will face different pressures with the birth of a child. Some parents will be keen to return to their career, others will be determined to spend time with their baby and will make financial sacrifices to do that. The right to 52 weeks' leave gives parents flexibility; they can choose how to adapt their lives to the new baby. If we maintain the leave at 26 weeks, no one will have that option. The cultural change we need to create a truly equal labour market will take time. It will not happen overnight. We have heard Members raise concerns about the impact on small businesses. I have run a small business myself and understand the pressures this brings, but we need to keep a sense of perspective. We need to achieve the family-friendly gender-equal workplace that we are all striving for. The Scrutiny Amendment will do nothing to help us on this path. I ask Members to reject this Amendment. **[Approbation]**

7.5.3 Deputy M. Tadier:

I am reminded of a Chinese proverb when I listen to Deputy Morel and the proverb is that he who deliberates fully before taking a step will spend his entire life on one leg. I apologise for the masculine pronoun being used there, but often it is the males that are dithering and do not like to make decisions and there is a picture of a flamingo under it standing on one leg. It seems to me that, of course, the argument can always be made that more research is needed and the charge was made to the Minister for Social Security. Remember, it is not just this Minister for Social Security who has grappled with the issue, it is several iterations of Minister for Social Security and we have at least another 2 of them in the Assembly now with Deputy Pinel and Senator Gorst. This has been really an iterative process to take the Assembly and civic society on a journey to get where we should be, again because these things, in an ideal world, would not necessitate a law and we know that good practice and best practice, when it comes to employer and employee relations, happen by having conversations. So, I would ask the question: how much more consultation do we need to ultimately do something we know is fundamentally the right thing to do? I would also ask the counter-question, which is: if we do not do this, then what will the consequences be? The consequences will be terrible. We hear about these businesses that are being put under undue burden.

[15:45]

What percentage of businesses are we talking about here that genuinely will not be able to cope with this new legislation? Bearing in mind it is still relatively paltry what we are talking about; we are talking about 6 weeks' paid leave when civilised countries throughout the world and in Europe summarily give 6 months of paid leave or a year. Admittedly, I do accept the fact that leave will not necessarily, in all cases, be paid by businesses, it may be paid somewhat by businesses, somewhat by the States and it will necessarily happen and be the case that they will pay one way, or the other, because social security, National Insurance contributions, taxes, will be higher, so one way, or another, businesses will pay. So, we hear from the speaker, presumably representing the Scrutiny Panel here, that there are lots of flaws in this, but we do not hear what his own opinion is. The

argument may be given that of, course, it is not for a Scrutiny Panel to put forward alternative policy, but even that is a grey area, because, of course, we know in bringing forward Amendments - and they have put some good Amendments through and they have also put other Amendments through, which would be subject and could be controversial and the Minister has already made many concessions to that - we are left here with the rump of the unacceptability of an Amendment that is being put forward today. So, I would suggest that, if there are any businesses out there who will struggle with this, given the fact that the burden is not that high and we are talking about unpaid leave here, so it is kind of academic whether you have 6 months of unpaid leave for the business, or a year of unpaid leave, because, if there is any difficulty it is in the recruitment process and they will presumably need to have people on their books already that they can call upon, whether or not it is for half a year. Remember, you will be able to take this leave in tranches anyway. That has been reduced, the number of tranches has been reduced, it is an Amendment that the Minister accepted, from 4 to 3, so it may well be that people will be taking 6 months of leave one year and 6 months of leave a bit later on. So the 6-month argument could well happen anyway, but again it comes down to personal choice. But the point is, whatever percentage of businesses think they might be adversely affected, 50 per cent of the population are women and 50 per cent are men and 100 per cent are potential parents. You do have to question, of course, where these workers come from ultimately. They usually are given birth to at some point in the past and clearly, if we are to have workers in the future, we need to keep the production line of human labour churning along, otherwise we will not have enough people and then we will have to import people. It is really progressive that the Minister for Social Security has allowed non-licenced individuals to be brought on board and I do not accept the fact that this will open the floodgates, because what I have seen in my time in Jersey is that we have some very talented individuals, who already live in Jersey and some of them have been living in Jersey for up to 5 years and they work in extremely menial jobs often and the reason they do that is, not because they are unintellectual, or untrained, or uneducated, it is because we have discriminatory housing and work laws. I have been in a restaurant where I have been served by a European immigrant worker and I know that they are completely better qualified than me in educational terms; they speak much better Polish, German, possibly French and I have no doubt that their English rivals mine, but they cannot take up those roles, because they are discriminated against. We would see that in a time where there is an opportunity for them, perhaps, to fill a job in a bank, or in Government even; it could be that we start to get people in Government. What would happen if we get some individuals working in Government, for example, who have a completely different experience than we realise? There are loads of good people in Jersey who can do these jobs who, up until now, have not been able to. I think that is a really exciting and meritocratic state of affairs that I would expect align with the values of the Chair of that particular Scrutiny Panel. So, we have covered the licences parts and there was also a Comment, which I have some sympathy with, because, of course, we discussed this as a Party. You would expect us, as a Party, in Reform Jersey, with a strong position and a written position in a manifesto, which we presented before an election; it is tricky to put policy in writing before an election, because some people might not like it, that is why historically in Jersey candidates do not tend to do that. But we took the step of doing that and we got some modest gains in our numbers and we are on record of saying that we want 26 weeks of paid statutory leave for parents. I have raised concerns and I think a number of us did at our board meeting not so long ago saying: "Can we support what the Minister for Social Security is putting forward, because it does not really go far enough? Is there not a risk that only rich women and rich parents will be able to take this leave?" It was pointed out by some of the women around our table that is not the case. First of all, it may not be a perfect law, but we should be supporting it anyway, because in Jersey things tend to happen in an iterative evolutionary way. But the other point is that lower down the pay scale there are women out there who will not be able to not work, because they will not necessarily be able to pay for the childcare that comes with it and, if they can arrange their family lives and perhaps one of the partners, or part of their household, can work a little bit more, it is more sensible for them to take the full year's unpaid leave and spend that with their child and spend more time with their young family. So, that is

something I did not immediately think of and it is important that we had those women sitting around the table, who are perhaps much more sensitive to the fact that it is not simply a haves, or have nots, argument. Lastly, I was intrigued by this idea of different levels of pay, saying that can you imagine if you have one woman and another woman, although they could be men, of course, in a particular firm and they realise that when they are on maternity leave, or paternity leave, they are getting paid different amounts to another colleague. So, that would be remarkable, would it not, if you had a cleaner in the bank, who is getting paid a different amount for maternity leave to the Director of that bank, because, of course, in Deputy Morel's mind they should both be getting the same amount of maternity leave being paid by their employer. But that does not happen when it comes to holiday pay, so the cleaner and the Director of the big department in the bank, Deputy Morel presumably would not say: "I expect them to be paid the same during the holidays." It is a complete nonsense argument. This is just another benefit, which the employer would be paying. If he is proposing, of course, that all employees in all organisations should be paid the same that is quite a radical view to propose. I know some espouse the view that everybody in society should be paid the same. But even in Reform Jersey that is not one of our policies; we would probably be more aligned to the Labour policy, which says that there should be a pay ratio whereby the Director and the highest-paid individual in the company should not earn more than 20 times the lowest earners, so there could be a 1:20 ratio. But I would be interested to discuss more the extremely radical suggestion that all employees in any particular organisation should be paid the same. So, we have a very strange mixture here of extreme left being put forward and also the fact that ultimately we are saying we support extra rights for women, indeed we know that Senator Moore campaigned on it and she made her name on the 1,001 days policy and being a breastfeeding champion. Yet, when it comes to the first opportunity for her in this Assembly, perhaps, to endorse this kind of new legislation, she seems to have at best an ambivalent point of view and we look forward to hearing from her. But, certainly, as a committed Reform Jersey member, who has stood on a manifesto of fighting for better paternity and maternity leave for individuals in the workplace, I am more than happy to give my support to the Minister for Social Security in these progressive steps.

7.5.4 Deputy L.M.C. Doublet:

I want to say thank you again to the Minister for bringing the legislation and I am disappointed that we are having this debate, because I think that the legislation in its entirety is balanced. It will have a positive impact on gender equality. I want to have a look specifically now at the 26 weeks and the concerns that were raised in the report attached to this Amendment. We have heard a lot about the concerns of businesses and I do hear those concerns and this is why I have proposed a review, which, after discussion with the Minister, will be held 2 years after the legislation comes into force. I have listened to the Minister and to the research that she has done and the work that she has done looking at what she thinks the impact will be and I have also listened to business and my judgment is, along with others that have spoken; I do not think that this will have a massive impact on businesses. A lot of the criticism has been that we did not do a thorough enough consultation. The consultation, in fact, was carried out by the Employment Forum. I do not know if anybody has thanked them today; maybe the Minister did, but they put a huge amount of work into putting forward these recommendations. It was not something that they did off the edges of their desks; I have read through the transcripts for the hearings where they spoke to the Scrutiny Panel and I was really impressed with the work that they put into this, as I was impressed with what came out of it. In terms of the number of submissions, I chaired a Scrutiny Panel last term, I chair a Review Panel this term, in terms of numbers of submissions, the Employment Forum received over 300 individual submissions, I think it was 331 and those were individual paper written responses to the consultation. If I could ever get that many responses to a review that I was chairing, I would be over the moon. I did ask the Scrutiny officers whether we had many reviews with that many submissions and it is quite rare. If we get 20, 30, 50 responses, that is something that we judge to be a good level of consultation and we make decisions based upon that level of consultation. So, I do find it very strange that someone

is criticising the consultation as not having gone far enough, as the Employment Forum themselves said that they thought it was a very thorough consultation. I stand by that. In terms of businesses, I also researched the impact that this might have had in other countries and in the U.K. there were similar worries, similar concerns, when the employment laws were changed there, from small businesses. I have not heard of small businesses *en masse* folding in the U.K. Their legislation is slightly different, but those fears have not come to pass. In the U.S. and this is an article from the *Harvard Business Review* and this is a quote from a man who campaigns for mandatory paid family leave in America and when he was asked about start-up, or small, businesses he said: "Company A, they made the math work on 5 months of fully-paid parental leave, even longer than ours at Initialised Capital and I think that is because they and other employers like myself realise they will get more loyalty and productivity out of employees as a result. Humans, whether software engineers, or people preparing food, can only do their best work if they have peace of mind that their home and family are secure. If they are instead distracted, or stressed, or frustrated, there will be costs to that. I work with many entrepreneurs and I have yet to have one of them come back to me and say that a paid leave policy was a bad idea." So, that is another view from business. Another concern that was raised is that the leave is not accessible to all, because it is unpaid. I will caveat this with my own belief is that we should be paying more, mothers and fathers should have access to more paid leave, and that is another element to the review. Deputy Tadier hit the nail on the head; that is how things often work in Jersey; that has been my experience that we will start with something and we will add to it. Deputy Tadier also touched on what I am going to say.

