

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 12th JULY 2016

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[9:31]

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

Senator Z.A. Cameron:

I would like to announce that I have informed the Bailiff of my resignation earlier this morning and I was informed therefore that I should not attend the Assembly. But I was keen if my name is going to be read out that it was not that I would be marked en default. I would like to make a statement but apparently I am not able to make it, so I have to resign from now.

COMMUNICATIONS BY THE PRESIDING OFFICER

1.1 Welcome to His Excellency the Lieutenant Governor

The Deputy Bailiff:

On behalf of Members I would like to welcome His Excellency Lieutenant Governor to the Chamber this morning. [Approbation]

1.2 Senator Z.A. Cameron - resignation

As Members will be aware, I have received a letter from Senator Cameron notifying me of her resignation from the States and this announcement constitutes that resignation, and obviously the Royal Court will now move to make the necessary orders for a by-election. Mr. Attorney, if you could take the necessary steps.

1.3 Assistant Greffier of the States designate

The Deputy Bailiff:

I would also point out to Members that Mr. William Millow is sitting in the Assembly. He will be observing the operation of the Greffe as he will be sworn in as an Assistant Greffier in September. [Approbation]

QUESTIONS

2. Written Questions

2.1 DEPUTY J.M. MAÏON OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING DEPARTMENTAL UNDERSPENDS: [9540]

Question

Will the Minister provide the figures for underspends for each department for each of the past 5 years?

Answer

The Public Finances (Jersey) Law 2005 holds Accounting Officers, usually Chief Officers of Departments, personally accountable for the proper financial management of the resources allocated to them by the Assembly. Most notably in this context, the expenditure of the Department or body must not exceed the amount appropriated to it by a head of expenditure.

It is important to understand that fact when considering the way in which Departments manage their expenditure through the year to ensure spend is being focused in the areas required to meet their objectives but within the allocated funding. Departments must also manage the financial risks of any projected or unforeseen pressures.

Whilst the majority of departmental spend goes on operational expenditure to maintain services throughout the year, cash limits also provide funding for projects and elements of non-recurring

expenditure in each year to meet the needs of the department. This can include strategic planning, organisational change, one-off grants and minor equipment replacement.

This diversity of spending means that the timing of spend is not entirely aligned with the calendar year in which the funding allocation is provided. Consequently, departments will underspend against the allocations available to them in any given year and seek approval to carry forward unspent balances to continue spending on priority areas.

Ministerial Departments and Non-Ministerial States funded bodies have underspent by between 3.5% and 4.4% over the past 5 years, including elements of Central Contingencies allocations and Court and Case Costs funding. Details for each of the years 2011 – 2015 by Department can be found in the table in Appendix 1.

Further details can be found in the Annex to Financial Report and Accounts and in the Carry Forward Reports for each of the years.

The “budgets” for each year used to assess the level of underspends include each department’s carry forwards from the previous year, Contingency funding and any other sums for one-off projects which may well straddle more than one year.

Appendix 1 – Department Underspend Against Final Approved Budget by Year – 2011 - 2015

Note: This analysis is based on the Departmental structure prior to P.46/2015 ‘Draft States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers)(Jersey) Regulations 201-’ which came into effect in 2016.

	2011 Underspend £	2012 Underspend £	2013 Underspend £	2014 Underspend £
Chief Minister	1,074,933	2,294,015	2,155,279	
Grant to Overseas Aid Commission	4,202	7,692	151,330	
Economic Development	1,049,227	913,866	1,136,722	
Education, Sport and Culture	3,353,661	3,633,017	3,958,677	
Department of the Environment	280,608	631,339	396,895	
Health and Social Services	1,318,492	1,218,626	2,281,013	
Home Affairs	1,536,535	1,980,815	1,462,861	
Housing	1,400,906	1,039,897	1,087,486	
Social Security	10,482,953	6,916,482	2,790,694	
Transport and Technical Services	1,849,917	1,832,415	1,510,415	
Treasury and Resources	1,341,134	4,393,178	3,598,853	
Non Ministerial States Funded Bodies				
- Bailiff's Chambers	84,391	53,521	59,722	
- Law Officers' Department	2,742,563	876,786	239,266	
- Judicial Greffe	0	17,407	102,229	
- Viscount's Department	509,246	529,910	318,334	
- Official Analyst	32,812	10,446	83,275	
- Office of the Lieutenant Governor	49,361	60,703	118,667	
- Office of the Dean of Jersey	849	847	2,288	
- Data Protection Commission	1,476	59,788	128,039	
- Probation Department	160,269	175,781	372,924	
- Comptroller and Auditor General	255,713	450,173	560,656	
States Assembly	303,226	499,270	307,050	
Departmental Underspend	27,832,474	27,595,974	22,822,675	20,000,000
% of Final Approved Budget	4.4%	4.4%	3.5%	2.0%

2.2 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING BUDGETED EXPENDITURE FOR PROMOTION OF THE DRAFT MEDIUM TERM FINANCIAL PLAN ADDITION FOR 2017-2019: [9541]

Question

How much money has been budgeted for promotion of the Draft Medium Term Financial Plan Addition for 2017-19, including on the futurefocused.gov.je website, graphics and design, and how much of that budget has been spent to date?

Answer

The Medium Term Financial Plan is a large and complex document, and it is essential that it is explained to islanders in an accessible way. Many islanders will not have the time to read the document in full so the Council of Ministers has been looking for additional ways to explain it in summary form. The full document is also available on the site for those who want detailed information.

A document site was commissioned, designed and built at a cost of £9,964.50. The architecture for the site will also be used for subsequent government projects, so this is an investment for the future. As government moves towards more digital ways of communicating, this document site has environmental benefits and is in line with our commitment to e-government.

In addition, to communicate the plan, £9,754.60 is allocated per month until September to continue communicating with islanders. This will contribute to work on updating the website with more detailed information as we establish the questions Islanders have about the plan. It will also support the writing of blogs and news releases, responding to queries on social media and arranging face to face public meetings.

The cost of designing, printing and binding previous financial plans each year (Budget and MTFP Annex Update) has been approximately £15,000 per annum. The first MTFP (2013-2015) cost approximately £55,000, including elements of rebranding which are still in use. The savings from reductions in printing compared to previous years have already been taken account of in the MTFP Addition by the Treasury and Resources Department.

None of this budget has been paid out as yet.

2.3 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING REVENUE TO BE RAISED BY THE PROPOSED HEALTH CHARGE: [9542]

Question

Can the Minister provide an estimate of how much revenue would be raised from the proposed income-based health charge in 2018 and 2019, were it to be implemented without an upper cap?

Answer

Based on data from the 2014 year of assessment (the most recent year of assessment for which the Taxes Office has a complete data set) it is estimated that if the income cap were not applied the revenue raised from the proposed health charge outlined in the MTFP Addition 2017-2019 would increase by £1.3m in 2018 (when the proposed rate is 0.5%) and £2.6m in 2019 (when the proposed rate is 1%).

2.4 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING THE PROPOSED REDUCTION IN SALARIES FOR NEWLY-QUALIFIED TEACHERS: [9543]

Question

What process was undertaken to reach the decision that the salaries for Newly Qualified Teachers should be reduced by £8,000 per year and what assessment has he made of how this decision is likely to affect teacher recruitment, given his previous acknowledgement in an Education and Home Affairs Scrutiny Panel quarterly hearing that his department faces difficulties with recruiting teachers?

Answer

In 2015 the central human resources team undertook a comparison of teachers' salaries in the UK and Jersey, which showed that Jersey teachers' pay is significantly higher in most cases than for teachers in maintained schools in England, even when the cost of living is taken into account. This informed the decision to propose a reduction in the NQT starting salary in future.

In setting a revised level, the average NQT pay for maintained schools in England were considered together with the rates for inner and greater London, all of which are currently well below Jersey. The rationale was to maintain the Jersey NQTs' pay at a level higher than the national average so that the Island remains attractive to new graduates.

If level 1 of the Jersey teachers' pay were to be reduced to approximately £25,500, NQTs working here would be on a par with colleagues in Greater London and above the national average for maintained schools, which is approximately £22,000. Level 1 for Jersey teachers is currently £33,500 but all NQT teachers recruited in the past four years have started on level three of the teachers' pay scale, which is closer to £38,000.

There is currently an over-supply of primary school teachers in Jersey. Recruitment in that area is not problematic. However, there is a shortage in some subjects at secondary level. It is envisaged that the reduction in NQT wages would give the Education Department the flexibility to offer incentives in harder to recruit areas. This is in line with the MTFP aim of targeting expenditure to where it is most needed or can be most effective.

Adjusting the Jersey NQT starting wage so that there is a greater differential between pay levels would also create a greater financial incentive for teachers to take on positions with greater responsibility.

The Education Minister is not directly involved with the pay and conditions of school staff. This responsibility rests with the States Employment Board. However, any changes to the terms of employment would be the subject of full and appropriate consultation with the teaching unions, with which the Department enjoys constructive, positive relationships.

2.5 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR EDUCATION REGARDING 'USER PAYS' CHARGES IN RESPECT OF THE JERSEY MUSIC SERVICE: [9544]

Question

With reference to page 153 of the Draft Medium Term Financial Plan Addition for 2017-19, will the Minister give details of what the £300,000 savings for 'user pays' in 2019 with regard to the Jersey Music Service entail? What consultation has been undertaken with the Service on this matter and can the Minister provide an assurance that this cut will not have a deterrent effect on young people learning a musical instrument?

Answer

Discussions are still under way to finalise the saving relating to the extra-curricular music tuition provided by the Jersey Music Service (JMS). This proposal is not due to be implemented until 2019 and the Education Department is working with the JMS staff, particularly their senior management team, to explore options for remodelling the service to ensure the JMS provision is in line with the aims of the Education Business Plan.

All students currently receive music lessons during the school day. These are a mandatory part of the curriculum and will not be affected by this MTFP proposal.

2.6 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING A PROPOSED REDUCTION IN GRANTS FOR CULTURE: [9545]

Question

With reference to page 152 of the Draft Medium Term Financial Plan Addition for 2017-19, will the Minister explain the implications of the proposed “reduction in grants [for] - Culture” and set out which organisations’ grants he plans to reduce?

Answer

The States Assembly agreed, through the States Strategic Plan, to prioritise investment in Health, Education, St Helier and economic growth, while balancing budgets by 2019. As highlighted in last year’s debate on the Medium Term Financial Plan, this means we need to restructure our organisation and reprioritise our spending.

With this in mind, the Economic Development, Tourism, Sport and Culture Department has maintained grant funding for Jersey Heritage, Jersey Arts Trust, Jersey Arts Centre, and the Opera House throughout the plan period.

In addition, we have reinstated reductions previously identified by the then Education, Sport and Culture (ESC) Department for Jersey Heritage Trust’s operation of the Jersey Archive and provided funding for Jersey Arts Trust’s ‘art house’ project.

Prior to the Transfer of Functions on 1st January 2016, ESC identified a reduction of £29k in funding for the Don Balleine Trust (Jerriais). This will reduce funding in 2017 to £117k. No further reduction is planned for 2018 or 2019. Of the £117k up to £61k per annum has been allocated, with the agreement of the Don Balleine Trust, to the Education Department for the employment of 1 FTE to teach Jerriais in primary schools across the island.

By 2019 a forecast £10k reduction in the Department’s programme budget for culture will be identified as a result of the Public Sector Reform review of Sport and Culture.

2.7 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR EDUCATION REGARDING PROPOSED LIBRARY SERVICE SAVINGS: 9546]

Question

With reference to page 153 of the Draft Medium Term Financial Plan Addition for 2017-19, will the Minister give details of what efficiencies are proposed in order to achieve the £100,000 saving in library services in 2019 and can he provide an assurance that this will not lead to a diminution in service quality or provision, including in relation to opening times?

Answer

The £100,000 savings in library services will be delivered by 2019 through a combination of natural wastage, new working practices and administrative changes.

Developing and extending the library service and improving the quality of the provision is a continued priority. The aim is to improve frontline services and the team have been working towards this for some time. For instance, in 2014 the Town Library opening times were increased by 2 ½ hours per week in response to public demand. Investigations are under way to explore how the service could further extend evening opening hours. This will continue to support self-study, literacy activities and access to the Library's extensive and growing range of resources and services, both physical and digital.

2.8 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR THE ENVIRONMENT REGARDING 'USER-PAYS' CHARGES DETAILED IN THE DRAFT MEDIUM TERM FINANCIAL PLAN ADDITION FOR 2017-2019: [9547]

Question

With reference to page 154 of the Draft Medium Term Financial Plan Addition for 2017-19, will the Minister explain who he expects will pay the £200,000 and £800,000 'user pays' charges shown as savings for 2018 and 2019 respectively and how the revenue from those charges will be broken down between food sale outlets and private rental dwellings?

Answer

The "User pays" charges shown on page 154 of the Draft Medium Term Financial Plan Addition for 2017-19, are conditional on changes in legislation through the usual States Assembly approval process. I would expect the charges to be paid by the Food Business Operators, and the Landlords of rented dwellings. The breakdown of amounts to be raised is based on the projected timetable for legislation. In 2018, £200,000 would be from Food Business Operators. In 2019, £300,000 would be from Food Business Operators and £500,000 from Landlords of Rented dwellings.

2.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING CHANGES TO THE STATES OF JERSEY POLICE DETAILED IN THE DRAFT MEDIUM TERM FINANCIAL PLAN ADDITION FOR 2017-2019: [9548]

Question

Will the Minister inform members how the States of Jersey Police Force compares with those of England and Wales, the Isle of Man, Guernsey, Scotland and Northern Ireland in terms of the number of police officers per 100,000 population; for what reasons will a loss of 15 front-line response and community officers over the years 2017 - 2019, envisaged as part of the Draft Medium Term Financial Plan Addition, not result in a reduction in public safety; and what effect she expects there will be on public safety of reduced enquiry desk opening hours, changes to the 'lost and found' service and the referral of matters to other agencies as part of incident resolution?

Will she further inform members what proposals she has for changes to pay grades for civilian staff and a review of Police terms and conditions and pension changes? What effect does she expect that such changes will have on public safety?

In asking the States to endorse the budget for savings in 2017, will she inform members what further plans she has under consideration to meet her targets for 2018 and 2019?

Answer

(a) *Will the Minister inform members how the States of Jersey Police Force compares with those of England and Wales, the Isle of Man, Guernsey, Scotland and Northern Ireland in terms of the number of police officers per 100,000 population;*

Direct comparisons with other forces in the British Isles are not straightforward due to differences in the utilisation of uniform and non-uniform staff to perform similar functions, differences in the use of volunteer staff (such as Police Community Support Officers, Special Constables, Community Volunteers and Honorary Officers), and differences in the organisation of national functions such as those to investigate financial and organised crime. Public source information does, however, enable the provision of some information, albeit that the numbers are not directly comparable and the time periods differ.

Crown Dependencies

In 2015, the States of Jersey Police (SoJP) reported an establishment of 218.5 FTE uniform officers (*States of Jersey Police Annual Performance Report 2015*), and Jersey's resident population was estimated at 102,700 (as at the end of 2015), making a ratio of 213 uniform officers per 100,000 of population. Guernsey reported 147 Police Officers (*Guernsey Law Enforcement Annual Report 2015*), and Guernsey's population was reported as 62,612 (at the end of March 2015), making a ratio of 235 uniform officers per 100,000 of population. The Isle of Man reported an establishment of 237 constables in 2014-15, excluding Special Constables and Community Volunteers (*Chief Constable's Annual Report 2014-2015*), with a latest population estimate of 84,497 (2011 census), making a ratio of 280 uniform officers per 100,000 of population.

Recognising that non-uniformed forces staff also undertake important frontline roles, as well as providing support to public safety and security, the inclusion of non-uniformed staff provides an indication of the total manpower directed towards policing. SoJP reported a total establishment of 334.2 FTE in 2015 (including 115.7 non-uniform staff), making a total policing force ratio of 325 staff per 100,000 of population. Guernsey Police reported 61 civilian support staff in 2013 (*Guernsey Law Enforcement Report 2013*), the last year in which separate data was presented for police civilian staff, which combined with the Police Officers reported for 2015, would provide an estimated total force of around 208, making a total policing force ratio of 332 staff per 100,000 of population. The Isle of Man reported 52 support staff in 2014-15, which combined with the number of constables provides a total establishment of 289, making a total policing force ratio of 342 per 100,000 population.

England & Wales, Scotland and Northern Ireland

Whilst it is not possible to present direct comparisons between the Islands and these mainland forces, some broad illustrative information can be provided. The figures below are all taken from a recent briefing paper entitled *Police Service Strength* prepared by the House of Commons Library (February 2016), unless otherwise stated.

There were a reported 125,185 FTE police officers serving in the 43 forces of England & Wales, excluding the British Transport Police and those on central service secondments, and with an estimated population of 57.4m (in mid 2014), this makes a total policing force ratio of 218 police officers per 100,000. Scotland is reported as having 17,295 police officers, with a population of 5.3m (in mid 2014), making a ratio of 326 police officers per 100,000 of population. The Police Service of Northern Ireland (PSNI) is reported as having 6,872 police officers, with an estimated population of 1.86m (in mid 2014), making a ratio of 369 police officers per 100,000 of population.

As at 31 March 2015, there were 80,322 FTE staff employed in supporting roles in England & Wales (comprising civilian staff, community officers, designated officers and traffic wardens), which combined with the number of police officers, makes a total policing force ratio of 358 staff per 100,000 of population. There are reported as being over 5,500 police civilian staff across Scotland (*source: Police Scotland web site*), which combined with the number of police officers, makes a total policing force ratio of 430 per 100,000 of population. The PSNI reports a total of 9,333 employees, comprising both PSNI Officers and other staff (*PSNI Annual Report and Accounts for year ended 31 March 2015*), which would indicate a total policing force ratio of 502 staff per 100,000 of population.

(b) *for what reasons will a loss of 15 front-line response and community officers over the years 2017 - 2019, envisaged as part of the Draft Medium Term Financial Plan Addition, not result in a reduction in public safety;*

The SoJP does not expect to see any changes to its core functions. It will continue to:

1. Respond to emergencies
2. Focus on preventing crime
3. Protect the most vulnerable in our community.

In recent years, the SoJP has re-shaped and modernised its services to ensure it continues to meet the needs of our community. In parallel, the SoJP has also become more efficient and effective at policing the Island, and in particular following the introduction of the Jersey Police Authority. The SoJP is also benefitting from capital investment in a new Police Headquarters and for the introduction of mobile technology.

Set against this background, the proposed efficiencies and savings contained within the Draft Medium Term Financial Plan Addition 2017-2019 will require the SoJP to undertake a more fundamental review of its operations and services and is expected to change the way it delivers some services to the public.

The SoJP has developed 5 main strategies that are aimed at further improving reducing costs whilst also mitigating any impact to public safety and Island security:

- New police operating model – this will improve operational efficiency as well as better regulating demand for police services. Once implemented, demands for police services will be prioritized by a dynamic assessment process that is based on Threat, Harm, Risk, Investigation, Vulnerability and Engagement (THRIVE). Based on the assessed priority, new services will also be put in place, including the introduction of resolution over the telephone, referral to a more appropriate agency, or introducing an appointments system where this is a more appropriate resolution.
- Mobile technology – this is expected to create capacity and improve service to the public. By providing officers with a portable technology platform, access to relevant and real-time information,

and simplifying /re-engineering core activities and processes, officers will be able to spend more time policing and less time undertaking administration.

- New organisational structure – this will focus on developing the most efficient organisational structure based on the requirements set out by the new operating model.
- Lean and digital working – maximising efficiency through the use of other technology (non-mobile), reducing internal demand and stakeholder expectations, re-negotiating contracts and further cutting out waste through Lean projects.
- Collaboration – this seeks to identify partnership opportunities that reduce delivery costs. For example work has already started on:
 - introducing a joint control room for the Fire and Police Services
 - increased partnership working between SoJP and Jersey Customs and Immigration Service,
 - Joint work on mental health issues with Health and Social Services Department.Further collaboration is also expected through eGov initiatives.

(c) What effect she expects there will be on public safety of reduced enquiry desk opening hours, changes to the 'lost and found' service and the referral of matters to other agencies as part of incident resolution?

It is not envisaged that public safety will be adversely affected by any of the savings strategies and initiatives. However, the public may see changes to the way in which existing services are delivered.

(d) Will she further inform members what proposals she has for changes to pay grades for civilian staff and a review of Police terms and conditions and pension changes? What effect does she expect that such changes will have on public safety?

Work on the revised pay grades for civilian staff forms part of the Workforce Modernisation element of the Public Sector Reform Programme that is in progress. The outcome of any changes to civilian staff at SoJP will not be known until the process is complete.

Along with other uniformed services, a review of Police Officer terms and conditions of service has recently started and is currently expected to complete in Quarter 4, 2017. Proposals are under development and will be discussed with the Police Association and others in due course.

Changes to the Police pension scheme are already in effect for new recruits, and will take effect for existing officers on 1 January 2019. The main change is an increase in contribution rates for both the employer and employee. In addition, the Normal Retirement Age for a Police Officer is expected to increase to age 60. It is not anticipated that these changes will affect public safety.

(e) In asking the States to endorse the budget for savings in 2017, will she inform members what further plans she has under consideration to meet her targets for 2018 and 2019?

Initial work has been completed to ensure the proposed SoJP savings can be met. Much of the savings for 2018 and 2019 will depend on the effective design of SoJP's new operating model and the introduction of mobile technology. Both these projects are not yet at a stage to commit to definitive final savings, which precludes more detailed budgets from being developed for 2018 and 2019. It is further hoped that reductions in non-uniformed staff headcount can be achieved, wherever possible, through natural wastage and without recourse to formal redundancy programmes.

As such, the Chief Officer of Police naturally has a degree of flexibility in how the proposed savings are delivered, recognising the over-riding priority to limit any adverse impact to public safety or island security.

2.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING NEGOTIATIONS IN RESPECT OF PROPOSALS TO REDUCE NEWLY-QUALIFIED TEACHERS' SALARIES: [9549]

Question

How is the proposal in the Draft Medium Term Financial Plan Addition for 2017-19 to reduce newly qualified teachers' salaries by around £11,000 per year for 2018, generating a total saving of £228,000, consistent with the Chief Minister's commitment to the principle of collective bargaining, most recently expressed in the comments by the States Employment Board on P.29/2016 that the Board "has a deep-rooted framework of collective bargaining and representation, covering all aspects of workforce with sophisticated and well-resourced Trade Unions such as Unite, Prospect, NUT, RCN and NASUWT"?

Why have there been no negotiations with teacher representatives on this change to pay scales before the proposal appeared in the Draft MTFP Addition? Will the Chief Minister withdraw this proposal to allow time for proper negotiation to take place?

Answer

The Draft Medium Term Financial Plan (MTFP) Addition for 2017-19 identifies £240,000 of savings in 2018 and £480,000 in 2019 from a review of terms and conditions for newly qualified teachers.

There is an over-supply of primary school teachers in Jersey, and a shortage in some subjects at secondary level, and a reduction in the starting salaries of NQT would give the Education Department the flexibility to offer incentives in harder to recruit areas.

Any proposal is, however, not finalised as variations to the terms and conditions of States employees are subject to formal negotiation processes with our unions. As such, proposals will be fully discussed with the appropriate negotiating bodies (NASUWT and NUT), thus fulfilling the continued commitment to collective bargaining. Such proposals will form part of a wider Teachers' Workforce Modernisation project (TWFM) that will evaluate all elements of the employment package in the context of local and UK benchmarks as well as comparisons within the States of Jersey. This project is due to commence soon and will be conducted in partnership with our unions.

A comparison with salaries paid to teachers in maintained schools in England does show a significant differential with Jersey; however, a host of other factors will be considered during the Teachers' Workforce Modernisation project including the other associated terms and conditions of teachers, local benchmarks and the need to provide equal pay for work of equal value across the public sector.

2.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING PROPOSALS TO REDUCE MAINTENANCE GRANTS FOR ON-ISLAND DEGREES: [9550]

Question

Given that the Minister is actively encouraging students to study to degree level on the Island and increasing the range of courses on offer here, for what reasons does he propose to reduce

maintenance grants for on-Island degrees? Has any research been conducted by his department into the likely consequences of this decision for student numbers and, if not, why not?

Answer

The costs of doing a degree off island are greater than those on island so it is appropriate that the level of States support should reflect this. For example, a student studying in Jersey would not incur the same flight and other travel costs as a student on a UK course. Dependent students living at home are also likely to have lower living expenses. On-island students already benefit from lower tuition fees, which are up to £2,000 to £3,000 lower than in the UK.

The proposal would create greater parity in the financial support the States provides for islanders who are not currently in work. It also aims to target available funds to where they are needed most.

2.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING REDUCTIONS IN ‘BACK TO WORK’ SERVICES: [9551]

Question

In the light of ongoing redundancies across the public service and the potential impact of downside pressures on the economy following the UK’s decision to leave the European Union, does the Minister remain confident that she can deliver £2 million in savings and a reduction of 10 posts as set out in the Draft Medium Term Financial Plan Addition 2017-19 from reductions in Back to Work services?

Answer

As outlined in the Draft Medium Term Financial Plan, my department will deliver overall staff and administration savings of £3.5m and a reduction in staff numbers of 22.5 FTE by 2019. These savings support the overall aims of the Medium Term Financial Plan to invest in health and education, by increasing productivity and reducing costs.

To support the Council of Ministers’ Strategic Priorities, the department is committed to helping more people into employment through Back to Work schemes, including helping more individuals with long term health conditions back into work. We will balance our progress supporting new groups to find employment with our success in reducing mainstream unemployment and the prevailing economic conditions. It is expected that by 2019 the overall expenditure on Back to Work programmes will have reduced by approximately £2m per annum.

The department is continuing to drive improvements in the efficiency of its services through the application of the LEAN methodology, which, in addition to improving customer service, will generate additional capacity within the department. This in turn can be translated into savings, for example by not replacing staff who leave.

These efficiencies are also expected to allow a reduction in the number of Full Time Equivalent (FTE) employees over the period across the department.

2.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING SAVINGS PROPOSALS IN THE DRAFT MEDIUM TERM FINANCIAL PLAN ADDITION FOR 2017-2019: [9552]

Question

Will the Minister detail for members the following savings proposals summarised on page 155, Appendix 2, of the draft Medium Term Financial Plan Addition for 2017-19:

- a) developing and modernising workforce management and practices, saving £652,000 by 2019, with the loss of 4 posts;
- b) review, develop and redesign adult social care and long-term care provision, saving £500,000 by 2019;
- c) further phasing of P82/2012, and further delivery of cash releasing efficiencies, saving £1.2 m with the loss of 5 posts?

Will he further describe in detail what changes he proposes to means testing and maximising income under the section User Pays to raise £625,000 by 2019?

Answer

Health & Social Services (HSS) is one of the priority areas identified by the Council of Ministers in the States Strategic Plan and, as such, is receiving almost £40 million of additional annual funding by 2019.

The department, however, is always seeking to deliver services to Islanders in the most efficient and effective way possible, while prioritising the safety of patients. The Safely Removing Costs programme was set up to manage and deliver savings and efficiencies over the course of this MTFP period.

Proposals are put forward by management, clinicians and staff, and are then rigorously reviewed in line with the department's criteria of 'safe, sustainable and affordable'. Where proposals are deemed appropriate, they are taken forward and delivered. This is an iterative process – some proposals are considered and then rightly rejected, others are modified and others are delivered as proposed.

In preparing the MTFP Addition, the department identified the savings as set out in the programme at the date of submission – proposals continue to be carefully considered and will only be delivered if they are safe, sustainable and affordable.

The savings proposals summarised on P155 of the MTFP Addition include the following:

- a) Developing and modernising workforce management and practices

Current proposals being considered include, but are not limited to:

- Hospital management team restructure
- Review of medical rotas
- Facilities services management team restructure
- Review of skill mix
- Reduced spend on locum and temporary staff
- Reducing lengths of stay in the hospital; and

- Review of shifts and rota patterns

Posts relate to the expected impact of restructures and changes to rotas.

b) Review, develop and redesign adults social care and long-term care provision

Current proposals being considered include, but are not limited to:

- Reviewing provision of long-term care services to bring a consistent approach that will protect the most vulnerable
 - Move towards more self-directed support
 - Co-location of mental health services leading to improved efficiencies
 - Reviewing provision of day services; and
 - Review of costs associated with high cost packages of care
- c) Further phasing of P82/2012 and further delivery of cash releasing efficiencies

As the first department to embed LEAN methodology, HSS has a track record in delivering efficiencies year on year through improved productivity and changes to processes. In addition the department has been running the Safely Removing Costs (SRC) programme for a year now, which has enabled a systematic review of services and activities in order to support the delivery of savings. £1.2m, which is equivalent to £400,000 per annum for each of the three years of the MTFP. Addition, is therefore approximately 0.2% of the annual HSS budget. The department has consistently delivered efficiencies of this level in previous years.

These efficiencies need to be achieved by 2019 – and therefore the department is in the early planning stages of how to deliver this additional £1.2m and no specific schemes have been identified. It is expected that, as a significant proportion of the HSS budget is for staff, a proportion of this efficiency will be delivered through changes to staffing resulting in the reduction of approximately 5 posts. This estimate is based on recent experience of reviews conducted as part of the SRC programme. No specific posts have been identified at this stage.

Put alongside other savings and efficiencies targets, this target will be challenging, and therefore the department has identified that some of it may be met, non-recurrently, through phasing of P82/2012 investment to commence a few weeks or months later than currently planned.

Means testing and maximising income:

Current proposals being considered include, but are not limited to:

- Reviewing the travel subsidy in order to introduce a more equitable and manageable approach to the subsidy aimed at ensuring support for the most vulnerable
- Moving to market rates for private patient charges through the introduction of a trading operation for private patients (as defined in sections 24 to 26 of the Public Finances (Jersey) Law 2005). This is subject to consideration by the Minister for Treasury and Resources and subsequent approval by the Assembly.
- Assessing current chargeable services and considering removing or adjusting existing levels of subsidy in these services to ensure that services are equitable.

2.14 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING ‘OPERATION RECTANGLE’: [9553]

Question

Will the Minister undertake to establish why the summary forensic report for the Operation Rectangle investigation was removed from the States of Jersey Police website, inform members of the reasons, and ensure that it is reinstated and if not, why not?

Answer

The States of Jersey Police are not entirely clear which report is being referred to, although are aware that the Senior Investigating Officer during the initial phase of Operation Rectangle chose to post a report on the police website.

Such an action could potentially undermine or prejudice any future criminal proceedings and is not, therefore, in accordance with current Police procedure and practice.

In addition, the Independent Jersey Care Inquiry has considered Operation Rectangle as part of its Terms of Reference and the Inquiry Panel is expected to submit a final report by the end of this year.

For these reasons, the States of Jersey Police will not be posting any Operation Rectangle reports on their website.

2.15 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE RESPONSE OF THE FORMER CHIEF OFFICER OF THE STATES OF JERSEY POLICE TO THE WILTSHIRE REPORT: [9554]

Question

Will the Minister undertake to ask the Police to publish a copy of the redacted response of the former Chief Officer of the States of Jersey Police to the Wiltshire Report on the States of Jersey Police website next to the Wiltshire Report, given that it has been placed on the Independent Care Inquiry website, and if not, why not?

Answer

The former Chief of Police has given evidence to the Independent Jersey Care Inquiry which covered the Wiltshire Report and his response to it. As part of that evidence he exhibited Exhibit GP1 a very detailed statement which he provided in 2009 to Brian Moore, the Chief Constable of Wiltshire Police, as part of Operation Haven, which was a disciplinary enquiry into the discharge of his role as Chief Officer in relation to Operation Rectangle. Where matters stated within Exhibit GP1 were relevant to his evidence to the Inquiry, and within his understanding of its Terms of Reference, he repeated the information, or referenced it appropriately. He also previously produced two Affidavits, Exhibit GP2 (dated 5 January 2009) and Exhibit GP3, as part of a Judicial Review application he pursued against the decision to suspend him from the SOJP in 2008. Again, he referenced or repeated information from those Affidavits in his statement where appropriate.

This information is already in the public domain, available on the Independent Jersey Care Inquiry Website. I will not, therefore, be asking the Police to publish a copy on the States of Jersey Police website for two reasons. Firstly, it is already in the public domain and secondly, it represents the views of the former Chief of Police and is not a report commissioned by the States of Jersey Police.

**2.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER
REGARDING NEW INWARD MIGRATION: [9556]**

Question

Will the Chief Minister advise members how many dependents accompanied the 1,500 people recorded in the 2015 population report as net inward migrants and give a breakdown of their ages, gender and nationality? If this information is not available will the Chief Minister explain why it is not available?

Answer

The independent Statistics Unit produces an annual estimate of the Island's resident population using a range of data sources, including the labour market survey (constituting a census of employed people), school roll information, as well information from other sources such as Health and Social Services. The methodology includes assumptions based on the behaviour of inward migrants (length of stay, household structure) as recorded at the time of the 2011 Census.

The estimate for net migration in 2015 was +1,500 people into the Island, comprising 1,100 workers, 300 non-economically active dependent adults, and 100 school age and pre-school age children.

The Statistics Unit's current methodology, developed over the last 15 years and based on robust administrative data sources, derives statistical estimates only; this methodology cannot produce a more detailed breakdown by age, gender or nationality.

Given appropriate resources over the next few years, the Statistics Unit aims to develop an e-Census in order to produce a more detailed breakdown of the population. Such an e-Census will, in principle, be derived from a wider range of administrative sources, including data from the Social Security Department, Population Office and Income Tax Department.

**2.17 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR EDUCATION
REGARDING CHILDREN WHO STARTED SCHOOL IN 2015: [9557]**

Question

Will the Minister advise members how many children entered Island schools for the first time in 2015, distinguishing between children from the resident population and children whose parents constituted part of the cohort of net inward migration in 2015? Will he also state how many of those children have a first language other than English and what provision schools made to support them?

Answer

In the calendar year 2015, 208 children new to Jersey started in non fee-paying schools. This was across all year groups from Reception to Year 11.

Children also leave the island during the course of the school year, so the overall school population did not increase by 208. In January 2015 there were 12,049 children in Jersey schools. This rose by 0.04% (net) by January 2016 when there were 12,054 students in the system.

89 of the children who arrived in Jersey during 2015 had English as an Additional Language (EAL). This is recorded irrespective of the child's proficiency in English so some might be fluent and not in need of additional help. Those students who do need assistance are supported by the EAL team based at Rouge Bouillon School who help them to access the curriculum through additional tuition in English.

In the academic year 2015-2016 the EAL team worked with 59 pupils who were new to Jersey as well as other children who were born here. The figures are not available for the calendar year.

3. Oral Questions

3.1 Deputy K.C. Lewis of St. Saviour of the Minister for Education regarding proposed reductions in pay for newly-qualified teachers: [9560]

What contribution will cutting £11,000 per annum from the pay of newly qualified teachers make towards ensuring that education is a priority in the Medium Term Financial Plan, as Ministers have stated?

Deputy R.G. Bryans of St. Helier (The Minister for Education):

Thank you to the Deputy for allowing me to articulate this particular answer. First of all there is no proposal to cut N.Q.T.s' (newly qualified teachers) pay by £11,000. That figure was reported in error by the media when the M.T.F.P. was lodged. The proposal - and it still is only a proposal - is to reduce the starting salary of our new teachers possibly by up to £8,000. But not in areas or subjects where it is difficult to recruit. I must stress that any variations to the terms and conditions, including pay, of States employees are subject to formal negotiations and processes with our unions. Education remains a key priority in the M.T.F.P. We are receiving nearly £11 million in extra revenue funding and major capital investments at a time when States finances are under unprecedented pressure. We have also had to carefully prioritise all our expenditure across the department. The adjustment to teachers' pay scales is part of the process of redirecting all spending to where it is needed most and has the greatest impact on students. We currently have an over-supply of primary school N.Q.T.s but shortages in other areas, so it makes sense to focus the funding where it can have the biggest impact, and that is in attracting specialists to the Island. As an example, it could be used to attract more maths specialists to the Island.