[16:00]

I led a review into the costs of childcare with the Jersey Child Care Trust, with another trustee and we found that the costs were so staggeringly high, at times higher than peoples' mortgages and we had an email from somebody saying that their monthly childcare fees were £1,600, or something like that. It is a lot of money. What is happening at the moment, at all income levels, especially at the lower income levels, is the family find themselves expecting a child and they make a rational, economic decision. They look at the cost of childcare and they look at both their wages. Usually, because we have a gender pay gap, the mother is getting paid less than the father, so the mother will quit her job. At the moment, even if she were to take just the 26 weeks that is currently available, at 26 weeks that family still cannot afford the childcare, so at that point the mother is having to quit her job. That is what is happening at the moment, especially for the lower income levels. The difference here is if we have 52 weeks of leave, there is a much higher chance that the mother will go back to work. She will have that year where the family will not be having to pay the childcare. As somebody mentioned, it is just holding the job open. The difference between the 26 weeks and the 52 weeks, that is all it is, is the job is being held open for the parent to go back to. It is unpaid, so there is no financial difference to the business. There is a hidden problem on our Island ... we touched on this in the Cost of Childcare Report, but because it is a hidden problem we could not get a full understanding of it. There is a huge amount of children in unregistered childcare on the Island. The parents want to be with their children, but they do not have the leave from their jobs. They do not want to lose their jobs, so they are forced back to work and they have to put their children with people who are not registered child carers, who are not registered nurseries. I can see Deputy Alves nodding, because she is aware of this problem. This is something which needs to be looked into. The Minister for Education is not here, but I know she will be listening and I hope we can discuss this on the Early Years Policy Board. We have heard a lot about the financial side of things here. When I was considering this debate ... and I always will go back to this, because these are my roots and this is where I come from, I am an early-years teacher. I taught children from 3 to 5 years of age. That is just after that 1,001 days' time, where they have been with their parents, or they may have been in childcare and they come into a school environment. I have seen the impact on families and on children of some of the legislation that we have, or do not have and how those families are struggling. While I absolutely will listen to businesses and take on board their concerns, we need to be thinking

also: how will we help families who are struggling and children who are, not just in theory may be struggling, who are struggling today? That is happening. I will not go into individual cases. I have taught children who have been affected for the rest of their lives, because they have not been able to form a secure attachment with a primary caregiver. It is not something that a child can just shake off. We have the power today to affect that. In terms of attachment, I have got some research. It is a very old theory, which was developed by a gentleman called John Bowlby, who was a psychoanalyst. He looked at behavioural problems and how they could be attributed to early childhood. He claimed that there is a critical period, this is where the 1,001 days comes in, which we all, in a previous Assembly, adopted; if the attachment figure is broken, or disrupted, during this critical 2-year period, the child will suffer irreversible long-term consequences of this deprivation. Disruption of the attachment between an infant and a primary caregiver could result in the long-term, cognitive, social and emotional difficulties for that infant. Long-term cognitive, social and emotional difficulties: that sounds familiar doesn't it? Does that not sound like the mental health problems we have been seeing in our young people? There is something in this theory. I think it is a robust psychological theory, which is part of the 1,001 days. We also had an email from a trainee G.P. (general practitioner) with an interest in paediatric and family medicine, who is also a mother to 3 young children, urging us to vote for the 52 weeks. She said to us and I quote: "I think it will make a huge difference to mums and dads on this Island. Evidence suggests that this first year and up to 3 years of a child's life is crucial to character formation and bond formation with parents and is a key part for a stable foundation for the future of the child. This will have a knock-on effect on education and health for years to come. I believe this change will also improve average duration of breastfeeding and is well-known to improve outcomes for the long-term health of both child and mother." She finishes by saying: "This is probably one of the most important opportunities you will see while in your role to make a difference to public health on this Island, by voting for the 52 weeks." That is from a professional. She mentions breastfeeding. As one of the U.N.I.C.E.F. (United Nations International Children's Emergency Fund) Breastfeeding Guardians, I do feel compelled to mention this and to raise the awareness of the importance of breastfeeding exclusively for 6 months and, of course, alongside food for 2 years and beyond. Now this 26 weeks of leave idea will have a potential impact on breastfeeding rates. This is something that is part of Future Jersey, it is part of the Government Plan, it is a well-researched measure that if we improve breastfeeding rates, it improves health throughout the lifespan. I will not go into the science around why. If we think about how breastfeeding works and how maternity leave works. I am talking just about the mother at this point, as most mothers will start their maternity leave prior to the birth of a child and babies often arrive late, especially if it is a first baby, the reality is that 26 weeks will lead to mothers returning to work before the baby is 6 months old; your baby will be about 5 months old, if that. As 6 months is the recommended age for introducing solids alongside breastmilk, those babies, whose mothers will be forced to go back if this Amendment is approved, will still be feeding regularly, in my experience, during the night, as well, which means that has an impact on the productivity levels of the parent, or both parents. In line with evidence-based recommendations, the baby should continue to breastfeed for the full 6 months. This proposed Amendment to reduce the amount of maternity leave in the legislation from 52 weeks to 26 weeks, would likely make it more challenging for some mothers to exclusively breastfeed for the recommended 6-month period. To me, the evidence is overwhelming. Linked with breastfeeding, but more generally, U.N.I.C.E.F. recommends at least 6 months leave for mothers in order to fully support breastfeeding. Surely Jersey can afford to do more than the bare minimum. I am going to finish there. This is not the final say that we will have on this area. The Minister has agreed to a review. There is space down the line for tweaks and improvements. As the legislation stands, it is a good piece of legislation. It will do a lot of good for families. It will have minimal impact, if any, on finances and business and we can do so much good by going with the full 52 weeks. I really urge Members to support children and families and please vote against this Amendment and support the full 52 weeks, as proposed by the Minister.

7.5.5 Deputy J.H. Perchard:

I would like to start by thanking the Minister for her kind and generous comments in her opening speech. They were much appreciated. There is legitimate concern to be raised about the division of wealth. We have had a lot of opinion, a lot of anecdote and a lot of recollections of one-to-one conversations, but if it really was affordable for individuals to take a year off work unpaid, why is not everybody already doing it? The division of wealth in Jersey is clear. We know that rental prices are at an all-time high. Housing costs and the cost of living are high. We know that everybody within a certain income bracket struggles. One of the priorities of this Government is to reduce income inequality. I am concerned that there is a large group ... I would like to know how many people would fit into this group. There is a large group of people, who will not be able to afford to take a year of unpaid leave. I want the leave to be a year long. I think it is absolutely the right thing to do. We know of all the benefits in terms of a child's health and development, in terms of parental well-being and health and in terms of the overall positive impact that those things have on society, particularly as a child grows older. We do not know how many people could afford this leave. We do not have an assessment of households within certain income brackets. Therefore, we do not know how much money a family would need to make in order to be able to take unpaid leave to this extent. If the Minister does know those things then I urge her to share them when we come back to the main debate and in her summing up, because that is information that I currently do not have. I would like to know: how much money would a single person with a new baby need to take unpaid leave for X period of time if they earn X amount? How much money would a household with 2 parents need to earn a year if they had one school-age child and a new baby and their salaries were X and Y. We do not have that research. Therefore, we cannot say that there will not be an impact on the least wealthy people in society. We cannot say that, because we do not have the evidence for it. The Proposition is fantastic. It has everything that you would want to see in such a progressive and forward-thinking Proposition that strives to strike gender equality. As the Minister outlined earlier, the intention is to give parents time, take the stress away and have more flexibility. As a result you will see women going into higher positions in their careers. My concern is you will not reap the benefits that we know will come with long parental leave if people cannot take the leave because they cannot afford it. We have heard about the importance of families spending time together. We have heard about the real damage that can be caused to children due to parental absence. We know that as things currently stand women are held back in their careers because of the inequalities resulting from the fact that they tend to take parental leave. The reality is, as a young woman, if my partner cannot take that leave, because we both cannot afford it, as a unit, those benefits will fall away.

[16:15]

We will not reap the benefits that are intended, because we cannot afford to do it. So far I have not heard anyone speak out against the principle of having a year of parental leave. Most of us seem to agree that there would be great benefit to the health of a child and the well-being of society as a whole if both parents took parental leave, particularly in the first year of the child's life. I genuinely am concerned that it is not affordable for families. If there is evidence to the contrary of that, please share it with me. My other concern is that if we pass legislation where currently the parents would be the ones burdened with the cost of leave, because it is unpaid, and the employer would be burdened with a cost, because they have to recruit to replace that person, but if the Government, apart from the parental benefits which are a welcome addition, is not going to fund it in any other way, whether through giving a business a recruitment allowance, or whether by giving greater parental benefit, I still do not see where the impetus will be for the States to ever fund it properly. If we pass 12 months of unpaid leave, it is my view that what I want, which is for Government to fund extended parental leave, the impetus to find that money is going to be there. It is our duty to pay for more of the leave that we are currently intending to. I do not think we should not pay for all of it. I am not suggesting at all that I have a solution. I appreciate that that is frustrating for a Minister to hear problems and not solutions, but I am not privy to the resources, information probably not even the mind that I would

require to develop the complex solution required. The point is, the States should be paying more than they are going to be. The way things currently stand, it is the case that the wealthiest among us will be able to afford it and other people will not. I do not see how that fits in with the common strategic priority of reducing income inequality in society. Having said that, we find ourselves in a really tricky position, because I was in a very similar position yesterday where I completely agreed with the principle and think it is absolutely fantastic and I am really excited about it and I am genuinely concerned that the practical implementation will not reflect what we want. We want both parents to take extended leave for the benefit of their children and the benefit of society. That is what we are saying we want. Where is the assessment of the practicality? Who is going to be able to afford it? How much money do you have to earn to have enough to afford to take that level of parental leave? As I said before, I really believe that we may have been better off finding a way to fund it for 6 months for both parties, paid leave for 6 months for both parties, prior to going to unpaid leave for one year. I do not think you are going to get people taking it. I really do not. However, I am supportive of the legislation, because it would be ridiculous not to be, but I really hope if the Minister has any information regarding who could afford this leave and who will not be able to and the future plans she may already have, to support those who currently would not be able to afford it, I would urge her to share that information with us today. It has a significant impact of the efficacy and the credibility of what we are trying to do here. It looks good, it sounds good, does it deliver the goods?