[9:45]

3.1.1 Deputy K.C. Lewis:

I do concede to the Minister that the quote was "could" drop the salary by but I have checked with the *J.E.P. (Jersey Evening Post)* and the quote is correct inasmuch as if we drop to the London rates it will be an £8,000 drop. If we drop to the rest of the country it will be an £11,000 drop. The Minister is no doubt aware that there is sometimes difficulty recruiting good quality staff encouraging local people to come back to the Island to teach and, indeed, encouraging people from the U.K. (United Kingdom). With the people retiring in the future there could be a ripple effect of a shortage of staff going through. Does the Minister not agree?

Deputy R.G. Bryans:

I agree there could be a ripple effect if that were indeed the problem but Jersey N.Q.T.s can currently start on £33,564 but in the past 4 years they have all started on the higher level of £38,000 because they have Honours degrees. The U.K. average for a maintained school is £22,000 to £25,000 and it was highlighted for me yesterday. I was out yesterday evening with 2 gentlemen from Newcastle University who have helped us recruit 4 new science teachers who will be starting

in September. As we got into the cab the cab driver said to me - they who are the fonts of all knowledge: "I think you are doing the right thing" and I said: "How do you know that?" He said: "I have 2 daughters who are primary school teachers. One in the U.K. who receives somewhere between £22,000 to £23,000 and one here in Jersey who receives £38,000."

3.1.2 Deputy G.P. Southern:

Will the Minister for Education explain why he has not insisted that formal negotiations have taken place or should take place with the representatives of the teachers? Why has that not happened?

Deputy R.G. Bryans:

That is happening. We have spoken to the unions quite a lot on this subject and we are still in those negotiations. Those negotiations will happen between the States Employment Board and the unions but the unions are fully aware of what we have considered.

3.1.3 Deputy G.P. Southern:

Would the Minister for Education care to consider his answer? Has there been any formal negotiations on salary scales for new qualified teachers yet?

Deputy R.G. Bryans:

Formal, no. But we already have had those conversations.

3.1.4 Deputy S.Y. Mézec of St. Helier:

The States of Jersey's own Strategic Plan says that one of their priorities in education is to raise standards. Is the Minister honestly telling us and the public of Jersey that we can expect to raise standards by cutting so drastically the salaries of the people who are meant to be delivering this?

Deputy R.G. Bryans:

I think I have already illustrated what we are trying to do is reframe the problem and look at the situation that we have. We have an oversupply of primary school teachers but we are concerned about the situation with secondary school teachers. So this will give us the opportunity, if it were necessary - and again why we were having the meeting yesterday, with the 2 gentlemen from Newcastle University - to increase some of the salaries for secondary school teachers should that be necessary.

3.1.5 Deputy S.Y. Mézec:

In an earlier question he said that this was still just a proposal but we have seen in the M.T.F.P. we have been given the figures. So the question is: what on earth will we actually be voting on in September if it seems that what we have in front of us is just figures out of nothing and does not represent anything because the Minister changes his mind all the time?

Deputy R.G. Bryans:

I am not sure that I do change my mind all the time. These are just proposals. Anything that is in the Medium Term Financial Plan is exactly that.

3.1.6 Deputy T.A. Vallois of St. John:

One of the Minister's main aims is raising standards throughout this term. There is data accessible with regards to efficiency index, which states that class sizes and teachers' pay are the most important elements to the outcome of standards or potential for children. Could the Minister explain how this particular proposal will affect the potential and standards of children in Jersey?

Deputy R.G. Bryans:

Once again I do not think it does. These proposals are for newly qualified teachers. They do not affect the teachers already in this situation. They are simply the new teachers that will come on the Island. We have had discussions right across the board with union members and we will... as the Deputy said, these are not formal discussions at this point in time, that will take place with the States Employment Board. But as far as we are concerned, with regard to the education that our teachers provide and will provide in the future is first class.

3.1.7 The Deputy of St. John:

On the basis of the Minister's answer, can I ask then why it is that it is only newly qualified teachers that are being looked at in terms of reducing newly appointed in terms of pay but this is not being subjected anywhere else across his department or across the States?

Deputy R.G. Bryans:

That is not strictly true. We have looked at other areas of cost-cutting, which the Deputy quite knows through her role in Scrutiny. But in this particular case we felt that it was unduly warranted that we pay particular attention to this, as I have already illustrated. If you are a newly qualified doctor in the U.K. you would start out on a starting salary of £23,000. We are currently paying newly qualified teachers coming on this Island £38,000. It is out of kilter with what expectations are.

3.1.8 Deputy M. Tadier of St. Brelade:

If we are going to make comparisons with the U.K. can we talk about living costs in Jersey and, in particular, housing costs? Does the Minister agree that, to put this in context, £11,000 a year is basically your rent for the year if you cannot buy in Jersey or if you do not otherwise own? Certainly that is probably easily enough to cover your mortgage if you are in a position to buy. Does the Minister not agree that this has serious implications for social mobility in our Island and it is just another nail in the coffin including a more divided society?

Deputy R.G. Bryans:

No, I do not agree. Just to go back to what I originally said right at the beginning. This is not £11,000. It is up to £8,000. If we are paying newly qualified teachers £38,000 that would take us down to £30,000, which is still above the London rate and takes into account the sort of figures that he is suggesting.

3.1.9 Deputy M. Tadier:

What research has the Minister been doing into the impact of such proposals? I know the Minister says these are just proposals but they are proposals the Minister is putting forward himself with the backing of the Council of Ministers, which he can reasonably expect to get passed in this Assembly. Even if it is £8,000 a year, does the Minister not accept that no cost benefit analysis has been done, in particular what message this sends out to the wider national and international community about Jersey being open for business or not having enough money in the pot to pay its teachers a decent living wage?

Deputy R.G. Bryans:

No, I do not agree. There is another consideration that relates to one of the reasons for doing this. That is that we have spoken to head teachers, in particular, and they told me that there is little financial incentive for young teachers to take on extra responsibilities in school because they gain relatively little extra pay for doing so, so we are focusing our money on where it is needed most.

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

Could the Minister remind the Assembly what one of the most pressing concerns was in the teachers' survey?

Deputy R.G. Bryans:

Sorry, I would have to ask the Deputy what she is referring to.

Deputy L.M.C. Doublet:

I wanted to just remind the Minister that workload is one of the biggest concerns of teachers and when young graduates are looking to choose a career why should they choose a career where they are working 60, 70 hours a week for even less money over a career perhaps in our finance industry which does pay quite generously?

Deputy R.G. Bryans:

The finance industry, again, a new graduate in the finance industry would get around £25,000, so we are still working on the situation. I am glad the Deputy raised the teachers' survey because there is a particular point that we are working on quite closely again with the unions, which is to resolve some of the issues with regard to overwork, because it is a particular concern of mine, the amount of stress that they are put under at this point in time. I see that as a separate issue.

3.1.11 Deputy K.C. Lewis:

The Minister has mentioned several times in his replies "over-supply". Are we to get into a bidding war now? Are we going to go out to tender with newly qualified teachers? Where will this end? Surely it is only natural justice that all newly qualified teachers should be paid the same rate as present?

Deputy R.G. Bryans:

That is not true. The U.K. has adopted a principle of where there have been gaps in their demands - so with maths and science - they have always paid extra to supply.

3.2 Deputy A.D. Lewis of St. Helier of the Chief Minister regarding the process for the redemption of business loyalty points under the States' travel policy: [9561]

Further to the publication of the review by the Chief Minister's Department entitled *Review of Travel Policy and Recommendations for Improvement*, can the Minister explain what the process is for the redemption of business loyalty points and advise who has responsibility for ensuring best value is attained for the public purse?

Senator I.J. Gorst (The Chief Minister):

Departments have now been asked to notify corporate procurement before making bookings where business loyalty points can be used. The central procurement team then apply the corporate points we collect as part of the booking. This means we are using the points we are collecting. A revised Financial Direction is being finalised to cover these business points and it will also encompass use of other points, such as Avios points. This meets the recommendations of the recently published travel review. Of course accounting officers are ultimately responsible for best value but all elements of the public sector have a duty to consider value for money.

3.2.1 Deputy A.D. Lewis:

I wonder if the Chief Minister could therefore explain as to why there has been such a long gap between the last redemption of points being in July last year. Also can he explain why 2 of his chief officers at a public hearing recently admitted that they were unaware that they could redeem

centrally accumulated points for their departments' travel and 2 other officers said that they believed the centralised booking system prevented them from redeeming points?

Senator I.J. Gorst:

We have had conversations in this Assembly about the difference between B.A. (British Airways) corporate or business points and personal points, such as Avios. I do not think it helps the conversation of the improvements and the changes that we are putting in when we confuse them. This is, as the Deputy would expect, we are changing policy, we are changing the way that we redeem points and the process, and we are using, going forward, procurement more at the centre of this, and therefore he can expect to see that, what he was questioned about at a hearing a number of weeks ago, the policy is in the process of change. I welcome him to review the changed policy and to work with us to his satisfaction that that changed policy is going to deliver best value because I think he will find that it is.

3.2.2 Deputy A.D. Lewis:

The Minister did not answer as to why his officers, 4 in this case, still do not seem to be aware of the policy and not aware that there are 1.5 million points that can be redeemed, and they are not aware as to how they can go about redeeming them, and indeed most officers that have accessibility to them are not redeeming them. So if policy is in place but it does not seem to be working. This is only last week.

The Deputy Bailiff:

Your question is?

Deputy A.D. Lewis:

Can he assure us that the policy that he has implemented is now in place and is working because the evidence suggests at the public hearing it is not.

Senator I.J. Gorst:

That is not the case. The policy is working. The Deputy knows that when we last spoke about this matter there were a bank of B.A. business points - over a million of them - which had not recently in recent months been redeemed. But since there has been a change in policy over the last 90 days, I think we have earned something like 99,000 points, they have been earned in the same period. We spent 56,000 of those points reducing the cost of travel to important meetings in Tokyo by officials and reducing the cost of travel over to China by educationalists. So the policy is now working. We accept that it needed to change. It has changed and we will be working with all departments to ensure that they now follow their new centralised policy and at the same time Treasury are working on improving Financial Directions to ensure right across, not only business points but also those personal points, that they are going to be used in a consistent and appropriate way delivering best value for taxpayers.

3.3 Deputy M.R. Higgins of St. Helier of the Chief Minister regarding the number of firms with 'passporting' rights to establish a presence in another country in the European Union: [9563]

Will the Chief Minister advise how many firms, in what areas of operation, in the Jersey finance industry have 'passporting' or third party rights to establish a presence or carry out permitted activities in another country in the European Union, and will he further explain the current position in relation to third party negotiations with the E.U. (European Union)?

Senator I.J. Gorst (The Chief Minister):

Sorry, it is one of those days. Could I ask the Assistant Chief Minister, who has got responsibility for these areas, to answer the question please?

Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):

I was unclear exactly as to the reason for the Deputy's question because this is quite a complicated issue.

[10:00]

The only directive which provides specifically for passporting for third countries into the E.U. is the Alternative Investment Fund Managers Directive. No passports have yet been issued to any jurisdiction under this directive but that is pending an assessment of other jurisdictions. But Jersey has been adopted as a fully compliant regime and is in the first wave of what is expected to be the approval process for third country passporting. That has nothing to do with Brexit. That was a process that was underway in any event. We will continue to monitor progress with the relevant regulatory authority, in this case E.S.M.A. (European Securities and Markets Authority) in Paris, under this directive. In the meantime Jersey funds can continue to be marketed to E.U. Member States under their national regimes, and this is how we will secure and win business, by promoting Jersey's high regulatory standards, our good relationships and the good relationships that our regulators have with regulators at the E.U. level and national E.U. level with other jurisdictions and providing international awareness of what that is.

3.3.1 Deputy M.R. Higgins:

An example of a passporting right is Jersey recognised funds, which are entitled to be marketed throughout the European Union, but we are passported through the U.K. because the U.K. accepted Jersey's legislation and schemes and therefore they were allowed to go into Europe. As far as the third party rights, the Minister has told us that there are none in place at the present time, third party rights into the European Union. With Brexit, which is definitely going ahead, according to the new Prime Minister, does he expect any further negotiations to take place certainly in the next 2 years because I cannot imagine the European Union is going to spend time negotiating with Jersey when it has bigger things to do with the United Kingdom?

Senator P.F.C. Ozouf:

May I perhaps take the opportunity of adding some words which reinforce what the Deputy will also be aware of, if he has read the report put in the name of the Minister for External Relations - P.72 - which happened 4 days after Brexit. We appear to be one of the few jurisdictions in the world to have had a plan in the event of Brexit, which explains all of the matters that we will be dealing with. The U.K. has not triggered Article 50 of the Lisbon Treaty yet and no formal negotiations have commenced. We consider it to be highly unlikely that an E.U. would initiate third party discussions over Brexit in relation to this issue because it is an E.S.M.A. third country issue which we are already dealing with and had an application process for our regulated funds. The Deputy asked whether or not we will be simply doing nothing. Absolutely not. There is no complacency. There is the existing excellent standing which Jersey has by E.S.M.A., unchanged by Brexit. There are going to be new opportunities which will no doubt occur, of which we are working and we are seized upon. If I may say, I offer congratulations to the London office and External Relations and Chief Minister and other parties for last night, a reception in which there were a number of E.U. ambassadors present, and regulators and other important industry individuals, that we are briefing constantly about Jersey and to protect our interest and to get access to that valuable European market but also the wider commonwealth and the global world.

3.3.2 Deputy G.P. Southern:

Is it not the case that uncertainty over at least the next 2 years continues to exist over such issues as passporting and access to the E.U., which will be changed when the U.K. invokes Article 50 and negotiates fresh terms? Does he not believe that this uncertainty will have a damaging effect on our prime industry?

Senator P.F.C. Ozouf:

Not at all. I do understand that this is a complicated issue, and certainly I do not know whether the Deputy was able to attend any of the briefings that have already been held on the issue that was held immediately after the Brexit decision. Can I just reinforce the situation? That Jersey is a third country already. It was the situation before the Brexit, it is the situation after Brexit, and it is the decision whether Article 50 is invoked. Nothing in what I have explained to Deputy Higgins is relevant in terms of accessing the third country provisions because it is simply Jersey is a third country with access. What we need to do is we need to get out of this messaging that somehow there is an issue with Jersey that we are surprised about, or that there is a problem, or that there is going to be an uncertain situation. We have certainty with third country proposals already in dealing with A.I.F.M.D. (Alternative Investment Fund Managers Directive). That is the new directive which will mean that there are new rules and we are one of the first countries only to have in the first wave of approval process. It may be that the U.K. is going to be later in the queue if they get the Article 50 trigger. I make no observation, I just offer the thing that the E.U. has a process that you apply first, if you are conforming to their exacting standards you get past, and the next country that applies or the next wave gets later. So we are in a very good position and the granite rock of stability, the granite rock of certainty, that the Government and Assembly can issue a report setting out clearly the constitutional position, the clear relationship with Europe, is likely to be a jurisdiction as has been clear in the last couple of weeks where people around the world will favour rather than think there is any problem in relation to stable Jersey with everything that we offer.

3.3.3 Deputy G.P. Southern:

Nonetheless, is it not the case that some of our access to the E.U. is via city-based U.K. companies and that they may be subject to lack of clarity?

Senator P.F.C. Ozouf:

The Deputy in his hesitation I think underlines the fact that he might not be expert, and I understand that, and happy to help any Deputy in relation to understanding ...

Deputy G.P. Southern:

Will the Minister stop patronising me?

Senator P.F.C. Ozouf:

I am not patronising. Any patronising is regretted and I withdraw any suggestion. I am just saying that this is complicated. The Deputy hesitated. It may well be city firms that are referring business but they may be referring business through other jurisdictions. Just because things happen to sit in New York, Singapore, Tokyo or Jersey it is the fact that they are advising international clients on the use of different jurisdictions with access to different markets. One of which is the European Union of which we have an application process in place with an authorisation regime in the first wave of country for funds. If he can think of any other ideas of where we will have a challenge with our single market provision for financial services I will be pleased to put my team to it, but I imagine they are already working on it. We think there are as many upsides as there are downsides ahead in the months of uncertainty for some countries.

3.3.4 Deputy M.R. Higgins:

The Senator knows very well that in the real world and when we get to real politics things like negotiating the third party rights will be put on the backburner because Jersey is associated with the United Kingdom. We know that the European Union countries, such as France and others, have concerns about the Jersey finance industry and they are not going to do us any favours. What they shall do is put it on the backburner, along with the U.K., and I personally think there will be very little progress going forward on these third party questions.

The Deputy Bailiff:

Deputy, if you could ask a supplementary question.

Deputy M.R. Higgins:

Yes, I am coming to that now. I am just saying, I hope I am wrong, but does not the Minister recognise that in real politics the game is totally different? We are not going to get quick progress on these third party rights.

Senator P.F.C. Ozouf:

Again, the Deputy indicates a lack of understanding of the decision process. But I will answer clearly both to allay his concerns. E.S.M.A. is a regulatory body which is not a political issue. He knows about regulation because he used to work, I think, for a regulator and that they are unaffected by political matters because they are independent and E.S.M.A. is the European regulator of which we have already passed that first wave and look forward to their deliberations for the implementation of the directive, of which we are one of the first countries to get into the E.U. provision. He does not like it when I give him the facts. Secondly, the excellent relations that we now have with a number of countries around the world, we received warmly the French Ambassador, I think, just 2 or 3 weeks ago. We saw the French Ambassador last night at our reception. He was gracious enough to spend some time with us attending our Jersey reception. Indeed other E.U. ambassadors were also present where we are engaging, where they understand not simply the rhetoric, but they understand the facts. I would also point out to the Deputy, as far as France is concerned, we may have been blacklisted but we were de-blacklisted with warm words from the words of the now E.U. Commissioner Moscovici of the standing of Jersey when we removed from the blacklist and given a clean bill of health for our transparency and our high standards in terms of financial regulation. I wish the Deputy would join me in sending the good and positive messages of Jersey rather than its inappropriate speculation.

3.4 Deputy G.P. Southern of the Minister for Education regarding the proposed increase in revenue spend on nursery, primary, secondary and higher education: [9565]

Will the Minister inform Members what elements of the proposed increase in revenue spend, in proportionate and real terms, on each of nursery, primary, secondary and higher education, are due to increased student numbers, and provide details of the additional £2 million spend on the higher education grants scheme?

Deputy R.G. Bryans (The Minister for Education):

Thank you to the Deputy. The growth bids for education for the period 2016 to 2019 are detailed on page 64 and 65 of the M.T.F.P. Addition for 2017 to 2019. Funding for increased students numbers is £56,000 in 2019 for nursery, £1.6 million for primary education, £332,000 for secondary education. The extra £2 million for higher education is not related to demographics. It involves an increase in the household income threshold for receiving States finances. It is a catch-up we believe. The lower level will go from £26,750 to £34,500, meaning an extra 94 students will get the full maintenance grant, which will rise to £6,000 and tuition fees paid. The upper limits are also moving, so about 500 students in the middle bands will receive more help. The maximum

rises from £91,000 to £99,000, which means about 30 students who currently receive no help will in future get something from the States.

3.4.1 Deputy G.P. Southern:

I assume the Minister for Education will circulate the detail of those answers later in the day. But could I ask him: to what extent there has been a recycling of money rather than fresh money coming into the Education budget, how much of that has been pinched from other areas of his budget and how much is fresh money?

Deputy R.G. Bryans:

This is not recycling, if we are referring to the £2 million. This is absolutely fresh money. We continue to work on the higher education problem that has been exhibited quite considerably through this Assembly. In fact just yesterday we had a meeting with Deputy Lewis, who is hopefully wanting to bring an in-committee debate sometime later in the year related to this particular matter. But the £2 million is fresh money.

3.4.2 Deputy S.Y. Mézec:

The Minister describes it as “fresh money”. Has none of it come from the fact that he is also slashing grants to students who are studying on-Island?

Deputy R.G. Bryans:

No, it has not.

3.4.3 Deputy M.R. Higgins:

The Minister did not refer to increased numbers in schools. I have been looking at 2 of the written answers that I have received today. That is question 16 and question 17. We were told that of the intake of plus 1,500 people who came to the Island in 2015 100 were of school age and preschool age children. I know the answer says that some children left the Island so therefore the net effect was not as large as that, but there is also a reference in the second question, which mentions that ...

The Deputy Bailiff:

Deputy, I appreciate you are trying to reference a document that you may just have got and just been reading now, but really this is for oral questions and you need to put your question succinctly.

Deputy M.R. Higgins:

I will put the question then in this sense. How much provision has he made for increased numbers in the schools when they were classed as 100 school age and preschool children who came in 2015?

Deputy R.G. Bryans:

We have been working on this for some time and I think Members are aware that we have ... just yesterday I was with Deputy Noel when we were looking at the increased classes that we put into Bel Royal. We have done the same with d’Auvergne and we have done the same in Springfield. We are continually working on the actual figures and the demographics. We are aware of the situation we have accommodated for them.

3.4.4 Deputy G.P. Southern:

As to future plans, what population figure or migration figures is he basing his future plans for educational provision on the Island?

Deputy R.G. Bryans:

I do not have those figure to hand but I am happy to produce figures for the Deputy should he wish them.

3.5. Deputy D. Johnson of St. Mary of the Minister for Treasury and Resources regarding the liability of non-resident property owners to pay Jersey tax: [9558]

Will the Minister consider introducing measures whereby non-residents who own property in the Island which is not let will be liable to pay Jersey tax on the notional rent that would be achieved if the property were let on a commercial basis?

[10:15]

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

I would not rule out such a measure in the future if it were proven to be the right thing to do. However, this is not a straightforward matter. There are many reasons why property can be unoccupied for periods of time and I am not personally convinced that taxation is the right way to incentivise the use of empty property. Furthermore, taxation of notional income is not generally a common feature of modern tax systems. I should add that non-resident landlords do already pay tax on empty properties in the form of rates.

3.5.1 The Deputy of St. Mary:

In the context of the 2011 Census identifying over 3,000 properties that have been vacant on Census day, and of which 23 per cent were attributed to holiday or second homes, does the Minister not accept the basic principle that an owner of a property in any jurisdiction should make some contribution to the finances of that jurisdiction?

Senator A.J.H. Maclean:

Yes, I do. That is why, as I have pointed out, non-resident landlords already make a contribution through the rates system. I have said if indeed in the future there is a proven case that something further could be done then of course I am more than happy to look at it. But there are other pressing matters to consider perhaps more so than that. That is probably all I can say at this moment on the subject.

3.5.2 Deputy M. Tadier:

Does the Minister accept that a mechanism within the States already exists for deeming rent at Social Security when it comes to the long-term care scheme whereby a property that is left vacant for a period of time will be expected to be rented out, and even if it is not rented out that money is already taken into account as if it were in the recipient's bank account? So if we can do this for our elderly who are perhaps in borderline poverty is there not a mechanism whereby the Treasury could find a similar mechanism to do it for either non-resident or residents? In fact I do not see why we should discriminate for properties that are not being utilised.

Senator A.J.H. Maclean:

This is not a straightforward matter. I do not disagree with the point that the Deputy made but nevertheless we are talking specifically with regard to this question about non-resident landlords owning properties in the Island which remain empty for periods of time. Of course there are a number of other properties that remain empty in the Island which are not owned by non-residents but are owned by residents. This is not a straightforward matter. I have already pointed out it is not a case that no tax is being paid, rates are already being paid on the empty properties, that is a choice of the individual landlord, wherever they reside.

3.5.3 Deputy C.F. Labey of Grouville:

Will the Minister for Treasury and Resources undertake to work with the Minister for Housing and work with her on her review that she is currently conducting, given that we have a housing shortage in the Island and at the last Census measured 3,000 empty properties?

Senator A.J.H. Maclean:

I am delighted to say that the Minister for Housing and I already work very closely together. I am familiar with the good work that she is undertaking in her department, the housing strategy that she has been working on. I would just add to the Deputy of Grouville's comments about the 3,103 empty properties identified in the Census. That is somewhat misleading in terms of a total number. I think the Deputy of St. Mary's is probably fairer when he pointed out in the statistics that it showed 23 per cent of those were deemed to be second or holiday homes. That is about 700 properties. That is probably more representative of the true picture. Properties of course in this Island are empty for many, many different reasons. In the Census it was identified 10 per cent were for sale, 29 per cent, for example, were between tenants at the time of the Census, 18 per cent were undergoing renovation, 5 per cent of the owners were in care homes. There are all sorts of different reasons why properties are empty at any particular given time. Of course the Census is, as Members will know, taken at a particular point in time.

3.5.4 The Deputy of St. John:

The Minister stated in his first answer that he may not personally be convinced about measures for this particular property type of tax. But would the Minister endeavour, even though he has promised about 5 or 6 times already, to provide the results of the property tax review that was done 2 years ago so that Members can see what members of the public contributed and identify what is feasible and what is not?

Senator A.J.H. Maclean:

Absolutely. In fact I have a copy of the draft property tax review in this file. It is a very thick document. Treasury has been busy and I have apologised before to Members. I gave an update at the Budget last year. The document is awaiting lodging with the Council of Ministers for their viewing and will be published publicly very shortly thereafter. I would just make a point to the Deputy of St. John, the point I made was that with regard to this issue was that I was not sure that taxation was the right method in order to incentivise empty properties to be put back into the marketplace, whether for rental or for sale. There are other ways perhaps and hopefully the housing strategy will pull some of this out. But there are other methods that might assist in getting some of these empty properties into the marketplace for the benefit of Islanders, bearing in mind the shortage of housing.

3.5.5 Deputy M.R. Higgins:

The Minister at the very end there came to the point I am trying to make. That is, Ministers have said they are taking action to make sure they find efficiency within States operations. Equally we should be looking at getting revenue. We have got a black hole which we know has got to be filled. People are being made redundant in all sorts of departments and I believe that the Minister should be looking at this as a revenue source ...

The Deputy Bailiff:

Deputy, can you please ask a question.

Deputy M.R. Higgins:

I am still getting there.

The Deputy Bailiff:

No, Deputy, answers have to be concise, questions have to be concise. This was turning into a speech. Could you please put your question?

Deputy M.R. Higgins:

With the black hole that we have and with the shortage of housing does not the Minister think that he should look at this and bring forward measures and deal with 2 problems at the same time?

Senator A.J.H. Maclean:

I think I have already said that this matter is being looked at. The Minister for Housing and the housing strategy has been considering this issue. It is not straightforward, as I have pointed out already for a number of reasons. I do not want to repeat those. The only final point I would make to the Deputy is that he referred to a black hole. There is no black hole. There is a deficit potentially. We are making significant investments but the Medium Term Financial Plan seeks to balance budgets by 2019. That is with making significant investments, as I have said time and time again.

3.5.6 Deputy S.Y. Mézec:

Is the Minister currently satisfied that all non-resident landlords in the Island are paying the income tax that they are liable to pay on the rent they receive for renting those properties in the Island? If he is not satisfied what is he trying to do about it?

Senator A.J.H. Maclean:

It is not for the Minister for Treasury and Resources necessarily to be satisfied, it is for the relevant Constables in the relevant Parishes to be satisfied. I am sure that if there were issues the Constables themselves would deal with the non-payment of rates.

3.5.7 Deputy S.Y. Mézec:

It helps if the Minister listens to the question. I did not refer to rates in that. I did specially say "income tax" because these non-resident landlords will be making income from rents from property in the Island that they lease out to tenants. My question to the Minister is: is he satisfied that the Income Tax Department is getting the revenue from this income from these non-resident landlords when it appears to be something that is very difficult to find tangible evidence that they are letting these properties out because we do not have a landlord register?

Senator A.J.H. Maclean:

On this occasion I do owe Deputy Mézec an apology. I did mishear what he said in his question. So just to clarify the point. I am not aware of any cases of non-compliance in this area but I am more than happy just to ensure, through the Comptroller, that there is not an issue that needs to be addressed. But he certainly has not brought it to my attention which I would have expected to be the case if there was any particular significant issues that needed addressing.

3.5.8 Deputy A.D. Lewis:

Would the Minister for Treasury and Resources agree that taxes do 2 things, they raise revenue but they also help change behaviour? A £500 average rental or rateable value of a property is not going to change behaviour whereas a tax would. Would the Minister not seriously consider that if he wants to achieve some of the other objectives the Council of Ministers want to achieve with the housing crisis, for example, that change of behaviour is an important element of taxing this element that has been discussed today?

Senator A.J.H. Maclean:

I agree with the Deputy that the benefit and purpose of some charges, fees, taxes, is indeed to change behaviour. We see that with Impôts, for example. But I would say to the Deputy that with regard to this particular issue it is a matter perhaps that one might consider discussing with the Comité on the basis of how empty properties are dealt with in the individual Parishes with regard to rates. There may be opportunities in that area that could be explored.

3.5.9 The Deputy of St. Mary:

I thank the Minister for his various comments on which I note he is not averse to introducing measures. In that context, is he aware of the provisions in the U.K. whereby there is an annual tax on enveloped dwellings, that is tax on properties owned by companies themselves formed by individuals anxious to avoid tax where otherwise would be payable and whereby tax is payable at a simple rate according to the band and whereby, for instance, the lower band is an annual amount of £3,000 on a valued property of £500,000 to £1 million. Would that not be a simple way of introducing a measure?

Senator A.J.H. Maclean:

I am familiar with A.T.E.D (annual tax on enveloped dwellings) that the Deputy refers to. I am not sure that that particular measure and “simple” go hand in hand or indeed, for that matter, many of the tax treatments in the U.K. are not necessarily that relevant or simple, as far as we are concerned. I am more than happy to give that consideration but, as I have said previously, I think there is a simpler way that this matter can be considered and that is by working together with the Comité to consider whether the rates system is a way in which this matter could be addressed. I think that probably is worthy of the first point of consideration.

3.6 Deputy A.D. Lewis of the Minister for Economic Development, Tourism, Sport and Culture regarding Active Card membership for those aged over 80 years: [9562]

Could the Minister advise why his department no longer provides free membership to existing Active Card members when they turn 80 years of age and instead now charges them £30.50 per month for senior citizen membership, and state what, if any, impact this has had on take-up of Active Card membership by senior citizens?

Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):

If I may ask the Assistant Minister with responsibility for sport takes this question.

Connétable S.W. Pallett of St. Brelade (Assistant Minister for Economic Development, Tourism, Sport and Culture - rapporteur):

Firstly, can I thank the Deputy for both asking the question and allowing me as Assistant Minister to answer? Like all States departments the sports division faces funding pressures over the next 3 years and future years. However, a review of the Active Card membership took place in early 2015 prior to any discussions on M.T.F.P. 2. This included free membership to ensure that any free provision was fair, equitable and transparent. The previously introduced well-intentioned but informal arrangement of providing free membership for long-serving and loyal Active Card members who reached the age of 80 was not at this stage deemed to be fair, equitable and transparent. Neither was it part of the Active terms and conditions. The 50 or so 80 year-olds who were provided with free membership prior to May 2015 have not been affected by any changes and retain their free access to Active facilities. The sports division will undertake a further review of over-80 free membership and intend by January 2017 to confirm the eligibility criteria to access free membership for those reaching 80 based on previous loyalty to the Active Card scheme that is clear and within the terms and conditions of the scheme. To answer the last part of the Deputy's

question, I do not believe the change in May 2015 has had any impact on senior citizen membership. We are currently 534 over-65s have an Active Card. Interestingly the number of Active Card holders increases significantly when members reach 65, which suggests to me that the discount of the senior citizens rate is very attractive.

3.6.1 Deputy A.D. Lewis:

I was delighted that the Assistant Minister answered the question because I know he has a real passion for sport and keeping active. But would the Minister not agree that having affordable access to schemes such as the very successful Active Card scheme helps keep our senior citizens healthy, happier and fulfilled, which of course also reduces the increase in demands on the health service? Does he agree that we should be doing everything we possibly can to ensure that people remain active for as long as they possibly can?

The Connétable of St. Brelade:

I could not agree more. I think we have to remember, Jersey will have an increasing number of senior citizens over the next 2 decades and it is important that with an ageing population that they remain fit and healthy and also reduce the burden on the Health Department. So, yes, I agree with him but it has to be affordable, it has to be sustainable. I could remind him that we have got thankfully 4,000 people over the age of 80 in the Island, all of which we want to keep fit and healthy and in their own homes. But the impact on the Sports Department of obviously increased numbers in gyms and the effect on staff, there is a cost to that, and as long as we can bear that cost within the Sports Department we will do all we can to help. We have had discussions with the Health Department already about various aspects of providing that these type of facilities and also providing exercise referral. There are ongoing discussions but at the end of the day we have to be able to pay for it.

3.6.2 Deputy K.C. Lewis:

My colleague, Deputy Lewis of St. Helier, has said much of what I wanted to say.

[10:30]

But £30.50 per month for a senior citizen is an awful lot of money. Surely the health and well-being of our senior citizens should be paramount. Does the Minister not agree?

The Connétable of St. Brelade:

I could not agree more but I still think and stand by what I have just said in regards to it being a very attractive scheme. Again, we can see by those that transfer over from paying full membership to over-65 membership, it almost doubles. So clearly they think it is good value for money. Do I want to see more people accessing gyms? Yes. But we have got to remember that we have got an Active Card scheme that covers all ages and all generations, and I think we need to ensure that there is space available for everybody to do all sorts of activities within our Active gyms and Active facilities. I do not agree with him that it is not value for money. But clearly if people have issues around accessing gyms and cannot afford it then it is something that we need to address possibly with the Social Security Department. But as far as I know the people that need to access the gyms do get opportunities to use our gyms.

3.6.3 Deputy M. Tadier:

Could the Minister just remind us what the student rate is for joining the Active scheme?

The Connétable of St. Brelade:

Offhand I do not know what that is, but I will get back to the Deputy and provide him with those details.

Deputy M. Tadier:

Would he circulate those figures and maybe announce whether that is the same or less than what senior citizens get charged?

The Connétable of St. Brelade:

Quite happy to do.

3.6.4 Deputy G.P. Southern:

Is the Minister not in danger of discriminating against 80 year-olds in preparing a separate set of rules for 80 year-olds compared to others?

The Connétable of St. Brelade:

I could not agree with the Deputy more. We are the only jurisdiction that I am aware of that provide a scheme for over-80s but I do not want to seem to be heartless and not make available opportunities for those of that age to be able to access the gyms. We have to review it, it has to be sustainable, it has to be affordable. But he is right. In a way it is positive discrimination towards over-80s but it is something I think maybe we should consider a good thing to do. It is well-intentioned, as I have said before, it is something I am happy to carry on but it does need to be reviewed and it does need ... we need to ensure that it is sustainable.

3.6.5 Deputy G.P. Southern:

Is the Minister aware that he keeps saying that he agrees in principle with opening up and encouraging people to stay fit but that the magic word is sustainability, which means we cannot afford it? Is that the result of his boss? What he is saying is: "In principle I agree with helping those elderly stay fit but I am not prepared to do anything about it."

The Connétable of St. Brelade:

I think I have just said that I am going to do something about it by carrying on the scheme. We are going to review it. It has to be within certain eligibility criteria that we have currently got. So I think to say we are doing nothing about it is just frankly untrue.

3.6.6 Deputy M. Tadier:

The Minister has talked about making the scheme so it was for existing members, long-serving, who had perhaps been members for a while so there was a kind of loyalty element to it. Can the Minister confirm whether this is in fact what is being proposed, and, if so, is that not slightly counter-intuitive insofar as surely we want to get new entrants into the scheme, people who have not necessarily been active previously, to incentivise them to join and to do exercise?

The Connétable of St. Brelade:

On his last one I could not agree with him more, we do need to make sure that we keep our elderly people fit and healthy; I cannot agree with that more. But we have to be realistic about how we move forward with this. We currently have issues with the numbers accessing our gyms. I think by opening up or providing free access for more over-80s, it is only even going to put more pressure on those gyms. Should we do more to do it? Nothing is free; there is a cost to everything and I go back to Deputy Southern, there is a cost to everything, there is no such thing as a free meal in this world, we have to pay for these things. I think we have got it right. I think the way we are pitching it and the level we are pitching it at with the over-80s is right.

3.6.7 Deputy L.M.C. Doublet:

Could the Minister provide any details on the exercise referral scheme, which I believe many pensioners are eligible for free access via that method?

The Connétable of St. Brelade:

I can provide the Deputy with it. I have not got it with me to hand but I will provide her with the information she needs in regards to the exercise referral.

3.6.8 Deputy A.D. Lewis:

Does the Assistant Minister, though, accept that keeping elderly people as active as possible, there is a net long-term saving of course to the health service? That is assuming they do not sprain things in the meantime in the gym. But having said that, generally speaking that would be the outcome and I am sure that is what he would like to see happen. So there could be a net-net nil cost, we just do not know. Would the Minister be prepared to investigate that further with the Health Department and see whether this should be continued free of charge at 80? It does change behaviour. We have seen it with bus passes; as soon as people get their bus pass, they get it and they use it and that is what we want them to do, to get out, stay active and keep going. So, could the Assistant Minister assure me that he is talking to the Health Department about this and seeing what the real net-net cost might be?

The Connétable of St. Brelade:

Preventative health care is something that we have already discussed, I think, at length with the Health Department and will carry on discussing. It is important, we do need to keep our over-80s fit and healthy so they can remain in their homes and reduce the burden of the cost on the health service. I think it is all accepted and I think we agree with that. We will have ongoing discussions with the Health Department about how that can be funded, how the Health Department can support the sports division in regards to what they offer and they are ongoing discussions. We have had them recently in regards to exercise improvement and we will carry on having those discussions.

3.7 The Deputy of St. Mary of the Minister for Social Security regarding the possibility of means testing the maternity grant available to new parents: [9559]

Having regard to the Council of Ministers' stated intention to target benefits, will the Minister advise whether consideration has been given to means-testing the maternity grant of approximately £600 which is currently available to all new parents irrespective of their income?

Deputy S.J. Pinel of St. Clement (The Minister for Social Security):

The recent benefit changes, as agreed by the States last year, relate to tax-funded benefits and the need to support investment in key strategic areas such as health and education. The great majority of these tax-funded benefits include some element of means testing and are well targeted to specific vulnerable groups. Alongside these targeted tax-funded benefits the department also maintains a contributory benefit system. Employers, employees and the States make contributions into the Social Security Fund. Pensions and benefits are provided to workers who have made contributions. Entitlement to contributory benefits is based on the contribution record of the employee and benefits are paid at standard rates. Members will be aware that a major review of the Social Security Fund is underway and a public consultation will be launched later this year. This review will seek to understand the extent to which we, as an Island, value each benefit and the role each plays in supporting people with life's events. Maternity grant, adoption grant and the weekly maternity allowance will be part of that review, accounting, as they do, for a spend of around £2.5 million per annum from the Fund. Means testing of contributory benefits would be a new direction for Jersey. In my view it could not be taken lightly or without careful research, consultation and deliberation, and this will underpin the social security review. Thank you.

3.7.1 The Deputy of St. Mary:

I thank the Minister for her reply and I know the review is in process. However, I also note that in the year 2005 there were a total of 997 births on the Island. If each of those, or if the parents of each were to have received their £600, that would mean a total outlay by the States of £600,000. Does the Minister not accept that of that total a number of parents will, particularly with regard to decisions taken to establish careers before embarking on families... does she accept that many of those parents are not in actual need of the benefit and that the funds could therefore be put to greater use?

Deputy S.J. Pinel:

I thank the Deputy for his supplementary question. We are always looking at where funds could be better used. But as I said in my original speech, looking at the means testing of contributions would be a completely new direction for Jersey and we will be looking at all the benefits in the review.

3.7.2 Deputy G.P. Southern:

Would the Minister take the opportunity to extend what she just stated and rule out the possibility of means testing contributory benefits and commit herself in the next 12 months to extending the maternity allowance further to enable better conditions for statutory maternity leave?

Deputy S.J. Pinel:

No, I will not commit to doing that because this is all part of the review which is going to take the best part of 2 years; it is an enormous amount of work to undertake and I will not commit to anything until we have done the consultation.

3.7.3 Connétable C.H. Taylor of St. John:

During the consultation will the Minister examine the difference between families with their first child and subsequent children? Because the first child, you need to buy things like prams, cots, pushchairs, *et cetera*, and subsequent children they can be handed down and there is a difference in the cost.

Deputy S.J. Pinel:

Yes, the Connétable is quite right and every child receives the same grant. There is a big difference between the grant and the allowance. The grant is what was discussed in the question, which is a one-off payment and is used for either a pram or car seat because it is quite an expensive item. But every child receives that £600.

The Deputy Bailiff:

Final supplementary then, Deputy of St. Mary?

The Deputy of St. Mary:

No, thank you, sir.

3.8 Deputy M.R. Higgins of the Chief Minister regarding the growth in net inward migration of registered people from January 2013 to 2015: [9564]

Will the Chief Minister explain the reasons for the growth in net inward migration of registered, i.e. formerly non-qualified people, from January 2013 to 2015 and detail what sectors of the economy such people are working in and estimate the contribution made by those people to income tax receipts during this period?

Senator I.J. Gorst (The Chief Minister):

Could I ask Senator Routier who is responsible to answer this, please?

Senator P.F. Routier (Assistant Chief Minister - rapporteur):

Our economy is performing well and businesses are demanding more staff. Since 2013 we have more workers across a range of sectors. There are 540 more people working in financial services, 410 more in construction, 1,410 more people providing private health and education services, and over 900 extra people in service businesses. Last year, private sector employment in Jersey rose by 1,950 people and we experienced net migration of 1,100 workers. These are the sorts of challenges businesses are facing. With regard to the total taxes new migrants have paid, we are exploring how this can be extrapolated from the tax system. But it is not all about income tax, it is about the wider economic and social benefit to our Island and to the services we need.

3.8.1 Deputy M.R. Higgins:

In the 2015 figures where we had net inward migration of 1,500 people, 400 were “J” cats, so in other words those primarily for the finance industry and so on, and 1,100 were non-qualified employees and we know that many of the non-qualified employees are either on minimum wage or zero-hour contracts. Can the Minister explain where these 1,100 people have gone, the non-qualified ones?

Senator P.F. Routier:

The Deputy is jumping to the assumption that because somebody has a registered licence they are working in the lower paid part of our economy. This is not correct because we do have a number of applications from financial services, from the law section: they do employ people who are on registered licences. But the assumption that the majority do go into the lower paid section is probably correct but it is not by any means the total, where they would go. So, I hope that answers the question.

3.8.2 Deputy G.P. Southern:

The Assistant Minister said he was chasing down the figures for tax revenues from this particular sector, inward migrants. When does he believe he can return to the House with a figure that reflects what the earnings are of these particular inward migrants, the 1,100, and what tax they are paying? When will he report those figures to the House?

Senator P.F. Routier:

We are asking the Tax Department to see if they can do some work but it is going to be a very difficult piece of work. We need to recognise that ... I think Members will have accepted that the additional income tax that was received last year which came from new people coming to the Island through the ... because they pay I.T.I.S. (Income Tax Instalment Scheme) straight away.

[10:45]

There was, because of those people coming to the Island they were supporting other businesses and there was a general increase in tax. It is a difficult piece of work for the Tax Department to achieve but we are asking them to do what they can for us to help to support our work.

3.8.3 Deputy G.P. Southern:

Alternatively, would the Assistant Minister accept that there is an alternative way of assessing roughly what income is being generated by this group in looking at Social Security records? Social Security know who is registered and they know where everybody is working and what contributions have been paid, therefore indicating what salaries are coming in and thereby what sorts of tax.

Senator P.F. Routier:

All that work will be collated together by officers using all the sources we have available to us and no doubt they will be looking at the social security returns to achieve that information.

Deputy G.P. Southern:

If I may just briefly, I have not received an answer to when; when will he do this and report?

Senator P.F. Routier:

I am unable to answer that question at the present time because the work is ongoing.

3.8.4 Deputy M. Tadier:

The question relates to the underlying policy. Can the Minister confirm that the 325 threshold that they put in place is still valid? That is the current policy which the Council of Ministers are working to. There is no new policy that somehow sneaked on to the table without the rest of us knowing about.

Senator P.F. Routier:

I think the Deputy is very aware that the policy which was around was not solely about a number, it was about ensuring that we have the people that we need in our Island to ensure that our productivity and our social and economic environment is the best we can possibly have it. So we are, I think ... I hope Members will recall it; there have been times when I have been asked a question about the 325. I have always responded that if a business comes to us and if we are at the 325 or a number like that, if a business comes to us with a good economic proposition which is of benefit to our Island or whether it is we need more nurses or doctors or whatever, we are not going to say no to those applications. That has always been in the policy right from day one.

3.8.5 Deputy M. Tadier:

The 325 relates obviously to the population, not exclusively to issuing of licences. But the question has to be asked, how many years in a row will this Government have to overshoot that policy, in this case by 3 times as many, so 1,100 compared to 325? Even for people who are bad at maths, it is quite a big margin to miss your target by. How many times will this Council of Ministers have to miss that target before they consider changing the number or getting rid of it completely?

Senator P.F. Routier:

The amount of times I have had to say that it has never been a target and it is not something that is... people have used that word as being a target but it is not a target. We know it is a planning assumption which departments have been using to provide services and we know that not every department is using that same number. We know that the Infrastructure Department have been using a different number, we know that Education, on the annual basis review of the number of places they need in schools, we know that last year the school population ... although the age difference was different but the actual number of children was stable. So it is a matter of every department is reacting in their own way to how they provide services. Finally, just the final point about when we are going to look to doing something different. I hope that Members will become involved, in the autumn of this year, in a workshop which we happen to be holding so that we can all understand exactly what we are trying to achieve with a policy going forward. I would really encourage all Members to get behind a decision-making process which will help us to get a better understanding of what we are trying to achieve.

3.8.6 The Connétable of St. John:

I hope I can remember my question. Jersey is trying to lead the world with digital and we are putting a lot of emphasis on digital. One of the easiest ways of knowing how much tax particular sectors have is by having a unique tax number for each person with a unique digit somewhere in

there and then if you need to know whether they are new immigrants this year, next year or the following year, you need to press 2 or 3 buttons on a computer and it will tell you. Is this something you are looking at?

Senator P.F. Routier:

I thank the Connétable for that suggestion. It is certainly something we can consider when we meet to discuss the way forward in our autumn workshop. Certainly that is an innovative idea which we could look at.

3.8.7 Deputy S.Y. Mézec:

Is the Assistant Minister able to let Members know when he will be able to tell us the date at which he can give us the figures for income tax contributions made by these people?

Senator P.F. Routier:

As of today I am unable to tell you that but as soon as I can let the Members know I will do that.

3.8.8 Deputy S.Y. Mézec:

I am not sure that necessarily answers my question. I was not asking for when he will have that information, I am asking when he will know, when he will have that information.

Senator P.F. Routier:

I think it is one of those unknown unknown questions. I honestly cannot answer that standing here. I will do it as soon as I possibly can.

3.8.9 Deputy G.P. Southern:

Is it not the case that the Assistant Minister cannot accede to the Constable of St. John's request because we still have not got a functioning effective population register up and running, and when does he expect to have a fully functioning effective population policy in play?

Senator P.F. Routier:

I am very pleased to say that the Statistics Unit is very keen to get this up and running as soon as they possibly can. The last we spoke with the Statistics Unit is that they wanted to achieve that sooner rather than later, but again I know this does not give you a date of when that will be but certainly it is one of their priorities to achieve that as soon as they can.

3.8.10 Deputy G.P. Southern:

Supplementary, if I may. Is it not the case that reduction in the Statistics Unit staffing level will make it very difficult to have that population register up and running?

Senator P.F. Routier:

We have touched upon the subject of the numbers of people working in the Statistics Unit previously. What seems to have been missed is that there will be statistics people moving from other departments to work within the Statistics Unit which will bolster their resource to enable them to achieve what they need to do within their work programme.

3.8.11 Deputy M.R. Higgins:

Other Members have raised the fact that the number has been 3 times what were anticipated. How can the Minister say that increased population is beneficial if you do not have figures about how much money they are generating in the economy and contributing to the economy? Also, how can he say it is beneficial when, of the 1,500 that came in there were 300 non-economically active dependants brought with them?

Senator P.F. Routier:

As I said in my opening remarks, it is not solely about economic contribution to the Island, it is about social contribution as well. We need to recognise that even though somebody comes into a position which is not paying a great deal of tax they are supporting our economy generally and we need to ensure that we do make decisions which are tough decisions. It is not just myself, I am joined by the Minister for Housing, the Assistant Minister for Economic Development and the Assistant Minister for Social Security making these decisions which we try and pull together all the information we can and make a decision which is of benefit to our Island and we will continue to do that. But the issue with regard to whether a low tax paying person is of benefit to our Island is not just a straightforward decision about tax, it is about their contribution to the whole of our Island.

The Deputy Bailiff:

Before we move on to question 9, can I give notice to Members that the Bailiff has allowed 2 urgent questions to be put during the course of this sitting? The first is by Deputy Labey of the Chief Minister and the second is by Deputy Southern of the Minister for Health and Social Services. We will take those immediately after the next question.

Deputy G.P. Southern:

Are those questions circulating or being prepared because I do not have a copy of one?

The Deputy Bailiff:

They were circulated by email yesterday, I am informed, Deputy. Your question comes second along so if Deputy R. Labey is not in any difficulty then you will be in a position to get them.

3.9 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the impact of the U.K. decision to leave the European Union on the economic outlook: [9566]

Will the Minister inform Members what impact the U.K. decision to leave the European Union has had on the economic outlook for the next 2 years and beyond, and in particular what effects are likely to the forecasts of growth, inflation and tax revenues made by the Tax Forecasting Group over the period of the Medium Term Financial Plan Addition 2017-2019?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

We acknowledged in the Medium-Term Financial Plan Addition that the global economy has entered a new period of heightened uncertainty and financial market turbulence following the decision of the U.K. to leave the European Union. The precise implications for the U.K. economy, in both the short and long term, remains unclear to most commentators including the finest economists both nationally and internationally. It is therefore simply too soon for anybody to say what the exact implications will be for the economic outlook in Jersey over the next 2 years or beyond. However, in light of the vote I have already written to the Fiscal Policy Panel to seek an update on their March advice, in particular whether in their view there is a reason to change their advice at this stage in terms of the economic outlook, the need to continue to support the economy in the short term, and to aim to balance our books by 2018/2019. I expect that we will receive this advice within a week. I should add that their annual report, that is the Fiscal Policy Panel, is due by the end of August to further inform the Medium Term Financial Plan Addition debate.

3.9.1 Deputy G.P. Southern:

Is it the case that the figures for interest rates, for example, which have a marked impact upon our major industry, have been revised between September 2015 and May 2016, for 2016 down by

0.3 per cent, 2017 minus 0.6 per cent, 2018 minus 1.1 per cent and 2019 minus 1.0 per cent? Will he accept that those figures will be further depressed or likely to be further depressed before we come to debate the Medium Term Financial Plan Addition?

Senator A.J.H. Maclean:

With the greatest of respect, the Deputy is speculating. I have already pointed out that some of the finest economists in the U.K. and globally are struggling with the outlook in light of the U.K.'s decision and the impact not only on its own economy but also the E.U. and the possible, therefore, knock-on effect to Jersey. The Deputy was quoting from the Income Forecasting Group's latest update which was published in July. Again, these figures have changed since last year, as Members would expect. I continually point out that forecasts are exactly that and that is why it is important that they are regularly updated. I have also pointed out that I have written to the Fiscal Policy Panel for an update from them, an interim update before their formal annual report at the end of August. The data will change. At the moment there is a great deal of uncertainty. We will have to react accordingly when we know more about what the forecasts are going to be given some additional information over time.

3.9.2 Deputy M.R. Higgins:

We all accept there is going to be uncertainty but the Minister is aware that the Bank of England is considering a further reduction in interest rates being announced. Although the actual reduction has not been announced, certainly the Governor has been making indications that is the case. What figures have you calculated ... sorry, has the Minister calculated what the effect would be on the interest rates, or the profits made on interest, made by the banks in Jersey would have? How much further will that be reduced and what effect will that have on the shortfall in income?

Senator A.J.H. Maclean:

Well, first of all the Minister has not calculated but the Minister has advisers who are looking at a whole range of indicators. They are the Income Forecasting Group, which also include 2 external independents, and they have looked at - and the latest income forecasting numbers were published, as I have said, in July - they will be looked at again in light of the report that the Fiscal Policy Panel will publish at the end of August and will be updated further if there is a need to do so, depending on some of the points that the Deputy has referred to, like the possibility of interest rates reducing.

[11:00]

Nothing has happened yet, there is merely speculation, but that is one of the tools in the armoury for the Bank of England. They have a number of tools in their armoury should the U.K. economy need support in the coming weeks and months and, for that matter, years ahead and we will have to react when the facts are known.

3.9.3 The Deputy of St. John:

Understanding the uncertainties surrounding forecasting, as has always been the case, could the Minister explain and spell out in absolute clear terms what the flexibility that is built into the M.T.F.P. Addition is in order to deal with the consequences that we are unable to foresee?

Senator A.J.H. Maclean:

If I may say so, that is an excellent question from the Deputy of St. John. I have on many occasions said in this Assembly that it is absolutely critical that the Medium Term Financial Plan has flexibility built into it and it does. It has got a number of areas of flexibility, for example, we have insisted that the Consolidated Fund would have a minimum balance of £20 million per year and Members will have seen in the plan that was published that that is the case. There is £7 million of contingencies. One of the areas that the economy can be assisted or one would react to a

downturn in economic fortunes, would be the automatic stabilisers and that would be through the Social Security Department as one might see the economy turn down, jobs being lost and therefore more benefits being paid out. Social Security has within its budget an additional £1 million and £2 million further held centrally through the Treasury Department. There is plenty of flexibility, we believe, within the plan to take into consideration the period of uncertainty that we face. If, however, the situation were to deteriorate further, we do of course have reserves and one of the considerations that we would need to bring forward to this Assembly would be the use of reserves to populate the Stabilisation Fund for targeted timely interventions in the economy should it be needed, I hasten to add, should it be needed in the future. We do not believe that at this stage that is likely to be the case.

3.9.4 The Deputy of St. John:

Supplementary. In the Minister's answer he referred to automatic stabilisers, a £1 million or £2 million contingency that is held in Social Security, or is it held by Treasury? Could the Minister just clear that up and also explain what reserves are left?

Senator A.J.H. Maclean:

In terms of the automatic stabilisers, it is £1 million held within the Social Security budget and there is £2 million held centrally within Treasury and Resources. It is interesting, perhaps, for Members to be made aware that during the course of the recessionary period that started in 2008 there were similar contingencies in place within Social Security, and Members will be aware of the significant numbers of jobs that were lost and the stress the economy was under. Nevertheless, over the 3-year period of the first Medium Term Financial Plan there was enough in those contingencies and in fact at the end of the period there was £12 million of underspend left which does suggest that some of the investment that went into areas like Back to Work, was very successful indeed.

3.9.5 Deputy G.P. Southern:

Will the Minister just briefly focus on figures that we have some understanding of, without any doubt? The figures for 2016, which we are in, show that real G.V.A. (Gross Value Added) down by 0.4; R.P.I. (Retail Price Index) down by 0.2; nominal G.V.A. down by 0.4; compensation of employees, the source of our tax, down by 0.7; average earnings down by 0.2; interest rates down by 0.3. Does he have any indicators in his armoury to suggest that any of those figures will improve between 2016 and 2017?

Senator A.J.H. Maclean:

That is why it is extremely important that the Income Forecasting Group, in particular, and the economic advice that independently is received through the F.P.P. (Fiscal Policy Panel), looks at all the prevailing factors and takes those into consideration when forecasting over the term of the M.T.F.P. and why those forecasts are updated on a regular basis. I think what we have seen in recent years is an improvement although there have been some drops that the Deputy has referred to, for example banking deposits. I am not sure whether he mentioned those, they did fall in 2015 driven largely by foreign currency deposits which are impacted upon by variations in exchange rates. That is not surprising but we have also seen - and my colleague behind, Senator Routier, was alluding to the improvement in the job market - employment in the financial services sector, in particular, in December 2015 was at its highest level since June 2009. So although we have seen some stresses in the banking area, we have seen trust and legal sectors growing. There is a fluid and volatile environment. There are some positive signs we have seen in the economy. We have seen extra income coming in last year generally as a result of improved performance within the economy. Part of it was an accounting policy change, I accept, but nevertheless the income was up and that is encouraging. We also saw areas, within the financial services sector, where bonuses,

5,500 per employee, were 12 per cent higher than in 2014. So there are some encouraging signs within the economy. We do face some uncertainties ahead and we have flexibility within the plan to deal with the majority of that volatile area.

4. Questions to Ministers without notice - The Minister for Treasury and Resources

The Deputy Bailiff:

That brings the standard oral questions to an end. Notwithstanding what I said on the last occasion, because there is some difficulty with printing out the urgent oral questions, we propose to take those after the next question periods to Ministers without notice. So the first question period is for the Minister of Treasury and Resources. Deputy Tadier.

4.1 Deputy M. Tadier:

Can the Minister say why the new health tax - sorry, I am not sure if I am allowed to call it a health tax but it seems to be that to me - has been capped at circa £160,000?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

The Deputy can of course call it whatever he wishes. We choose to call it a charge because it is specific and we have made it clear that there is going to be a ring-fence effectively to the monies raised and it is going to be used specifically for addressing areas, specifically within P.82/2012 approved by this Assembly for additional investment in health and health services.

4.1.1 Deputy M. Tadier:

That is fair enough. I mean hypothecating funds is perhaps slightly unusual, that is not normally what we do with taxation and spending but of course it is still possible for the Minister to have a hypothecated fund and not to have the cap on there. So will the Minister explain why he has chosen a cap for this hypothecated tax/charge?

Senator A.J.H. Maclean:

First of all, I did not talk about hypothecating, that would indeed be more akin to a tax and I would agree to that particular point. With regard to the cap, the Deputy will be aware that we have utilised an existing system, the Long-Term Care system that was put in place utilising the social security contributory payment system which has the cap at £162,000. It was simpler and easier, and indeed more progressive, which I am sure is something that the Deputy would find positive, to use a system of that nature than to use some of the other areas that were considered. Members will not be surprised that all potential areas of collection to fund additional investment in health of this nature have been considered by the Council of Ministers and discounted for various reasons.

Deputy M. Tadier:

I rose to my feet to reluctantly raise a point of order being aware that we are entering into Alice of Wonderland territory when one's words can mean whatever they want to mean. But I think the Minister has been misleading the Assembly by suggesting that having a cap there is progressive because progressive ...

The Deputy Bailiff:

Well, Deputy, presumably you are alleging the Minister is unintentionally misleading the Assembly.

Deputy M. Tadier:

I am sorry, he is unintentionally misleading the House because you cannot say that this charge is progressive when the most wealthy are let off paying 1 per cent on their ...

The Deputy Bailiff:

Well, no, Deputy, I do not think that is a point of order, it is nothing upon which I can make possibly a ruling. If there is time you can ask another question of this Minister before the time expires. Deputy Mézec.

4.2 Deputy S.Y. Mézec:

The Government's stated aim with the introduction of this health tax is to allegedly find a sustainable way of providing the costs for health care into the future now that we have an ageing population. By my very quick calculations, when the health tax reaches its 1 per cent rate it will only raise 7 per cent of the Health budget and that will be at 2018, just in time, very conveniently, for a general election. Would the Minister like to indicate whether or not it is in fact the case that for it to truly be a sustainable method of funding healthcare costs into the future, that it will need to be significantly higher than 1 per cent; and could he reveal what plans there are into the future to keep it at 1 per cent or whether it will be for the public ever-increasing taxes?

Senator A.J.H. Maclean:

The Deputy is asking me to look into a crystal ball to assess what the likely future profile of health spending is going to be. What we have seen in the past - and this is not unique to Jersey - is that health spending globally has been rising, and rising significantly above inflation. We have seen the same impact here in Jersey, we have the same challenges as other places, with ageing population and so on. So there is a likelihood, every likelihood I would suspect, that in the future that charge could increase. I could not say anything to the contrary. I cannot say it will, I cannot say it will not, but looking at the past it is not unreasonable to speculate that that could be the case.

4.3 Deputy K.C. Lewis:

At the last States sitting the Minister gave various assurances regarding the P.F.O.S. (Perfluorooctyl Sulphonate) contamination by the airport. Since then there has been public comment by a resident of the area alleging bullying behaviour by Ports on this matter and that Ports were reneging on previous assurances. Will the Minister assure the Assembly that he will not allow Ports to renege on previous assurances given and that he fully condones any bullying?

The Deputy Bailiff:

Presumably you mean he does not condone any bullying.

Senator A.J.H. Maclean:

I do not think anybody would condone bullying and clearly that is an allegation that has been made according to the Deputy. I know nothing about the circumstances around it; if he would like to supply that information I am very happy to have a look at it. I would be very surprised if members of the Ports of Jersey staff would involve themselves in such activities. I would certainly not expect that to be the case. It would be completely unacceptable. What I am aware of, and I think I made this point last time, is that the Ports are trying to move on the P.F.O.S. issue. They are trying to settle with residents and as far as I am aware progress is being made, and I think that is to be welcomed.

4.3.1 Deputy K.C. Lewis:

Supplementary. Will the Minister uphold previous assurances given?

Senator A.J.H. Maclean:

I am not entirely sure what the Deputy means by “previous assurances given”. This matter has been going on since the 1990s, over a passage of time. I am aware myself, because I was involved, that there were draft settlement agreements put in place and the idea was, based on legal advice, that all residents would be required to sign the draft settlement agreement. At that time not all residents - and I think if I remember correctly there was something like 60 or 70 involved - were prepared to sign the draft settlement agreement. That particular arrangement, therefore, fell by the wayside. What the Ports are trying to do now is negotiate with individuals to reach settlement on any that are outstanding and I think that is a good way forward.

4.4 Deputy R. Labey of St. Helier:

We have heard from the Minister for Education this morning about his proposals to cut the salaries of newly appointed teachers from £38,000. Can we look forward to a time when the Minister for Treasury and Resources and his colleagues will apply the same rules to those at the higher end of the scale so that, for example, when the time comes a newly appointed Chief Executive does not have to be paid in excess of £200,000?

Senator A.J.H. Maclean:

I think the important point is that all staff within the States of Jersey, whatever role they are undertaking, should be paid a fair wage for the role that they are undertaking, and I think at the heart of that is the work that is being undertaken on workforce modernisation. That is part of the reform programme and it will give due consideration to looking at and benchmarking all the various roles across the whole of the public sector and I think that will, more than anything else over a passage of time, get us to a position that the Deputy and I am sure other Members would be keen to see.

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

I thank the Minister’s department for the press release: “Departments collaborate to regenerate St. Helier and promote urban life.” There are 3 headings: public space, housing and office space. The last 2, housing £200 million and office space £150 million... could the Minister - and I do not want a crystal ball answer, I would be going to a fortune teller if I wanted a crystal ball answer - tell me how much, because it is not in the M.T.F.P., I have been promised it since we are going to promote St. Helier, how much and where is the money coming from to do all this work in the public open space in St. Helier? Thank you.

[11:15]

Senator A.J.H. Maclean:

I have not got my crystal ball in front of me, I think I would welcome having one if it worked. The Deputy is referring to a press release which I think highlights, if I remember correctly, first of all, the investment that the S.o.J.D.C. (States of Jersey Development Company) are making in the Jersey International Finance Centre and also residential developments such as College Gardens and on the Waterfront. It talks, over the period of the plan, that the amount of money that is being generated through the activities of that entity, so it is borrowing money to invest, is going to benefit St. Helier with open spaces and suchlike. As the Deputy will know, the finance centre has an area of open space, the new developments ... College Gardens has open space and there will be knock-on profits which will lead to further regeneration and that is fed through and informed by the Regeneration Steering Group.

4.5.1 Deputy J.A. Martin:

Supplementary. So, the Minister's interpretation is public spaces; squares in housing estates and some little bits of green areas around offices. Has the Minister not considered putting aside any

money to absolutely make a difference in St. Helier and that is to extend the Town Park because I think we were promised this money and I cannot see any money really coming towards St. Helier for the real open spaces? So, is the answer yes or no for the Town Park?

Senator A.J.H. Maclean:

The significant amount of investment that we have been referring to, the S.o.J.D.C. but there is also Andium. The majority of the investment that Andium are making is in the St. Helier area, so between the 2 you have got close to £350 million over the plan period which is being invested in improving houses, improving associated open spaces and suchlike. In fact, the area of open space at the Jersey International Finance Centre is similar to that of the Royal Square.

4.6 The Deputy of St. John:

Could the Minister for Treasury and Resources advise whether there are plans to incorporate health and how much that will cost and where I can find it in the M.T.F.P.?

Senator A.J.H. Maclean:

No, there are not plans to incorporate health. There are plans to look at the future oversight, management and governance of the Health Department. I know the Minister for Health and Social Services has been looking at that and I think in this Assembly, if I recall, he has mentioned the possibility of an oversight board doing that from an advisory point of view, not in a statutory way.

4.7 Deputy G.P. Southern:

Will the Minister for Treasury and Resources define carefully for Members the difference, as he sees it, between a charge and a tax, and accept that he desperately wants not to call the new health charge a tax so that he can then boast the headline rate of 20 per cent tax will not be moved, whereas in fact it will be effectively at 22 per cent?

Senator A.J.H. Maclean:

It is an interesting question because this is not unique to Jersey. There are debates on a far wider scale as to definitions for charges, fees and taxes. It might be interesting for the Deputy if I were to venture a view and definition for taxes. Taxes, to my mind, are compulsory, unrequited payments where unrequited means that the payer does not receive anything directly in return. That could be one definition that would identify, whereas the charge that we have referred to for the hospital or for health charges, more to the point, is a ring-fenced fund. We know the mechanism that we are going to use and that money would be put directly into services identified. We have talked about P.82/2012 approved by this Assembly and that is largely where the funding would be targeted for the benefit of Islanders.

4.7.1 Deputy G.P. Southern:

Will the Minister be still travelling the world announcing we have a 20 per cent tax rate?

Senator A.J.H. Maclean:

We do have a 20 per cent basic rate of income tax. The Deputy knows it perfectly well. We do have a range of other charges and we have a range of fees. Some of those are designed for different purposes; some are designed to change behaviour, some are designed to ensure cost recovery, some are designed to ensure that revenues are raised. There is a whole mixture of ways in which fees and charges and taxes are levied in order to fund public services at the high quality we expect.

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

Can the Minister explain to me why he believes that a person who is earning £60,000 a year pays one per cent health charge but a single person who is earning more than £164,000 a year will pay less than the one per cent? Can he explain to me why he believes that is fair?

Senator A.J.H. Maclean:

I think the Deputy said “health charge”, was that what I heard her say? Yes, fine. Basically, the health charge will be introduced in 2018 at 0.5 per cent and one per cent in 2019, and it will apply to taxpayers. The rate I referred to earlier, for the benefit of Deputy Tadier, is broadly progressive on the basis that it goes up to 162 and those that earn more pay more as they go up, and depending on their independent circumstances they will pay according to those circumstances. There will be various exemptions that individuals will be entitled to and they will get those depending if they are single, if they are married and so on. But generally speaking you will see that rise in a proportional way, and standard rates taxpayers, which account for 15 per cent of taxpayers, will pay at the full rate. Marginal rate taxpayers will pay at a lower rate than that according to the circumstances that I have just briefly outlined.

Deputy J.A. Hilton:

Supplementary. In ...

The Deputy Bailiff:

I am afraid, no. I am afraid, Deputy, the time allocated for questions for this Minister has come to an end.

5. Questions to Ministers without notice - The Minister for Education

The Deputy Bailiff:

The next question period is for the Minister for Education. Connétable of St. Mary.

5.1 Connétable J. Gallichan of St. Mary:

Notwithstanding the good work already going on in our schools, does the Minister recognise that language education in this Island needs a thorough and prompt review in order to inform an improvement plan, and, if so, what does he intend to do about it?

Deputy R.G. Bryans (The Minister for Education):

Thank you for the comments, Constable. Yes, I do agree. We are reviewing languages at this moment in time. Just yesterday I was informed - Members may be aware - that we are bringing a Mandarin-speaking teacher over for the whole year. Forty students have already signed up for that course which indicates a desire for it and I am having a meeting with my Assistant Minister and a couple of officers to talk about a bilingual school. So it is on our agenda, we are looking at it. Thank you.

5.1.1 The Connétable of St. Mary:

Supplementary. Does the Minister agree with me that it would be a real target to have all of our youngsters leaving school with at least one extra language?

Deputy R.G. Bryans:

Yes. To amplify that we have doubled the numbers of primary school children who are now learning French, so I think that indicates the direction we are taking.

5.2 Deputy G.P. Southern:

Will the Minister for Education accept that for teachers to see that their terms and conditions and their salaries, for newly qualified teachers at least, were being discussed, and to read that in the *J.E.P.* ... rather than to have that informed through their representatives from the Minister?

Deputy R.G. Bryans:

As I explained to the Deputy earlier, we have been in discussions - not formal discussions I will admit - with the unions, they were fully aware of our considerations. Newly qualified teachers tend to be coming from the U.K. so would not be seeing this sort of discussion going on here on the Island.

5.2.1 Deputy G.P. Southern:

Supplementary, if I may. Were those discussions about modernisation process in general or were they specifically about cuts of up to £8,000 to newly qualified teachers' salaries?

Deputy R.G. Bryans:

I think the Member is aware that we formed something of a partnership with the unions some time ago, well in advance of the Medium Term Financial Plan. Every step of the way we have tried to inform them, when appropriate and when we could, of other considerations we were making. So we have a very common and open dialogue.

Deputy G.P. Southern:

He did not answer the question at all.

The Deputy Bailiff:

Perhaps we will come back and answer that later.

Deputy G.P. Southern:

This is ridiculous.

5.3 Deputy K.C. Lewis:

Does the Minister support the teaching of J, rriais in Jersey schools and can he explain the rationale of it being transferred to Economic Development, the teaching of?

Deputy R.G. Bryans:

Just to answer the last bit first. The rationale for the J, rriais being transferred, it was part of the cultural package when both culture and sport were transferred to that particular department, so I do not hold the responsibility for J, rriais. I do believe, and I have been quoted as saying several times, that I think it is important that J, rriais remains on the agenda and I know that Senator Ozouf is, in particular, doing great work looking at trying to keep this ... maintain it through a digital offering. But I think it is still important, we are still offering ... we have gone into a situation now where we are looking for teachers to teach J, rriais within our schools.

5.4 Deputy M. Tadier:

We have been informed that a president of a major teaching organisation union in Jersey has said that they were not informed of these plans to reduce N.Q.T.s' salaries. Is he incorrect in that information?

Deputy R.G. Bryans:

I could not comment. I do not know who the Deputy is particularly referring to but, as I say, we have always been quite explicit with our conversations with the unions. We feel we have a very

good relationship with them and where we can and where appropriate we do inform them well in advance.

5.4.1 Deputy M. Tadier:

I think the Minister can answer. This union president and his union would have either been told in advance by the Minister and the department or they would not have and they claim that they were not told. So, can the Minister simply put on record whether this union representative is labouring under a false impression or in fact the department has not been communicating properly with those individuals?

Deputy R.G. Bryans:

As I have already said, no, that is not particularly the case. I would say, as I said in the answer to one of the questions previously, these are just proposals and they are still to be debated and they are still to be debated along with the union representatives and along with the States Employment Board.

5.5 Deputy G.P. Southern:

Risk everything, why not? I believe and I have evidence that the Minister is misleading the House. Now, whether he thinks he has said something about major cuts to N.Q.T. salaries being informed, being told to the unions when he thinks that might have happened but it has not happened. It did not happen until the leaks occurred in the plans for the M.T.F.P. Addition. Will the Minister consider carefully his words and inform Members here and now whether that information had been discussed with union leaders?

The Deputy Bailiff:

Deputy, before the Minister answers I am taking, from the form of your question, that you are hypothesising that the Minister may, because he has forgotten something, have unintentionally misled the House.

Deputy G.P. Southern:

Indeed, sir.

The Deputy Bailiff:

Thank you very much.

Deputy R.G. Bryans:

In my own mind, we have had, like I say, discussions with the union representatives and there was a situation where we wanted to make sure before it went into the public domain that the union representatives were aware of our considerations. In my own mind, I think that happened but I could be wrong, as the Deputy says. I am quite willing to admit if I have made a mistake. I do not mean to mislead the House at all. The considerations and the discussions will continue and the unions are fully aware of our situation.

5.5.1 Deputy G.P. Southern:

Supplementary, if I may. Will the Minister produce for Members either minutes or notes or emails or letters that clearly indicate that this piece of information on N.Q.T. salaries was communicated to the union representative?

Deputy R.G. Bryans:

If such things exist, yes, I am more than happy to do so.