7.5.6 Deputy I. Gardiner:

I am a bit with the previous speaker, because I am a bit confused. I will try to pull myself now together. If we are discussing now, if I have it correct, it is 52 versus 26 weeks. This is the discussion that we are around now. As an owner of small businesses, which I declared previously, there are 2 points. First point, to be honest, if I found somebody and I trained somebody to cover for 26 weeks, they could also cover for 52 weeks. It does not really make a difference. It is complicated and it is challenging, but we need to be aware we are creating more zero-hour contracts. Let us face it, we do not like zero-hour contracts, but we are creating more zero-hour contracts. Let us face it, we are creating less employment stability for people who will cover maternity and paternity leave. It might be people who, for most of their professional career, will find maternity and paternity leave. At the same time, when we are discussing 26 and 52 weeks, it does not really matter, because as a business I do not have any financial implications. If I trained somebody once I do not need to train them twice. My point about 52 and 26 weeks, I would support the Minister with 52 weeks, because I would rather that a woman, or a man, after taking their maternity, or paternity leave, it depends on their circumstances, will have the place to come back and not to stay another year or 2 unemployed. I do share the same concern about affordability. It is not affordable. I am going back to my Sunday, when I went out with my friends and one of them shared a very sad story that she basically should return to work after 12 weeks. She was lucky enough that her workplace supported 12 weeks maternity leave, but she went because she has been told by Social Security, they are an unmarried couple, they have a small flat and they have mortgage: "If you would like to get our support, separate from your partner." I am not sure if this is the decision we would like to see in our society; definitely I would not like to push them in that direction. So, they found unregistered childcare, to be able to afford childcare, to be able to go back to work. Would you like to see this? Probably not. I have another one that has a really nice child. When I picked up my little one from afternoon club, she is a friend, I was congratulating her. I said: "How are you going to get around it?" She said to me: "If I do not get paid, I will quit my work and I will get income support." She will probably sit on income support year 2, without going back, because she will not be able to afford childcare. So, she is not taking maternity leave and her husband is not taking paternity leave, but she will get income support. I can see the front faces, it is not that I am against the legislation. I am supporting it. As somebody said today: it is ground-breaking legislation. It is really difficult to move and to allow for men and women equally to take this 52 weeks. Without the support of my husband I would not be here. He

is a great father and he was able to take time to look after Mia. I do believe in equal rights for mothers and fathers. I do believe in equal rights for all employees, regardless if they are in big businesses and small businesses. I am really looking for the review from both points, from points of mothers and fathers who are not able to afford 52, or even 26, or even more than 6 weeks parental leave. I am looking for this review from the small business, like corner shops, like beauticians, that basically they are the same mothers and fathers who took one staff to be able to spend time with their children. They are not earning a fortune and they might break even and this is where I support Senator Farnham in the previous debate. I did not speak in the previous debate and I am going back to the small businesses, that we need to look into support for these businesses. They are not businesses that are not making their cents to exist, they are just businesses that are making their living and supporting maybe another one, or 2, people of our society by providing a job. I will be supporting 52 weeks and I will be supporting the Proposition. I do think this is a really good step forward. I am looking for a view to update it and bring it right for both sides. Thank you.

7.5.7 Deputy T. Pointon of St. John:

I count it as a privilege to be able to speak to this Amendment, although I will not be supporting it. I will be supporting 52 weeks. My contribution outlines the important relationship that has to be developed between parents and a new family member, to enable healthy emotional attachment. In addition, I include a reference to a member of our society, who describes the practical and emotional issues she and her baby are experiencing having to return to work after her 26 weeks leave. I begin first by referring to research that was alluded to by Deputy Doublet earlier on, attachment theory. The attachment theory was first developed by John Bowlby and Mary Ainsworth in the 1940s. They looked at why a group of young men had become juvenile delinquents, in the parlance of that time. That is what they called young offenders in those days. They discovered that many of them had disrupted attachment to their mothers. Those mothers may have been emotionally absent through mental illness, or being in an abusive relationship, physically absent through death or separation, or other reasons. They also studied the effect of evacuation on children and Draconian rules of visiting when children were in hospital. If you remember, in those days, if a child went into hospital, the mother and father could only visit in the evening. How debilitating for such a child. The first reports emphasised the bond between mother and child, which led to a lot of mother-blaming. Subsequent research has shown the importance that partners play in the attachment process, as well as siblings, grandparents and nursery staff. Good attachments to our primary carers allows us to make attachments at all other stages of our lives. The difficulty with this leads to an inability to sustain healthy relationships, anxiety, depression and antisocial behaviour. Attachment and bonding is a 2-sided coin. Attachment is an innate and primary motivating force, seeking and maintaining contact with significant others is essentially for human beings across the lifespan. This sustained connection is seen as a survival imperative, laid out by the process of evolution. Dependency, often pathologized in our culture, is an innate part of being human. It is not a childhood trait that we need to outgrow. Secure dependence is a sign of health and compliments autonomy. Secure dependence fosters autonomy and self-confidence. Secure dependence and autonomy are then 2 sides of the same coin, rather than dichotomies. The more securely connected we are, the more separate and different we can be. I reference Johnson 2005: "Health in this model means maintaining a palpable of felt sense of interdependency, rather than being self-sufficient. The birth or arrival of a child can signal significant attachment changes for each partner. An infant demands attachment responses in terms of being comforted, cared for, attended to with emotional attunement. This attunement takes time to develop. Parents need time to reorganise and gradually become confident meeting the needs of the new family member. Partner support is essential at this time. As Bowlby and Ainsworth observed: "Children with poor attachment may well develop behavioural difficulties and become a problem for general society in their lives."

[16:30]

The Bailiff:

Deputy, I do hesitate to interrupt you, but is the thrust of this reaching a point where there is a distinction between 26 weeks and 52 weeks, as opposed to general attachment theory?

The Deputy of St. John:

I maintain that 52 weeks is an essential to establish ...

The Bailiff:

Obviously what we are not discussing is the general value of attachment. It is the distinction between 52 weeks and 26 weeks.

The Deputy of St. John

I will continue. Psychiatric illness, offending behaviour, difficulty maintaining relationships, difficulty managing anger and becoming over controlling with other people. These are just a few of the examples of fallout from a failure to secure early attachment during a 52-week period. In addition, the other element that calls for an extension of parental leave is the physical and immunity advantages a mother conveys to her new baby by breastfeeding. I am sure you are all well acquainted with these advantages. We all yesterday received an email from a nursing mother, anonymised, she said this: "Dear All. I am aware that the debate over family friendly employment rights is due to go ahead and I would very much like to make a point for working parents with regard to the extension of parental leave until 52 weeks. I am currently back at work having taken my 26 weeks leave, plus annual leave to stretch my maternity leave as far as I could. I now have an exclusively breastfed baby being cared for by a childminder while I am struggling to fit expressing milk into my working day. I am a qualified professional working in the health and safety sector. What makes this even harder is that after taking a few bottles of expressed milk, my baby is now refusing all feed via a bottle, or a cup. I cannot begin to explain how hard it is for all involved. A distressed child wanting to feed, a childminder who is paid to be responsible for this child and unable to feed them and a mother away from her baby when she is her only source of feed. I am pro breastfeeding, I am pro the rights of babies and mothers to have the appropriate support in place to allow exclusive breastfeeding. There is research after research paper showing the benefits for both mother and child and that these far outweigh the other primary food sources. This, therefore, has a huge advantageous knock-on effect on the wider health of the population, less pressure on healthcare due to reduced health issues, obesity, mental health, the list is endless. Yes, it is a cost at this stage to allow parents to have a longer term of leave, it would be incredibly short-sighted to think that the cost of this is not recuperated further down the line, through a lesser burden on healthcare. If we are looking to precedence, the U.K. already allows 52 weeks. How on earth does Jersey expect to attract professionals to the Island if we cannot provide the same level of support? Change is always met with resistance, but once established as the norm people and businesses adapt. It is incredibly archaic that the Jersey attitude remains so blinkered and short-sighted on this issue. I would therefore like to suggest that the vote centres on how best to support families, rather than the loud grumble of businesses. With kind regards." I end it there.

7.5.8 The Deputy of St. Peter:

I listened with great interest to Deputy Gardiner, because she said 26 weeks, 52 weeks, what is the difference. I think the point you made is by the time you have a replacement member of staff and they are up to speed and being productive and I gather that productivity from the businesses I have been talking to can be between a matter of days and a few months before that replacement member of staff becomes productive, because once they are in place and they are not a double cost then it does not matter whether it is 26, or 52, weeks by and large. I am not worried about that. But the issue - and this is really important - is the option to take it in multiple tranches. So, if you want somebody to replace - the minimum tranche is 2 weeks - OK, you can bear that with the equivalent

of a holiday, but if you wanted to replace a member of staff over 52 weeks you could have to do that 3 times. As we have zero unemployment in the Island, we know there are people queuing up to fit in and dovetail into those jobs. I think it is really important to understand that, because I personally believe it is the crux of the problem, not just for small businesses but for all businesses. As I have already said, 52 weeks for a mother to be at home with a child to breastfeed and take the comfort, I could be easily sold on that very easily, but it is maybe the other partner taking it in tranches as well which would affect the other business. I think it is a really important differentiation. The other thing is I think it is within the 15 weeks before the month that the baby is due is the notice you give to your employer of the times that you want to take off. That is good notice. I think the amendment that you accepted, Deputy, was that 42 days' notice should be given to change that. OK, that is a step in the right direction, however, it still goes down to say ... well how will that conversation take place: "I would like to not work during Christmas, because that is the peak time. I would like to take my time off during the summer, when everybody else is on the beach." I know that the employer and the employee will be reasonable about that and that is very sensible, but reason stops somewhere. So, in summary, the 26 or the 52, largely irrelevant if taken in one tranche. It is the breakdown and the multiple tranches that really, really concern me.