5.6 Deputy M. Tadier:

Is the Minister committed to saving J, rriais, which, we learnt a couple of weeks ago, is critically endangered as a language in our Island, and, if so, why did his department make the decision to reduce the funding for J, rriais, and in particular the Don Balleine Trust which deals with the promotion of the language, by £29,000 before handing that over to Economic Development?

Deputy R.G. Bryans:

Yes, I am committed to J, rriais but again, just to inform Members, it does not fall within my remit, it falls within the remit of the Assistant Minister for Economic Development. But I still think it is a very important thing. I think it is desperately important for the Island that we maintain the language. With regard to the £29,000, that was a consideration that was made well before the actual transferring over of the department.

5.6.1 Deputy M. Tadier:

That is right and so the reduction was made by the Education Department before it was handed over.

[11:30]

So if the Minister is so committed to preserving and enhancing J, rriais as a spoken language in the Island, why on earth would he cut its relatively paltry budget already by £29,000 pushing them into further hardship and therefore endangering the language's future going forward?

Deputy R.G. Bryans:

That is not the consideration that was made. At the time we were looking to, as we have done with all of our costs and our savings that we have to make, we look across the board and see what has been most effective. As it happens, over the last 10 years, I think, we have paid £1.5 million into the J, rriais Department. So at the point in time, well before the consideration of it being moved across, we saw that the department could take that particular cut.

The Deputy Bailiff:

Senator Ozouf, is it that you wish to ask a question because obviously it would not be normal for someone who had access to ministerial colleagues to ask a question?

Senator P.F.C. Ozouf:

As an Assistant Minister I thought that if nobody else had put their light on that I could.

Deputy M. Tadier:

Especially when there are other people waiting.

The Deputy Bailiff:

Well, at the time the Senator's light went on there were no other people waiting. So, yes, please, go on.

5.7 Senator P.F.C. Ozouf:

One of the Parishes where J, rriais is still spoken widely is St. Martin and I wondered whether or not the Minister would be able to say anything about the recent opening of St. Martin's School, which, as one of the Members of the Assembly who was there at the opening, would say that good schools need good teachers but they also need good facilities? Would the Minister for Education join me in congratulating all those people involved in the opening of St. Martin's School as a fantastic new facility for people in St. Martin?

Deputy R.G. Bryans:

Well, I thank the Senator for that and to make sure that the time is shortened, yes, of course I do. I think it is a testament to what we are doing with the Education Department.

5.8 Deputy G.P. Southern:

Would the Minister for Education please inform Members what progress has been made discussing the potential outsourcing of cleaning services in educational establishments?

Deputy R.G. Bryans:

Once again, this falls under the remit of the States Employment Board. I think the gardening fraternity, within Education, are being dealt with through the Property Holdings situation so I do not get involved in that.

5.8.1 Deputy G.P. Southern:

Would he inform Members how much his budget is expected to reduce by any such action by the S.E.B. (States Employment Board)?

Deputy R.G. Bryans:

I do think it is reported in the M.T.F.P.. I do not have the figures to hand but I am quite willing to pass them around the Assembly.

5.9 Deputy M. Tadier:

Would the Minister for Education get together with his colleagues at Economic Development and would he seek to find £29,000 either from his budget or from collective budgets so that we can reverse this cut to J, rriais so that a Back-Bencher does not have to bring an amendment to the M.T.F.P.?

Deputy R.G. Bryans:

I think we have a very good relationship with Economic Development but, no, we will not be looking at our budget, which is extremely strapped at the moment, to replace that £29,000.00.

5.9.1 Deputy M. Tadier:

Would he at least have a conversation with his ministerial colleagues to establish whether there is a consensus in the ministerial ranks that J, rriais is in fact in danger, that it needs to be preserved, and that the only way we can do that is certainly not to cut its budget at a time when it is critically endangered but possibly to even find a longer term enhanced budget for J, rriais along with a proper plan for its protection and enhancement going into the future?

Deputy R.G. Bryans:

I do not think it is a matter of budgets. We are working very closely because we have been asked to supply teachers to continue this. In fact it was probably when I became Assistant Minister that I first came across the concerns about J, rriais and said to them at the time there was a real concern on my part that this was not sustainable in the way that it was constructed. Various conversations went on and then, as everybody now knows, it moved across to Sport and Culture. So I continue in my support with it. I continue having discussions but I cannot change my budget.

5.10 Deputy J.A. Martin:

That follows on nicely. The question the Minister said then and earlier that he is actively ... I thought he said, looking for new teachers, as we know the 2 people who teach now are near retirement if not actively retiring shortly. So if his department is looking for ... I am presuming this will be taught in our schools, would the Minister confirm this and then if it is the case why would

he not take the budget back, if he is so committed in protecting this language as something that should be taught in our school?

Deputy R.G. Bryans:

This is really a continuance of J, rriais which sits outside of Education in its context. It was requested of us because we supply teachers, that is exactly what we set out to do. I think that at a point in time just fairly recently the budget has been transferred to us to make that happen and we are still committed to it, I have said this several times over, but it does not fall into my domain.

5.10.1 Deputy J.A. Martin:

Clarification? The budget has now come back for the teachers on J, rriais? I am very confused. I mean who has got this budget and who is really championing J, rriais?

Deputy R.G. Bryans:

We are talking about 2 different budgets. Deputy Tadier mentioned £29,000, which was an earlier decrease in the amount that we pay J, rriais. The budget I am referring to is the budget to pay for the 2 teachers who are now being chosen.

6. Urgent Oral Questions

The Deputy Bailiff:

I am sorry that brings time for questions to this Minister to an end. We now move on to the oral questions. I will give Members notice of that fact that there is no time specified within Standing Orders for oral questions. I therefore propose to allow for each question the same amount of time normally that is allowed for the standard oral questions earlier before moving on. The first question Deputy Labey will ask of the Chief Minister.

6.1 Deputy R. Labey of the Chief Minister regarding review by departments of findings of the States Complaints Board:

Given the immediate rejection of the States Complaints Board's recent findings by the States Employment Board and the Minister for Health and Social Services what confidence can we have that States departments will be reviewing those findings with open-mindedness or that any member of society would in future have any desire at all to sit on the States Complaints Board now?

Senator I.J. Gorst (The Chief Minister):

The matter recently considered by the States Complaints Board has been the subject of considerable and regular review throughout the nearly 4 hours of the complaint, most especially and in detail by the then Solicitor General. His investigation found that while there were clear procedural issues that needed to be addressed, and subsequently were, the decision to withdraw the contractual offer of employment was the right one for the hospital given the breakdown in relationship between Mr. Alwitary and the hospital clinical leadership and management teams. Unfortunately, the Complaints Board discounted the independence of the former Solicitor General's report. His report is the only report that has had the benefit of interviewing all those involved, including Mr. Alwitary, which the Complaints Board was not able to do. As was stated in the press release of last week, the States Employment Board will be responding in detail to the recommendations made by the Complaints Board in due course.

6.1.1 Deputy R. Labey:

I wonder if the Chief Minister could expand on the comment by his employment board that while procedural aspects of the case were unsatisfactory - the understatement of the year - even if they had been correct the outcome would be the same because we have been here before, painfully, and

this is not acceptable in the 21st century. They keep saying that lessons have been learnt. Well, clearly, lessons have not been learnt.

The Deputy Bailiff:

So your question was asking the Chief Minister ...

Deputy R. Labey:

I asked him to expand on that statement.

Senator I.J. Gorst:

He says that lessons have not been learned but he bases that upon one report of an incident that happened around 4 years ago. We will be responding in detail to all the issues raised by the Complaints Board. We will publish the former Solicitor General's report with that detailed response and subsequent to those procedural problems the hospital have employed just short of 20 other consultants and they have employed them appropriately and with a process that we can be satisfied is the appropriate one. So it is wrong to say that lessons have not been learned. They have.

6.1.2 The Deputy of St. John:

Does the Chief Minister not agree that it is about time that we request that there is a fully independent assessment of H.R. (Human Resources) and senior management within the public sector to prove that lessons have been learned and that we can move forward with an appropriate human resources practice and an appropriate corporate structure?

Senator I.J. Gorst:

I think the Deputy knows that there have been changes in the H.R. structure and the way that they are delivering the service. They have much more information about what is happening right across all departments and the policy and processes that are being followed. We obviously accept that there were procedural issues in this particular case, but ultimately the correct decision, when one looks at the former Solicitor General's report, that report says that the correct decision was made. I would welcome any Scrutiny Panel wanting to engage and review the changes that we have seen and delivered across the H.R. system because I think that would be of great benefit to delivering confidence to Members of this Assembly and wider members of the community.

6.1.3 The Deputy of St. John:

Supplementary. The Chief Minister is suggesting that Scrutiny Panels can review operational practices and, as I understand it, we have been warned off that many times with regards to looking to operational practices. Would it not be better that a fully independent assessment - not review, assessment - of the way that these things are carried out is done so that there is evidence to prove that things have been learned and we can move forward?

Senator I.J. Gorst:

I am sorry if Scrutiny have been warned off from doing anything. I thought they had a wide remit. As I stand here trying to answer the question fairly, I do not think that another costly independent review is the way but I certainly would be happy to speak with the Appointments Commission. We have a first class independent chairman of that commission. They carry out audits already and report to the States Employment Board and I would certainly be happy to have a conversation with the chairman to see whether there was not some piece of work which would perhaps satisfy the Deputy, along the lines that she is suggesting, and I will take that forward and see if we could not do that.

6.1.4 The Connétable of St. John:

Would the Chief Minister agree that governments get things right and governments get things wrong and the measure of the success of a government is how much they get right and how much they get wrong? However, the reputation of a government is how they treat things when they get it wrong. Will he admit that in this case you were wrong, apologise and make up the necessary apologies.

Senator I.J. Gorst:

The Constable knows that there are always 2 sides to every story. As I said in my opening response, this is an issue that the States Employment Board, and I know the present and previous Minister for Health and Social Services, wrestled with and tried to find an appropriate solution in the early days of this arising. We thought, and hoped, that mediation might be the answer. That proved not to be the case and it was felt by the States Employment Board that the best approach was to take one step back and to have an independent review by the then Solicitor General. That review was undertaken. It took many months. There were many interviews undertaken with all those people involved and the finding of that review does not correlate with the finding of what the Complaints Board is suggesting and that is why I believe that the correct course of action now is to do a detailed response to the Complaints Board finding and to publish the former Solicitor General's review. Then Members will have both sides of the story and they will then be able to make their own minds up about what has been a difficult and complex issue.

6.1.5 The Connétable of St. John:

Supplementary. The reputation of the Government rests on how you deal with a problem when you have got it wrong. My worry is that my name is being tarnished, as is the name of the whole Assembly, when you fail to take the correct action.

The Deputy Bailiff:

Was there a question there, Connétable?

The Connétable of St. John:

Yes. Will he take the necessary steps to apologise?

[11:45]

Senator I.J. Gorst:

I can assume that the Connétable has not had sight of the former Solicitor General's report. He obviously has not had sight of the detailed response that the States Employment Board, together with Health and Social Services, are providing. So I ask him to wait to ask that question until he has had sight of both of those.

6.1.6 Deputy J.M. Maçon of St. Saviour:

In this particular case it appears that when patient safety concerns are raised the machinery of government works in order to stamp that voice out of our services. That is how it is coming across. We know that in previous reviews, such as the Verita Review, that there may be a culture of fear within particularly our health service. What or how, with this news, will the Chief Minister provide confidence to those working within our public services that when they have genuine concerns about patient safety that they will be listened to genuinely and what protections are there for these individuals so that they will not be, as seems to be time and time again, hounded out of our services?

Senator I.J. Gorst:

That is not the case. There were a number of complex interacting issues in this particular regard and the Member will see that when the States Employment Board give their detailed response and

when he has the benefit of seeing the former Solicitor General's review patient safety is extremely important at the hospital and by the whole of Health and Social Services. I leave it to the Minister for Health and Social Services in answer to his next question to touch on that in further detail but Members will see that these issues, when they have the benefit of all the information, are not straightforward and even issues like patient safety clinicians, themselves, do not always agree about what the best timetabling is, about what the best processes are to ensure patient safety for all.

6.1.7 Deputy G.P. Southern:

Does the Minister accept, or not accept, the condemnation of the Complaints Board when it says: "We have no hesitation in concluding the decision to withdraw Dr. Alwitry's contract of employment was contrary to law, unjust, based on irrelevant considerations and misunderstandings as to the factual position and conclusions on alleged facts and law that could not have been reached by a reasonable body of persons properly directing themselves as to the facts and law"? Does he accept that fundamental condemnation?

Senator I.J. Gorst:

No.

6.1.8 Deputy M.R. Higgins:

First of all, I have to say that I do not accept the Chief Minister's assertions that lessons have been learned. Those of us who are dealing with States departments have found repeatedly that they go on the defensive as soon as ...

The Deputy Bailiff:

Deputy, please, this does have to be a question. There are many people who would have liked the opportunity to ask questions. It cannot be a statement.

Deputy M.R. Higgins:

Fine, I shall. Will the Chief Minister allow, as the Deputy of St. John asked for, an independent body to look at these complaints because there are States Members here who have beaten their head against the wall with States departments who go defensive and in fact delay. So will he agree to an independent body and let all the States Members who have had trouble with States departments, and can prove they have not learned their lessons, be able to put that in public?

Senator I.J. Gorst:

I sometimes do wonder how to respond to the Deputy when he makes such outrageous unsubstantiated comments about our staff. He wonders why they are demotivated. He wonders why they will not engage with him when he makes such outrageous comments in the public domain.

Deputy M.R. Higgins:

Absolute rubbish.

Senator I.J. Gorst:

But I stand by the commitment that I gave to the Deputy of St. John because I think that her suggestion is something that I can work with, with the independent chairman of the Appointments Commission who has vast experience of employment of civil servants in the United Kingdom and is a lady that in no way at all pulls any punches and I think would give confidence to Members having undertaken such a piece of work and then briefed Members about her findings and her opinion of where we are on the journey to change.

6.1.9 Deputy R. Labey:

Let us not be blinkered. We have all heard from health service staff who crave a competent, confident, secure senior management who can be challenged on practices without a black mark being put to their name or them being fired before they are hired.

The Deputy Bailiff:

Deputy, could you please ask a question?

Deputy R. Labey:

Would Ministers please do something to keep management in check rather than colluding with them on 19th century practices?

Senator I.J. Gorst:

Sometimes in this Assembly outrageous things are said. I have to be extremely careful because I can fear compromise because I, of course, do know, to some extent, as other former Ministers do, and understand the difficulties that those on the shop floor providing care to members of our community have to encounter day-in day-out and we ask them to do difficult jobs. We ask them to do that often under pressure. They deserve our support. It cannot be a simply clinicians and management divide. The work that the current management at the hospital have undertaken, post the Verita Review, the work that the former Minister for Health and Social Services started, to bridge what was a divide, and in the past some of the comments might have been appropriate, has been outstanding. The issue here ... the Deputy looks away. He has made his comment and now he feels satisfied. The issue here was not about what people would consider as management, i.e. management that they had no clinical skills. The issue was about the clinical leads, those with clinical qualifications, and what they felt about the process and what they felt about the outcome not, as the Deputy is trying to suggest, bureaucratic management sat in offices.. These were clinicians making recommendations to the Minister and to the Sates Employment Board. When Members have the full details of those reports and of the detailed response they will be able to see that. It was Ministers supporting clinicians, not management, and I would ask that Members of this Assembly think very carefully before they start making outrageous statements about staff in this Assembly.

The Deputy Bailiff:

Very well. That brings us on to the second urgent question that Deputy Southern will ask of the Minister for Health and Social Services.

6.2 Deputy G.P. Southern of the Minister for Health and Social Services regarding thorough review of the complaint made by an Ophthalmic Consultant:

More of the same I am afraid. Given the recent statement from the States Complaints Board in relation to his and the States Employment Board's immediate reaction to its findings, would the Minister assure Members that he will be conducting a thorough review of the complaint made by Mr. A. Alwitary with the same degree of open-mindedness with which the findings were made?

Senator A.K.F. Green (The Minister for Health and Social Services):

Thorough reviews have already been carried out by the Solicitor General. What I will be doing though is making a detailed response to the Complaint Board's findings.

6.2.1 Deputy G.P. Southern:

In Article 9.5 of the Complaints Board's report it says here: "The best alternative that the board is able to recommend is that the Chief Minister and the Minister for Health and Social Services give

Dr. Alwitry an absolute and unqualified acknowledgement that the termination of his contract was unlawful and contrary to natural justice.” Will he do so?

Senator A.K.F. Green:

In a word, no. I urge Members to read the report of the Solicitor General which clearly lays out the investigation that he carried out, totally independent, the only investigation in this that interviewed all the parties concerned. The Complaints Board did not interview all the parties concerned but the Solicitor General did. I urge Members to read that and then see if they come to the same conclusions.

6.2.2 Deputy R. Labey:

Would the Minister not accept that the appropriateness of the Solicitor General to carry out this review is one of the things that is under challenge from the States Complaints Board because he is effectively reviewing actions of his subordinate?

Senator A.K.F. Green:

You know well the appointment of Crown Officers is utterly independent and made by Her Majesty, not by this States Assembly. So the Solicitor General is utterly independent. In fact if you read his report, he came in thinking, possibly, that the States Employment Board were wrong and he changed his mind when he had heard all the evidence and I urge Members to read the evidence.

6.2.3 Deputy M. Tadier:

Does the Minister accept finding and recommendation 9.71 which says: “That as a matter of urgency a comprehensive and independent review should be undertaken of the management structure and practices for recruitment and disciplinary matters”?

Senator A.K.F. Green:

I accept the principle behind that but it has been done. We already have appointed, about 3 years ago, a director of medical staffing. A very experienced medical H.R. person who has made significant change into our procedures. I could list them all and take up the full 15 minutes but I am happy with the work that has been carried out by the new managing director of the hospital and the new medical staffing officer.

6.2.4 Deputy M. Tadier:

There do not seem to be many recommendations that the Ministers do want to accept. The point is that they have recommended a comprehensive and, underline, independent review to be undertaken. If the Minister accepts the spirit of this, can he not simply acquiesce that we do need what is being suggested by this panel.

Senator A.K.F. Green:

There was a further review undertaken, the Beale Review, and that is another experienced H.R. and medical person. But to give Members some assurance that we are open-minded on this, I joined with the Chief Minister in asking the chair of the Appointments Commission to look at the changes we have made and see if she is happy with that and whether there are any further recommendations that she would like to make.

6.2.5 The Deputy of St. John:

Both the Chief Minister and the Minister for Health and Social Services have kept referring to the Solicitor General’s report so I will ask them to respond to the specific points that are of real concern with regards to assumptions being made and really bad communication, but also the fact

that he advises that the hospital management receive further training in respect of employment law and the importance of procedure, not the clinicians. Can he clarify what the position is? What is being taken forward and when Members will see evidence that that process has changed?

Senator A.K.F. Green:

I can go through. As I said, we have had the appointment of a new managing director. We have had substantive appointment of the head of medical staffing and she brought about immediate changes into recruitment processes. The hospital managing director now chairs all panels. Senior medical staffing representation takes place at all parts of the process including short listing. There has been a revision of the conditional offer pending all pre-employment checks and agreements. Competency-based questions have been introduced. Mandatory questions regarding disciplinary-type questions have been introduced. A pre-interview meet and greet for all candidates with existing consultants has commenced. A pre-interview meeting with key stakeholders has been put in place with feedbacks to panels. All candidates are now required to produce 3 references of which their line manager and clinical director must be at least one of those. The Royal College representatives now are on the interview panel as a norm. A total review of all the paperwork, including detailed panel members' records and feedback to candidates post interview. As the Chief Minister said, we have appointed in that time 21 new consultants and the feedback from not only those who have been appointed, because they would be pleased, would they not, but those that have been rejected, is that the process is fair, robust and they were very happy with the way that they were treated.

6.2.6 Deputy S.Y. Mézec:

One of the points which is made in the report is about the quality and, in some instances, non-existence of records of meetings and discussions which turned out to be incredibly relevant to the decisions which were made.

[12:00]

So, therefore, I ask, will the Minister ask that the hospital puts in place a proper and efficient system for recording contemporaneous matters which are relevant to decisions which end up being made so that this does not happen again?

Senator A.K.F. Green:

This has already been done but I am very happy to ask the chairman of the Appointments Commission just to have a look at it to make sure this is right. As I have said, there has been a total review of all the paperwork including detailed panel member's records.

6.2.7 Deputy R.J. Renouf of St. Ouen:

Does the Minister accept that the Complaints Panel members are appointed by this Assembly to act independently and they give their time freely and spend a lot of time investigating, thoroughly, complaints brought before them? So even though the Minister has the findings of the Solicitor General why does the Minister run to one set of findings that favours his own position? Why does he not at least conduct a thorough open-minded review of the Complaints Board's findings and not immediately issue press statements denigrating their findings as independent persons?

Senator A.K.F. Green:

Yes, I do acknowledge the work that the Complaints Board put in but unfortunately on this occasion the Complaints Board moved from their terms of reference and lots of assumptions were made without evidence being able to be produced to prove to the contrary. The Solicitor General's report proves most of those assumptions to the contrary but was not accepted as part of the review. It is for that reason that I want to make a detailed response.

6.2.8 The Deputy of St. Ouen:

Supplementary. Does the Minister not accept that it was for his department or his representative at the Complaints Board to put their case fully in order to try and rebut the complaint?

Senator A.K.F. Green:

Absolutely, but when you are given one terms of reference and then you end up in front of the panel with a different terms of reference it is very difficult to do so.

6.2.9 Deputy G.P. Southern:

Does the Minister accept the findings in 9.73 which suggest that the only assumptions going into this case were the assumptions made by senior clinicians in the hospital and in this case it says: "The senior clinicians and managers put their perceived criticisms of Dr. Alwitary together, concluded that we ought to sack this bloke before he gets here" and then proceeded to do just that. Does he accept that criticism?

Senator A.K.F. Green:

I do not accept that. It is a preposterous and outrageous statement to make.

6.2.10 Deputy G.P. Southern:

It may be preposterous, it may be outrageous, but it is the findings of the Complaints Board. He should pay good attention to it.

The Deputy Bailiff:

Well, Deputy, that was your final supplementary and that is a point rather than a question in any event.

The Deputy Bailiff:

We now end questions and there is nothing under J.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

7. The Chairman of the Health and Social Security Panel - statement regarding its forthcoming report on zero-hour contracts

The Deputy Bailiff:

Under K the Chairman of the Health and Social Security Panel will make a statement regarding its report on zero hour contracts.

7.1 The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):

Members will have received a copy of the panel's report on zero-hour contracts and I would like to draw Members' attention to our report and in particular to our findings and recommendations. The use of zero-hour contracts has steadily increased in recent years and the proportion is much higher in Jersey than in the U.K. Eleven per cent of jobs in the Island are worked as zero-hour contracts but in the U.K. this figure is only 2 to 3 per cent. Some of these are second jobs but 3,974 people have a zero-hour job as their primary source of employment and that is approximately 6.8 per cent of the economically active population. It is these people who face the challenge of meeting their living costs from fluctuating and uncertain wages, not being able to plan for their future and working without many of the benefits that are available to employees with permanent jobs. The trend is upwards. The numbers are still rising despite apparent signs of an upturn in the economy. The contracts are heavily used in many employment sectors and across both the private and public

sectors. The panel believes that Government should now be proactive and take steps to ensure these employees are treated fairly. Given the numbers involved, that can only benefit the Island's economy. It would also be consistent with the Island's Strategic Plan and the goal expressed as: "To help people in Jersey achieve and maintain financial independence and safeguard the most vulnerable in our community." Within the public sector the number of employees on zero-hour contracts has reduced over the last 2 years. However, there is still approximately 1,200 States workers who are employed solely on zero-hour contracts. Some of the contracts are justifiable, for example, bank nurses or supply teachers, but we did struggle to understand why medical secretaries within Health and Social Services, or admin support staff within Education, would be employed under zero-hour contracts. The panel took a particular interest in the Social Security Department which does not use zero-hour contracts but instead uses agency workers who themselves are engaged by employment agencies on zero-hour contracts. There were 40 such agency workers in the department in November last year and 11 of them had worked there for one year or more. This suggested to the panel that at least those 11 were working in posts that should have been permanent positions. The panel was pleased to hear that subsequently the department gave 8 agency workers a permanent position and transferred another 5 to a fixed term contract. The panel hopes that all States departments will continue to bear down on the inappropriate use of zero-hour or agency contracts limiting them to cases where the hours are truly uncertain and irregular. One of the panel's objectives was to determine whether zero-hour contracts are misused in Jersey. We commissioned a survey, which was completed by 59 employers and 264 employees who worked, or formerly worked, under zero-hour contracts. We also took evidence from a number of stakeholders and we are grateful to all who took the time to respond to our survey or otherwise contributed to our review. The panel does accept entirely that there are instances where zero-hour contracts benefit both employer and employee alike and provide the flexibility that each may require in their working relationship but the panel also found that there are other instances where the contracts are misused. For example, employees may be working regular hours over a lengthy period of time, suggesting that their work should be carried out under permanent contracts, or an employee may have been working for a year or more without the employer reviewing that contract. Last year the Jersey Advisory and Conciliation Service produced a zero-hour contracts guide. It seeks to promote good practice in the use of zero-hour contracts but regrettably few employees seem to know about it. The panel has made recommendations which are intended to increase awareness of the guide. The guide recommends that employers carry out a review of zero-hour contracts after an employee has worked for 6 months. The panel recommends that this should be written into law as a means to ensure employers and employees take a look at whether the contract they entered into at the beginning of their relationship still reflects the reality of their situation. Without that trigger the original intention to review the contract will often drift and will never take place. The panel was reminded, during its review, that Social Security inspectors visit businesses to inspect employment records and enforce payment of the minimum wage. They are in a position to see the hours being worked by employees on zero-hour contracts and the panel recommends the department should be able to make a reference to the Employment Tribunal for a ruling on whether zero-hour contracts in cases which cannot be resolved by negotiation. Our report also addresses other issues or other difficulties around zero-hour contracts. For example, one that arose was the question of compensation for employees when work is cancelled without notice. One employment sector of particular interest to the panel was domiciliary care and, though not exclusively, a high number of carer jobs are worked on a zero-hour basis. Some care workers visit multiple clients at various locations each day. However, the time taken to get to and fro from each location is not always paid. The panel believes that is a fundamental misuse of a zero-hour contract as it is unreasonable to expect carers not to be paid for the time spent travelling between clients. There are a number of other recommendations the panel makes and we trust the Minister will carefully consider all of

them with the same intent to better protect vulnerable hardworking people who are making a valued contribution to Island life. I thank the Assembly. **[Approbation]**

The Deputy Bailiff:

It is now open to Members for a period of 15 minutes to ask any questions of the chairman arising out of the report.

7.1.1 Deputy S.Y. Mézec:

Recommendation 11 in the report says that the Minister should consult with a view to bringing forward proposals to amend the Employment Law to abolish exclusivity clauses. My question is, that when there seems to be a broad consensus among the public... and I mean the Chamber of Commerce have publicly made comments on exclusivity clauses as well as Jersey's trade unions, saying that we can just abolish them. Should it not be the case that we just get on with abolishing it and consulting would simply waste time?

The Deputy of St. Ouen:

I hope that would happen very quickly. I think, though, under the terms of the Employment Law the Minister is obliged to consult with the Employment Forum before bringing any proposed amendments to the law, though I do stand to be corrected if that is a misreading of the situation. That was the reason for our recommendation being expressed in that way.

7.1.2 Deputy G.P. Southern:

As Deputy Chairman of the board that produced this report I rise to my feet to take some of the blame for what has not happened here, in that there are some 21 recommendations, only one of which has a time element in it. Recommendation 2 asked the Minister to come back within 6 months. Would the Chairman of the Scrutiny Panel agree that he will revisit the recommendations in 12 months' time and if they have not been enacted will he attempt to bring them about?

The Deputy of St. Ouen:

Well, thank you to my Deputy Chairman for his question. **[Laughter]**

Senator P.F. Routier:

May I just make an observation? It is a bit unfair for Assistant Ministers not to be able to ask questions during question time and you allow that to go on.

The Deputy Bailiff:

Well, I accept the rebuke, Senator. I am afraid I was distracted momentarily for another matter but the question has been asked and perhaps the Chairman would answer it.

The Deputy of St. Ouen:

Well, I will try and deal with it swiftly. We would like to press ahead very quickly. There is in fact another time limit on question 19, if that is okay, but we would seek to press forward with any recommendations and work with the Minister and challenge the Minister on that. As to whether I personally will do things, my Vice-Chairman will know that the panel must agree its business, but I am sure that we, as a panel, would wish to keep this thoroughly under review and perhaps bring forward matters if the department is unable to do so.

7.1.3 Deputy L.M.C. Doublet:

Just briefly to respond to the Assistant Chief Minister, as the Vice-President of Scrutiny, we do not have collective responsibility so we do challenge each other on Scrutiny Panels and within Scrutiny. I wanted to praise the panel for the work they have done on this review. I have had a

scan of it. I think the recommendations are very sensible. I wanted to ask the Chair of the panel, while the work is hopefully being carried out by the Minister on the recommendations ... incidentally, I hope she will still be able to prioritise her review into family friendly legislation. But while that work is being carried out, in the work that you did are there any resources available to people that are perhaps under a zero-hour contract and struggling with it, what resources are available to perhaps mediate between employers and employees to help resolve some of these problems that are happening straightaway?

The Deputy of St. Ouen:

Well, the Jersey Advisory and Conciliation Service provide a very good resource that employees can access and we heard evidence from that body and we commend their work. The difficulty is that people employed under zero-hour contracts feel very vulnerable. Their work is not guaranteed. If they are upset about any part of their contract and they raise the issue they might be denied hours in the future.

[12:15]

They might just not be recalled again or our panel did find that many people on zero-hour contracts did find that they were penalised if they rocked the boat. So it is difficult for them to access that sort of help without feeling intimidated. So many of our recommendations do talk about promoting the present guide and converting the present guide into a code of good practice under the terms of the Employment Law to give greater emphasis and value to what is presently in a guide which is mostly familiar to employers but not yet familiar enough to employees.

7.1.4 The Deputy of St. John:

I would like to pass on my thanks to the panel for this report. It is an extremely useful report but I am going to refer specifically to the recommendations. There are a few recommendations in there that refer to amending the Employment Law. So my question to the Chairman is, will there be a review by the panel on the Employment Law as a whole or whether there is anything that they are aware of that will be coming forward from the department for them to review so that they can be certain as to whether there are further issues expanding beyond zero-hour contracts with regards to employment?

The Deputy of St. Ouen:

Within our panel, as yet, we have not discussed a wider review of employment law terms but if the Deputy is aware of concerns or has suggestions as to how the Employment Law may be reviewed in other respects we would certainly be willing to consider that as a panel, but we hope the Minister will quickly respond to our report and begin the process of legislative change and then we would engage ourselves in that consultation.

PUBLIC BUSINESS

8. Draft Double Taxation Relief (Arrangement with the United Kingdom) (Jersey) Act 201- (P.51/2016)

The Deputy Bailiff:

Very well, we move on to Public Business and the first item is the Draft Double Taxation Relief (Arrangement with the United Kingdom) (Jersey) Act - P.51/2016 - lodged by the Minister for External Relations and I ask the Greffier to read the citation.

Senator P.M. Bailhache:

Before the Greffier reads the draft Act I wonder if it might be possible to move the Act as amended. I do not know whether that affects what the Greffier is going to read out.

The Deputy Bailiff:

Yes, I do not think there is any reason why we cannot move the Act as amended, Minister. Would you read the citation?

The Greffier of the States:

Draft Double Taxation Relief (Arrangement with the United Kingdom) (Jersey) Act 201-, as amended. The States, in pursuance of Article 111 of the Income Tax (Jersey) Law 1961, have made the following Act.

8.1 Senator P.M. Bailhache (The Minister for External Relations):

The States of Jersey made an agreement in 1952 with the United Kingdom Government for double taxation relief. The 1952 agreement has been amended on a number of occasions since then and this minor technical amendment is the latest in the amendments to have been considered by the Assembly. I should say that the double taxation agreement itself is being negotiated at the moment and it is hoped that agreement will be reached with the United Kingdom Government on an up-to-date double tax agreement which the Government will be able to bring to this Assembly for ratification in due course. But, in the meantime, the Government has been requested by the United Kingdom Government to agree to this minor amendment as a result of changes in the fiscal policy of the United Kingdom Government. On 16th March this year the U.K., in the United Kingdom budget, a tax measure was introduced whereby non-resident owned companies engaged in the development of United Kingdom land would be subject to the same tax on development gains as a United Kingdom resident company. The tax measure could, however, be avoided if a United Kingdom resident were to use not the United Kingdom company but a Jersey company in order to carry out the development. That provision could be avoided because the double taxation agreement between Jersey and the United Kingdom would, in effect, trump the legislative changes which are being introduced in the United Kingdom or have been introduced in the United Kingdom. The U.K. Government, accordingly, requested the Jersey Government to agree to a change to the double taxation agreement so that that consequence would not follow. The Jersey Government's policy, as Members will know very well, is not to assist United Kingdom residents to avoid tax in their own country and it was accordingly agreed that this small technical amendment could be introduced. The agreement has therefore been amended inter-governmentally by the United Kingdom Government and by the Jersey Government and the relevant exchange of letters is to be found in an appendix to the report. The Assembly is now asked, as is customary, to ratify this change to the double taxation agreement. So I move the draft Act as amended and would be glad to answer any Member's questions.

The Deputy Bailiff:

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

8.1.1 The Deputy of St. John:

I would just like to ask a simple question really. How many companies, if we know, will be affected by this particular change? I am aware that - it is just to confirm that it is correct - this will come into effect as of the budget date in the U.K. of 1st March, I believe it is. So can I just have confirmation that that is the case so it is a respective decision?

Senator P.M. Bailhache:

I am sorry, would the Deputy mind repeating the second part of the question. I just did not catch it.

The Deputy of St. John:

Sorry. Just to make myself a little bit clearer. The budget in the U.K. took effect earlier than what this does in Jersey so I am asking: if this is approved by the States Assembly does it take effect from when the U.K. budget took effect or from now?

The Deputy Bailiff:

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

8.1.2 Senator P.M. Bailhache:

I am afraid I cannot answer the first question precisely. I am not sure that that information would be available either to the United Kingdom Government or to the Jersey Government but clearly there are some companies which either have been or are thought to be at risk of undertaking development in the United Kingdom with a view to avoiding the new provision which has been introduced in the U.K. I suspect it is a pre-emptive or protective measure rather than one that is directed at any particular companies which are currently undertaking trading in the United Kingdom. So far as the second question is concerned, the agreement which was made between the 2 governments was expressed to come into force on 16th March and Members will see that in the appendix on page 7 of the document before the Assembly. So it is not truly retrospective because the Governments agreed that the measure should come into force on that date before 16th March but the ratification, of course, takes place at a later stage. I move the draft Act as amended.

The Deputy Bailiff:

In mentioning the fact of the principles earlier, this is obviously a draft Act and it is simply approved or not approved by the Assembly. The Articles individually are not put for debate. So the Assembly will be voting on the approval of the Act as itself. All Members in favour of approving the Act kindly show. Those against. The Act is approved.

9. States Approval of Assistant Ministers' appointments (P.53/2016)

The Deputy Bailiff:

The next item of public business is the States Approval of Assistant Ministers' appointments - P.53/2016 - lodged by Deputy Martin. I ask the Greffier to read the proposition.

Deputy J.A. Martin:

Sorry, before we move my proposition, I am in the hands of the Assembly really because the Chief Minister - and we have had lots of discussion - has made quite a helpful amendment. Unfortunately due to process, it might have been me, I may have pressed the button a little bit late saying I okayed most of the wording. It is not able, if we stay where we are, to be debated until tomorrow. It is time sensitive because it refers to amending the States of Jersey Law. I do not know where we are going to be tomorrow. I mean I would not like this to be the only thing hanging over. We might even finish today. So as it is in the order for now, my amendment was lodged on 24th May. I am aware that we are going to have another time-sensitive piece of legislation brought forward, if possible, so I would like to keep where I am and I ask the Assembly to allow the amendment for the Chief Minister to be lodged for today so the Greffier can propose my amendment amended by the Chief Minister. I hope that makes complete sense.

The Deputy Bailiff:

I think the way we have to proceed is that we would ask you to put the proposition. You can certainly speak to it as if amended. The Chief Minister will then have to ask for the Assembly to take his amendment out of time, which can then be adopted by the Assembly if the Assembly so

moves. It seems to me that that is the sensible way and the proper procedural way of going forward.

Senator I.J. Gorst:

Would you like me then to do that now?

The Deputy Bailiff:

Well, I am happy to take it slightly out of order but of course we have to read the proposition first.

Senator I.J. Gorst:

I am hesitating to rise. Is it not the case that I could ask the Assembly that they would agree for the amendment to be taken early because it is whether the amendment could be early or not. So could I beg the indulgence of the Assembly just to do that now?

The Deputy Bailiff:

Well, yes. So you propose that the amendment that you wish to put in the next proposition, the time is abridged so that it can be considered as such by the Assembly. Is that proposition seconded? **[Seconded]** Does any Member wish to speak on that proposition?

Deputy M. Tadier:

Sorry, could you reiterate what is being proposed? I did not catch it here.

The Deputy Bailiff:

Yes, Deputy. The Chief Minister is asking for the indulgence of the Assembly to allow an amendment, which he has put somewhat late, to be considered by the Assembly when it comes to consider the main proposition brought by Deputy Martin. So it is a question of whether the time period is accepted as being slightly abridged by the Assembly otherwise it would have to wait until tomorrow.

Senator P.F.C. Ozouf:

I would just ask a point of clarification, the Assembly is allowed to reduce a lodging period if it is ... the test is if it in the public interest to do so. Can I just confirm that that is the case?

The Deputy Bailiff:

That is the test for reducing the lodging period. So do all Members agree that the **[Interruption]** ... I am sorry, Deputy, do you wish to speak on the ...

Deputy M. Tadier:

I know that obviously it is the desire of the mover of the proposition to accept this but the point has to be made that this would not be afforded to Back-Benchers or opposition members of Government. That is a fact. I know that if we had not put an amendment in, which was not within the lodging period, there would not be an acquiescence from this Assembly and certainly not from Chief Ministers to accept that. If the Ministers, with their whole swath of officers that they have doing very good work or hard work in many cases but with those people doing their work for them which other Members do not have, they certainly have no excuse for not being able to put amendments in in time for propositions which have been on the table for a good period of time. So I will be opposing this demand for a reduction in lodging time.

[12:30]

The Deputy Bailiff:

Does any other Member wish to speak on the proposition that the lodging time be abridged?

Deputy J.A. Martin:

Yes. I would like to indulge the patience of Deputy Tadier because I am a Back-Bencher last time I looked [**Approbation**] and I stood up only 10 minutes ago and said I was asking and the Chief Minister has reiterated, as I did say in my opening remarks to reduce the lodging period. It may have been me 24 hours late in pressing the button after agreeing the words. I did not probably press a button in time. So the Assembly does move Back-Benchers sometimes too, if it is a day late or something. So I really hope that the Deputy will agree and that we can get on with the amendment, as amended, otherwise we could have 2 debates or we cannot do it now and we have to wait to sometime in September and we are way too near the next elections.

The Deputy Bailiff:

Does any other Member wish to speak? If no one then wishes to speak I call upon the Chief Minister to respond. Do you wish to respond, Chief Minister?

Senator I.J. Gorst:

I cannot add anything to the excellent summing up of Deputy Martin.

The Deputy Bailiff:

All Members in favour of adopting the [**Interruption**] ... the appel is called for. I ask any Members not in the Chamber to return to the Chamber. I ask the Greffier to open the voting.

POUR: 36		CONTRE: 2		ABSTAIN: 0
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator P.F.C. Ozouf		Deputy S.Y. Mézec (H)		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				

Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

Very well. I ask the Greffier to read the proposition, as amended. Deputy, you are taking the proposition to be as amended, are you?

Deputy J.A. Martin:

Yes, please, Sir.

The Greffier of the States:

The States are asked to decide whether they are of opinion to agree (a) that the Chief Minister should consider further improvements to the Machinery of Government, including proposals that (i) the Chief Minister must obtain the States approval of the appointment of his or her Assistant Ministers; (ii) that States approval should be obtained for the appointment of Assistant Ministers at the same time as the relevant Minister; (iii) before dismissing an Assistant Minister, a Minister must obtain the Chief Minister’s consent; (iv) the roles of Assistant Ministers and the work of those Members undertaken in those roles be further enhanced; (v) the process for allocation of portfolios to Ministers and delegated responsibilities to Assistant Ministers be improved; (b) to request the Chief Minister to bring forward for approval within the next 6 months the necessary amendments to the States of Jersey Law 2005 to give effect to the proposals, consulting with the Privileges and Procedures Committee as necessary.

9.1 Deputy J.A. Martin:

I thank the Assembly for letting this be read as amended. I say this because I have been thinking since we had the long difficult debates in P.33 and I brought a similar amendment - slightly different wording - that we still need to look at the role of Assistant Ministers. I am going to keep this speech quite short but I am not sure I have convinced everybody that this is the way to go. Basically, this is asking the Chief Minister to do the work. He has helpfully put some extra meat on the bones and a timetable of 6 months. From my original report, you can see there is no mention of when an Assistant Minister is elected in the process or appointed, and I am the type of person who wants clarity; I want to know. The role of an Assistant Minister has grown beyond all description from what it was 6 years ago, 3 years ago and, with this, collective responsibility to their Minister. We have some excellent Assistant Ministers, I am not going to name some and forget others, but I am looking at 2 or 3 Constables and other Deputies, and they have now delegated responsibility, so I want this work to be done. The Minister is going to stand up ... in my eyes, I have had long talks with the Chief Minister on this proposition, I have been to the Chairmen’s Committee; I really want to see how it looks when it comes back and it is left open to everybody to amend what comes back. We accept now that an Assistant Minister is in collective responsibility with their Minister: in R.14 in February of only this year it says an Assistant Minister will assist and advise their Ministers. This goes back to the report on P.33 2 or 3 years ago where it looked at an Assistant Minister being called a Deputy Minister, stepping into the role of their Minister. Well, I cannot name one Assistant Minister in this Assembly at the moment who could not do that role, but they are not anywhere in the appointment or the election process for Ministers. As I say in my written report, this promise of a phone call ... or the Ministers are elected, we have an actual break. Are people

phoning each other? I do not know. People are saying yes. But it is quite clear, if we change the way this is all done ... we have our Ministers, it may be a pool of Assistant Ministers, there may be certain delegations of Assistant Ministers, but we know after the first round who is left to take the important jobs at Scrutiny. You may have been promised an Assistant Minister's job, you did not get it, so you then want to be Scrutiny. We heard from the Chairmen's Committee and I think the Public Accounts Committee, we heard from a very good clerk who came over from Westminster and said: "It is not always that Ministers need to be in the Government." A career path in politics in the U.K. now is looked at as being on Select Committees. These are equivalent to our Scrutiny Panels. So I am not, for the avoidance of doubt, putting Scrutiny below, I am just asking for the Chief Minister - the Council of Ministers - to come back and tell me what an Assistant Minister is, where they are going to be elected in the process, what probably their delegated functions are. That may be going too far; as I say, I am pre-empting what the report and the work will look like. It is a tight timescale because it is not, I think, just going to be Standing Orders that need to be rewritten, but there will be in some of the States of Jersey Law 2005 from when we first mooted to introduce ministerial government. As I say, it is very hard to judge where I need to go with this speech. I did have lots more research. A week ago I accepted the amendment from the Minister. Again, I have spoken to Back-Benchers, the Chairmen's Committee and anyone who has contacted me with questions. Of course, the place to put other concerns is in this Assembly. I think I will leave it there because, as I say, I think the time for the real debate is when the Chief Minister and the Council of Ministers put the meat on the bones. It will go through and work with the P.P.C. (Privileges and Procedures Committee), and I happen to be a member of that body as well so that is very helpful. As I say, I think it is quite clear: we need to know when and where the Assistant Ministers are elected; it makes it a very clean process, and then everybody else will go for the very good jobs there are left in Scrutiny. I propose the proposition as amended.

The Deputy Bailiff:

Is the proposition as amended seconded? **[Seconded]** Does any Member wish to speak on this proposition as amended? Deputy Tadier.

Deputy M. Tadier:

Sir, could I propose the adjournment, please? There is a risk that my speech might go on more than 5 minutes and I do not want to make anyone late for their lunch appointments.

The Deputy Bailiff:

It is slightly earlier than one would normally expect, but the adjournment has been proposed. Is that seconded? Do Members wish to adjourn?

9.1.1 Deputy M. Tadier:

Well, I would like to speak in that case. I will try and keep it as short as possible. I fully appreciate that in one sense this is a relatively uncontroversial proposition which I think will probably get passed unanimously, if not near unanimously, and that is largely because it is a fairly anodyne proposition; it is one of those ones which I think we have all done which requests the Council of Ministers to just go away and do some thinking about the subject and then report back. Then, once they have done that, we will have another debate at a certain point once some of the groundwork has been done by the different bodies of the Chief Minister's department and the Privileges and Procedures Committee, perhaps with sub-committees involved. I think there are a few points to bring up at this point though, because no doubt this Hansard will form part of the deliberations of those who are looking into this matter. I think it has to be put on record that, quite clearly, as a machinery of Government we have at the moment we are in something of a no-man's land. I think history will judge us to be in a transitional period where we used to be a body where the decisions were made by this Assembly in a consensus manner and we have moved incrementally forward,

creeping, towards a position where the decisions are taken by Ministers. Looking at it dispassionately, that is the way it is: some people look back nostalgically on the period of committees where of course everything was a lot better. It coincided with the fact there was lots of money rolling into the Island and that we could not spend the money quickly enough and that we could throw money at different causes and different pet projects, perhaps including J, rriais or any other pet projects that might have been knocking around at the time. Of course, we have moved to a situation where we have a system which has ultimately been designed to work under party politics. It was designed by an Englishman who came from that kind of political narrative where the context was a well-established party system, mainly bipartisan, but of course with the emergence of other parties. That informs the kind of debate and the kind of workload that these bodies will have to be looking at. Of course, we know the problem is that we get a motley crew who are flung together after an election with disparate, and often what could be conflicting policies, or in reality no policies whatsoever, apart from the fact of: "Vote for me. I am a nice guy and a safe pair of hands and we are all working in the best interests of Jersey." Somehow some of the public manage to swallow that and our broken electoral system gives us the Government that we currently have or, in particular, any form of government that comes out after the arcane processes that deliver a ministerial Council of Ministers. I think I am in line with Deputy Martin in that my issue is that there is not much transparency, certainly from our point of view, but when it comes to the public looking into the States, I think if they are at all politically literate, they see the Council of Ministers often as a homogeneous entity. So when I was in Howard Davis Park the other day it happened to coincide with the touch rugby tournament, and a very good tournament that was, lovely weather; it is great to see all these kinds of events in Jersey, whether it be that or the dance championships. Of course there was an announcement made that we were going to have a speech from the Minister for Sport. I did not know, as a St. Brelade elector at the time, that we would have a Minister for Sport, because I remember distinctly our Constable at the time saying that he did not want to become a Minister because he did not have the time, the running of a Parish was very onerous, especially a semi-urban Parish like St. Brelade with a big, burgeoning population, that he did not have the time to be a Minister. Of course for the previous Minister, who was also the Constable, ultimately that was his downfall. He tried to do too much. This Constable quite rightly has kept his promise, because he is not a Minister, he is 2 Assistant Ministers, which you could argue in F.T.E. (Full-Time Equivalent) terms add up to more than one Minister. It does not really help him when the public, and even people who should know better within the sporting fraternity, get on to a stage and welcome him as the Minister for Sport, because there will be some very confused St. Brelade electors out there who say: "We love our Constable, but we never expected him to be the Minister for Sport", and of course he is not the Minister for Sport, he is the Assistant Minister for Economic Development with delegated responsibility for Sport.

[12:45]

That does not seem to roll off the tongue particularly well or quickly, especially after you might have had a glass of champagne celebrating Jersey's wonderful event-led tourism initiatives. That is the rub. I would ask the bodies who are looking into this matter whether ultimately they look at whether we need Assistant Ministers at all, because it seems to me - and this may be an overly simplistic way of looking at it - that we have 2 types of Assistant Ministers at least, or certainly that is the way it could be perceived from a dispassionate outside point of view. That we have Assistant Ministers who are effectively Ministers, they travel around the world on our behalf seemingly with a Minister's hat on, engaging with some very high-level professionals and government officials, and they certainly let us know that they do that and they are quite proud to tell us and Tweet those issues. There is nothing wrong with that, and you could argue: "What is in a name? It does not matter whether you are an Assistant Minister or a Minister." But you get the impression that when you are in Whitehall or somewhere else and you are making these very high-level decisions, trying

to bring business into Jersey or trying to promote Jersey either as a very modern, albeit feudal, democracy with digital and modern finance industry, and somebody sitting there thinking: "I am the Secretary for State. Why am I having to deal with an Assistant Minister? Could they not send the Minister at least? This small Island, could they not send at least their Minister for the head of the department to deal with me?" It sends out a very strange message. That is why I would say to the bodies who are looking into this: let us abolish Assistant Ministers and, if you need to give people areas of responsibility, at least give them the title that goes along with that responsibility. If they are an Assistant Minister who does not have a portfolio, the other type, what is the point in them being there? They could serve on the Scrutiny function, they could serve as a Back-Bencher, they could work on P.P.C. or on P.A.C. (Public Accounts Committee) which is another form of Scrutiny. That is no less valuable; indeed, I think it is equally important, if not more than where somebody, which we have seen in the past, is given an Assistant Minister's role, effectively protected from the real work of Government, but also protected from having to do the work of an opposition or the quasi-opposition that some see as the Scrutiny function. In the meantime, the public do not know what on earth these individuals are doing because they are not presenting policy to Government, they are not opening sporting events, *et cetera*, which I have already said some of our Assistant Ministers do, and they are not travelling around the world promoting the digital economy. Despite our political differences we have to recognise the good work that, for example, the Assistant Chief Minister, Senator Ozouf, does. He does work very hard: he travels round the world, and I do not know why we cannot give him a proper title of being a Minister and why he cannot come back to this Assembly and be elected by the Assembly for whatever role he wants to put himself forward for rather than us having these Assistant Ministers over whom we have no control. I know that is perhaps part of what Deputy Martin is trying to get to the bottom of, but I would simply say it is much easier to have Ministers, be they not necessarily part of the Cabinet, but you can have Ministers within a department, so multiple Ministers at Economic Development, multiple Ministers in any of these departments, who have specific responsibility, but moreover who are accountable. Then you do not need to get this kind of very confused way of providing a slate, so we find that the Minister for Treasury and Resources has to have a running mate but you cannot vote on the running mate because essentially we are voting for the Minister for Treasury and Resources. The same for Chief Minister: you choose your Chief Minister largely on who the Chief Minister is. If you are told: "Well, I am going to have these 2 people flanking me on either side and I may give them some official responsibility, I may not give them some official responsibility" then I do not think that is a particularly satisfactory way to do it. It is not really going to change the way people look at Assistant Ministers or how they vote for Chief Ministers. I would urge the panels that look at these to give serious consideration to abolishing the role of Assistant Ministers, deciding how many Ministers at any one time they want. I think that is something that could, and probably be should, be left to the Chief Minister or the Council of Ministers. Before the Strategic Plan is presented or around the same time, they say: "These are our strategic priorities. We have decided for this term of office we need these new roles and we choose our Ministers according to that." Of course in the future hopefully we can do that with a government that has a party mandate from the people to put forward their ideas. We are not there yet. I add those to the mix and I thank Members for their indulgence. I have only gone 5 minutes over and hopefully we can still make our lunch appointments.

The Deputy Bailiff:

Is the adjournment proposed?

Senator I.J. Gorst:

Sir, just before it is, just for the benefit of Members, it was alluded to earlier by Deputy Martin that there was another issue that I was going to be asking Members to take at this sitting rather than

defer it. Sadly, there are 2 issues, both of which are appointments, that this afternoon I will be asking Members to consider taking early. One is, as Members will be aware from recent emails, P.69, the appointment of Chairman to the J.C.R.A. (Jersey Competition Regulatory Authority) and the other, which was signalled some time ago but unfortunately is not showing on the Consolidated Order Paper, is P.65. It is entirely my fault and I take responsibility, it is P.65, which is the appointment of the Data Protection Commissioner reappointment. There are detailed reasons why I shall be asking for both of those to be taken at this sitting. There will be further information which will be provided in hard copy to Members as well, but I just wanted to notify them that I will be making that request this afternoon so that they are forewarned.

The Deputy Bailiff:

So you will be asking for Members to take P.65, which is currently scheduled for 13th September, at this sitting?

Senator I.J. Gorst:

Yes, Sir. I can give the detail but it did miss today's sitting. It would have been fine for 15th July, this Friday, had we had a lot of business, which we sometimes do. There are reasons for that. They are both pan-Channel Islands positions and the position in both Islands is slightly out of sync, but there are detailed reasons why we will be asking for that.

The Deputy Bailiff:

That is a matter obviously for after the adjournment.

LUNCHEON ADJOURNMENT PROPOSED

Senator P.F. Routier:

I propose the adjournment, Sir.

The Deputy Bailiff:

Very well. The Assembly stands adjourned until 2.15 p.m.

LUNCHEON ADJOURNMENT

[14:14]

The Deputy Bailiff:

I think we are just quorate. Does any other Member wish to speak on Deputy Martin's proposition as amended? Very well, if no other Member wishes to speak then I call upon Deputy Martin to respond.

9.1.2 Deputy J.A. Martin:

There was only one contribution and I listened to Deputy Tadier and really I kept saying: "Well, where was your amendment? Where was your amendment? Where was your amendment?" The work is going to be done. I have not set up a panel to do it. If he reads page 3 of the amendment it is going to be the Chief Minister's Department and consulting with the Privileges and Procedures Committee and it gives a timeline of 6 months. I will be chasing, I will also be working on the P.P.C. to make sure that this legislation is brought forward, is able to be debated in time for the next elections of Ministers and Assistant Ministers. The Deputy does not want a ticket. Again, when the work comes back, if there is another way to do it ... it has got to work, it has got to be practical and I think a ticket system will be better than what we have got now, but I need to see the work the Chief Minister promises to put in, in consultation as I say with the P.P.C. Obviously any other

Members who feel like they have anything to offer can contact either of those bodies and put some, hopefully helpful, suggestions in.

[14:15]

I thank Deputy Tadier who has spoken. We are where we are. I have maybe timed out. I am sure Senator Ozouf had something to say; I know his light went on, but we will never know what he wanted to say. With that, I will sit down quickly. I maintain the proposition as amended and I ask for the appel.

The Deputy Bailiff:

You ask for the appel. I would invite Members to return to their seats, or come to their seats for the first time this afternoon if they have not done so as yet. I ask the Greffier to open the voting on Deputy Martin’s proposition as amended.

POUR: 28		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy J.A. Hilton (H)				
Deputy K.C. Lewis (S)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

10. Draft Public Elections (Amendment No. 6) (Jersey) Law 201- (P.52/2016)

The Deputy Bailiff:

The next item of Public Business is the Draft Public Elections (Amendment No. 6) (Jersey) Law 201-, brought by the Privileges and Procedures Committee - P.52/2016 - and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Public Elections (Amendment No. 6) (Jersey) Law 201-. A Law to amend further the Public Elections (Jersey) Law 2002. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

10.1 Connétable L. Norman of St. Clement (Chairman, Privileges and Procedures Committee):

Earlier this year the States required the Privileges and Procedures Committee to research the possibility not just of online voter registration but also the possibility of online or electronic voting. One of the first things that we discovered, that while the States have regulation-making power under the current law for online registration, no such power exists for online or electronic voting. This amendment to the law will give the States the power to make such regulations and then will enable online voting when it becomes practical so to do. I move the preamble.

The Deputy Bailiff:

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

10.1.1 Deputy G.P. Southern:

Briefly, to thank the Chairman of P.P.C. for his prompt response. I find it impressive indeed.

The Deputy Bailiff:

Does any Member wish to speak on the principles? Do you wish to respond to that?

10.1.2 The Connétable of St. Clement:

It has been a lifetime's ambition of mine to impress Deputy Southern **[Laughter]** and that is another one off my bucket list. I maintain the principles.

The Deputy Bailiff:

Those Members in favour of adopting the principles, kindly show. Those against? The principles are adopted. Does the Corporate Services Scrutiny Panel wish to scrutinise the matter? Connétable of St. John? Deputy Kevin Lewis, or Deputy Brée, do you want to make a statement?

Deputy S.M. Brée of St. Clement (Vice-Chairman, Corporate Services Scrutiny Panel):

Thank you, Sir. No, we do not.

The Deputy Bailiff:

I may have the wrong chairman written down here so I apologise. How do you wish to propose the Articles?

10.2 The Connétable of St. Clement:

I propose both Articles, Sir, if I may.

The Deputy Bailiff:

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles? Deputy Southern.

10.2.1 Deputy G.P. Southern:

Could I take this opportunity to thank the Chairman of P.P.C. for the grace with which he takes a compliment?

The Deputy Bailiff:

Does any Member wish to speak upon the Articles? Would you like to respond, Chairman?

The Connétable of St. Clement:

No thank you, Sir.

The Deputy Bailiff:

Those Members in favour of adopting Articles 1 and 2, kindly show. Those against? The Articles are adopted. Do you propose the matter in Third Reading?

The Connétable of St. Clement:

Yes please, Sir.

The Deputy Bailiff:

Is it seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? Those Members in favour of adopting the law in Third Reading ... the appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 33		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

11. Draft Health Insurance (Amendment No. 15) (Jersey) Law 201- (P.58/2016)

The Deputy Bailiff:

The next item of Public Business is the Draft Health Insurance (Amendment No. 15) (Jersey) Law lodged by the Minister for Social Security and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Health Insurance (Amendment No. 15) (Jersey) Law 201-. A Law to amend further the Health Insurance (Jersey) Law 1967. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

11.1 Deputy S.J. Pinel (The Minister for Social Security):

I am pleased to recommend to the Assembly changes to the Health Insurance Law which will enable improvements to the services offered to Islanders in primary care. These amendments also update some provisions under the law, improving administration and enabling community pharmacies to provide medical services funded by the Health Insurance Fund. The Health Insurance Law dates back to the 1960s; my proposals for amendments are all in the spirit of modernisation of a law which, if we are not careful, could stand in the way of the changes we know we must make to realise the vision of proposition 82: the New Way Forward for Health and Social Care. P.82 raised concerns about the sustainability of health services and the lack of role diversity in primary care. It warned that the skills of our existing workforce are often under-utilised causing inefficiencies and making Jersey a less attractive place to work. Restrictions in prescribing is a case in point. Until recently the legislation in Jersey gave only doctors and dentists the power to prescribe. The best practice from around the world shows specialist prescribers drawn from other health professions, mainly nursing and pharmacy, can improve the quality of care and reduce cost within healthcare systems. Following a series of amendments to medicine and health legislation, my colleague, the Minister for Health and Social Services, updated his legal framework to enable appropriate practitioners to prescribe prescription-only medicines. Nine nurse prescribers are currently offering services in the community under these new regulations, improving care and reducing waiting times, but the impact of their practice is unnecessarily limited by the Health Insurance Law which currently only allows G.P.s (general practitioners) and dentists to issue a prescription funded by the Health Insurance Fund and dispensed in community pharmacies. This amendment, therefore, proposes changes to the Health Insurance Law to expand the class of qualified practitioners who may issue a Health Insurance Fund prescription. The changes proposed to the primary law are permissive, enabling Orders to be made which will set out the process by which a prescribing practitioner will be identified, recorded on our system and issued with a prescriber code. To ensure all prescribers are treated equally under the Health Insurance Law these amendments also allow ministerial Orders to be brought forward to approve dentists in a similar way. I would stress that nothing in these amendments attempts to limit or regulate who can prescribe within their scope of professional practice. These amendments merely enable a prescription to be dispensed in the community pharmacy; much more convenient for patients, and to be funded by the Health Insurance Fund. The other amendments proposed here are generally administrative and improve the ability of the department to manage activity under the law. To this end, the amendment proposes that the constitution of both the Pharmaceutical Benefits Committee and the Health Services Disciplinary Tribunal are moved from primary law into Orders. This will provide an opportunity to update some of the rules regarding how these groups are constituted and offer a timely way to ensure each group stays fit for purpose and adheres to good practice regarding such appointments. I would like to highlight one other change which will support the development of health services: currently, I am able to contract with G.P. practices and with individual pharmacists to provide medical services. I am recommending changes to this part of the law, that we may commission services more generally in the community pharmacy and that community pharmacy can deliver these services with the help of appropriate healthcare professionals. This

means we can develop the use of community pharmacies to tap into the skills of pharmacists who can improve the management of medicines and, importantly, reduce medicine waste, also offer new ways to support people while securing a more sustainable primary healthcare service. Recognising that these amendments make some important changes to the Health Insurance Law will enable our healthcare system to develop in line with the P.82 vision. Sir, I propose the principles.

The Deputy Bailiff:

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

11.1.1 Senator P.F. Routier:

I want to speak because I believe this is one of the most exciting, positive things that we can do for the healthcare community. This is a really important step forward to ensure that our community can have access to health provision in the right place, so I hope all Members will wholeheartedly support this because it is the right thing to do.

11.1.2 Senator A.K.F. Green:

I want to start by thanking the Minister for Social Security for bringing forward this law. For me, the essence of it is that nurses who are registered prescribers in Jersey will be able to work with patients in their own home and prescribe against the H.I.F. (Health Insurance Fund). They can prescribe at the present time, but they can only issue a private prescription, so the patient has to then pay for it. So the biggest change for me in here is the fact that these registered practitioners will be able to prescribe and that the patient will be able to go and get, from the community position, whatever has been prescribed for them. Currently we will be making some changes, or the Minister is making another small change, where we have doctors that span, if you like, the community services and hospital services, and they now will be able to do similar: they will be able to prescribe within the community against H.I.F., therefore there will be no charge to the patient and continue to do their work within the hospital. So these are really important changes. These, as the Minister said, support P.82. This is about a modern health service and I urge Members to support it.

11.1.3 The Deputy of St. Ouen:

I likewise will be giving support to this law but I have one question that I hope the Minister will be able to answer, and it is in relation to the 2 bodies, the Pharmaceutical Benefit Advisory Committee and the Health Services Disciplinary Tribunal. Under the present law the States appoints the members of those bodies and the constitution is fixed in the law by the States. Under this amendment, it is proposed that those bodies will be constituted by ministerial Order, and I hope the Minister will take this opportunity to confirm to the House exactly what her plans may be for the future constitution of those 2 bodies and to confirm that the members of those bodies will still be able to exercise independent judgment, entirely free from any ministerial influence or concerns in relation to the fact that the Minister might have some functions in relation to their appointment.

[14:30]

The Deputy Bailiff:

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

11.1.4 Deputy S.J. Pinel:

I thank Senator Routier for his enthusiastic support of this change in the law and also the Minister for Health and Social Services for his support and explanation. In answer to the Deputy of St. Ouen's question, the changes to the constitution will be very minimal. At the moment with one of

the boards there is no limit to the time that a member can serve on these committees and we wanted to make them much more similar to the other disciplinary tribunals that we have within Social Security. So although the Health Services Disciplinary Tribunal's constitution is in better shape at the moment than the Pharmaceutical Benefits Committee, there are still opportunities to review its membership and terms of operation to ensure it is constituted along the lines of other Social Security committees. I hope that answers the Deputy's question.

The Deputy Bailiff:

Would those Members in favour of the principles kindly ... the appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 36		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Connétable of St. Helier				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

Deputy of St. Ouen, does your Health and Social Security Panel wish to scrutinise the matter?

The Deputy of St. Ouen (Chairman, Health and Social Security Panel):

No, Sir.

The Deputy Bailiff:

Thank you. How do you wish to propose the Articles, Minister?

11.2 Deputy S.J. Pinel:

May I take them *en bloc*, please, Sir? If I may just give a very brief description of the Articles. Articles 1 to 3 set up definitions for the amended law. Article 4 amends Article 15 and achieves a number of changes; most significantly it allows pharmaceutical benefit to be issued by the new class of specialist prescribers and brings the description of dentists in line with other types of health professionals. This Article also introduces the requirement that prescribing funded by the Health Insurance Fund should be proper and necessary, bringing the definition of “prescribing” in line with that already set up for G.P. medical services. Article 4 also addresses returns of information required from suppliers and, finally, removes the requirement to publish changes to pharmaceutical benefits in the gazette, but maintains an obligation that such information is freely available. Article 5 moves the constitution of the Pharmaceutical Benefit Advisory Committee from the main body of the law into orders. Article 6 covers the supply of pharmaceutical benefits in emergency situations, as is already permissible for G.P.s and dentists. Article 7 amends the provisions in part 3(a) of the law so that pharmacies may contract with Social Security to provide medical services. Articles 8, 9 and 10 allow the creation of contracts which would enable the procurement of vaccines and that these can be funded by the Health Insurance Fund. These Articles also allow part 3(a), regarding contracts, to be amended by regulations. Articles 11 and 12 introduces the powers to make ministerial Orders to approve practitioners to prescribe under the Health Insurance Law and thus issue prescriptions which may be dispensed in a community pharmacy. Article 13 amends Article 27 of the law, which addresses the functioning of the Health Services Disciplinary Tribunal and Article 14 moves the constitution of the Health Services Disciplinary Tribunal from the main body of law into ministerial Orders. Articles 15 to 18 finally deal with some technical areas needed to bring these changes into effect. I maintain the Articles.

The Deputy Bailiff:

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles? Those Members in favour of adopting the Articles kindly show. Those against? The Articles are adopted. Do you propose the matter in Third Reading, Minister?

Deputy S.J. Pinel:

Yes please, Sir.

The Deputy Bailiff:

Is the matter seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? All Members in favour of adopting the law in Third Reading kindly show. Those against? The law is adopted in Third Reading.

12. Draft Unlawful Public Entertainments (Jersey) Regulations 201- (P.56/2016)

The Deputy Bailiff:

The next item is the Draft Unlawful Public Entertainments (Jersey) Regulations 201-, lodged by the Minister for Home Affairs - P.56/2016 - and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Unlawful Public Entertainments (Jersey) Regulations 201-. The States, in pursuance of the Order in Council dated 14th April 1884, have made the following Regulations.

12.1 Connétable D.W. Mezbourian of St. Lawrence (Assistant Minister for Home Affairs - rapporteur):

The Unlawful Public Entertainments (Jersey) Regulations 2013 are triennial regulations which expire shortly. The new draft Regulations that are before us today are the same as those they replace, except that the wording has been updated in places. For example, they now include in Regulation 3 the standard form of words used in other enactments to identify the persons who have committed an offence when an offence is committed by a corporate entity. While some of the words have been updated, the overall effect of the regulations is unchanged. They continue to provide that it is an offence to hold a public entertainment without the permission of the Bailiff and they allow for the Bailiff to grant permission subject to any conditions that the Bailiff thinks fit. The Regulations fulfil a vital function: they help protect us all from poorly-managed, unsafe public events and entertainments. We do, however, need to review them in light of the States decision with regard to the proposed introduction of open-air marriage and the decision to allow the Parish of St. Helier to license small events within the Parish. In addition, we need to ensure that we have in place a fit-for-purpose events licensing and management system, whether that be for fundraising events organised by local charities, community events such as school walks, or major tourism events such as the recent Dance World Cup. The development of a single point of entry events management system is, however, a significant piece of work. We need to consider how these regulations interface with a number of other pieces of legislation, for example, the Road Works and Events (Jersey) Law 2016 and the Policing of Beaches Regulations. We also need to ensure that we strike the right balance between protecting the public while avoiding onerous or burdensome regulation. It will take time to review our existing system and to consider how best to move forward but in the meantime we need these triennial regulations in place to help us ensure continued public safety. I recommend that the Regulations be approved today by the Assembly. I would like to propose them *en bloc*.

The Deputy Bailiff:

I think if we take the principles first and then we go through the ...

The Connétable of St. Lawrence:

Okay, Sir.

The Deputy Bailiff:

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

12.1.1 Deputy M. Tadier:

First of all I know that it has been normal practice in the past for matters that relate to the office of Bailiff for somebody other than a Bailiff or Deputy Bailiff to preside. I just wanted to seek clarification for that in the first instance, Sir.

The Deputy Bailiff:

That has not been the case for the renewal of triennial regulations, it has nothing to do with the office of Bailiff, Deputy, it has to do with the way the office has responsibility for the licensing of public entertainment. I do not think that there is any difficulty with me presiding in connection with the matter. Does any other Member wish to speak on the principles? Do you wish to respond, Assistant Minister?

The Connétable of St. Lawrence:

To Deputy Tadier, Sir?

The Deputy Bailiff:

Well a Member has spoken so it is open to you to respond.

12.1.2 The Connétable of St. Lawrence:

Well I thank him for his question and I thank you for your answer, Sir.

The Deputy Bailiff:

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

POUR: 32		CONTRE: 2		ABSTAIN: 0
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator P.M. Bailhache		Deputy S.Y. Mézec (H)		
Senator A.K.F. Green				
Connétable of St. Helier				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

Deputy Doublet, does your Scrutiny Panel wish to scrutinise the Regulations?

Deputy L.M.C. Doublet (Chairman, Education and Home Affairs Scrutiny Panel):

No, thank you, Sir.

The Deputy Bailiff:

How do you wish to propose the matter in Second Reading?

The Connétable of St. Lawrence:

Thank you, I propose them *en bloc*, please.

The Deputy Bailiff:

Are the Regulations seconded? **[Seconded]** Does any Member wish to speak on the Regulations? All Members in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted. Do you wish to propose the matter in Third Reading?

12.2 The Connétable of St. Lawrence:

Yes, please.

The Deputy Bailiff:

Is it seconded for Third Reading? **[Seconded]** Does any Member wish to speak about the Regulations in Third Reading? Deputy Tadier.

12.2.1 Deputy M. Tadier:

I hope it is appropriate to make them in the Third Reading but I did not want to repeat comments that I have made in previous debates. It just seems to me that the current method that we have for policing public entertainment seems to me, and seems to many others I think in modern Jersey, perhaps in the younger generation, to be overly-burdensome. I am not necessarily always a libertarian or entirely liberal, although I do espouse some of the values of the latter, but I would like to see these Regulations simplified and do question whether or not one necessarily needs in some cases to have a permit for entertainment purposes and what the costs relating to that should be. I know that, for example, Guernsey has different methodologies, certainly when it comes to basic entertainment in the streets. So in Guernsey you do not need to pay for a busker's permit, for example, but also you are allowed to have loud-speaker projected volumes in the street under that permit so there is no cost required. It seems to me that if we want to have a less bureaucratic system, something can be done in this regard, so I would like to put those comments on the record and perhaps the rapporteur can tell us what good work is being done in the modernisation process when it comes to entertainment because I am sure there is work going on that I and perhaps other people do not know about.

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

Related to Deputy Tadier's question really, would the Assistant Minister assure us that this will be the last set of triennial regulations on this matter that we discuss? In other words, what is the timetable for the reforms that she alluded to? Hopefully it will be less than 3 years.

The Deputy Bailiff:

Does any other Member wish to speak in Third Reading? I call on the Assistant Minister to respond.

12.2.3 The Connétable of St. Lawrence:

I thank Deputy Tadier: he repeated the words that I used: "overly-burdensome". We are striving to make sure that it will not be overly-burdensome; it will not be bureaucratic when we bring forward Regulations. He spoke about overly-burdensome policing. Clearly, the intention is to lessen that, where appropriate. The Constable of St. Helier: certainly less than 3 years. I do not know who will

be standing here as Assistant Minister or Minister for Home Affairs in 3 years' time but I can assure the Assembly that these new Regulations will have been brought forward by then. They are being worked upon at the moment and it is our intention to hopefully bring them forward before the end of this Assembly. Thank you.

The Deputy Bailiff:

That is the matter in Third Reading. All Members in favour of adopting the Regulations in Third Reading, kindly show. Those against? The Regulations are adopted.

The Deputy Bailiff:

The next item is the Draft Income Support (Amendment No. 14) (Jersey) Regulations 201- lodged by the Minister for Social Security, P.59 ...