7.5.9 Senator K.L. Moore:

I think we need to remember that in bringing this Amendment, the Economic Affairs Panel is not only respecting the well-known - and well-discussed already in this debate - importance of firstly the child, secondly the 1,001 days and our commitment as an Assembly to that and thirdly the importance of breastfeeding and achieving the U.N.I.C.E.F. baby friendly initiative gold standard here in the Island, which we are, I am pleased to say, making very good progress towards achieving. But our duty as legislators, sitting here today, is to ensure that when we bring groundbreaking legislation - because this is ground breaking, we all agree that this is a direction of travel that we want to go on - we have a duty to ensure that that legislation is achievable and targeted to benefit those very people that it is trying to support in our community. I think one thing we really must focus on here as well is the fact that this is parental leave that we are discussing. So, 6 months per parent equals a full year. It is absolutely hoped that those parents, who are fortunate enough to be able to take that full period of leave if they can afford it - because of course we must remember that the paid component of this is only 6 weeks - and in remembering our duty to every member of our community and ensuring that this is achievable legislation, we must remember why we are doing so and the people who will struggle financially to take that paid leave. If we look to the U.K. where the parental leave system has been in place already for 4 years, earlier this year the T.U.C. (Trades Union Congress) were calling for that system to be reviewed. The one year of parental leave was deemed by T.U.C. to be ineffective, because only 1 per cent of parents were taking the one year of parental leave, because they simply cannot afford to live on £145 a week. When we think about 1,001 days and the absolute importance of bonding and attachment, one must also take into account the impact of stress on that bonding and attachment. The presence of cortisol is an impeding factor in a baby's system that prevents the neurons developing in the brain, which is what we are trying to achieve in ensuring that there is a secure bond and attachment between parent and child. Remember, it is parent and child, not simply the mother and child as well. This is a slightly roundabout way of putting it, but the financial stress that a family who might struggle to meet this period of leave unpaid will not achieve what it is setting out to achieve, because the stress that is being met by that family will make it null and void and it will impede the development of the baby. That is why the Panel have looked at evidence to assist the Assembly to ensure that our legislation is achievable and we turned to the O.E.C.D. policy report which was exceedingly helpful in our work and I think it is attached to our report. If I could just remind the Assembly that this world policy research - which was well funded, well done and provided many answers to the questions that, as a Panel, we were asking - suggests in its conclusions that 6 months of paid leave is the optimum that is best for the child, best for the parent. Of course, if at all possible it would be wonderful to offer more, but it, on an evidence base, puts

forward the suggestion that 6 months is the optimum time period, at a minimum of 80 per cent of the parent's pay during that period of time for it to be achievable and unstressful experience, so that the parents can enjoy that critical time in their new baby's life. So, I just wanted to remind the Assembly really that we do have to consider this, as difficult as it is and however some may feel that a 6 month period is impeding our progress, it can help our progress to (1) make this legislation achievable, (2) fit within the evidence that is internationally available, and to not go down the path of our near neighbour in the U.K. where they have a 52-week period available, but simply inaccessible to 99 per cent of those parents. So, it is a difficult argument, but I do hope that Members will think very seriously and support the Economic Affairs Panel in this Amendment, because it will enable us to make a big step for many parents, it will be more achievable for the many and not the few. Also with Deputy Doublet's helpful review in now 2 years' time sadly - it would have been better if it had been a year in my opinion - we can look at what has been achieved and then build upon the legislation after that review has taken place.

Deputy R.J. Ward:

Sir, may I ask a point of clarification? It may just be me not understanding. I am not reading that the Amendment is saying it should be 26 weeks of paid leave, it is just saying 26 weeks of unpaid leave, even though the evidence suggests it should be paid. Just for clarity.

Senator K.L. Moore:

That is correct. We are working within the parameters that the Minister has put forward. The Minister is putting forward 6 weeks of paid parental leave within a 52-week period and so the Panel is suggesting that 6 months, 26 weeks, is more achievable, particularly given that we still have the envelope of 6 weeks paid parental leave.

7.5.10 The Connétable of St. Brelade:

I am surprised that, despite 3 initial Amendments, the Minister still stoically refuses to believe that giving an employee 52 weeks leave will not have consequences on business. She may well have spoken to the Chamber of Commerce and the Employment Forum, but their membership is not far reaching and, as a consequence, most small businesses have had no communication on this subject so, no, I am sorry, Minister, you have not consulted.

[16:45]

Having run a small business, employing 5 or 6 people, for some 50 years, I can assure the Minister that the proposals are simply impractical and unaffordable. I have experienced a paternal leave situation recently, we made accommodation to fit the needs of the family involved and the business and all was well. It is easy to lose sight of the reason why people, male, or female, are employed. They are taken on to do a job, to perform a task for the employer, so that a service can be offered for financial reward. That is commerce and I am really surprised how a Government department can fail to recognise this, or if they do they are keeping it very quiet. Significant sums can be expended on training of the employee, so that tasks can be performed efficiently to a standard. It seems to me that this philosophy is simply not understood at departmental level and perhaps it is time for them to take a rain check. In truth, the reality of this Proposition being accepted unamended is that any businesses, small, or large, will think twice about taking on women of child bearing age, or indeed potential fathers. The consequence of 52 weeks absence would mean the business would be more likely than not to take someone on, on a fixed period, as has been alluded to before, or a zero hours contract and train them to the position were they to be retained. It is unlikely to be affordable in anything but the finance industry, large concerns, or the States. The proportional effect on a small business is surely unacceptable. I suggest that 26 weeks is difficult enough, let alone 52. The other issue would be that other staff would inevitably have to cover for their absent colleague. They may accept a 26-week absence, but 52 will, I fear, stretch their forbearance. I suggest that most small businesses will

accommodate valued staff in the best and most affordable way they can and imposing legislation where it is unnecessary will simply compromise the flexible arrangements that presently prevail. I suggest that every mother and every family circumstance is different and a one size fits all type of legislation is just not suitable for our situation in Jersey. It may be appropriate in an industrial area where hundreds are employed, but it is unacceptable to impose this over here. I am not naive to the needs of new parents, having 2 children of my own and a grandson of 8 months, but I am also a realist. So, I would urge Members to vote for this Amendment which, I think, points us in the right direction.

7.5.11 Deputy J.A. Martin:

It is good to follow the last speaker, because he keeps going back that I have no idea about small business, I have no idea about commerce. I have spoken and I know many people who run small businesses and he does not describe anyone I know; these really good businesses, who want to do well, who are now saying if you pass this they will not employ women who can have children, probably now will not employ young men. Again I say, how old is a father? There is no limit and they are all going to go zero hours contracts. Well, zero hours contracts are completely different here to the U.K., they are completely covered by our employment law. So, if you think: "I am going to not take anyone on a proper contract, I am going to take this person on a zero hours, they will not have any rights, they will not be allowed to have paternity, or maternity, leave" the Constable is completely wrong. So, I do not recognise the great businesses we have out there and I have listened. The Constable accuses me of not speaking to the Chamber. I have been to Chamber, I have read and reread, I have watched the video of the interview of Chamber and it is such a mixed message. They want me - and this Assembly and this is what the amenders want me to do - Chamber say we want more support for small businesses, we do realise we are not the U.K. and we do not pay like the U.K. pay double in social security and tax, Chamber say we are certainly not advocating that for Jersey. Very hard. I am also accused that we are not putting any money in. It is over £3 million now we have put into maternity benefits and I am doubling that in the Government Plan to make it 32 weeks. I want to raise £3-point-something million to bring that to 32 weeks, to cover fathers as well. So, I am putting ideas down and if you do not like the ideas then I look forward to the Amendment from this Scrutiny Panel, who are telling me I am not Luxembourg. I am not paying a full 6 months wages to employees out there, so do not support. I have listened and I have waited for Deputy Perchard and Senator Moore and I was not being sarcastic this morning; I really think Deputy Perchard and Senator Moore understand the issue. Deputy Perchard said where is my evidence. When Deputy Morel opened this 26-week debate, he said I am absolutely right, most firms will not see a baby for the next 5 years. But where is my research? Why did I ask Deputy Doublet to say: "Please let us not do it after a year"? I only have to work with 800 working parents, because the other ones are not working anyway; mums and dads that we need to keep in our workforce. So, I am here today, all the evidence is about those first 1,001 days and that is not, like Senator Moore has just told us, twice times 2 is 26 weeks; it is not, that is 500 days. This is the first 2 years ... it is 3, it is from conception to 2 years old. The evidence is there. I am a realist, I go back to the point that the people said: "Why are you not taking more leave?"; 52 per cent did say it was financial, but 48 per cent said: "Because you do not allow it." Now, Senator Moore talked about the breastfeeding and the attachment and sorry, 26 weeks does not do it for mum. We have all seen a 6-month old baby who is still being breastfed, probably not standing up, cannot walk, cannot feed themselves, to a one-year old toddler. The one-year old toddler will hold a biscuit, is only being breastfed probably morning and evening, maybe once in the middle of the day. Completely different scenarios. I have tried to get where ... supposedly this is not about supporting business, it is about me not doing enough work, it is about Government not putting enough money in the game. Well, if the proposer of this Amendment thinks 52 weeks, only 6 of them paid, if he thinks I can produce something like Luxembourg ... not just small business, everyone will be outrageous. But if that is what we want to do after our review, I am sure we need to do more with small businesses, but they have to give me something as well. They

cannot keep saying: “We want more, we want you to give more, we want breaks here.” Deputy Tadier talked about some social security breaks. They do for small businesses in the U.K., but they pay double, the employer pays double and the employee pays double. They have had money for years and Senator Moore says they are getting it wrong. Well, the 52 weeks over there is shared as well, so mum is taking the majority. We want to make this even. I know it is very difficult and I absolutely believe that it is difficult. Senator Moore and Deputy Perchard are on 2 Scrutiny Panels. They were fantastic on the gender review and I know they are sincere - and I mean that - about gender equality and diversity in the workforce. Today I think they are really hanging on to a very small ... saying I have not done my work. Deputy Perchard in her very opening remarks: “If people could afford to take 52 weeks now, why do they not?” The answer is very simple, we do not allow it. It has been 26 weeks for over a year. I go back again to the Chamber of Commerce; the Chamber of Commerce when they went to the Scrutiny Panel said: “If only the Minister would move this back to September when it has been in a year, we would love to do an in depth review of how it is effected, we could work through our 70 committees, we will do all different types of business that cover 27,000 employees, we will do that review, we will see how much it has worried the businesses who have had this in now for one year and one month. They did not do it. I am wondering why they did not do it. They knew that the legislation was pulled and I said it was coming back. When I lodged on 10th September ... they are very efficient at Chamber, they have these committees set up, they can get to different businesses, representing different industries, of different size, very quickly. Why did they not do? I go back to where I said in my opening speech we have an average of 900 babies born a year and the majority of those companies, businessmen, workers that they represent have not seen one and, in the words of Deputy Morel, will probably not see one for the next 5 years. So, the review I am going to do is sensible, but you cannot restrict it to 26 weeks; all the evidence for breastfeeding mums to stop the stress ... well, I am more stressed if I am feeding my baby and I think: “If I cannot go back to work on the dot of 26 weeks then the finances where then at that 26 weeks and 2 days I left that position I was probably very high up in the company and they say: ‘You can come back to work, yes, you can have 7 months, you can have 8 months. We are not keeping your job open though.’ I have worked for that company for 10, 15 years and they want me to go back and be the office junior.” This is what this does at 26 weeks, make no mistake. No protection; that is why it is so important. I understand where the Panel is coming from. Am I paying enough? No, but I am working with what I have got, I am working with what businesses here are prepared to give Government so I can pay benefits. So I absolutely say, no, it cannot be 26 weeks; give the parents the 52. It is quite simple and then I am going to keep ... I am not going to wait 2 years, I am going to ask business, I am going to work with Chamber, I want to work with the Minister for Economic Development, Tourism, Sport and Culture, I want to make it as easy as possible for the new parents and business. My mind is not closed, Scrutiny know that; I have done everything except this that they have asked me to do. I really say today, do not go for the 26 weeks, we need to give parents, especially mums, that chance not to be forced back and not to lose their job within that first one year.