Senator P.M. Bailhache:

I am sorry to interrupt, I sent an email to my friend and colleague, the Minister for Social Security, to ask whether she would be prepared to allow me to propose the next item on the Order Paper before the Income Support Regulations, the reason being that I have shortly to leave for the airport on government business. I would be very appreciative if I were able, with your leave and her leave, to take this matter before the income support proposition. I am in her hands.

The Deputy Bailiff:

Thank you. Are you content, Minister, that the Minister for External Relations is able to bring forward the next proposition out of time?

[14:45]

Deputy S.J. Pinel:

Yes, and, I apologise: with 4 propositions I did not have time to read the Senator's email but of course I am happy.

Deputy M. Tadier:

Sorry, I hate to be the self-designating pedant but, just for future reference, it is one thing for the Minister to accept the change in order but does that also need to be put to the Assembly for approval, which I am sure will be given?

The Deputy Bailiff:

Yes, I think, Deputy, that is a valid interjection on your part. Does the Assembly agree to take the matters in slightly reversed order, in other words, the one after the one that is next? Very well. Thank you very much.

13. Draft Advocates and Solicitors (Amendment No. 6) (Jersey) Law 201- (P.57/2016)

The Deputy Bailiff:

The next item then of Public Business is the Draft Advocates and Solicitors (Amendment No. 6) (Jersey) Law lodged by the Chief Minister - P.57/2016 - and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Advocates and Solicitors (Amendment No. 6) (Jersey) Law 201-. A Law to amend further the Advocates and Solicitors (Jersey) Law 1997. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

13.1 Senator P.M. Bailhache (The Minister for External Relations):

In a judgment of the Royal Court last year, there was a ruling that a candidate for admission to the Bar was unable to satisfy the requirements for admission because, although she had been employed for a period exceeding 2 years in a local law firm, she had not worked the equivalent of 2 years on a full-time basis. This judgment highlighted a number of difficulties but in particular a difficulty which afflicts part-time employees in legal firms and especially women who are unable to satisfy the requirement that they have been employed for a particular period of time in that firm before applying for registration as a solicitor or for qualifying for swearing-in as an advocate respectively. This judgment was drawn by the Attorney General to the attention of the Chief Minister and to the Legislation Advisory Panel. Discussions took place in the panel and subsequently with the Law Society and with the Crown Officers as to what the appropriate remedy was. It was considered by everyone that it was important that aspiring advocates or solicitors should be able to show that they had some practical experience in a legal office before applying to practise as an advocate or a solicitor so that the requirement for that experience should not be diluted. The conclusion was that the solution was to be found in extending the window within which that experience could be obtained so that instead of being required to have 2 years' experience in a legal office over a period of 3 years, the period of 3 years would be extended to 4 years so that a person working part time, that is to say more than half-time, would be able to show the necessary experience in order to gain qualification as an advocate; slightly different timeframes in relation to a solicitor. So that is the purpose of the amendment. It is to make what one might call discriminatory provision against part-time employees, to take that away, and to make it possible for aspiring advocates and solicitors to obtain the necessary experience over a longer period than that set out in the law at the moment. That is the broad purpose of the amendment to the law and I move the principles of the Bill.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All Members in favour of adopting the principles, kindly show. Those against? The principles are adopted. Does the Corporate Services Scrutiny Panel wish to scrutinise this matter, Deputy?

Deputy S.M. Brée (Vice-Chairman, Corporate Services Scrutiny Panel):

No, we do not, Sir.

The Deputy Bailiff:

How do you wish to propose the Articles in Second Reading?

13.2 Senator P.M. Bailhache:

I think if I could move Articles 1 to 4 of the Bill, first of all. Article 1 of the Draft Law is the interpretation Article, Article 2 amends the long title, Article 3 is the Article of the Bill which extends the window periods, 3 years to 4 years, and, in relation to a solicitor, from 6 years to 10 years, I think, and Article 4 deals with the solicitor which extends the period from 5 years to 10 years. So I move those 4 Articles of the Bill.

The Deputy Bailiff:

Are Articles 1 to 4 seconded? **[Seconded]** Does any Member wish to speak on Articles 1 to 4? All those in favour of adopting Articles 1 to 4, kindly show. Those against? Articles 1 to 4 are adopted.

13.3 Senator P.M. Bailhache:

Article 5 of the Bill contains a number of provisions setting out what employment in a relevant office means. There was concern that because there is no definition in the law at the moment, one might show that one was employed as a cleaner, for example, in a legal office, and that would entitle one to fulfil the requirement for qualification as an advocate. That was clearly not the intention of the law. The new Article 4A in the law sets out more precisely what it means to be employed in a relevant office for the purposes of the law, Article 6 contains some minor amendments to the provisions dealing with the Board of Examiners under the law, Article 7 creates a power to amend the law in future by Regulations and Article 8 is the citation and commencement Article. I move those Articles and am happy to answer any questions.

The Deputy Bailiff:

Are Articles 5 to 8 seconded? **[Seconded]** Does any Member wish to speak on Articles 5 to 8? All those in favour of adopting Articles 5 to 8, kindly show. Those against? Articles 5 to 8 are adopted. Do you propose the matter in Third Reading?

13.4 Senator P.M. Bailhache:

I move the Bill in Third Reading.

The Deputy Bailiff:

Is it seconded? **[Seconded]** Does any Member wish to speak in Third Reading? Senator Ozouf.

13.4.1 Senator P.F.C. Ozouf:

May I just commend the Bill in the final Third Reading because clearly this improves competition in the legal services market and effectively gives greater choice and greater options for qualifications. The rapporteur for the proposition did not mention of course the fact that the Law Institute which now provides equality of education in a meritocratic way of getting qualified is a much better system than we had a few years ago, if I may say.

The Deputy Bailiff:

Does any other Member wish to speak in Third Reading? Do you wish to respond, Minister?

13.4.2 Senator P.M. Bailhache:

I am grateful for those observations from Senator Ozouf and I move the Bill in Third Reading.

The Deputy Bailiff:

All those in favour of adopting the Bill in Third Reading, kindly show. Those against? The law is adopted in Third Reading.

14. Draft Income Support (Amendment No. 14) (Jersey) Regulations 201- (P.59/2016)

The Deputy Bailiff:

We then revert to the Draft Income Support (Amendment No. 14) (Jersey) Regulations and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Income Support (Amendment No. 14) (Jersey) Regulations 201-. The States, in pursuance of Articles 5 and 18 of the Income Support (Jersey) Law 2007, have made the following Regulations.

14.1 Deputy S.J. Pinel (The Minister for Social Security):

I would like to propose the Draft Income Support (Amendment No. 14) (Jersey) Regulations. These Regulations are designed to make modest increases to 2 areas of the income support benefit. These are: the component of income support that is paid to people who own or rent their homes and the component that helps towards the cost of childcare for people who work. The Regulations have been submitted for approval before the summer recess in order to allow time for the new values to be updated on the Income Support I.T. (Information Technology) system before 1st October. Members will be aware that the majority of income support components are being held at their current levels throughout 2016. This is one of the key measures I proposed in order to control benefit costs as part of the Medium Term Financial Plan. However, we also recognise that it was important to allow for a reasonable increase in certain components. We have made provision for these increases within our existing budget and so the cost of these increases can be fully met within the departmental cash limit. I will explain a little more about what these increases mean for income support households. Turning first to the increase in the accommodation components, the Housing Transformation Programme approved by the States as P.33/2013 began a significant investment in improving the quality of our social housing stock. Over the last 2 years building and refurbishment schemes have created modern, well-insulated homes for many local families. Following the subsequent approval of P.1/2014 reasonable rental levels for social housing units are met in full by the income support system. Rental increases in this area are automatically accounted for. However, income support still requires a separate list of maximum levels for the support available to people who own and occupy their own homes and to those income support tenants renting in the private sector. It is these levels that need to be increased by the approval of Regulations. The maximum levels for private sector rental accommodation are calculated by comparing the market value of social housing properties held by Andium Homes to their equivalence in the private sector. This means that families are helped to rent homes that are similar to the type of property they would be allocated in social housing. The average increase across the different values included in these Regulations is 5.2 per cent. This reflects the underlying improvement in the quality of social housing stock owned by Andium as well as a cost of living uplift. The Regulations also increase the component paid to low-income households who own their own homes, typically pensioners. This component is a much smaller weekly amount designed to meet the cost of building insurance and foncier rates. The second area where rates will be uplifted is that of childcare costs. Supporting the cost of childcare allows one or both parents to return to work and move closer towards financial independence. The Regulations make an increase in the value of the child day care component rates of 1.7 per cent. This represents the increase in the retail price index from December 2014 to March 2016. It will ensure that low-income households can continue to access childcare in order to allow them to work. The cost of increasing accommodation components is estimated to be £575,000 for a full year. The cost of increasing the childcare components is estimated to be £15,000 for a full year. As previously noted, the cost of increasing the accommodation and childcare components on an annual basis have been included in the Medium Term Financial Plan. I hope that Members will support this reasonable increase in these components of income support. I propose the principles.

The Deputy Bailiff:

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

14.1.1 Deputy J.A. Martin:

Yes, it is just a question on the rents, really. In the report the Minister states that the Andium stock has been improved and I absolutely applaud that - and I do not disagree - and that the rents are rising due to keeping it at 90 per cent of market rents and the income support payment has to keep

up with this. Who is checking the private landlords who are getting just as much per week, if not a little bit more, on their same size properties? Are they keeping up with the improvements?

[15:00]

Who is checking this? The Minister may not know this, and it is not a trick question, of the increase in accommodation component estimated to be £575,000, would she have the split between private and social? I fully understand that is something that the Minister may not have but it goes back to that question, we know where the money is going for Andium, we can inspect their properties, I get very concerned to keep putting money in the private landlord's pocket. It is not the tenant, it is for them to live, it goes to the private landlord. Thank you.

14.1.2 Deputy G.P. Southern:

Here we go with yet another mechanism which is inflationary. While we accepted some time ago that rents will be set at 90 per cent of private sector rents, what we did not do at the same time is say then what we should be doing is controlling in some way the level of private sector rents. Because what we are seeing today is a 5.2 per cent increase in the subsidy that we are shovelling the way of private sector landlords. Now, if that does not encourage me as a private sector landlord to put up my rents, I do not know what does, because I have got some money coming in and it seems to me that we have got no cap on private sector rents. It is an invitation to stoke-up inflation and I think that is a mistake, that is an error. We are inviting private sector landlords to put up their prices, that is what we are doing. This contrasts sharply with the increase payable for childcare which is down at - I forget what the figure was - 1.7 per cent. I do not know how much childcare costs have gone up over the period that was referred to between 2014 and 2016 but I suspect, while the R.P.I. in general might have gone up by that amount, childcare prices have gone up by far more than that. So I was looking to hear a figure that said: "This will cover childcare costs and certainly the increase over the past year and a half" or whatever it was. So it marks contrasting treatments, one of which I believe stokes inflation, one of which is probably an inadequate response to inflationary pressures in childcare. So, I do not think I can be supporting this unless I hear something markedly significant from the Minister.

14.1.3 Deputy A.E. Pryke of Trinity:

I shall be very brief. Obviously I will be supporting this proposition as it is important that the income support component keeps up in line with the cost of rents. As the Minister said, it is in line with the rents compared to Andium stock which, like themselves, are increasing the standard of their other units. Regarding Deputy Martin's comment about keeping a tag on private landlords, I am not too sure if she was at the briefing at lunchtime when we had a briefing from the officer from Environmental Health on the new Rent Safe that is due to come out very shortly. This is similar to Eat Safe and I am very happy to give her the overheads we had. This is the beginning of ensuring that there is a decent standard for everybody to live in, whether they live in private sector or social housing sector, because it is important that everybody, whatever age you are, lives in decent accommodation. So it is coming out as a soft roll within the next couple of months but it is the beginning of that and regulation will follow after that. So I am very happy to pass her the presentation we had.

Deputy J.A. Martin:

Just to inform the Minister, I was at a Public Accounts public hearing the whole of the lunch hour and even I cannot be in 2 places at once. Thank you.

14.1.4 The Deputy of St. John:

I would just like to ask the Minister to expand on a particular paragraph within the report; it is page 4. It states that: "Since then, improvements in the value of Andium stock in line with their ongoing

programme of refurbishment and new-builds have led to an average underlying increase in market rental value of 3.4 per cent.” My question really comes out from that particular statement that is made in the report, is that was this assumed within P.33/2013 with the Housing Transformation Programme that we will see these types of increases because of the improvement in Andium Home stock? If so, can we expect to see more of these types of regulations being requested for higher than what is required from the R.P.I. plus 0.75 per cent going forward? I would just like to understand why this is now the case that we are putting the rental components up higher than what was expected to be the case when P.33 was approved with regards to the 90 per cent rent policy and the potential effects that it may have on the housing market overall. From reading this, it is not quite clearly stated that this will be the one time that this may happen. I foresee that this possibly, with all the improvements that Andium have still got to make ... we have only seen the Annual Report on our desks today with what they have done. I applaud them for the work that they have done so far but just with that work they have got plenty more to come through and my concern is that it will then filter into higher prices going forward. So I would just like some clarification from the Minister with regard to that particular statement.

14.1.5 Deputy M. Tadier:

While on the face of it Members will feel some compulsion to support this because it gives more money to those who are facing high rents in Jersey in the private sector in particular, it is unsatisfactory for 2 reasons. I think the first point is that it does not cover the full rent. So if we look at the typical 3-bedroom property in the private sector with the new uprating works out at £330.54 a week. That works out to a monthly rent of £1,436 which anybody who has had to look in the private sector for a 3-bedroom family house which is in some kind of habitable condition will know that that is completely not a realistic figure to look for if you want a 3-bedroom family home at £1,436 a month. Good luck finding that out there and certainly good luck finding it without the normal caveat of no pets and no children, particularly the latter. So, of course, there is an underlying housing issue here, even though we are discussing a proposition by the Minister for Social Security today. The other problem is that it is not sustainable. As Deputy Southern said, unless we have an effective mechanism of controlling rents in the private sector, then we are just throwing taxpayers' money down the drain without any effective way of making sure that that is well spent or making sure that it is not inflationary. Again, this is a consequence of the fact that this Assembly in the past said: “Yes, that is fine, let us increase social rents to 90 per cent of market rate.” So essentially let us abolish social housing. That is what we did - or the previous Assembly did - when they passed that Housing Transformation Programme. Again, we see a duplicity here, a hypocrisy, when it comes to the department saying: “It is okay to uprate certain provisions in accordance with inflation” because of course we need to. We have got a company ourselves called Andium who we need to make sure that their rents are met. Of course, what about the other components which are also subject to inflation which we know from our research early on in Scrutiny, shows that already the most poor in our society are already far below the relative low-income threshold before these freezes were made. So we have got dual standards here saying because we know that, we want to keep private landlords happy and we also want to keep Andium happy, there needs to be some kind of level playing field. We need to uprate these components. They are still completely insufficient to meet 100 per cent of your housing costs if you were entirely reliant on income support and have no income of your own, so it does not do what it says on the tin. I would like to know what the sustainability argument is for the Minister in bringing forward these proposals. It seems to tackle a problem in the short term but it does not seem to tackle the underlying issue of high housing costs of which we have no control. I know the answer will be that the Minister for Housing is working with the Minister for Environment to unlock housing so that we can build more affordable units but of course they are not affordable anyway. We cannot build those houses quick enough to meet the current population that we have, let alone

the 1,100 that we are bringing in every year that we also need to house because they cannot sleep in cupboards and they cannot be stored digitally because these are real people, analogue human beings. So, despite those good platitudes that the Minister may be tempted to come out with, can she talk about what the sustainability is of these kind of proposals if we constantly need to uprate these components, which is taxpayers' money essentially going into the private sector landlords, some of it to Andium, without tackling the underlying issues to do with population, housing needs and standards?

14.1.6 Senator P.F.C. Ozouf:

I rise to support the Minister for Social Security and also the remarks of the Minister for Housing because while the Deputy is right to focus in his remarks and in the other opposing Members who have stood up and criticised this, there is one issue about housing supply, or the housing market and housing costs, that the Deputy perhaps needs to focus on, and we all need to focus on. I call to mind specifically what is known as the *Barker Review of Housing Supply* in the U.K. which was commissioned by the former Labour Government by the then Gordon Brown Government that is now Dame Kate Barker who is Chairman of our Fiscal Policy Panel. It was in that report, and if any Member wishes to be reminded of what that report says, it sets out the very reasons of why there are high housing costs, and that is an issue of competition which is within my remit, and the issue of supply which is in the remit of the Minister for Housing and the Minister for Environment. That is the real issue that Members who are rightly and understandably concerned about costs need to focus on. There is no point in simply trying to buck the market and trying to put in place pretences that many well-intentioned politicians around the world try to do with price control and effectively artificial intervention into housing markets. The Minister for Social Security is having to deal with effectively an imperfect market that is in absence of proper understanding of the economics. Deputy Southern, I can see, is shaking his head and asking what on earth has that got to do with anything of what he said? Well it has got absolutely everything to do with what his colleague next to him said, which is that if there are high housing costs, then it is an issue of supply. I commend, if I may, the report of the Barker Commission in 2002. Perhaps it would be the case that had the Barker Commission's recommendations been approved by the U.K. Government in 2002, States Members here would understand the issues of the inter-relationship with supply and demand, and then we would not see the difficult situations that we have by basically having to ask the Minister for Social Security to put income support to the levels that she has to in order to effectively deal with supply and demand. This is an issue which will command the attention of the competition area which falls within my remit and provide the maximum support and assistance, economic advice and advice in relation to supply; supply of all types of accommodation, not just simply as the previous speaker said, an abandonment of social housing; on the contrary, providing all sorts of supply for different sectors of the market of which social housing is so very important and has an importance even greater than before.

[15:15]

I commend the proposition to Members but ask them in their criticism of the Minister and the Minister for Housing and other Ministers involved to look at the evidence of economics of which Dame Kate Barker, I think, was proven right over 12 years ago. She was right then and she is right today.

Deputy G.P. Southern:

A point of clarification, if I may, from the last speaker while he is still on his feet? He is not on his feet. The Assistant Minister started his statement saying this was a matter of competition and fell within his remit. In what way does he propose to increase competition in the supply of housing in Jersey, never mind the U.K.? What exactly was his point?

The Deputy Bailiff:

Do you wish to clarify what you ...?

Senator P.F.C. Ozouf:

I am happy to do so. Yes, maybe that is exactly the reason why the Council of Ministers has put at its top ... and I have been asked with other ministerial colleagues to effectively put an appropriate and effective competition authority which has the tools and the ability of the laws and all the resources that they need, to examine whether or not there are imperfections in the market place. Because where there are dominant operators - where there are dominant operators; I repeat it - in terms of land ownership, in terms of supply, that is an issue which could be causing market imperfections. That is the issue which is at the very heart of the trade-off between price, supply and demand. One needs to understand each one of them, and social housing provision has important aspects of supply. The Deputy shakes his head but it is the equal, important issue on which this Assembly needs advice and proper advice. As far as I am concerned, they are going to get it, not from me, but from the expert bodies that are supposed to assist us in such matters and that is how you help consumers.

The Deputy Bailiff:

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

14.1.7 Deputy S.J. Pinel:

I will try to address each speaker but I think quite a few of them overlapped one into the other. The concern of Deputy Tadier and Deputy Southern that these increases will possibly push up the house prices, especially in the private sector, is a legitimate concern which is why the work being done as part of the Housing Transformation Project deliberately investigated this issue. It was found that the rents paid by income support households were distributed across the range of rental costs: some were higher than the maximum component but many were already lower. There was no evidence of what is termed "bunching" around the maximum rental component which indicates that landlords do not set their rents according to the levels of income support which is what one might have assumed. There is also a cap or a limit on the private rental components which has been introduced largely because quite frequently people over-inhabit their places, either because their children have left and gone their way, in which case what would be a 3-bedroom house is occupied by a couple and there is a big waiting list for families for 3-bedroomed houses, so we have to have some way of making sure that the system is fair. Deputy Martin, I was going to say exactly the same as the Minister for Housing did. Social Security is not there to totally monitor every private landlord but certainly with the Rent Safe initiative, which was described to us at lunchtime, I think this will make a huge improvement. One must also take into account the fact that the Andium stock has been improved so considerably, this does have a knock-on effect that the houses, flats or apartments are cheaper to live in because the insulation is so much better and the water-proofing is so much better. So although the rents might be a bit more expensive, the actual living costs can be considerably less. The Deputy of St. John, page 4, had a concern over the sustainability of this increase. We have had to address it because obviously rents are going up and going up in comparison with the social housing costs against which we match all the equivalent components in the private sector as far as the components go. Now whether this is going to be addressed again or not in another year, I cannot say. This is something we have said in the Medium Term Financial Plan that although there was some freezing of income support budgets, that we would not freeze the rental components or the childcare components which is what this proposition is all about. I thank Senator Ozouf for his explanation. So with that I maintain the principles.

The Deputy Bailiff:

Those Members in favour of adopting the principles, kindly show.

Deputy G.P. Southern:

Could we have the appel, please?

The Deputy Bailiff:

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

POUR: 36		CONTRE: 3		ABSTAIN: 0
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		
Senator A.J.H. Maclean		Deputy S.Y. Mézec (H)		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

The Deputy of St. Ouen, does your Scrutiny Panel wish to scrutinise this legislation?

The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):

No, it does not, Sir.

The Deputy Bailiff:

Minister, how do you wish to deal with the matter in Second Reading?

14.2 Deputy S.J. Pinel:

May I propose the Regulations *en bloc*, please?

The Deputy Bailiff:

Are the Regulations seconded? [**Seconded**] Does any Member wish to speak on the Regulations in Second Reading? Deputy Tadier.

14.2.1 Deputy M. Tadier:

Is it possible to ask for the Regulation 1 to be taken in paragraphs (a) to (c) and then paragraph (d) which deals with a different matter of childcare components rather than housing components?

The Deputy Bailiff:

No, it is open for you to ask for separate Regulations to be taken separately but not, I think, the subparts of Regulations; they stand or fall together.

Deputy M. Tadier:

So we can ask for Article 1 or the citation to be taken separately?

The Deputy Bailiff:

Yes, you can. So effectively it is voting against the entire Regulation, in reality.

Deputy M. Tadier:

May I continue my speech then ...

The Deputy Bailiff:

Yes.

Deputy M. Tadier:

... and suggest that in future it seems that, given the fact that we are dealing with 2 very different components here, housing and childcare components, and most of the comments and concerns were raised about housing, it might be worth considering in future that they be taken in 2 separate Articles if possible so that Members can express their opinion on both different matters?

14.2.2 Deputy G.P. Southern:

Yes, again, it is close to repetition but it is not: the 2 arms of this proposition absolutely fundamentally have a different impact. The one on childcare is likely to be underfunding proper childcare and the costs have probably expanded more than that and we are not meeting them, whereas the rental aspects are stoking inflation: 5.2 per cent is way above inflation at the moment and is inviting inflation. So, it is very difficult to know what to do with this. One is wrong in one way and the other is wrong in the other way. I will vote against both.

The Deputy Bailiff:

Does any other Member wish to speak on the Regulations in Second Reading? I call on the Minister to respond.

14.2.3 Deputy S.J. Pinel:

I understand what both Deputies have said about the difference in the 2 areas of this proposition. They were put together because that was what was in the Medium Term Financial Plan that the other income support, as I mentioned earlier, components have been frozen. These were 2 that were considered essential that they were looked at and increased and that is why they were put together in the same proposition. From the point of Deputy Southern's question on the childcare, this has been carefully investigated as to childcare fees in schools and nurseries, and there are different rates for children under 3 and children over 3 and the new increase in childcare rates is equivalent to what is being required in the nurseries.

The Deputy Bailiff:

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

POUR: 35		CONTRE: 3		ABSTAIN: 0
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy M.R. Higgins (H)		
Senator A.J.H. Maclean		Deputy S.Y. Mézec (H)		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

Do you wish to propose the matter in Third Reading now?

Deputy S.J. Pinel:

Yes, please.

The Deputy Bailiff:

Is the matter seconded in Third Reading? **[Seconded]** Does any Member wish to speak on the matter in Third Reading? 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 and ask the Greffier to open the voting.

POUR: 34		CONTRE: 4		ABSTAIN: 0
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		
Senator A.J.H. Maclean		Deputy M.R. Higgins (H)		
Senator I.J. Gorst		Deputy S.Y. Mézec (H)		
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Clement				
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Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

15. Draft Income Support (Special Payments) (Amendment No. 2) (Jersey) Regulations 201-(P.60/2016)

The Deputy Bailiff:

The next item of public business is the Draft Income Support (Special Payments) (Amendment No. 2) (Jersey) Regulations 201- lodged by the Minister for Social Security - P.60/2016 - and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Income Support (Special Payments) (Amendment No. 2) (Jersey) Regulations 201-. The States, in pursuance of Articles 8 and 18 of the Income Support (Jersey) Law 2007, have made the following Regulations.

15.1 Deputy S.J. Pinel (The Minister for Social Security):

I would like to propose the Draft Income Support (Special Payments) (Amendment No. 2) (Jersey) Regulations. These proposed Regulations implement a small change to the qualifying criteria for a household to receive an income support special payment. The change extends eligibility for a special payment to households with low incomes who would previously have qualified for income support but are now receiving means tested support through the Long Term Care (Jersey) Law. These households may require assistance towards irregular costs, in particular for medical expenses such as G.P. and dentist bills. I want to clarify the income support legislation so that people with long-term care needs who qualify for means tested support with their daily living costs are eligible to apply for and receive special payments under the Income Support (Special Payments) Regulations. These changes only apply to low income people who are receiving care in a registered care home. People with low incomes who are receiving means-tested long-term care benefit in respect of care received in their home are already eligible under the Income Support Law and do not need to be considered separately. The majority of the claims by this extended group are likely to relate to medical, dental and optical expenses. However, the Regulations also provide access to the full range of goods and services set out in the Special Payments Regulations should they be required. I maintain the principles.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Those Members in favour of adopting the principles, kindly show. Those against? The principles are adopted. Deputy of St. Ouen, does your Scrutiny Panel wish to call this in?

The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

How do you wish to propose the Regulations?

15.2 Deputy S.J. Pinel:

En bloc, there are only 2. Thank you.

The Deputy Bailiff:

Are the regulations seconded? **[Seconded]** Does any Member wish to speak on the Regulations? Deputy Southern.

15.2.1 Deputy G.P. Southern:

The Minister may well be presenting this particular move as a progressive move and indeed she is right to open up the special payments box to those in residential care who qualify. But it is worth pointing out, I think, at this stage that the amounts paid out from the Special Payments Fund have been vastly reduced over the past 3 years to around about one third of what they used to be. The fact is that it is increasingly difficult to get a special payment out of the department. Most often

when it comes to purchases of essential equipment, they are given as loans. For example, dental costs - dental costs which might often be completely non-cosmetic - of the order of £1,000 will be met by a maximum loan of £500 and that only goes half the way to what it might. Medical costs, the costs of visits to the G.P. or visits by the G.P. have decreased markedly in the last 3 years. I think downwards - I cannot remember the figure offhand - by around one third. So it looks generous and it looks like the right move to make, however squeezing money out of the Special Payments Loan Scheme, grants or loans, is getting increasingly difficult for recipients of income support to handle.

The Deputy Bailiff:

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

[15:30]

15.2.2 Deputy S.J. Pinel:

This is, as I said in my opening remarks, just a slight change or a tidying-up of the Long-Term Care Law to cover people in residential homes. The Deputy makes reference to loans being special payments, this is only on white goods when people move into different accommodation. The 65-plus health scheme to which the Deputy refers which incorporates costs towards dental, chiropody and optometry, and these are not loans ... the £500 to which the Deputy refers is part of the insurance scheme but I will be addressing that proposition shortly.

The Deputy Bailiff:

Members in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted. Do you propose the matter in Third Reading, Minister?

Deputy S.J. Pinel:

Yes, please, and may I call for the appel, please.

The Deputy Bailiff:

Seconded in the Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? Very well, the appel is called for. I invite Members to return to their seats and ask the Greffier to open the voting.

POUR: 33		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				

Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Brée (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

16. Draft Social Security (Health Bonus Scheme) (Jersey) Regulations 201- (P.61/2016)

The Deputy Bailiff:

The next item of Public Business is the Draft Social Security (Health Bonus Scheme) (Jersey) Regulations, lodged by the Minister for Social Security - P.61 - and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Social Security (Health Bonus Scheme) (Jersey) Regulations 201-. The States, in pursuance of Article 2 of the Social Security (Bonus) (Jersey) Law 2014, have made the following Regulations.

16.1 Deputy S.J. Pinel (The Minister for Social Security):

I hope everybody is going to think this is a very good news story. These Regulations will establish a scheme to help lower income pensioners with the costs of visiting the dentist, the optician and the chiropodist. This scheme will replace the existing 65-plus health scheme. The Council of Ministers promised to improve the current plan in the Medium Term Financial Plan and additional funding of £200,000 each year has been made available. Members may know it better as the Westfield Scheme as the majority of the administration is outsourced to Westfield, a company which supplies healthcare insurance products. The current scheme was set up in 2001 and has remained unchanged since 2013. It is therefore right that we bring it up to date and improve its current structure. These Regulations will do just that. They have been developed following a departmental review of the Westfield Scheme, which included engagement with stakeholders such as healthcare professionals and pensioner groups. I thank them all for their input into this review. The review confirmed 2 significant challenges facing the existing scheme. It is undersubscribed and it is underused. Although 2,500 people are on the current scheme, that does not represent everyone who is eligible. Even people who have joined the current scheme do not make full use of the benefits it provides. There are several reasons why this is so. First, the benefit levels are relatively low, they have not been increased since the existing scheme was introduced. Secondly, members of the scheme must have the money up front to pay for services themselves before seeking reimbursement. This provides 2 challenges. We are expecting lower income pensioners to have all the funds to pay for what can be costly services and we are expecting them to shoulder the administrative burden by filling in a claim form and submitting it with a valid receipt. Finally, it is apparent that eligible people are not aware of the current scheme and those who have joined can

forget about its existence once they have done so. Despite these problems the rationale of the current scheme remains sound. It was set up to make it easier for lower income pensioners to look after their feet, teeth and eyes. Three fundamental areas of health care that help people to maintain their independence. The importance of this is as true today as it was in 2001. It is also consistent with our strategic priorities for health. The Regulations will therefore keep what is good about the current structure but will make changes where change is warranted. The new scheme will be more user-friendly, significantly a means has been found to take away the need for customers to pay up front. Turning to what would be the same, the same healthcare services will be covered, dentistry, optometry and chiropody. Eligibility will also be essentially the same. The new scheme will continue to be targeted at lower income pensioners. It will be open to people of standard pension age with income and assets under set limits. If the Assembly agrees to these Regulations the income and asset bars will, in fact, be set by ministerial Order later this year. I envisage that applicants will need to live in a household where all people have income under the income tax exemption threshold. This is the same as for the food cost bonus and the cold weather bonus. In terms of assets, applicants will need to have assets below £30,000 not including their main home. Applicants will also have to be ordinarily resident in the Island, they must either be in receipt of a Jersey old age pension or be of entitled status for Control of Housing and Work purposes. These latter criteria will ensure applicants have some prior ordinary residence before they can access the benefits. The eligibility criteria have been slightly amended from what is currently in place. The changes bring the scheme up to date and will ease administration, but overall the scheme will be the same for people as now. The schemed benefits will be divided into 5 amounts or pots, as the terminology is, as is the case now. There is one pot for a dental check-up and one pot for dental treatment, one pot for a sight test and one to help with prescription glasses, lens or contact lens, and one pot for visits to the chiropodist. As of now it will be possible to roll 2 years of dental treatment into one year to help pay for the cost of dentures. The benefit levels for these various pots will not be set in the Regulations. Again, the Minister for Social Security will be given the authority to set the levels by Order. That Order will be made later this year. As the levels have not changed since 2003 there will be some increases, however care needs to be taken to ensure that the new scheme remains affordable. In terms of what will be different, the main change will be in the administration of the scheme. As I have said, at present a lot of responsibility falls on the customer. It is the customer who has to pay up front and have money in the first place to pay for services and it is the customer who then has to obtain a receipt and submit it with a claim form to be reimbursed. That will no longer be the case. Under new arrangements the department will pay the benefits on customers' behalf to their dentist, optician or chiropodist. Provided there is benefit available, the customer will not have to pay up front and they will not have to fill in a claim form, instead practitioners will invoice my department and we will pay the benefit directly to them. If the cost of the service is more than the available benefit, however, the customer will be liable for the remainder. The details of these new arrangements are not contained in regulations themselves as they do not need to be, but that is the basis on which the Regulations have been developed? We have already engaged with practitioners and they are aware of the change. I would like to place on record my thanks for their co-operation and help to date in arriving at this solution. We will continue to work with them as we finalise arrangements for the new process. The fact that practitioners will invoice the department will not impact in any way upon their clinical relationship with their patients. For this new process to work applications to the new scheme will tell us who their dentist, optician and chiropodist are. This supports the principle of continuity of care. It will also make administering the new scheme easier. We are aware, however, that people sometimes need to change and it will be possible for people to change their practitioners under the new system. We are not limiting customer choice. Responsibility for administering this new process will be fully taken by my department. We will, therefore, end our association with Westfield. I would like to thank Westfield Health for all the good work it has done over the last 15 years and the support it

has given members of the existing 65-plus health scheme. The current scheme was not established in legislation, however it was the desire of the Assembly back in 2003 that legislation be brought forward. These Regulations will meet that desire. Placing the new scheme on a legislative footing also provides an opportunity to ensure it is run like other benefits administered by the Social Security Department. Provision will therefore be made for questions and appeals to be managed in a formal way. There will be an appropriate governance structure in place. The new scheme will go live on 1st January 2017, all members of the current scheme will be transferred automatically to the new arrangements. Ahead of that time we will speak with existing customers to ensure the transition is a smooth one. This will involve transferring data from Westfield Health and testing the support system that will be used within the new arrangements. We will also develop marketing materials to make sure the scheme does not get forgotten by those who can access it. The Regulations therefore take what is good about the current scheme, lower income pensioners will still be able to access help towards the costs of looking after their feet, teeth and eyes but the new scheme will be easier for them to use and will, I hope, mean more people can access these 3 fundamental areas of health care in the future. I propose the principles.

The Deputy Bailiff:

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

16.1.1 Deputy G.P. Southern:

I rise to my feet for once to wholeheartedly congratulate the Minister. **[Approbation]** To paraphrase the expression, I have been heard at last. Absolutely the right thing to do. One of the reasons why the take up to this scheme, to the old scheme, was so low is that you had to pay up front and claim back and that automatically limited the number of people it could get to because not many people can pay up front dental bills. I look forward to offering complete and utter congratulations later on in the year when we see the levels that the Orders are set at to make sure that those are an effective and accurate reflection of the costs involved and I also look forward around, let us say, September 2017 - maybe the end of the year - looking for a vast increase in the numbers of people taking up the new scheme as a result of extensive publicity to make sure ... this is one of the things that goes with benefit systems, you do not have the right reach, you do not get all the people who should be in your scheme. So I am looking forward to seeing the number, I think there are 2,500 - floating around the 2,500 - let us see 4,000, 5,000. Let us do all the numbers by the end of 2017 and then I will be again, for a third time, congratulating wholeheartedly the Minister if she can do that. I look forward to progress on this particular front.

16.1.2 Deputy J.M. Maçon:

Like Deputy Southern, there has been exactly the same issues with many of my constituents not being able to pay up front and again I would like to put on record my congratulations to the Minister, her department and all those who have worked in order to deliver this because I do believe it will be great help to many of our low income pensioners in the Island.

16.1.3 The Deputy of St. John:

I rise to thank the Minister for Social Security and her staff for carrying out this work but also to say that it is extremely easy for any Member, whether it be a Back-Bencher or in the Executive, or whether a member of the public, to heavily criticise various things that come forward without maybe providing solutions. The M.T.F.P. showed that this would be a way to put back in terms of primary healthcare and I like the fact and I like to see how this connects up with that particular strategy and the fact that there is a move forward with a lot of things that we see. There is not quite clearly a connection through to certain strategies and it can get mixed up and people can get confused about how the outcomes are addressed. So I applaud and I thank the Minister for bringing

this forward, and the staff for doing the work. I think it shows that there is a can-do approach instead of what we usually hear or what we feel like is happening is we cannot do this because either we do not have any money or because we do not have the resources of the time. So this is actively showing that there is a move forward in terms of primary healthcare and that was shown in the Regulations that were passed before. So I just wish to state that because sometimes it feels like we are more negative than maybe sometimes we should necessarily be. This is showing how this is a positive move forward and how we should be grateful for the work that is carried out behind the scenes.