7.5.12 The Deputy of St. Mary:

I am not sure I am pleased to follow the last speaker, or not, in the sense that she is absolutely right, she has conceded most of our points. I speak as a member of the relevant Panel and I am grateful for that. However, to put this into some context, I should perhaps repeat that the Panel is made up of our breastfeeding champion, 2 members of the Gender Pay Review Panel and myself. Even I, apparently, am a feminist because I have 2 sons and 2 daughters and I have insisted I give them equal opportunities in life and that I am sure makes us all feminists. The point I am trying to make is that I think you might be hard put to find a Panel better qualified to look at this situation than ours and we are very in favour of the general thrust. I have to say that when the previous Proposition came to us, P.17/2019, I did have more concerns, because it appeared to me that new parents were being regarded as a new breed, because that is what they are, a special category of people alienated from society as a whole.

[17:00]

I say that, because in that original P.17/2019, their rights could be in conflict with those of their employers who themselves may well have young families and that is more particularly their fellow employees who even more likely would have that. The original provisions as to the notice of change of parental leave, which would have put more pressure on those employees, would have had a greater impact on them, so in that sense I am pleased that the Minister has not relented but acceded to our request. The basic point is that this legislation is not a rerun of that in the U.K.; in the U.K. they have 12 months to be shared between the parents and we are giving 12 months to each of them. The reason why I think Jersey adopted that formula was that in the U.K. it was found that the father very rarely took very much of his entitlement up, so it was left more to the mother and almost emphasised the imbalance which we are trying to avoid. As I say, this Panel was concerned that the father should have a greater involvement and we believe that our approach achieves that. In her opening address, this morning, the Minister referred to looking at the bigger picture and the bigger picture is not only the new parents, but fellow employees and the employers. In this respect, we have to have regard for the fact that we are an Island economy, getting replacement employees can be difficult. I understand that if a plumbing business wants a new plumber on the Island he will not get one. The same will apply to a competition lawyer and all sorts of areas; we have to look outside the Island for them and they are not easy to come by and that is a great burden on businesses and a greater burden on the smaller ones in particular. So, it is partly for that reason that we believe that extending the parental leave to 52 weeks will put a too great a burden on the smaller businesses in particular and we revert to the idea that we stay at 26 weeks until further research has been done to ascertain the level of complication that does affect those employers. The Constable of St. Brelade has already referred to the fact - I would hope it would not come to pass - that employers might well think twice about the sort of category of person they wish to employ, for fear of being dragged into a parental leave situation. That cannot be good for society. My Chairman, I am sure, will do much better in his summing up, but I very much endorse our original request that this Amendment returns, or sticks at the 26 leave period.

7.5.13 The Connétable of St. Saviour:

We have obviously got a lot of people listening in, because there are a lot of young parents at home and ladies who will be having children concerned about what is going to go on and I would just like to put people's minds at ease at some of the remarks given by the Deputy of St. John. In my late 30s, I became a one parent family overnight quite unexpectedly and because the child was not mine, I was unable to breastfeed, because my body had not been arranged for that. I was also working and this child was looked after by my mother and father while I went to work. I would take the child there and then when I finished my day's work, I collected the child and brought the child home with me. The child did not grow up delinquent, not because it did not get breastfed, or because it did not have 2 parents. The child was loved from start to finish. The child now has a very good job in finance, a very high-powered job in finance, but all the way through that child's life, even though it was a one parent family, it was loved and it was never left to be thought that it was not. So, I think it is very important for people who are listening to know that ... because even there are some parents out there and some mothers and some ladies who cannot breastfeed. It is not a life and death affair. There are lots of things that can happen, but the most important thing to a child is that when it comes into the world it is loved and this child that I was left with was loved and now in his middle 30s, we have a wonderful relationship. I am well cared for by this child and I mean that in my old age and I just did not want people to be listening out there and think: "Oh God, I have not breastfed and I am only a one parent family and I am going to go back to work and it is going to grow up a delinquent." No, it is not going to grow up as a delinquent. If this child is loved and cared for and it knows it is loved and cared for, trust me, it will not grow up as a delinquent. So, please, if you are listening, do not worry about anything like that, whatsoever.

7.5.14 Senator S.Y. Mézec:

I think the points that the Constable of St. Saviour made were certainly well made. Families are unique, they come in all sorts of shapes and sizes and every family will make different and unique choices about whatever their working situation is, or household situation and the most important thing is that families provide a loving and caring environment for that child, to nurture them as they grow up. That being said, I have to say that I am surprised that the Scrutiny Panel brought forward this Amendment and I was surprised when I opened my email inbox and saw that it had been lodged. We are talking - especially in the context of Sunday trading as we were earlier today - about children's rights and about families and I just find it very interesting how the tone appears to have changed, or been upheld, in an inconsistent way in these 2 debates. I find myself time and time again disappointed when we have these debates in the Assembly where we look at an issue where we know that we are well behind the rest of the developed world, where there are examples on our doorstep of jurisdictions that have much more advanced legislation, or procedures, in place that can be looked at and observed as evidence of what the consequences are for making these improvements; and the Minister can produce a piece of work here, which is excellent and which takes the Island in the right direction on this, and still we can find ourselves saying: "No, we need more time, no, we need more evidence." We hold ourselves back again, when we are already years behind many other jurisdictions and we are being asked not to take this opportunity to make this important step forward, or to take a small step, when we are perfectly capable of taking the step forward that the Minister is proposing. We hear from some who make the doomsday predictions and this happens every time, that this will be the death of many small businesses, there are people who will not be able to cope with this and people will end up worse off rather than better off as a result of these proposals. The fact is that these doomsday predictions are made all the time in other jurisdictions as well; there are those who, for political reasons, make the same arguments. The simple fact of the matter is that when it comes to pass none of these predictions transpire to be true and that will not be the case in Jersey either. I have got on my computer in front of me examples of what parental leave arrangements there are in other European countries. It is difficult to make a direct comparison between what is proposed today and what exists in other countries, just because different countries have different sharing arrangements, or different types of support, or payment. But I am just looking at some of the stats here. You have got a country like Estonia, which has 62 weeks maternity leave paid 100 per cent. You have got Bulgaria with 58 weeks 90 per cent paid. You have got Albania with 52 weeks which is 80 per cent paid for the first half and then 50 per cent for the remainder. You have got Bosnia and Herzegovina which has got 52 weeks, paid between 20 per cent and 100 per cent, depending on what part of that parental leave it is. What is being proposed by the Minister, I think, is a really important step forward. Is it perfect? No, I do not think it is, it does not go as far as I, ideally, would like it to; I have concerns about the lack of payment for the duration of the parental leave, which I would want working class families to be able to receive, so that they can have those same opportunities. I accept that, but if we are going to get to that step, we have to take this step first and put it in law that families in Jersey will have that legal right to parental leave, so that they can spend that time with their newborns, or children they are adopting, or what have you. So, I found myself listening to the proposer of this Amendment in his speech at the start and when I read the Scrutiny report when it came out and I am afraid that I just do not really see anything in it that I consider to constitute actual evidence that what the Minister is proposing is somehow damaging, or not the right thing to do. The only thing that I seem to hear is the inconsistent testimony of different business groups, or different organisations, outside the Island that I do not think constitutes real evidence. In today's debate and yesterday's debate we have seen transpire what I think was probably slightly inevitable when this Government made it its number one commitment to put children first, that this issue has become like a football, which gets kicked in whichever direction is most convenient to score a point. I have tried my best to keep out of that sort of game, because I do not think it is helpful, but surely we can all recognise that Jersey is behind on this issue, that other countries are substantially ahead of us on this and they have not suffered the

consequences that are being put to us that will somehow happen to damage people's employment prospects, or damage small businesses in the economy. It simply has not happened in other jurisdictions. We have a progressive piece of legislation to vote on today, which enhances the rights of families, provides an important step forward to supporting children, which is our number one ambition and, frankly, I am delighted that the Minister is proposing this going as far as it is and I think we should be biting her hand off for it and not accepting an Amendment from Scrutiny, which I am sorry to say I do not believe is evidence-based and which I do not think puts us in the right position right now. We ought to accept what the Minister has said, take the step now and have 52 weeks parental leave in statute. We can talk about the other issues later, but to simply hold back on this because it is not the right time, we do not have the information; I am sorry, but that will be the excuse used next time this came forward and then the time after that, because we see it happen in this Assembly frequently for all sorts of progressive bits of legislation. So I hope Members will reject this Amendment and give the Minister our full backing on the un-amended proposition.

7.5.15 The Deputy of St. Martin:

I am going to reserve my longer speech for the main debate but I will say this and following Senator Mézec, yes, there is some differences in Jersey; we are not the same as everywhere else. Something I want to say is that we are talking a lot about money and the cost to business, the cost to Government, but there is something which worries me even more than that. When Deputy Gardiner was talking about replacement people to come in and fill the vacancies when people are off; we were talking about 6 months, or 12 months. Well, if you have got 12 businesses and you need cover for a month one person could do that over the course of a year by moving from one business to the next, to the next, one person does those 12 businesses. If you need 6 months cover, well, you need 6 people. If you get 12 months cover those 12 businesses would need 12 people. One of the fundamental differences we have in Jersey at the moment, let us think of a chef for example, anybody who has been on H.A.W.A.G. (Housing and Work Advisory Group), sat on H.A.W.A.G., or listened to the news, been out there in the restaurant trade and said: "Can we find a chef at the moment?" The answer is no. Absolutely no. There is nobody spare. Where does the company, that needs a cover for a chef that is off for 12 months go? We know we have got a problem with employment in Jersey at the moment, we just do not have enough people to fill the jobs and we know that the Minister is going to allow people to come from the U.K. Well, that is OK, but where are they going to stay? More pressure on housing, more pressure on rents, more pressure, more demand, more cost. I really worry, more so than ever the financial issues that we are putting in place here for business, the difficulty the people in business will face in finding all these replacements that might be necessary.

[17:15]

You can have all the money in the world, if you cannot find somebody to do the job, you cannot find somebody to do the job. I am going to be supporting Scrutiny on this one.