The Deputy Bailiff:

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

[15:45]

16.1.4 Deputy S.J. Pinel:

I have to confess to being marginally overwhelmed. I do always try to keep my promises and I did promise Deputy Southern that this would happen so I am very privileged to be bringing this proposition forward and thank him for his congratulations. As I mentioned in my opening remarks, we have £200,000 voted towards this annually so, yes, there will be an increase, which will be in the Orders. We have to be very circumspect, however, because with the large promotion and publicity of it we do not know how many people are going to be coming forward so we do not want it to suddenly become unsustainable and it will be approached with caution. As I say, we want to keep on the good work with this. Thank you, too, to Deputy Maçon and also to Deputy Vallois. I think she is absolutely right. There is sometimes too much negativity in this Assembly and it is lovely to be able to bring forward something that is popular. I propose the Regulations.

The Deputy Bailiff:

Those Members in favour of adopting the principles ... the appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 33		CONTRE: 0		ABSTAIN: 0
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Helier				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				

Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Brée (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

The Deputy of St. Ouen, do you wish to call this in?

The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel)::

No.

The Deputy Bailiff:

How do you wish to propose the Regulations, Minister?

16.2 Deputy S.J. Pinel:

En bloc if I may, Sir. There are descriptions of each Regulation and I might take your advice whether you wish me to go through all of them or whether the Assembly is quite happy to just accept the Regulations *en bloc*.

The Deputy Bailiff:

It is a matter for you entirely, Minister. Any Member can ask questions of you, I suppose, so you propose them *en bloc*?

Deputy S.J. Pinel:

I do, please, I think I have spoken enough today.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on the Regulations? Deputy Southern.

16.2.1 Deputy G.P. Southern:

Oh dear, it looks like normal service is going to be resumed. A little moan, a little pointer, while we are feeling good about ourselves because we put an extra £200,000 into one aspect of one scheme, we have to set that in the context of we have taken £10 million of benefits away from this very group of people and that is the context in which we have to fit it. There has been a £10 million reduction in benefits and these are included.

16.2.2 Deputy J.A. Martin:

As another Deputy who can often be found to criticise or give the Minister for Social Security a hard time, I was going to jump up before Deputy Southern and wish her congratulations for the speed and it looks quite simple and workable. But I do have an actual question about the money, the additional £200,000, is it additional? I am trying to look to find out does it replace what we had? Does it stay the same as when we had Westfield and it is an additional or is it just additional

to what we did have at Westfield which is, from memory, only a few thousands. It probably is a scheme that we can manage much better but it is a question ... really it is congratulations and I would just like that answered just to note for when they come back because I do think, as Deputy Southern has stated - and I think the Minister herself stated - now that people can get the money up front, which is absolutely right, and much more advertising will happen that I hope the amount given is not going to be watered-down. So is this additional or instead of with a plus at the end of it?

The Deputy Bailiff:

Does any other Member wish to speak on the Regulations? I call upon the Minister to reply.

16.2.3 Deputy S.J. Pinel:

I thank Deputy Southern and Deputy Martin. It is additional and it is money that has come from the removal of the Christmas Bonus Law, which, as was said at the time of last year's M.T.F.P., saved £1.6 million. So it is £200,000 from that £1.6 million that was saved by removing the Christmas Bonus Law and as Members will know there is a different Christmas bonus proposition in the M.T.F.P. Addition. So, yes, it is an additional amount of money and also the administration which was paid to Westfield was always a proportion of the claims and on average was about £70,000, which we will be administrating through the Social Security Department now so saving that administration.

The Deputy Bailiff:

Those Members in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted in Second Reading. Do you wish to propose the matter in Third Reading?

Deputy S.J. Pinel:

Yes, please.

The Deputy Bailiff:

Is that seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading, kindly show. Those against? The Regulations are adopted in Third Reading.

17. Outsourcing Policy: safeguards (P.63/2016)

The Deputy Bailiff:

The next item of Public Business is Outsourcing Policy: safeguards - P.63/2016 - lodged by Deputy Southern and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion (a) to request the Chief Minister to ensure that the safeguards listed in paragraphs 17 and 20 of the report dated 4th May 1999 of the then Policy and Resources Committee, and adopted by the States on 22nd June 1999 in P.59/1999, Outsourcing Policy, shall apply to current and future outsourcing activity; and (b) to charge the Chief Minister, in consultation with the States Employment Board and employee representatives, to establish a common framework within which all departments should determine their outsourcing arrangements, based on the principles outlined in paragraphs (a) to (h) below.

17.1 Deputy G.P. Southern:

Thank you. It is a day for shocks, a day for surprises, a day for sheer bewilderment when I found the comments of the States Employment Board, I could not believe my eyes. They are positive. How wonderful. As they say in this document ...

Senator I.J. Gorst:

I am confused, we must have the wrong comments. [Laughter]

Deputy G.P. Southern:

No, Outsourcing Policy: safeguards, P.63/2016, not 1916, comments, 12th July 2016, within days. That is all right, that is fine. Where it says: "This is a sensible, inclusive, practical way forward appreciating the importance of this issue." Hear, hear to that, I say. Indeed it is. We have seen recently the whole issue of outsourcing in particular raise its head and cause tremendous worry and stress to our workforce. We have seen it organised and promulgated in a fairly random way. By that I mean the advert in the paper about the pre-tendering process, inviting people to pre-tender before members of the Infrastructure Department had been made completely aware of what was happening and that should not happen. So when it comes it should say item (d) of this old 1999 law suggests that all outsourcing transactions contemplated by the States should follow a common framework. We must get a system in place so that people know what is happening and how they will be informed and included in the process, because that is the other thing that is not happening. It is a bit of a different issue but today we saw that negotiations have not taken place with the teachers over a major shake up, major reductions in newly qualified teacher's pay. That should not be happening either but certainly in the area of outsourcing we should be communicating clearly from the earliest possible date about what is proposed and not playing around with numbers which are varied from 150 plus to now around 58 or 59 in the Infrastructure Department for outsourcing particular jobs and it does reflect a sense of random approach and inconsistent approach that we cannot be doing with. In particular, I draw Members' attention to item (h) in the list of things that ought to be in place and this is a very simple one. "Employees must be treated fairly and with sensitivity." So we do not want to see that ad in the paper saying your job is at risk before you know about it. The thrust of much of what is in here is contained perhaps in 2 paragraphs and I will just briefly quote from them and then perhaps we can get on and move on to new things. In paragraph (c), it says here: "Paragraph (c) is also a vital element in that it insists that the widest perspective of outsourcing should be taken if it is to deliver best value to the States as a whole and not just least cost to particular departments. We must have a vision of what the economic impact of large scale redundancies must be and outsourcing must be. Best value to the States as a whole not just least cost, i.e. the impact upon a department budget, it is no good having outsourcing that costs us money in the long run. Nor is it any good having outsourcing which costs us money in the short to medium term particularly." If, for example - and I hope it is not an example in reality - that the majority of your workforce are in their late 50s and you outsource them, you know from the very beginning that that is going to be an enormous demand, there is going to be a significant number of people going along to income support claiming income support in order to survive. If that is the net, that has to be accounted for. It cannot be just ignored. So it is best value for the States coffers as a whole. The second issue is important to address which is contained in this proposition is in Article 20, which are the 2 Articles that we specifically refer to 17 and 20 in the actual proposition. In addition to the foregoing, Article 20 says: "Any outsourcing policy should also incorporate safeguards relating to best value covering quality of service, cost and the States strategic policies generally. For example, where the States has a contract with external suppliers there needs to be a proper regard for the effectiveness on the revenue expenditure of the States, on the States policies and sustainability and on the minimising of social and material deprivation." So there is a measure there that says: "Hang on, this is not a race to the bottom, we have to look at social and material deprivation. There is no point taking a job internally, which is paid at, let us

say, £10 and replacing it with a job outside of the States paid at the minimum wage, because again that may well be a net cost on the income support bill. It may a net cost on the social security contributions, maybe it takes that worker out of tax. So we have to look at that. We cannot just say: “Cheapest is best.” Not only that but quality standards must be maintained. Finally, I say to the Minister in his comments, or the States Employment Board in their comments, in the fourth paragraph they say: “In particular, while safeguards are appropriate we should not compel private companies providing services to have the same and terms and conditions as the public sector.” All very well but that is not contained in the proposition.

[16:00]

The proposition says: “Talk about terms and conditions of service, negotiate with representatives, communicate properly and clearly with the workforce, i.e. treat them with fairness and sensitivity.” It does not say: “Pay outside the States what the States are paying currently.” It says: “Negotiate, talk to, communicate.” In that sense this is a very moderate and, I believe, very acceptable way forward in which we can proceed with some of the outsourcing initiatives that we are inevitably going to see coming forward in a rational, sensible and coherent way. So I wholeheartedly commend this to the Assembly.

The Deputy Bailiff:

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

17.1.1 Senator I.J. Gorst:

I do not think I need to say much because I hope that the comment says everything on behalf of the States Employment Board and I think there is much that the States Employment Board and those Ministers who are actively working in departments with staff agree upon. It is only right that staff are treated fairly and that the bottom line is not simply the defining characteristic of any ultimate decision to outsource in any particular area. I know the States Employment Board and individual Ministers agree with that and therefore the principle of what the Deputy is asking is one that we can support. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak on the proposition? I call on Deputy Southern to respond.

17.1.2 Deputy G.P. Southern:

Thank you. I welcome the words of the Chief Minister and particularly commend him, ask that he takes charge of making sure that we have a rational and coherent system set up so that each and every department, which it starts to consider, as they will do, outsourcing they have a template that they can work with as to this is the way to behave. If we can do that then perhaps we will get some acceptance among our workforce that we are in fact - because they are very suspicious of us at the moment, they are in dispute with us in many cases over several issues but outsourcing is one - setting a framework that can be made to work and we can take along and include workforce in the process of change and that certainly is not happening now. It must happen in future. I commend the proposition and call for the appel.

The Deputy Bailiff:

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

POUR: 33		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				

Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

18. Data Protection Commissioner: re-appointment (P.65/2015) - reduction of lodging period:

Senator I.J. Gorst:

Sir, you will recall that I rose before lunch and gave Members notice that there were 2 matters that I was going to ask them to consider to take at this sitting and I wonder if I could take those in order. If I ask first for the permission of P.65 and then we will agree that or not and then we would move on to the P.69 agree or not that permission, and then take proposition if they have been agreed?

The Deputy Bailiff:

Very well, Chief Minister. The next item then is the proposition lodged by the Chief Minister regarding the Data Protection Commissioner: reappointment, which is P.65/2015. For this proposition to move forward at this sitting it will require the Assembly's agreement to reduce the lodging period pursuant to Standing Order 26(7). That is a matter that is within the discretion of the Assembly and the test the Assembly would bear in mind is whether it is in the public interests to do so. So the first stage, Chief Minister, is for you to ask the Assembly to take this within a truncated lodging period.

18.1 Senator I.J. Gorst (The Chief Minister):

I think the first thing to say on what I am asking for with both of these items today is that it gives me no pleasure to be here asking Members to look at a reduced lodging period, but I do it, and I will take this particular one first, for very good reason. Members will recall that when we extended the appointment of the Data Protection Commissioner we said that we would undertake a review of all the changes that were happening in the data protection world. That review has now been undertaken. The extension that we agreed with the appropriate oversight of the Jersey Appointments Commission was until the end of September. We have done that review, we are now committed to the work that needs to be undertaken and, again, we see that the changing world around us with regard to the E.U. - and that is particularly important in this regard because we want to show and prove that we meet the emerging standards coming out of the E.U. and this will be extremely important for our competitive advantage. In order to do so we wish to extend the contract of the existing Data Protection Commissioner, as Members will see from the report, to December 2018 to allow that work (a) to commence and (b) completed. The reason I ask for it to be brought forward is that it is unfortunately ... 3 days' delay met the timeline for Friday and we do now have a short sitting, which is not always usual on the last sitting before the summer recess and it, I think, is important to give certainty to the office holder that we want her to undertake this extremely important work on our behalf and not leave it to be delayed until September when she would be approaching and near her termination of contract. So we will see that both of these propositions have a connection with our colleagues just slightly over the water and in this particular case my understanding is that my colleagues in Guernsey have already approved this extension so we are out of kilter in that regard with them. I do understand that some Members have views about the incumbent and I do not believe that is a reason to defer having the debate today. They can rightly air those views during the debate proper and I ask them to put that view aside until we come to the debate. In this regard, I ask Members to allow this proposition to be taken at today's sitting rather than defer it. Thank you.

The Deputy Bailiff:

Is the Chief Minister's proposition seconded? [**Seconded**] Deputy Higgins.

18.1.1 Deputy M.R. Higgins:

I am going to ask Members not to agree to taking this proposition at the present time. As Members know, I have been highly critical of the Data Protection Commissioner for many reasons. In the main it is because I have been helping people who have had issues with States departments where data protection is part of the issue, subject access requests and so on, and I feel the Data Protection Commissioner has failed those people and I was planning on bringing to the States detailed examples of where I believe the Data Protection Commissioner has not been doing her job. I will say on that it may be a partial reflection on the Data Protection Commissioner but the police service in Northern Ireland are investigating a matter at the present time that involves a member who is now a member of her staff and who was part of the problem with some of the people I have been trying to get information for and they have been trying to get information for. That investigation is ongoing. I would hope we will have an answer before September and I would like to include that information as part of what I want to send to the States. It is totally wrong in a sense that we give permission for an extension to the contract without hearing all the allegations effectively that I want to bring where the department has let down people. Therefore I will ask Members please delay this until September. What the Chief Minister said about work commencing on the equivalent to E.U. data protection is rubbish. The department can carry on with that in the meantime. In fact I would not be surprised if a lot of the work has not been done already but the point is it can be dealt with at a later stage. We are effectively being brought to deal with this matter now without States Members hearing the full facts that I would like to bring before the Assembly. Therefore, because

of the reservations I have about her, I would ask you to delay until September, hear what I have to say and if you want to reappoint her that is fine but at least you will have the full facts.

18.1.2 Deputy G.P. Southern:

It was very interesting. I paid careful attention to what the Chief Minister said and I waited to hear a reason for why this was being brought late. Certainly if I was bringing something and asking for 3 days ahead of schedule I do not know that I would necessarily expect to be well heard if I requested we take something ahead of notice. I listened and I listened right through to the end and I did not hear a single reason as to why. I did not hear an apology. I did not hear a reason why, what happened, that it slipped by saying that the Data Protection Commissioner is in post until the end of September. We originally had this down for 13th September. There is no problem there. It is lodged. The only reason the Minister quoted was that we wished to give confidence to the Commissioner that she would be in place from September. I am sorry but that is not good enough. I do not think that is a reason to do things. Our logic is in the way here and it is not as if this is the first time this Chief Minister has come to this House and said: "Oh dear, I have got it wrong again. We have slipped the date. Please accept this early." He does it time and time again. I am wondering if he has too many voluntary redundancies in his department. Are they slipping? Are they not as efficient as they use to be? That is certainly the impression he is giving. I too am minded not to allow this. It sets a precedent. We have rules. The Chief Minister above all should recognise those rules, abide by them and where occasionally, from time to time but it is getting far too common that this happens and we have to take something ahead of schedule. I will not be voting for this. It seems to me that 13th September is plenty of time in which to do things and the Data Protection Commissioner need have no fear that she is going to be out of a job from the 13th any more than she would have been out of a job today.

18.1.3 Senator P.F.C. Ozouf:

I stand as the Chief Minister's Assistant with delegated responsibility for some of the areas in this regard and indeed, now having received the delegation for taking a greater role and responsibility for the overall digital framework. If I may respectfully remind Deputy Southern - and I thought it was helpful because I realise Members have a lot of information before them - that I have circulated an email I sent to Members on 17th June. It is in front of Deputy Southern on his desk and if I may ask Members to remind themselves of this email where it was signalled as to the reasons why and to the apology that the proposition was going to be lodged.

[16:15]

Indeed, the second part on page 2 sets out the reasons for that. There was a delay and I regret that. I take some responsibility for that but we were also in this Assembly and we were also sorting out finally, and the point the Deputy makes about resources is important because perhaps he is right. Perhaps there have not been sufficient resources. That is no criticism of any of the people involved in the Chief Minister's Department or anywhere else. But we recognise the importance of providing regulators with resource in order to be able to do their work and I ask the Deputy if he may recall that email I sent to all Members. In fact, I am sorry, I sent it twice to Members on 17th June. I did not get any response from any Member, either Deputy Higgins, with respect I do not think I have seen one, or to Deputy Southern, which set out the reasons why and I would refer Members to those comments, to the reasons for that and ask that Members may hear in summing up the Chief Minister's arguments for this. More information and more support to regulators is important and they have an important role both in their work and in their work to grow the jobs and growth agenda and data that this is now absolutely pole position for. Not doing this does not give us the certainty that we need. No post holder should be unable to basically be reappointed in a timely way, of which there have been issues that no doubt the Chief Minister can explain in

summing up, as there have been discussions with the Appointments Commission chair as to the reasons why. Because there was due time and there was notice of this that this has commanded the attention of the independent Appointments Commission but I will leave the Chief Minister to comment on the reasons for that. It is a matter of regret. We do not like doing it but there is an overwhelming public interest to do so and I was not alerted to any issues that I thought informed Members of.

18.1.4 Deputy M. Tadier:

It is a matter of regret and is something that we do not like doing yet time and time again we constantly do it knowing that we can fully expect this Assembly to vote with us and we do not learn our lesson essentially. It may seem hyperbole to some but I do not think it is an exaggeration when we say that there is a fundamental principle of practice and procedure that is being steadily eroded here. It was eroded when we changed the test from being something of an urgent nature detrimental to the interests of Jersey to this public interest test that we do not even bother with. Nobody here is discussing the actual test, that Standing Orders require us to do, which is the public interest test. The Minister who wants to reduce the lodging period has not stood up and explicitly said why his proposal was more in the public interest than leaving the procedures in place. I will make this point quite clearly that my personal experience with the current incumbent, the Data Protection Commissioner, has only been positive. When I have engaged with her I have always found her very professional when she replies to my emails or in person but I know there are others who may not share that view, including Deputy Higgins. It is quite right that whatever the proposition before this Assembly, whether it is to do with an appointment or to do with another proposition to do with policy, that any Member of this Assembly has the requisite lodging period so they can manage their workload and prepare their arguments so they have certainty about when any proposition is to be debated. We know it is quite common for propositions to be deferred so that you can have more time to debate your proposition or withdraw it completely if things change. But reducing lodging periods does not cover this Assembly in any glory and it is certainly against what I would see as the public interest. We will be making the same argument in a moment and I think it does not send out a good message when we know in our heart of hearts that if one of us were to bring a proposition, an amendment and say: "Sorry, we forgot" and present our arguments saying it was in the public interest we would be given very short shrift and that is why we would not do it. Lodging periods are there for a purpose and that is without any staff we have in our back offices that do not exist to do the work for us. We do that ourselves. I think the argument has not been made. Of course one sympathises that it would be nice if we were to go to tell the Commissioner today whether or not she is going to be in her post again in September but that is a problem for the Council of Ministers and their forward planning. It is not satisfactory to have an appointments process that does not allow for a sufficient lodging period. That is their problem. It should not be at the cost of a further erosion of parliamentary procedure. It is not in the public interest and we should vote against this strongly today so that the Council of Ministers does not constantly get complacent and rely on the good nature of this Assembly to always acquiesce to their demands for a lower lodging period.

18.1.5 The Connétable of St. Mary:

I was going to ask a question. I think I may have missed something in the Chief Minister's speech. There is just something in the text of the proposition that would help me to make my mind up here. It says in 3.3: "In addition this extension to the appointment of the Commissioner is understood to be supported by Guernsey." I would like to know if the Chief Minister can confirm for me that has been done and if he can then I am likely to break with my usual stance, which is fairly hard on the shortening of lodging periods for 2 reasons. First, were it not for the summer recess coming up we would be debating this a lot sooner than we will be debating it if we leave it until September so the

issue may not have arisen. But having read the report today briefly there are several things stated in here concerning our co-operation with Guernsey, concerning the challenges we face, concerning the processes that have already happened to get this lodging, that make me understand that this is in the public interest. There are several things pointed out here regarding our difficult changing circumstances that I think we would be remiss if we did not consider being in the public interest. If the Chief Minister can give me that information I think I will be able to make my mind up positively.

18.1.6 The Connétable of St. John:

We are here discussing 2 appointments and I think one needs to bear in mind the individuals who are being appointed. I think it would be unfair to keep them on hot bricks, so to speak, for another 2 months. In doing so I also compare with the other arguments that have been made that we are time and time again being asked to reduce lodging periods and somewhere at some time we are going to have to put our foot down. It is not acceptable to continue bringing forward propositions late in this way but I will be supporting debating these today on the sole reason that it is because of the individuals involved we need to give their lives reasonable certainty and not keep them holding on over the summer recess.

The Deputy Bailiff:

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

18.1.7 Senator I.J. Gorst:

I am very grateful to follow the Connétable of St. John because the point he makes I think is fundamentally crucial and I appreciate that sometimes we do ask for foreshortened lodging periods, and I think that is most appropriate where it is an appointment process where we would leave people hanging on again over the course of the summer recess. Had we been in a normal sitting of course we would have been able to have those debates. I thought I had apologised but Deputy Southern obviously did not hear me say that. Of course I am sorry that I have to ask Members to shorten the lodging period in this way but I think there are good reasons for doing so, not least of which the Connétable of St. John has just very clearly mentioned. In the answer to the Connétable of St. Mary, she is right. Guernsey has now agreed and has now approved and it is this proposition where we are behind them. We come on to the next one in due course and therefore I take the view that we should give certainty to the post holder. We have to remember that these are positions that a process has been gone through and has been overseen by, in this instance the chair of the Appointments Commission, bearing in mind what Members said during the last States sitting and the process and the approval for handling it in this manner was very clearly directed and overseen by that independent chair because of the concerns that Members of the Assembly had raised when we asked for an extension previously. I am not sure how to start to address Deputy Higgins' points because, as I said, some Members are just against the post holder and he is now asking Members not to make the decision today because he feels that he can present evidence that would mean they would not make the decision in future. I really do not think that is an appropriate position to take for a post holder for such an important position in our community. If he has that evidence and it is evidence of such a serious nature, as it would have to be for Members not to appoint, having had the process overseen, then I would suggest to the Deputy that information should be presented to the police and not to this Assembly in the manner he is suggesting, if it is of such a serious nature and he also knows that we work on the principle of innocent until proven guilty. We have been in very difficult situations in this Assembly where Members have made accusations against third parties in this Assembly without their right of reply. Therefore I ask that Members do give permission for this to be taken today. As I said, I am sorry that we find ourselves in this position

and in the next one as well but I ask Members just to bear in mind the wise words emanating from St. John.

The Deputy Bailiff:

I ask those Members who are in favour of reducing the lodging period. The appel is called for. I invite Members to return to their seats. I would ask the Greffier to open the voting.

POUR: 36	CONTRE: 4	ABSTAIN: 0
Senator P.F. Routier	Deputy G.P. Southern (H)	
Senator P.F.C. Ozouf	Deputy M. Tadier (B)	
Senator A.J.H. Maclean	Deputy S.Y. Mézec (H)	
Senator I.J. Gorst	Deputy T.A. McDonald (S)	
Senator L.J. Farnham		
Senator A.K.F. Green		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Deputy J.A. Martin (H)		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy E.J. Noel (L)		
Deputy of St. John		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy A.D. Lewis (H)		
Deputy of St. Ouen		
Deputy R. Labey (H)		
Deputy S.M. Brée (C)		
Deputy M.J. Norton (B)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy P.D. McLinton (S)		

Deputy M.R. Higgins:

Sorry, I voted the wrong way. I voted [Laughter] ... I was going to vote against but I have accidently voted for. I want that registered.

The Deputy Greffier of the States:

Those voting contre were: Deputies Southern, Tadier, Mézec and McDonald.

Deputy M.R. Higgins:

It would have been me as well. Oh dear.

The Deputy Bailiff:

The Assembly will well understand the occasional consequences of pressing the wrong button at the wrong time. **[Laughter]** With the agreement of the Assembly to allow the matter to be taken now I would...

Senator I.J. Gorst:

Could I ask for the agreement for the next item as well and then we deal with both of those altogether and we will get on to the substantive items, should we get there.

The Deputy Bailiff:

Very well. Is the Assembly agreed that we can take the next argument, which is whether or not ... Deputy Tadier, the Chief Minister is suggesting that instead of moving on to deal with the substantive proposition we now deal with the application to take the next item and foreshorten the lodging period of that one rather than together.

Deputy M. Tadier:

Thank you, Sir. I object to that.

The Deputy Bailiff:

It is ultimately a matter for the Assembly. Do you wish to put this to a vote, Chief Minister?

Senator I.J. Gorst:

Am I asking for a vote to take the request to foreshorten early next?

The Deputy Bailiff:

Yes.

Senator I.J. Gorst:

Indeed, then, Sir, please.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak briefly on that particular item?

Deputy M. Tadier:

It seems to me, and I know I have probably come across as pedantic to other Members but I think parliamentary process is important for a reason and it seems strange to go on to the next item when we have not even finished the previous item.

[16:30]

If the Minister wants to move on to the next item and he can propose that we would certainly back that but it seems very strange. I know he is arguing the principle is the same. Perhaps the Minister could just give us a list of all the things in September that he is going to ask for the lodging period to be reduced and we can do that now but it seems strange to move on to the next item when we have not finished the current one so I would ask Members, irrespective of political allegiances or anything else, let us finish the item that we are on and then let us go on to the next one and judge that one on its merits. There are different arguments, I think, for the lodging periods to be voted for or against on the next one and I would not simply wish to take them as an auction job lot.

Deputy J.M. Maçon:

I did support the Chief Minister on the last vote because I agree that in the case of a reappointment of an individual that is already known to this Assembly it would be unreasonable not to reduce the lodging period. As for the case of this particular proposition that was lodged on 8th July, that is 4 days, which is over a weekend, it certainly has not given myself and no doubt very many other Members the opportunity to even read the proposition let alone know what is going on. I do not believe in this particular circumstance that I am able to support the Chief Minister and therefore I will not be able to do so.

The Deputy Bailiff:

Let us just be clear. The issue that is being put to the Assembly that could be dealt with hopefully very briefly is whether or not we can take these 2 applications out of order and deal with the principles, that are often or from time to time dealt with quite separately from the proposition itself as to whether they can be taken with a foreshortened lodging period.

Deputy G.P. Southern:

It looks like the Chief Minister is applying a good deal of psychology to take us on the bounce. You have just accepted taking late one proposition. This second proposition is probably weaker than the first one but nonetheless if we take it now, agree to it, effectively we will be bounced into accepting it as well and that is what I think is going on. We have a bit of sleight of hand here. We have agreed one item. Let us discuss that item and then move on to do we agree a second item which is very different and then move on to that, not get bounced into accepting all of them.

The Deputy Bailiff:

Does any member wish to speak on this narrow point? Chief Minister, do you want to respond?

Senator I.J. Gorst:

I accept that they are very different items but they are both asking for a foreshortening of a lodging period and therefore it seemed reasonable to me that we take the question of foreshortening of the 2 items and then deal with the 2 substantive items and that is why I am asking that we deal with the foreshortening of the second item. I recognise, as the speakers have said, that there are different issues at play but it is still a foreshortening and therefore I think it is reasonable to take it next.

The Deputy Bailiff:

Would all Members in favour of taking the matter of ... the appel is called for. I ask Members to return to their seats. I ask the Greffier to open the voting.

POUR: 29		CONTRE: 12		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. Mary		
Senator P.F.C. Ozouf		Connétable of St. Martin		
Senator A.J.H. Maclean		Connétable of St. Saviour		
Senator I.J. Gorst		Deputy J.A. Martin (H)		
Senator L.J. Farnham		Deputy G.P. Southern (H)		
Senator A.K.F. Green		Deputy M. Tadier (B)		
Connétable of St. Helier		Deputy M.R. Higgins (H)		
Connétable of St. Peter		Deputy J.M. Maçon (S)		
Connétable of St. Ouen		Deputy S.Y. Mézec (H)		
Connétable of St. Brelade		Deputy of St. Ouen		
Connétable of Grouville		Deputy L.M.C. Doublet (S)		
Connétable of St. John		Deputy of St. Mary		
Connétable of Trinity				
Deputy of Grouville				

Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy A.D. Lewis (H)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

19. Jersey Competition and Regulatory Authority: appointment of Chairman (P.69/2016) - reduction of lodging period

The Deputy Bailiff:

Chief Minister we will come on to your proposition that P.69, the Jersey Competition and Regulatory Authority: appointment of chairman, be dealt with today notwithstanding it has not been lodged for a sufficient period.

19.1 Senator I.J. Gorst (The Chief Minister):

I reiterate the points I made on the previous proposition, of course more so for this one because the period between lodging and my request for Members to consider it is indeed short, as Deputy Maçon has just reminded the Assembly. Members will be aware that the term of office of the previous occupant of this position came to an end. There was a process and an individual was selected. Unfortunately due to circumstances beyond all of our control that individual had to withdraw and take their name out of the running and therefore that name never came forward for approval to this Assembly. That then left the Assistant Minister and myself with somewhat of a dilemma. We could either have sought the appointment of a temporary chairman for a period of time or we could have restarted the substantive appointment for the chairman's position. We sat down and discussed the preferred approach of the Appointments Commission and again, with the very expert support of the Appointments Commission, they were able to recommend, having had a number of conversations that the best approach for the Competition Regulator was to seek in the very shortest possible order a substantive person to appoint to the post. The Assistant Minister and I were quite clear that it was an important political priority to be able to appoint a chairman to C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities) and to J.C.R.A. to ensure that they were moving forward and delivering on the recommendations of the competition review that Members will be aware Sir John Vickers and Oxera undertook on our behalf. The Appointments Commission, together with a recruitment consultant, said that they could work towards that and we are very clear that if that was to be the case we needed somebody in place prior to the summer recess. That process, while taking some time, was undertaken in very short order and everyone worked together to enable us to get to the point where we are today with a person who is prepared to put their name forward, an extremely competent and skilled person, to take on the role that is going to in my view become even more important in our community over the coming years. We have heard about one particular area in regard to housing earlier today. Members will by now have seen the reasons outlined in not only Senator Ozouf's email but also the very helpful and supportive email from Deputy Ferbrache in Guernsey. This again is a pan-

Channel Islands position and therefore we have to work together with our colleagues in Guernsey in these appointments and we know that Guernsey has a slightly different appointment process than the one we have here in Jersey, overseen by the Appointments Commission. I take the view that the Competition and Regulatory Authority is an important body in our community. They have extremely important work to do and they, I think, need to have the new person in post overseeing the work in Jersey as quickly as they possibly can. Mr. O'Higgins ... I was just making sure it was the "O" [Laughter] and that colleagues need not fear that it was one of their colleagues ...

Deputy M.R. Higgins:

I have been known as O'Higgins as well.

Senator I.J. Gorst:

... is in place as soon as possible. I come back to the point that the Connétable of St. John made earlier. There is really important work for the Competition and Regulatory Authority to be doing, and that they are doing already over the summer. They will be able to do that work so much better when the new chairman is in place. Therefore, I ask that Members do not delay the appointment but allow for a foreshortened lodging period so that that good work under the auspices of a new chairman can be undertaken. I know that Members of this Assembly have raised issues, both privately and in this Assembly, about the work of C.I.C.R.A. and about the implementation of the recommendations of the Competition Review, and the appointment of a new chairman prior to the summer recess is going to help them carry on the good work that the previous chairman in that implementation, but allow them to do it at pace as well.

The Deputy Bailiff:

Is the proposition seconded? [Seconded]

Deputy M. Tadier:

Before speaking may I ask a question of the Attorney General, if he has the information? What would happen if we were to appoint Mr. O'Higgins today and Guernsey were to not appoint Mr. O'Higgins in September, what would the consequence of that be?

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

I think the appointment would be valid as the appointment is under the Competition Regulatory Authority (Jersey) Law 2001 and, therefore, it would stand.

Deputy M. Tadier:

Does that mean he would only work for Jersey and that Guernsey would have to find a different individual to undertake their operations?

The Attorney General:

Ultimately that could be the case, yes.

The Deputy Bailiff:

Deputy Tadier, did you wish to continue with a speech or do you wish to wait?

Deputy M. Tadier:

I would like to reserve my right to speak.

19.1.1 Senator P.F.C. Ozouf:

If it may assist the Assembly, obviously this has been the subject of discussion with the candidate and the Appointments Commission and in Guernsey. I wish to be clear to the Assembly that the

candidate is clear about the joint approach to the Channel Islands, both separately legally constituted bodies. We have 2 separate laws with no interlinkage between them at the moment and there are 2 things that are relevant in this debate of whether or not to take it. The first is that the candidate would indeed reflect on the decision of the States. As Deputy Ferbrache points out the exceptional decision not to appoint him for that, and would effectively stand down in that situation. So legally that is correct that the Attorney General of course makes the legal point, but the candidate is very clear that they are being appointed and if they do not achieve a unified vote from both Assemblies then they would effectively not continue. It would be an impossible state of affairs, we do not want to see a disjointed J.C.R.A. and G.C.R.A. (Guernsey Competition Regulatory Authority). We are going to work together to make sure that this is linked. The other thing I would say, this is a completely unavoidable situation given the circumstance. I worked with the Appointments Commission and colleagues in Guernsey to be in good time to deliver a proposition to States Members but it was thwarted by a completely unforeseen personal situation that the preferred candidate could not be brought forward, otherwise we would have had this a long time ago and it would be before Members before that. It is obviously not appropriate to speculate on the personal reasons why that person could not go forward, and that person's identity of course is not known at all and it would not be right for it to be in any speculated upon. The other final thing that I hope is helpful is just to remind Members that they have agreed already in principle to not take propositions like this in the manner in which they have now been proposed. They have already agreed that the legal changes should be made to the laws that effectively they are laid before Members and then have them laying before them like an order-style process, which would have meant an entirely different approach to where we even are today and Members would not be placed in this invidious position, which was absolutely unavoidable.

[16:45]

Plans were made in both jurisdictions to bring it forward but we had a candidate that withdrew. There was nothing we could do about that. There was not an appointable candidate and so we had to start again and we have done; speedily, efficiently and properly. Both politicians responsible for this important remit are absolutely unified in their support, having taken soundings and seeing the candidates. It is not our decision, it is simply a recommendation of the Appointments Commission which then comes to a Minister for forwarding to this Assembly. In future that will become subject to the States enforcing that law change by an Order instead of a proposition. I would just say that those reflections might be helpful. No criticism why that has not been done, we will just simply amend the law for States Members subsequent approval when we do an omnibus change of all matters to do with competition to sort all of these issues out, including, quite frankly, an inherent position of different terms of offices for different appointments, which we will sort out. But we need to get the new chairman in place to sort everything out as soon as possible, and I thank Members for their consideration.

19.1.2 The Deputy of St. Mary:

Perhaps I could begin by declaring an interest in the sense that I have a family member who was at one time seconded to work for C.I.C.R.A., of which the Chief Minister already knows. While that secondment has finished I gather she does still have present employment with that same firm, continuing to advise. That said, the discussion we are now having is not something that is raised within the family, I assure you. It is essentially a point of clarification, if I may. We have established that this appointment is purely for the Jersey Authority and just hope that in the fullness of time he will become also the chair of the Guernsey Authority. I take it from that, that there is already in existence a chairman of the Guernsey Authority, and if that is the case is there any problem in his resigning or has he already undertaken to resign at the appropriate time so we have no conflict at that stage.

Deputy J.A. Martin:

I presume we are still discussing whether we bring forward the lodging period?

The Deputy Bailiff:

Yes, we are, Deputy.