7.5.16 Deputy R.J Ward:

So much has been said and it is difficult to speak very late in a debate like this because of that, but I think some of the points made by Deputy Doublet and Deputy Pointon in particular are very pertinent and we must not lose sight of it. We must not lose sight of the fact that what 52 weeks does is it gives better care for our children in whatever form of relationship they are in, whatever type of family they are in, be it a traditional nuclear family, or any other form of family. That is a really important thing that we need to keep sight of. There was some argument about longer leave exacerbating inequality and I absolutely agree. It is inequality because of different wealth; some people can afford, others cannot. However, I do not believe that just by shortening the time we do anything about that inequality. They are 2 completely parallel arguments. I for one - as I am sure would not be a surprise to anybody - would really love to do something about that inequality and would love to do something about extending the paid time for parental leave. I do not know what the word is, whether it is

saddened, or disappointed, but I think we need to look at the way we are discussing this issue and look at the culture we have got ourselves into, because we are using words like “a burden on employers”. We are saying that women are having children and parents wanting to be the best parents they can possibly be is a burden on our employers. Come on, just think about that properly and look at the language we are using, because language is so important. It is not a burden, it should not be and in the more progressive and successful economies around the world it is not seen as a burden, it is seen as an opportunity to produce a new individual, who will be incredibly productive, proud of being in that society, proud of their country or Island and contribute to the future. That is the way we need to be viewing this. The points about breastfeeding are so important. I cannot say enough, and I must declare an interest here, because my wife is a midwife and she used to encourage and see the huge benefits that come from that, both in terms of health and bonding and all of the benefits that come from it. Deputy Doublet was absolute correct to say that pregnancy does not fit into these strict 26-week timescales and it is so important that we remember that and have that increased flexibility of up to 52 weeks. Let us remember that, it is up to 52 weeks. Just as a side point, somebody may have said it, forgive me if they have, but you do not need a licence to replace that person, so there is greater flexibility in replacing that person built into the system anyway. Let us put it this way; employees are paying for this, they are not being paid by their employer for the vast majority of this time. Therefore, the burden seems to be put on recruitment and the cost of recruitment, but that is a small cost for the type of society that we can build and for the future of our young people. I believe we all have a responsibility to ensure that our young people have the best opportunities and the best start in life, not just the parents themselves. It is called community. We all enjoy living in community and I came from an area in the U.K. where community was dying and I came to Jersey and I am very proud of being part of a community and being so welcomed. We must not lose sight of that. We talk about damage to business, but let us talk about the damage to young people if we do not have that commitment from us as a society and really importantly - and I would say to you all - the message that we give out again in this Assembly to young people, parents and those who are building the future of our Island in the decisions that we make today. If we are going to say: “No, 52 weeks of [and I will say it again] unpaid leave we will now offer you, so that you can do the best you possibly can will not happen, because it will be inconvenient to some small employers” without even the detail of how it would affect those employers directly and with some of the made-up stories about certain small businesses that can be used as simply an argument against it and we need to move on from that. I personally see these “costs” as probably inaccessible to most parents, because they cannot afford to take the time off. The argument made about childcare is absolutely right. When we had full time childcare it was a second mortgage, but we did not get a house at the end, but we did get children that had care and that was really important to us. We had to make a decision as to one of us giving up work and we did and we survived. Let me put it this way: if anyone is thinking of having children: no, you are never going to be able to afford it. Mine are 20 and 23 and I still do not believe I can afford to have children. That is why I do not have an Armani suit. It would be quite nice. So, we have to look ahead and we have to think really carefully about what we can provide now and this is purely in my opinion a stepping stone. Just a stepping stone. We need to do a lot more about the way that we can fund this and provide genuine backup for our parents. I really hope that we can finish this debate on a positive note and think very carefully about the language we are using and move forward and support parents on this Island. I hope you all oppose this Amendment.

7.5.17 Senator T.A. Vallois:

I will try not to speak and repeat what has been said, so I am going to stick particularly to the areas of ... I support the 52-week proposal by the Minister for Social Security, but I will lay out why I do so and why I cannot support the Amendment. One of the big pieces of work that the Government are currently carrying out is on early years. The Early Years Policy Development Board that has been set up ... and I have to say to the Chairman, who brought this Amendment and the Panel members, thank you very much for having me at the hearing back in March discussing the original

P.17/2019, because we had a really good, frank discussion about how historically what we have tried to do around early years. What we have tried to do around childcare and support for parents has been absolutely with the right intentions, but not necessarily joined up in an appropriate fashion. Having education, health and the economy being discussed in one room and how the variety of different things that are on offer across the Island, not just from Government but from third sector, Family Nursing and Home Care and all those wonderful people that go out of their way to provide so much support to parents, to families and to businesses as well. We have got people that are helping day in, day out, to try and support families where they can. For me this debate, what it allows us to do ... and in a way that is why I am kind of grateful for the Amendment coming. It gives us an indication from this Assembly in terms of what we are willing to do and what we are willing to go down. I state the 52 week as important for a variety of different reasons. Deputy Pamplin regularly reminds us about mental health in this Assembly, about issues we have in the Island, the demands that we are seeing in schools at the moment, the demands we are seeing in nurseries and the support for families around particularly emotional and mental health and that first year for a child is about attachment, is about bond, is about ensuring that we can identify and support families who may be going through a mental health issue, may be going through a physical health issue as a result of pregnancy. We want to be able to put in the right resources at the right time, not wait until it is too late. There are so many cases around the world when this has been debated about extending maternity, or having paternity leave, around the support that is needed in the family for some of these people. Every situation is different; we are human. But I will go back to this point about this Amendment and why giving the indication from this Assembly is important for the early years policy work that is being carried out. The reason for that is because we are looking at a variety of different things that are happening in the States at the moment. We have had presentations from Tax, from Social Security, from Family Nursing and Home Care; all of this is online at gov.je, you can see everything that we have been doing as a Board. We have had an engagement day, we have had discussions around this. We have serious concerns about the offering of the mental health support for mothers; there is one person there for the whole of the Island. It is not enough. But the point here is that the indication from this Assembly today on the 26, or the 52, weeks will enable us to bring forward ... and not necessarily cost us loads more money, because when I go back to this point ... I see the Chairman raising his eyebrows, but I just have to make this point. So, when we look at what work the Early Years Policy Development Board have been doing, there are a number of questions that we need to raise and one of them is around the tax system. The tax system does not receive approximately £17 million worth of tax because of the allowances within that, or the childcare relief that we have. I am not saying that is a bad thing; they were brought in with absolutely good intentions. The question is: is it targeted in the right way? Are we producing the outcomes that we, the States Assembly, believe is right for families, for parents, the right support for businesses? When we were talking about the Constable of St. Mary's amendment earlier and I was having a discussion with Senator Farnham on my right, why are we not putting in place a hub, maybe, with the Jersey business and Social Security that some form of H.R. (human resources) connect for small businesses so we can help them with plans for that maternity or paternity leave, have that little bit of support where it is needed. Absolutely right, but we can think outside the box, we do not have to take what other countries do and apply it. We are small, we should be nimble and we should be able to do this. But we have a number of initiatives within our policies at the moment across the States, whether that is Social Security providing childcare benefits for people who claim income support, whether that is the child allowances, the childcare tax relief we have on income tax, whether that is the nursery education funding. There are a number of initiatives that we are applying which we can be sitting there and saying: "Is this producing the targeted outcomes that are right for the individuals in our Island in the 21st century in 2019, that is doing what we said on the plate?" Because it is good of us turning around and saying we are going to increase, for example, childcare tax relief for zero to 4s; we have gone from 2012 of £12,000 to now £16,000. But low-income people cannot claim that, unless they are earning over the threshold already and it is only the amount of money they have spent that you get from that tax relief,

so it is only 26 per cent say you spent £10,000 that you get back from that. Therefore, 70 per cent of taxpayers are paying the year before taxes will not feel the effect of that tax relief in the year that they may necessarily need it. So, it is about doing the right thing, but in a targeted, more approachable, more effective way that produces that outcomes that we want. I believe the direction from the Assembly today will enable us, as an Early Years Policy Development Board, to have that wider discussion about what types of things that we can put in place, it is not just about the families but it is about the businesses, as well, because we recognise there are concerns, we recognise that there are pinch points for businesses. It is not just talking about now; let us think long term. We go through economic cycles; what about when we have the next recession, what happens then? We need to make sure we have got flexibility within our system, to provide the right support in the right areas. So I fundamentally believe that this is an absolute step in the right direction. I understand the concerns that Scrutiny have raised, low income may not be able to do this, because they will not have the money. We live in a really expensive Island, the cost of living is really high and so I get that argument, I get the concerns around that, but there are a number of initiatives if the direction from this Assembly is that we go down this road. We can look at targeting what we have in place at the moment and ensuring that what we bring forward is appropriate and effective for the families and the outcomes that we need to provide to have that community that we expect of each other, instead of finding reasons why we cannot do something. I think most things are not insurmountable; we can do this.

[17:30]

I am happy to work with the Panel, I am happy to work with any Member in this Assembly to find ways and initiatives, to do what is right for Jersey, for the people that we represent, but most importantly for our future generations, because we need to provide them with stability and the support and the security that they will need to go through what we will see as challenging times with regards to whether it is pensions, whether it is a working environment, the change in the skills that will be needed. I think this is vitally important supporting families in the right way. I am concerned from the comments that I have heard before about how history was completely different, how we had families where we could leave the child with parents and go off to work; that does not happen now and it will not happen in the future. With the ageing population coming forward, maybe a lot of those that would have been grandparents will still be working. I think we have got to tackle this head on. We have got to put in place the right initiatives, the effective initiatives that will make the outcomes that we need. I think this is a step in the right direction. I would really like the Assembly to support the Minister for Social Security. But I thank the Scrutiny Panel for bringing this Amendment, because I think it has opened up that debate in the correct way and I will close my speech.

Senator L.J. Farnham:

I believe, Sir, there is still quite a way to go, so I would like ...

The Bailiff:

Sorry, you ...

Senator L.J. Farnham:

I was going to suggest the adjournment, Sir, but I understand Members may wish to finish this Amendment first, Sir.

The Bailiff:

At the moment I have notification of only one Member wishing to speak, but of course there may be other Members who do. But anyone who intends to speak in the debate, I will not write you down as having indicated a time to speak at this moment. But if you leave your lights on sufficiently, so I can at least count the number of Members, so we can get an indication. If Members could press their

lights if they intend to speak in the debate on the Amendment alone. It appears that we only have one Member who has indicated the desire to speak before the Chairman ...

Deputy L.M.C. Doublet:

Sir, if it helps I will not be making a long speech on my Proposition, the review. It has been accepted by the Minister, so ...

The Bailiff:

I am afraid at the moment we have the Amendment to finish. Deputy, thank you for that indication. We have the Amendment to finish and then we revert to the main debate on the Articles 3 and 4 and then there are the other Articles to propose and then the matter to be dealt with, perhaps briefly, in Third Reading. I suspect even on this matter alone there is some little way to go, but it would be possible if Members wanted to conclude the Amendment on the indication that has been given thus far.

Deputy R. Labey:

Yes, Sir, I think the mood of the Assembly is that we should finish, go to the vote on this Amendment and then perhaps we could discuss the next move after that.

The Bailiff:

Very well.

The Deputy of St. Martin:

Sir, could I put the opposing view?

The Bailiff:

Yes.

The Deputy of St. Martin:

If we are coming back tomorrow, the Orders say we go back to 5.30 p.m.

The Bailiff:

It is entirely a matter for the Assembly as to whether we are coming back tomorrow, because it is always open to the Assembly to vote to continue into the evening, if that is the wish of the Assembly. But let us move on, finish the Amendment and then people will be able to take a view as to how they wish to proceed.

7.5.18 The Connétable of St. Mary:

It is another doomsday prediction, sprouting about other countries who pay parental leave means nothing; they all pay more tax to be able to do that. Anyone in this Assembly will know the difficulties in running a small business, if they have had such a business. If they have not, then they probably have not even worked for one. Small businesses should not be seen as a social provider; that is what Government is for. Only there are costs, so it has to come from Government, only they cannot afford to do this, because they have to make cuts, drastic cuts. If this is imposed on small business, then they will make drastic cuts; they will not employ: fact. But they will find ways of continuing, without offering the staff security that is there now. This legislation will cause untold damage to many businesses. It seems that Government is blind to the damage that will be caused.

The Bailiff:

Does any other Member wish to speak on the Amendment? I call on Deputy Morel to respond.

7.5.19 Deputy K.F. Morel:

Thank you everyone for taking part in the debate. It is always good to see people engaging properly and respectfully in debate and I thank you for doing so. It is amazing how we can debate something like this so respectfully and yet some things, as we saw yesterday, can turn nasty so quickly and then we should have more debates like this; much better and much healthier. I would like to, obviously, address some of the issues that have been raised, which may take a little while. I have to ask and one of the things that the Minister for Treasury and Resources mentioned was that this will not happen overnight, this cultural change. I have to ask, therefore, why is the Government trying to do that, because by doubling up and doubling up again you are trying to do everything overnight? I find that an interesting perspective to have. I really do want to address the issue of consultation. I know Deputy Doublet raised that and she praised the Employment Forum for the work they did. I am very grateful for the work the Employment Forum did. The Panel, I am afraid, having sat through those hearings, having spoken directly with the Employment Forum, what they did not do - and this is very clear in our report - they did not speak to a representative sample of employers. They spoke to 27 employers. As I mentioned earlier, we have 3,000 who employ under 20 people. They spoke to 27 employers. They were not able to tell us what size, or what nature, of employer those employers were. They did not keep a record of whether they were large employers, small employers, charities. What were these employers? They were not able to tell us, because they did not keep that record. Because the other Deputy mentioned the hundreds that took part, those were hundreds of employees that took part; there were 27 employers that took part. We had to conclude on the back of the evidence that they were not able to tell us the type of employers they had spoken to, the size of employers they had spoken to, the nature of the industries they were involved in, that they had not, therefore, met or reached a representative sample of employers and that was why we had to say we are sorry. Because it was entirely outsourced to the Employment Forum, the Minister's consultation was not adequate for the task in hand. Unfortunately, today, it is still that 2017 consultation which informs the proposals before us. Because, in our overarching recommendation from the first report that we wrote, we said there are problems with this legislation and there were various problems, technical as well with the legislation. We asked the Minister to withdraw the relevant part; it was Article 4 and to go off, consult, come back with a revised version. The Minister did withdraw and I appreciate the reasons were not ... because we asked her to, the Minister did withdraw the entire legislation, but what she did not then do was consult. The very first thing that I got, there was the Chamber of Commerce and there were other employers who came back to me straightaway, once the Minister re-lodged her proposition now as P.100/2019. They said: "But the Minister has not spoken to us again. Why has the Minister not consulted?" That is absolutely right. Sadly - and it is with genuine sadness - I have to say consultation did not take place to an adequate standard to inform such wide-reaching proposals. It is something we have seen throughout Government, not just this one, stretching back through the years and it is something that really does need to change, even on this Sunday shopping proposal we realised that appropriate consultation had not taken place. It needs to change. Scrutiny will be pulling Ministers up on this and this is the result of it. We end up in these debates which we put Amendments because we realised that consultation was not satisfactory. Sticking to Deputy Doublet, another assertion that she made was that the U.K. has 52 weeks of parental leave; it is really important to understand the difference between the U.K.'s parental leave and Jersey's proposed parental leave. The U.K.'s parental leave is shared between parents; Jersey's is not shared between parents. Each parent gets a separate amount of parental leave. Under our amended proposals, a father, in my case, would get 6 months and a mother would get 6 months, together we would get one year of parental leave, which does cover that first year of the child's life. Under the Minister's proposals unamended, I would get one year, my wife would get one year, so we would have 2 years of parental leave. That is fundamentally different to the U.K. where they share one year between them. The reason there has been such poor uptake from the fathers is because, yes, mothers have been taking all of that parental leave ... the vast majority of that parental leave. Essentially, mothers are taking 11 months parental leave in the U.K., fathers are taking one month parental leave in the U.K. In Jersey that will not be the case. I am really pleased that that is not the

case. I am so disappointed sometimes when I hear the way people speak as though our Scrutiny Panel was trying to stop the Minister's proposals; that has never once been the case. We want proposals to be the best proposals they can be. I started this entire debate on this Amendment by saying we completely support the cultural change that the Minister is trying to facilitate and that cultural change is to ensure that fathers and mothers both share in parenting and our Amendment does not change that. Fathers and mothers will both get the same amount of leave, they are both able to engage in parenting to equal elements to the same level. There is no sense that our Amendment changes what the Minister is trying to achieve. I also have to ask, if 6 months is so bad, why did we bring 6 months in in the first place, if it is so utterly terrible? That was brought in by the previous Minister for Social Security. In any case, that was 6 months for the mother. We are asking that we have 6 months for the mother and the father and, as I have said, that equals one year of leave. That is where our Amendment takes us to: one year of leave, really important to understand that. Deputy Gardiner ... and I appreciate the Deputy of St. Peter did try to explain why this issue with 52 weeks and 26 weeks from an employer's perspective, it is slightly different. The really big issue - and this comes through in the Scrutiny hearings that we held - was that quite as Deputy Gardiner said: "If I have got to hire someone for 6 months, I may as well hire them for a year." That is what employers are telling us. The trouble was breaking it down into blocks, that was the really big issue, because blocks mean that the employee takes a few months here, a few months there and a few months over there as well and the employer has to chase and predict and plan for those little bits of leave that are broken down into. The employers were quite clear. One 6-month block, one one-year block, deal with that much more easily. We could have asked the Minister to get rid of the blocks and just kept the leave and I understand this, the Minister wanted to give the power to the parents to decide when was better for them and their child and their family. The Minister was really adamant on keeping the blocks concept. The reason we have come to where we are is because she said: "OK, keep the blocks concept, but let us see how that goes, because it is precisely the blocks which causes the recruitment problems, it causes the issues for employers. Therefore, let us keep it at 6 months parental leave, but per person, that is one year overall and let us see how that goes first before then moving up to a year." There is no wrecking, there is no trying to stop something happening. It is about understanding, because this is a big social experiment that is taking place that the Minister is trying to undertake. Fair dues, she wants to undertake it, but we are just saying let us have a few controls in place before going ahead. Obviously, the Minister spoke in her usual pugnacious style and I thank the Minister for speaking.

[17:45]

It was interesting that the Minister talked about 52 per cent of parents said that financial reasons was the reason they did not take their full maternity leave and 48 per cent said it was because they were not allowed to; 52/48, they are 2 numbers that strike fear in my heart and most British people's hearts these days. Basically, the Minister is kind of ignoring the fact the majority said financial reasons were the problem for not taking maternity leave. There you go, the majority of people did not take maternity leave because they could not afford it, which is, as we have said, one of the fundamental problems with the overall issue in this proposal. With regard to Jersey's standing in the world, as Senator Mézec raised, Jersey comes out really quite well. Jersey did not 6 years ago, I completely agree with that, but we have moved on 6 years, Senator; 26 weeks in the Netherlands, 18 weeks in Ireland, 30 weeks in Iceland, 17 weeks in Belgium, obviously you have got 39 weeks in the U.K., or a year in the U.K. But the point is we have 6 months here for both parents, that equals a year; we are doing really well if this Amendment is taken, so let us not put Jersey down. This is groundbreaking legislation because of the Minister's commitment to parental leave and we support the Minister's commitment to parental leave. This is also groundbreaking legislation because Jersey, as each child that is born will have parents capable of taking one year of parental leave between them; that is groundbreaking in itself, so this Amendment does not stop this legislation being groundbreaking. With this Amendment we should all be proud of the legislation that we will be passing. Senator

Vallois, yes, I just wanted to say that the first year is vitally important and the 2 blocks of 6 months give you that one year that you need, they absolutely do. I have to say that I refute the idea that this is about giving direction to the Early Years Policy Development Board. The vote on this does not give any direction to the Early Years Policy Development Board and it is silly to suggest that it does. The vote on this is purely about whether we want 6 months each, or one year each, it is nothing else. The Early Years Policy Development Board should go on and carry on with its proposals, regardless of what the outcome of this vote is, so do not accept that this is about giving direction to the Policy Development Board. If it was, I would have brought that out in the Amendment, we would have had that as an extra line in the Amendment. I am concerned at the end of the day that this Council of Ministers become seen as a Council of Ministers that is not keen on supporting the economic and the social, particularly the economic side of life in Jersey. We are seeing fuel duties being put up by 6 pence. We are seeing, obviously, as a result and I understand why Social Security have been put up by 0.5 per cent. We are seeing the long-term care charge being put up by 1 per cent. Some of these are unavoidable and I accept that, some of them are not. But the danger of this Council of Ministers is that it will be seen as making it difficult to do business in Jersey and I really do not want that to happen. This Amendment just says to businesses we do listen, we do listen to employers, we do understand your concerns, we are just going to slow down the pace a tad. We are not going to stop it, we are just slowing it down a tad, so we can see what happens. Because, as I said, the idea that you can review and then come back does not work. I do not want the Council of Ministers to be seen as being bad for business. I do not want Jersey to be seen as being bad for business. Just by slowing down the pace a tad, by bringing in 6 months per parent, I think is a really good idea and a really simple precautionary approach. I hope people understand where we are coming from. It is really difficult to be seen and to be portrayed as someone who is trying to stop something which is, in my view, a real good society. I believe - and that is why I will say again - parental leave is good for our society. Our Panel has not tried to stop parental leave. Singling out members of our Panel, I think, is underhand and does not help Scrutiny's work. All members of my Panel can vote the way they wish to vote. I have never suggested to my Panel that they have to vote with this Amendment. It is entirely up to them how they do that. It is up to other groups and other parties if they want to whip their members to vote a certain way. I do not do that. I am sure my Panel members have their views and we have discussed it and they feel comfortable bringing this Amendment. Whether they vote for it is completely up to them and I have not asked them, I do not know. But I hope you all do feel the ability to support this Amendment, which just says we understand, we are taking new directions in Jersey, we are caring for our children, we are caring for our families. We are going to do that in a way which we know everybody can manage and it does not put people out. Please, do support this Amendment, do vote for it because it is not a stop. It is a continuation and it is moving forward. If anyone says otherwise they are wrong. This does mean Jersey is moving forward, it is a new future of parental leave. I propose the Amendment.

The Bailiff:

Deputy, do you wish to take the ...

Deputy M. Tadier:

Sir, can I just check with the Party Chairman which way we have to vote on this?

Deputy J.A. Martin:

No, I just wanted to ask the Deputy when he was summing up and I know he may not have just explained it completely right, but the 26 weeks - and I think he was talking about the Deputy of St. Peter - will still be over 2 years in 3 blocks. OK, that is fine, that is brilliant.

The Bailiff:

I will assume then that you asked for a point of clarification and that the Deputy gave way and that you made the point of clarification. We will assume that is what happened in all the circumstances, Deputy. Very well, Deputy, how do you wish the vote to be taken? Because, obviously, the primary part of the debate appears to be in the 52/26 debate, the rest, as I understand it, is being accepted by the Minister.

Deputy J.A. Martin:

Absolutely.

The Bailiff:

If you bring them all at once, you run the risk of losing all of the Amendments, so do you wish to take Paragraph 1 separately from Paragraphs 2, 3 and 4? Yes. Very well, then those in favour of ...

Deputy J.A. Martin:

Sir, can we have the *appel* on the 26 weeks?

The Bailiff:

Yes, the *appel* is called for. I invite Members not in the Assembly to return to their seats. The vote is on the adoption of the first part of the Amendment.

Deputy J.A. Martin:

Sorry, Sir, there seems to be some confusion on what we are ... I can look at the faces; they are asking what the vote is on. I think it is quite clear but I am ...

The Bailiff:

No, I will very happily explain it. There are 4 parts to the Amendment. The Minister indicated, at the beginning, that she was accepting 2, 3 and 4. If they are voted all on in their entirety, with 1 included, then those voting against 1 will also be voting against 2, 3 and 4. If Members wish to support those parts of the Amendment that the Minister has accepted, 2, 3 and 4 will need to be voted on separately from part 1. We are now going to vote on part 1 and then come on to vote on 2, 3 and 4 after that. Is that clear? Thank you. Very well, the *appel* is called for and I invite the Greffier to open the voting. The vote is on part 1 of the Amendment.

POUR: 16		CONTRE: 29		ABSTAIN: 0
Senator S.C. Ferguson		Senator L.J. Farnham		
Senator K.L. Moore		Senator J.A.N. Le Fondré		
Senator S.W. Pallett		Senator T.A. Vallois		
Connétable of St. Lawrence		Senator S.Y. Mézec		
Connétable of St. Saviour		Connétable of St. Helier		
Connétable of St. Brelade		Connétable of St. John		
Connétable of Grouville		Connétable of Trinity		
Connétable of St. Peter		Connétable of St. Mary		
Deputy K.C. Lewis (S)		Connétable of St. Ouen		
Deputy of St. Martin		Connétable of St. Martin		
Deputy of St. Mary		Deputy J.A. Martin (H)		
Deputy L.B.E. Ash (C)		Deputy G.P. Southern (H)		
Deputy K.F. Morel (L)		Deputy of Grouville		
Deputy G.C.U. Guida (L)		Deputy M. Tadier (B)		
Deputy of St. Peter		Deputy M.R. Higgins (H)		
Deputy S.M. Ahier (H)		Deputy J.M. Maçon (S)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Ouen		
		Deputy L.M.C. Doublet (S)		

	Deputy R. Labey (H)		
	Deputy G.J. Truscott (B)		
	Deputy J.H. Young (B)		
	Deputy of Trinity		
	Deputy of St. John		
	Deputy J.H. Perchard (S)		
	Deputy R.J. Ward (H)		
	Deputy C.S. Alves (H)		
	Deputy K.G. Pamplin (S)		
	Deputy I. Gardiner (H)		

The Bailiff:

We now vote on paragraphs 2, 3 and 4 of the Amendment. Those in favour of adopting ... the *appel* is called for, I invite the Greffier to open the voting.

POUR: 37	CONTRE: 7	ABSTAIN: 0
Senator L.J. Farnham	Senator S.Y. Mézec	
Senator J.A.N. Le Fondré	Connétable of St. Mary	
Senator T.A. Vallois	Deputy G.P. Southern (H)	
Senator K.L. Moore	Deputy M. Tadier (B)	
Senator S.W. Pallett	Deputy of St. Peter	
Connétable of St. Helier	Deputy R.J. Ward (H)	
Connétable of St. Lawrence	Deputy C.S. Alves (H)	
Connétable of St. Saviour		
Connétable of St. Brelade		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy of St. Ouen		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy J.H. Young (B)		
Deputy L.B.E. Ash (C)		
Deputy K.F. Morel (L)		
Deputy G.C.U. Guida (L)		
Deputy of Trinity		
Deputy of St. John		
Deputy S.M. Ahier (H)		
Deputy J.H. Perchard (S)		
Deputy K.G. Pamplin (S)		
Deputy I. Gardiner (H)		

The Bailiff:

Very well. The next stage, if the Assembly wishes to continue, would be to return to Articles 3 and 4 as amended and then to speak on those Articles. Thereafter, once the debate is concluded on those Articles, the Minister will need to propose the remaining Articles as she sees fit in Second Reading and then if they are adopted one moves to Third Reading after that. Then there is, as Members will be fully aware, one more item of public business following. Chairman, did you want to ...

Deputy R. Labey:

It is just that the proposer of this debate, the Minister for Social Security, indicates that she can wrap this up very quickly. Of course, that also depends on whether Members wish to speak, but it seems to me a lot has been said on this issue obviously during the course of the afternoon. But I just wanted to relay that to Members, because there is the opportunity for us to wrap this up swiftly, if Members wish to continue tonight.

Deputy L.M.C. Doublet:

Sir, can I comment?

The Bailiff:

Yes, of course.

Deputy L.M.C. Doublet:

Because I have commented in the past about family responsibilities and in this instance I think we are all aware that there may have been a longer sitting. I, myself, have made arrangements and I am assuming that most of the Assembly will have done that. It would be useful to know if anybody does have issues with family and caring responsibilities, because I would not want to disenfranchise anybody who was not able to make arrangements. Perhaps Members who do have difficulties could let us know.

The Bailiff:

It is open to Members now to mention this within the Assembly, or simply to indicate that they may have difficulties. Deputy.

Deputy K.F. Morel:

Yes, Sir, I absolutely have parenting responsibilities that I should leave the Assembly for, to get on with them, because, otherwise, I am going to have a daughter who is sat there being very bored waiting for me to turn up.

The Bailiff:

Deputy Gardiner, I have called on Deputy Gardiner.

Deputy I. Gardiner:

I have parental responsibilities. I can give another half an hour, but I will need to collect my daughter, as well.

Senator L.J. Farnham:

If I may, Sir, this is an important issue. I think there is still quite a bit to say and I think we should come back tomorrow morning, Sir. [Approbation] I would like now to propose the adjournment.

The Bailiff:

Very well, the adjournment is proposed. Deputy Tadier, did you wish to speak on that?

Deputy M. Tadier:

No, I just want to second what Senator Farnham said. It would be particularly ironic, would it not, if we are passing family-friendly legislation today and that we do not take account of the fact that key speakers, in particular Deputy Morel, who cannot be here? It is clearly a subject which he has invested a lot of action and energy in and even if we did not agree on the previous speech, so let us come back tomorrow.

The Bailiff:

The Connétable of St. Martin, did you have anything to add to the ...

Connétable K. Shenton-Stone of St. Martin:

Yes, it is just that I have parental responsibility tomorrow morning and I will not be able to come in, because I have got a long-standing consultant's appointment, so ...

The Bailiff:

Tomorrow morning, thank you for notifying the Assembly, but tomorrow was a fixed continuation day and that, I think, is something that ...

Deputy R. Labey:

I would just like to repeat that an awful lot has been said on this issue already in this debate and there is a very clear indication of the way things are going with the vote that we have just held. I urge Members to stay and where we could perhaps wrap this up in half an hour if ...

The Bailiff:

Then there is also Deputy Doublet's Proposition to follow, so ...

Deputy R. Labey:

I just feel that it is bad practice to adjourn in the middle of a debate. It is very unusual in parliaments throughout the world.

The Bailiff:

The adjournment has been ...

Connétable C.H. Taylor of St. John:

Sir, I must leave the Assembly shortly, I have a Parish Assembly.

The Bailiff:

I think the position is this, the adjournment has been proposed by Senator Farnham. Those in favour of adjourning, kindly show. The *appel* is called for. The motion as to whether the States adjourn, or continue for some unspecified period. I ask the Greffier to open the voting. A vote *pour* is to vote for an adjournment at this point.

POUR: 34		CONTRE: 10		ABSTAIN: 1
Senator L.J. Farnham		Connétable of St. Helier		Deputy of St. Peter
Senator S.C. Ferguson		Connétable of St. Peter		
Senator J.A.N. Le Fondré		Connétable of St. Ouen		
Senator T.A. Vallois		Connétable of St. Martin		
Senator K.L. Moore		Deputy J.A. Martin (H)		
Senator S.W. Pallett		Deputy J.M. Maçon (S)		
Senator S.Y. Mézec		Deputy R. Labey (H)		
Connétable of St. Lawrence		Deputy G.J. Truscott (B)		
Connétable of St. Saviour		Deputy G.C.U. Guida (L)		
Connétable of St. Brelade		Deputy of St. John		

Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Mary				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy of St. Mary				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy of Trinity				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Bailiff:

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

ADJOURNMENT

[17:59]