19.1.3 Deputy J.A. Martin:

Thank you, it is a bit of a strain. I have been reading with interest the email from our Guernsey colleague and he is in this position because a previous States decided they will not sit in the month of July. We are also in this predicament because are we fortunate that Mr. O'Higgins can start immediately. I supported the last recommendation to have an early debate, it was a few days, but this - as Deputy Maçon says - was lodged on the 8th. Again I have heard lots of reasons about the previous person who could for some other reason - that is totally fair, I do not need to know any more than that - who could not take up the appointment. But I have read the emails, why such a late lodging, or is it that we need - as the Minister says - he thinks we need the person to start work immediately. I am not convinced. It says in the email from Guernsey, he apologises for their antiquated procedures. Well, is that not what we are in danger of completely doing away with? Because I do not know enough about how long their lodging period would be if this would have been nodded through by their Bailiff if they had sat this week or last week, but so far I am not convinced I can support bringing the proposition forward. I have no problem with the person and the position, but this position is not the first time we have had a gun held to our head. I think the last 3 chairs of this - it might have changed its name - but has literally had to be done yesterday and every time the Ministers have got away with it. I need to be persuaded. Lodging something on the 8th, debating it on the 12th, I am not sure.

19.1.4 Deputy J.M. Maçon:

I thank Deputy Martin for that clarification because I thought the previous vote was about reducing the lodging period on this particular proposition. I think maybe I am not the only States Member that was in the position.

The Deputy Bailiff:

Would you like me to bring hopefully a little bit of clarity in case there are some States Members ...

Deputy J.M. Maçon:

Please.

The Deputy Bailiff:

The first vote that we took in connection with this area was bringing forward the proposition relating to the Data Protection Commissioner; that was passed. The second vote that the Assembly took was to whether or not we could deal next with bringing forward the lodging period in connection with the Jersey Competition Regulatory Authority and we are now, having passed that, dealing with the question as to whether or not we do in fact permit the proposition to be put. That may or may not have brought the clarity that it was intended to do, I hope that it has.

Deputy J.M. Maçon:

In that case I think I will just say the comments I previously said stand for this one. I do not think it is good government, or very professional, to have a proposition lodged 4 days ago over a weekend, which I do not know if any States Member has had the opportunity to read, I certainly have not. I will not be bullied into supporting someone when I have not done the proper reading. Thank you.

19.1.5 The Deputy of St. Ouen:

I must say I do feel some unease about proceeding with this today because while I do appreciate all that the Chief Minister and the Assistant Minister have said about the appointments process and the efforts that have gone into that, and the view they take of how important this appointment is; and while I appreciate that Mr. O'Higgins would wish to know whether or not this Assembly supported his appointment, still I am asking myself where is the public interest in proceeding with a debate on a proposition which was lodged just 4 days ago. Ministers and Government will always want to proceed with its programme, there is always a good public interest in getting things done, but there are reasons why lodging periods are set out in Standing Orders. It is good governance that Government is not rushed and Members of this Assembly have time to consider, to bring amendments if need be or to take soundings and to consult. I do not feel at the moment that we have been given enough that persuades us that this is in the public interest and the interest of this Assembly to proceed at such short notice. I am sorry but I do feel that it is important to uphold the rules by which this Assembly governs itself. Thank you.

19.1.6 Deputy G.P. Southern:

Here we go again. Last meeting of the session and we have something to debate at 4.55 p.m. What is people's mood, let us just get it over and done with it, let us go ahead with it and we can get home. That is the reality, often, of what happens here. In fact I have used it myself, a late proposition on the last meeting of a 5-day session in July, and we revived Anti-Discrimination Law. That is the only reason why we got it, because we wanted to get home and get away. That is what we have now. Within the context this morning of the Alwitry decision, one of the issues there was he was not given a start date. Was this Mr. O'Higgins given a start date? Is he expecting to start? We do not know. What we do know is that it was lodged on the 8th, not a fortnight ago, not 4 weeks ago less a day, but the 8th, over the weekend understand this, vote for it on the Tuesday. I am sorry, I agree with my fellow Deputy from St. Helier, Judy Martin; that is too short. It is complicated by the fact that also in Guernsey they have not managed to get their proposition before the States and they will not be appointing until September. Now, how do they react to this? Mr. Ferbrache, who writes to Senator Ozouf, says: "I envisage almost certainly seeking the guidance of Mr. O'Higgins on a number of matters before the formal approval of his appointment in September. I stress again, I cannot envisage any circumstance in practical terms whereby our States will not formally approve him." That is well and good, but look at what he is saying: "In the light of the fact we have not got until September I am still going to talk to him and seek his advice, so we will have a full working relationship, we will make something work, waiting for September." Why can we not do similar? Because the Assistant Minister says: "This is urgent." He does not say why it is urgent, he does not say how long we have been without this position, and we have been for several months. He has done his best and the nearest he can get is lodging on 8th July, just 4 days before we are due to debate. Not good enough. We have a set of regulations that we are supposed to live by. Lodging time is to ensure that we make sound decisions because we have got time to study and work out what propositions are saying clearly. It does not matter what that proposition says, I do not think. As the Assistant Minister says: "I recognise that it is taking liberties to ask for such a speedy decision from the States and would not do so if I did not believe it was urgent and necessary." The condition is not that the Assistant Minister believes that it is urgent and necessary. As he says, he is literally taking liberties, so I will not vote on this.

19.1.7 Senator L.J. Farnham:

I do appreciate Members' frustration at this, and I take issue with Deputy Southern, you cannot really get advice from somebody when they are not appointed. You just cannot do it. This is so very important and Senator Ozouf knows, because I call him regularly, and we talk about what needs to be done and there is some really important work that needs to be done, not least with the Ports of Jersey. There are fuel distribution issues still and we need to make progress on telecoms,

and there is anti-competitive behaviour in other areas. I have been speaking to Senator Ozouf about the urgent need to address areas such as inter-island travel and air and sea links. Let us just put aside the frustration we feel at something being lodged at the wrong time and think about the consumers because they are the ones that are going to benefit the sooner we get on with this important work. That is where I think we need to be. I know my team at Economic Development, Tourism, Sport and Culture need a fully functioning competition authority to get on with our work so can we make the decision and get on with it please.

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

Really for me I understand the many comments that have been made about the late lodging and the short time to think about this particular proposition, and all those points are well made and entirely appropriate. But it comes down to the more practical element of do we support and recognise we need the work of C.I.C.R.A.? Is it important to us in Jersey that we have a fully functioning C.I.C.R.A. in place today or can we leave it for several months or 2 months at least until we come back in September? I think all Members need to ask themselves, is that in the best interest of the people in Jersey. If you feel that C.I.C.R.A.'s work is that important that it cannot wait for another 2 months and that is prejudicial to Jersey then vote against this. If you think it is important that we can go to C.I.C.R.A. and answer many of the questions which are already waiting for them, and others still to come, for them to opine upon then you need to vote for this proposition. This is about the interests of getting the work of Government and the work of an organisation that protects the public interest up in place as soon as we possibly can.

19.1.9 Deputy M. Tadier:

When I used to go to the auctions a Glencoe they would have 2 job lots that were together, they were separate lots but the auctioneer sometimes would decide to take them as one lot, sometimes he decided to take them as 2 different lots. Of course, once he had sold the first Hoover vacuum cleaner, which was pretty much on the face of it identical to the one next to it, he would say: "Now, we have sold that one, this one is much better" and try and get extra bids on that. The point to be made is that while the Chief Minister tried very sneakily earlier, and successfully, to try and put these in as a job lot they were completely distinct reasons why we should reject this, even if Members did vote for the lodging period to be reduced on the first one.

[17:00]

There are a few differences, the first point is that Guernsey cannot approve this until September. We have heard from the Attorney General, and in fact from Senator Ozouf, that if Guernsey were to reject this ... we have heard from Deputy Ferbrache that he does not anticipate that is the case but just as he cannot second guess his own Assembly we certainly we cannot second guess an Assembly in a different jurisdiction and what they will do. It seems to me that if you had a situation whereby we appointed him today on 4 days' notice - because that is essentially what we have been given and we have been just circulated an email today, 12th July, asking us to do this, saying it is imperative that we do this but in reality we have not heard any explanations - we could have a situation whereby Jersey appoints Mr. O'Higgins and Guernsey decide for whatever reason that they do not want to. Now, we might say: "Well, that is very unlikely that is going to happen" but it underlies a more fundamental problem. Perhaps this is one of the difficulties of having joint working groups between Jersey and Guernsey, and obviously this is why Senator Ozouf has said that in future they are going to change the appointments process so it is done by Order rather than by the States doing this, quite rightly. But that is not the current arrangement that we are working under. I think the second difference is that we do not have an incumbent like the Data Protection Commissioner, who is already in post who could reasonably be expected to be reappointed and, therefore, she would carry on with her job, nothing unchanged here. Here we have somebody who

has applied, with their eyes open, for a job in the public sector working for Government as the head of the Competition Regulatory Authority in Jersey, and presumably hopefully in Guernsey for them as well, who knows that when he applies for a job you have to abide by the principles of that organisation. Now, if I or anyone else were applying for a job in a private sector, and it might be for a position of director in any kind of firm, it could be a finance firm, a law firm or whatever, and you were told: "Look, we have got you down to the final applicant so essentially you are the one that we have got for the job, we think that you are the best one but I have got to put it to my board and the board does not meet until September" you are fully aware that is the point at which you would be employed and that is the point at which your contract would start. The suggestion that somehow C.I.C.R.A. is not going to be able to function between now and September if we do not have this person in position surely cannot be true. Surely there must be provisions at C.I.C.R.A. for somebody to act up in that position until somebody has been appointed, otherwise that would be very sloppy governance procedures, would it not? So clearly I do not think the argument has been made. As my previous colleague said, absolutely Senator Ozouf knows full well that he is taking liberties to ask for such a speedy decision from the States, and he is taking liberties because we have not had a chance to look at this properly. As I said, I do not see the public interest case in this particular circumstance as being anywhere near as strong as that for the previous proposition, because Guernsey have yet to sit and make the decision. Now, I was trying to find on the Guernsey website - it is not quite as good as our website, it has to be said - when their next States sitting is but I presume it is fairly early in September and I am happy to give way if Senator Ozouf can tell us perhaps when he sums up when the next sitting of the States of Guernsey is and when this will be taken. But I suspect that it is going to be early September and it may even be on the same day, or if not around about the same day within 7 days of us making that decision, which I think is entirely satisfactory. Then the individual does not have to worry, he does not have to spend a whole summer worrying to himself about whether Jersey will have appointed him but have it hanging over his head, the sword of Damocles, that Guernsey may not appoint him. It seems entirely unsatisfactory and against the public interest that we would put an individual in that precarious position. It seems entirely more sensible to wait until September. I know that Members are also worried about money, and this is not the core issue of the argument, but normally when you lodge a proposition you have to put financial and manpower implications, is there a financial implication if we appoint him today rather than appointing him in September? I do not know what the answer to that is so perhaps I would like to ask the Attorney General if we pass this today when does the contract start, and if we pass this on 13th September when would the contract start then?

The Attorney General:

I have not seen the contract in this case but of course if he is contractually entitled to payment from a certain date he is entitled to payment from that date. But I cannot help further than that, I have not seen the contract.

Deputy M. Tadier:

It says in the report - kindly the Deputy in front of me has shown me that - the appointment will start with immediate effect. So it is not a key consideration but we know that if we appoint him now we are going to have to pay for a period from not until September when Guernsey have not even made the decision to employ this individual. I am not sure if that is necessarily the best way to do it, I think it would be much better all-round if we wait until September. That is not having made the arguments again for the lodging periods and why we have them in the first place. I suspect we are coming to the point now if we pass this today and say: "Yes, okay, Council of Ministers, we let you have the first one, we will let you have this one away as well on the condition that you will come back to the Assembly, so these appointments will no longer require to be

debated, if it happens again you will not be asking for reduced lodging periods.” But you can sure as ... I am not sure if I am allowed to say “sure as damn it” or “hell”, sir?

The Deputy Bailiff:

No, you are not. Sure as eggs would be fine, I expect.

Deputy M. Tadier:

Sure as eggs, no idea what that means, it sounds a bit American to me. Good old Americans, we can rely on them for safe parliamentary expressions, despite their relative youth as a parliamentary democracy. We will not go there. **[Laughter]** But it seems to me if we give the Council of Ministers this they are just going to not learn their lesson. I suspect it is much better to have a more honest standing order, is it not? Why do we not just say that the Council of Ministers can do whatever they want when it comes to parliamentary procedure? So if they just want to come up and say: “Yes, I will send an email to my mate in Guernsey, I know it is only 4 hours’ notice, I will cobble together some emails. I know that the Assembly ultimately will vote for it because we have got enough voting fodder in this Assembly. They put us in power and they are going to let us get on with the job.” Maybe that is what we should be doing and I would genuinely and seriously ask P.P.C. to give urgent attention to this matter, because it is not satisfactory for any Member - let alone the Council of Ministers - to consistently come to this Assembly and increasingly complacently ask for lodging periods to be reduced to not make an interest test of whether or not it falls within the public interest. We might as well just let the Council of Ministers dictate what order they want to take things in. We probably should think about whether or not anyone who is not a Minister can even speak or certainly lodge propositions, and just let the Council of Ministers dictate the running order in the Assembly. But I probably should not joke about that because this is the way it is going, it is happening by stealth and it seems to me only a matter of time where the actual rights of this Assembly are eroded to the point where the public interest is not served full stop. So I would ask Members to reject this request and for this to be brought back in September when we and Guernsey can approve this if it is the will of both Assemblies.

19.1.10 The Connétable of St. John:

There has naturally been a rigorous interviewing process in which this appointment or this recommendation has been made and we as an Assembly are merely asked to approve it, or possibly rubberstamp it. However, the important issue to me - as I would hate to have to rubberstamp something after Guernsey - I would prefer to do it first.

19.1.11 Deputy A.D. Lewis:

I think Members should be a little bit careful here. We are lucky that we get good candidates coming forward for these types of posts. We have seen that on a number of occasions in recent sittings, we are very fortunate indeed. This sort of discussion in this Parliament does send out poor signals about governance in other ways, different ways than the way that the Deputy is suggesting, and if we want to continue to attract good candidates for these types of posts we should not really be having this type of discussion in this way. I fully accept the Deputy behind me, his concerns about procedure, but I think we should not kick a gift horse in its mouth. I am not sure if that is an Americanism or not, but I would be very concerned if I was a candidate for this type of role and I was listening in to this debate today. I think Members should be very mindful of that and I think we should proceed today without delay because this post does need to be filled the quickest possible way and I think the Assistant Minister has explained his case perfectly adequately for me, for one, to vote for it.

Deputy M. Tadier:

Can I ask a point of clarification of the previous speaker?

The Deputy Bailiff:

If it is a point of clarification and he is prepared to give way, yes.

Deputy M. Tadier:

Could I ask him who is responsible for having this debate today?

The Deputy Bailiff:

I am not sure that is a point of clarification of his speech. That is a point of observation, Deputy.

19.1.12 Deputy S.M. Brée:

The point behind this debate is whether or not we have a debate. It seems a bit perverse really. Like many Members here I am unhappy with the fact that this Assembly is being asked to debate a proposition lodged on 8th July. I am not comfortable about it. However, let us look at the other side of the coin as well. To confirm, I think some Members of this Assembly are maybe labouring under a misapprehension. The proposition that we are being asked to debate today is about the appointment of a chairman of the Jersey Competition and Regulatory Authority. We are not being asked to appoint a chairman of C.I.C.R.A., which is the Channel Islands Competition Regulatory Authority. We hope that the candidate being put forward will be ratified by Guernsey and will become a chairman of C.I.C.R.A., but that is not what we are being asked to do today. What we are being asked to do today is to say: "Do we feel it is important that this Assembly debates the appointment of a chairman of what is an exceptional authority in Jersey at the moment?" We have a huge number of problems which need a Competition Regulatory Authority to look at. I am deeply concerned that the Council of Ministers has sought to ask us to debate this and I feel we are quite within our rights to voice that concern. But I am going to support debating this proposition today because I think the importance of having somebody like the candidate being put forward working with immediate effect outweighs our indignation at the actions of the Council of Ministers.

19.1.13 Deputy M.J. Norton of St. Brelade:

It is a pleasure to follow Deputy Brée because I concur wholeheartedly with how he feels in this. I do sense there is frustration from Members because of the lodging period and I fully understand that and we are against rules and regulations, against pragmatism and getting on with the job. Consumers will benefit, as has been previously said. In terms of Government operation and getting on with the job we will benefit from the work that has to be done. If you were like me not so long ago - and I was reminded of that today, 20-odd months down the line - listening to this debate on the radio and not fully understanding the niceties of lodging periods and frustrated with how slowly Government and the States moves. What I was constantly being reminded of: yes, I know you have to jump through all of these hoops and yes, I know you have to do all these right things and I fully understand that. But when there are extremely good reasons, which are nobody's fault because of candidates that have withdrawn, because we do need somebody, there is a good reason.

[17:15]

Then you can sense the frustration of the general public who wonder what on earth we sit around talking about all day long sometimes, when what we really want to do is get on with the job and get some results done. This is a bit of pragmatism and I will be supporting it. Thank you.

The Deputy Bailiff:

Does any other member wish to speak on the proposition? I call upon the Chief Minister to respond.

19.1.14 Senator I.J. Gorst:

Perhaps I will start again where I started earlier and say that the Assistant Chief Minister and myself have no desire to be where we find ourselves today. But it was, as we said earlier, due to the fact that the person that had been selected, for their own personal reasons, had to withdraw. Then we took a decision to try and get a suitable person in post with the guidance of the independent chair of the Appointments Commission. That is why we are where we are today and why, unfortunately, we accept that and it is right for Members to make the points that they have made about the unfortunate nature of being where we are today asking for a foreshortened lodging period. I could go through point-by-point, all the points that Members have raised but I am not sure that they are going to thank me but perhaps I will pick up on a few. This is not a gun to the Assembly's head; this is not about Senator Ozouf or myself. This is about asking us to be able to make a decision today to put a chairman in place for J.C.R.A. The J.C.R.A. is an extremely important body in our community. It has got extremely important work to do. Senator Farnham mentioned others. There are many others I could go on and reel-off about the energy market review for example. So it is not about the Ministers or about the Government; it is about whether we are going to make a decision today, first of all, to allow the debate for the appointment to be ratified if that is what this Assembly wants. It is not we have been criticised for being unprofessional; we are used to being criticised. What would be unprofessional is if we allow a body of such an important nature to go without a chairman, when we know that we have got a first-class person who has been through the appropriate process, which has been overseen by the appointments body, not to put that person into place or at least to have the debate. I would say there is an overwhelming public interest in my own Deputy and that is that we have a body; none of the N.E.D.s (non-executive directors) wanted to step up and be the acting chairman because that was our first recourse to them to get us through this period. Therefore there is an overwhelming public interest because of the work and the decisions that this body are needing to make, not quite on a daily basis but almost, about anti-trust cases, about compliance notices, about issues of competition right across our community. It is absolutely in the public interest that we take and make this decision today. So Deputy Tadier made all sorts of comments; one was about how one would go about appointing a chairman and it would be perfectly fine in his view when one had a chairman just to wait for a number of months before they are appointed. That is not my experience of how chairmen are appointed to boards. It is very much the reverse. Once you have found the person who is going to be chairman, you convene an extraordinary meeting of the board so that person can be up and running almost instantly. Once you have got satisfaction about the process and you have got the person that you are going to appoint, if you have a board without a chairman the first thing you want to do is put your chairman in place and you make sure that processes are amended so that you can do that. The J.C.R.A. is, as I have said, extremely important. They have done lots of good work over the years that they have been in existence and the previous chair has served 2 terms. It was right that a new chairperson was looked for after that service of 2 terms and I thank him for that service. But as much as it gives me no pleasure, I do ask that Members do foreshorten the lodging period so that they can make a decision about the person that has been selected and J.C.R.A. can ultimately know whether it has a chairman or not by the end of today. Thank you.

The Deputy Bailiff:

All Members in favour ... the appel is called for; I invite Members to return to their seats. I will ask the Greffier to open the voting.

POUR: 30		CONTRE: 8		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. Martin		
Senator P.F.C. Ozouf		Connétable of St. Saviour		
Senator A.J.H. Maclean		Deputy J.A. Martin (H)		

Senator I.J. Gorst		Deputy G.P. Southern (H)		
Senator L.J. Farnham		Deputy M. Tadier (B)		
Senator A.K.F. Green		Deputy M.R. Higgins (H)		
Connétable of St. Helier		Deputy J.M. Maçon (S)		
Connétable of St. Clement		Deputy S.Y. Mézec (H)		
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

20. Data Protection Commissioner: re-appointment (P.65/2016)

The Deputy Bailiff:

The next item of Public Business is the proposition lodged by the Chief Minister concerning the Data Protection Commissioner re-appointment - P.65/2016 - and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion – to agree to re-appoint Mrs. Emma Martins as Data Protection Commissioner for a further period up to 31st December 2018, pursuant to Article 6 and Schedule 5 of the Data Protection (Jersey) Law 2005.

Senator I.J. Gorst (The Chief Minister):

I wonder if I could ask Senator Ozouf to act as rapporteur for this item and the next piece, thank you.

20.1 Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):

I am grateful for Members' support. In an uncertain world we need to create as much certainty as possible. One area of importance, if there is anything certain in this uncertain world of Brexit, that is the importance of compliance with regulations concerning data protection and also the increased importance of the digital economy in Jersey. It is for that reason that the Chief Minister has asked my small unit within the Chief Minister's Department to take responsibility for this regulatory area, which will bring effectively all 3 regulators of Financial Services, Data and Competition into the

one department for oversight. It is important that we thank - and I thank the Usher - it is important that we recognise the fact that it was already in December of last year that there was an extension to the Data Protection Commissioner's term of office. There are important changes in relation to data protection, which are incredibly important and that if we do not put those laws in place to ensure that the Data Protection Commissioner can function effectively, we will not be able to continue with our financial services, our business professional services and all the other exciting areas of the economy, whether or not it be the traditional sectors or whether or not it be the digital economy. Also, it is absolutely right that there is a planned Channel Islands approach and Mrs. Martins, who is known to many Members for both her discharging of the Data Protection Committee responsibility but also F.O.I. (Freedom of Information), and has discharged that difficult work - it is said - in terms of both regulators and indeed I am meeting with the Chief Minister, the Financial Regulator tonight. So we know that regulators will not always be loved. They will be criticised. They have massively controversial work in order to do so. There is one thing that I need to say to Members in relation to Mrs. Martins and the Data Protection Commissioner, which we will be immediately addressing and that is the governance process, which she operates within. Deputy Tadier in one of his remarks I think said that this was a Government appointment or indeed the J.C.R.A. appointment was a Government appointment. It should not be. There should be independence for regulators where politicians have oversight for guidance and putting laws and where appropriate, setting budgets. But the manner in which their performance and appraisal is put forward is not subject to political debate and political ...

Deputy M. Tadier:

So would the Senator give way? As a point of order if necessary just to ...

The Bailiff:

Well the Senator has not given way Deputy. So are you giving way, Senator?

Senator P.F.C. Ozouf:

Well it is a point of order I believe.

The Bailiff:

Well it was a point of order.

Senator P.F.C. Ozouf:

I was not going to give way but if it is a point of order ...

Deputy M. Tadier:

Either way I prefer the Senator to give way but I did not say that this was a Government appointment.

The Bailiff:

No, that is not a point of order. That can only be said if the Senator gives way you can clarify something in your own speech. But if he does not give way then you cannot. So that is the ...

Deputy M. Tadier:

Would the Senator give way?

Senator P.F.C. Ozouf:

I will finish my remarks, Sir, and the Deputy can make his points. I think he has had a lot to say so far this afternoon and I wish to continue my proposal. So there is going to be a putting in place of a new arrangement for the Data Protection Commission to strengthen the Government's

arrangements around that and also to give, as we have found with such success, giving also of a regulator who have regulatory responsibilities but who also have, if they are given a proper remit and given the correct resources, a really important role in the jobs and growth agenda. Because having good regulation and up-to-date regulation can improve the economic performance of the Island. So going forward, this re-appointment with the excellent service of Mrs. Martins as having done the excellent job of discharging the difficult job of being Data Protection, we are going to enhance that remit, which is set out in the report and proposition. That means putting jobs and growth objective and not compromising on standards, which is what we have done with the J.F.S.C. (Jersey Financial Services Commission). Working together with Guernsey, which we are, and remarkably in step; we are entirely in step with our colleagues in Guernsey in basically updating the huge task of updating our data protection laws. Data protection is a difficult area but the new arrangements that are going to be put in place with the help of the re-appointment of the Commissioner, will give citizens greater control over their data. That is why it is even more important. We have spoken in this Assembly about cyber security, about security of data, the right to be forgotten, data portability and the enhanced mechanisms for all the issues of data in this modern world. We need to make sure that we have an adequate arrangement for the E.U. so that businesses can continue to transfer data to and into the European Union and further afield. We must do this quickly; as soon as possible to give confidence to business and investors. What we do know is we know that the candidate that has discharged the functions of Data Commissioner can do that job and commands a great respect in Guernsey in which she has undertaken that. In the proposition itself I think that the remarks about the overwhelming support of our Guernsey colleagues for Mrs Martins' work in Guernsey. Anybody that can get both Channel Islands working together and updating our laws and hopefully coming together with a law that makes much more sense because economic effectively should receive this Assembly's approval. Data is more important than ever and it is important that work is overseen by a commissioner with a proven track record; that knows what she is doing and also can assist in growing jobs and growth in a safe way. I have set out all of the matters that are important that we are going to be dealing with. There are huge issues; the U.K. information commissioner has said they have got massive work to do. Brexit is delivering indeed a lack of certainty and what was important ... and there were 2 reasons for the original delay but then the appointment, which is supported by the Appointments Commission, is that we also wanted to provide additional resources within Government to support the regulator's role. There is no point in this Assembly, or any Parliament, simply passing an appointment and not doing the job that the Government has in providing the right laws and the support and giving whatever support that that regulator requires to do their job and that is my remit that the Chief Minister asked us.

[17:30]

I am able to say to Members that I am pleased that there has been a successful application to the Economic Growth and Productivity Fund of £300,000 in order to get on with this work, of reforming this work of data protection, doing the work with Guernsey and basically enhancing our digital economy. I have no hesitation in recommending for States approval enthusiastically of the continuation of Mrs. Emma Martins for the important position of Data Protection Commissioner. Members will hear further changes to the laws in which she oversees which we do so expeditiously, efficiently and working, if I may say, properly with the Scrutiny Panel to make sure that they are aware of the law changes that we are going to bring forward. I recognise and thank the chairman of the Scrutiny Panel, who is no easy taskmaster, in holding me to account with his other members. I am grateful for their support in this and I look forward to working with them for the important work of enhancing the job of data protection under Mrs. Martins' leadership and I move the proposition.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Before I open the proposition for debate, Standing Orders require that it is just past 5.30 p.m. and I must ask Members whether they wish to continue, to adjourn immediately until tomorrow.

Deputy M.R. Higgins:

Can I speak on this?

The Deputy Bailiff:

I am to, I think, take the mood of the Assembly. Those in favour of continuing, which was the first proposition.

Deputy M.R. Higgins:

With respect, I would like to explain why I would like to have an adjournment. I ...

The Deputy Bailiff:

No, Deputy, the matter is to adjourn until tomorrow morning. It is not a general adjournment. Standing Orders simply require me to ask Members whether they wish to continue or to adjourn immediately. It is not an opportunity for debate. It is something that Members simply decide, are they going to continue with their business at the moment. So I am going to ask Members who wish to continue to show. Those against. Very well, we continue.

Deputy M. Tadier:

Is it normal not to allow any debate on these kind of decisions. It seems that there is more than one Member who wishes to speak on the importance of adjourning not ...

The Deputy Bailiff:

Well, the Members appear to have indicated overwhelmingly that they wish to continue.

Deputy M.R. Higgins:

Yes, but we have not been allowed to explain why we would like to.

The Deputy Bailiff:

The membership has made a decision that we are going to continue this evening.

Deputy M. Tadier:

I stood up to speak, not to endorse. I want to adjourn and I was wondering if we could have an appel on that.

The Deputy Bailiff:

Well, it is a matter that Members have to decide according to Standing Order 47. The decision as to whether or not to continue, and I am content that we have the appel, if you wish to call for the appel on that.

Deputy M. Tadier:

I would like to call for the appel please.

The Deputy Bailiff:

Very well, the decision is whether or not ... Connétable?

The Connétable of St. John:

I was just asking, is it pour to continue or ...

The Deputy Bailiff:

Yes, it will be pour to continue. I ask Members to return to their seats. I ask the Greffier to open the voting.

POUR: 31		CONTRE: 8		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. Clement		
Senator P.F.C. Ozouf		Connétable of St. Mary		
Senator A.J.H. Maclean		Connétable of St. Brelade		
Senator I.J. Gorst		Deputy G.P. Southern (H)		
Senator L.J. Farnham		Deputy of Grouville		
Senator A.K.F. Green		Deputy M. Tadier (B)		
Connétable of St. Peter		Deputy M.R. Higgins (H)		
Connétable of St. Ouen		Deputy S.Y. Mézec (H)		
Connétable of St. Martin				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

Does any Member wish to speak on the proposition?

20.1.1 Deputy M.R. Higgins:

I must say that I really do wish Members had listened originally when we decided to not leave this to 13th September. I had wanted to bring information to Members, detailed information, as to why I have criticisms of the Information Commissioner which I think would have been relevant in deciding whether or not she should be appointed. As it is, we have now decided to continue the debate tonight so I cannot even get the information ready for tomorrow and give a speech then. So I am only going to touch on some of the issues. Now, my criticisms of the Information Commissioner are not personal but they are based on the experience that I have had helping people and some of the people who have gone to her for help and failed to get adequate help from the Information Commissioner. These people have got major problems with some States departments,

or States bodies, such as the States of Jersey Police, and there have been many failures and many injustices and without the information that they should have received they have been badly served. Again, going through the points. Among the criticisms that I have is that I believe that she has been too close to the States of Jersey Police. The Information Commissioner was originally employed by the States of Jersey Police before she became the Information Commissioner. In addition to that she has, since becoming the Data Protection Commissioner, employed 2 of her former colleagues in her office. Now, a number of people have come to me with issues where they have gone to the police to get information that they should have been entitled to under Subject Access Requests and they have not got the information they sought, either within the time limit prescribed by law or at all and yet the police have never been taken to task for this failure. So there are multiple examples of where the police have failed to do their job and the Data Commissioner has not dealt with them for failing to do their job. She has also failed to adequately make the Multi-Agency Safeguarding Hub correct their records where information that they had was incorrect. Incorrect information which was then supplied to the court. Now, this body later - I am talking about M.A.S.H. (Multi-Agency Safeguarding Hub) - were almost forced to review their decisions and in order to do so they needed to get hold of a sensitive document which had been lodged with the court. They were advised that they had to go ... and they were advised, by the way, by the Judicial Greffe, that to get that document they had to apply to the court but they did not. They did not want to go to the court and admit they had made an error. So what did they do? They obtained the document from another source thereby breaking the data protection laws. So, as I say, that is 2 examples; one the police, and the Multi-Agency Safeguarding Hub. She has also employed in her office a former police officer who, when he worked for the States of Jersey Police, was responsible for providing information under Subject Access Requests and who repeatedly failed to supply this information and other information and once he was appointed to her office was then supposed to be getting the very same information that he was refusing to give from his former police colleagues. This same individual, by the way, is currently being investigated by the police service in Northern Ireland for the alleged offence of perversion of the course of justice relating to the failure to disclose information that would have been useful in the court and the action has been highly criticised by the Master of the Royal Court. So this is all about subject access, information that should have been given and not being given, and the Data Protection Commissioner has not done her job in that way. Equally I became very concerned about the number of cases where defamatory information is contained on records about individuals in this Island. There is information on the Department of Environment website alleging homophobic relationships, which were false, in relation to one person there. I am not sure what the Information Commissioner has done there and there are other examples of defamatory information held on States files and she does not appear to be doing anything about that. Now, I am not the only Member who is aware of these cases. Deputy McDonald has been working on some of them and he has other examples where the Data Protection Commissioner has been involved and action is not forthcoming. I am sure there are other Members as well. It is a highly unsatisfactory situation. Now, I am criticised by the Chief Minister and others for daring to criticise the Information Commissioner when she has failed the people that I represent, whether they be constituents or other Islanders. I sincerely wish that States Members had not agreed to debate this thing now because I would have given you detailed documents so you can see, not naming the individuals but giving the full circumstances. I cannot do that now but I will, in future, because I am sure this matter will come up again. I might add, by the way, as far as the criticism is concerned I personally do not care if I am in a minority of one as I have been on occasions talking on this particular topic. I believe very strongly that we are not being served completely by this individual and her office. Now, Senator Ozouf says we should give her the right laws and the right remit. I fully agree with that but I also believe the Data Protection Commissioner should apply the law as it is now and take action against these departments that have

failed the individuals that I am assisting. I will leave it at that. It is totally inadequate but again because of the decision of the States today you will not hear the full facts and decide for yourselves.

20.1.2 Deputy T.A. McDonald of St. Saviour:

I did not have any intention whatsoever of speaking today but in many ways I feel myself forced to do so and in support of some of the things that Deputy Higgins has mentioned. I, too, am dealing with a number of constituents who have got all sorts of problems but unfortunately I cannot mention them for fear of prejudicing any of their cases or in fact their human rights concerning this matter, but I do feel it is important to at least say that I do support many of the things that Deputy Higgins has said and as much as I would like to say more it would be totally and absolutely wrong for me to do so.

Deputy M. Tadier:

Before the Deputy finishes may I raise a point of order before he finishes his speech?

The Deputy Bailiff:

If it is a point of order, of course.

Deputy M. Tadier:

That is to test the mood of the Assembly to ask if it would be appropriate to go in camera so that we can hear ...

The Deputy Bailiff:

No, Deputy, that is not a point of order. A point of order is something that requires the Chair to make a decision. Now, if you want to make a proposition that the Assembly go into camera then that is something that you are at liberty to do.

Deputy M. Tadier:

So could I ask the Deputy, who is still yet to complete his speech, whether he would give way to me?

Deputy T.A. McDonald:

Yes, I will happily give way to you.

The Deputy Bailiff:

If you would wait a moment while I just check the appropriate provisions. Thank you. The provisions of Standing Order 81 provide that any Member of the States may propose without notice that the States conduct any debate, or part of a debate, on a proposition or any part of its business, apart from the vote, in camera for a specific purpose. Therefore, it is in order for you, Deputy Tadier, to make a proposition that we continue in camera and that is a matter on which the States will have to make a determination.

Deputy M. Tadier:

The reason I ask that, and Members will know that I am loath to, under normal circumstances, ask for debates to take place in camera because I think that these kinds of debates should, wherever possible, be on the public record but it seems to me that there is a provision in Standing Orders for good reason so that Members may first and foremost speak freely. I would just like to hasten to add I have not spoken to the Deputy or told him that I would be doing this but it seems to me that irrespective of who one is, if a Member feels that he has germane information to any given proposition that we happen to be debating, and we have already established that this appointment today is of an urgent nature to the public interest of the Island, that it is important that we appoint

the right person for the job. If a States Member feels that they have information which they would want to share with the Assembly but would not feel comfortable naming people, individuals, because there are cases going on, as the Deputy has said. I think the way to do that, and for us to judge whether that information is in fact germane and prejudicial to the appointment that we are about to make that it is important that we hear that. The way that we can do that, both hear the information and make that judgment call and for that not to be *sub judice*, is to go in camera now to let the Deputy speak if he wants to or even possibly come back with the information so that he can speak in camera and let us know. I think it is completely unsatisfactory for us, on the one hand, to have a very long debate about reducing a lodging period and getting a consensus that in fact this is a very important position to fill, and then not say that we want to hear information that may or may not be but certainly any concerns that a Member may have and would want to give to us but cannot do for risk of prejudicing the courts.

[17:45]

It seems a perfectly good application of Standing Order 81 so that we can do our job as scrutineers effectively. I would like to make that proposal.

The Deputy Bailiff:

Deputy, could I ask for clarification as to precisely what you are proposing? Are you proposing that the States go in camera for the remainder of this debate?

Deputy M. Tadier:

I think we would need to make a judgment call. It seems that if we could go in camera for the remainder of Deputy McDonald's speech. It may well be that he does not have a lot that he wants to tell us at this point. If that is the case, I think it underlies the fact that, unfortunately, by reducing these periods, we have denied Members the ability to fully prepare for this debate on the hoof. But I would still like to make the proposal and then we can have a judgment call as to what Deputy McDonald wants to say, if anything.

The Deputy Bailiff:

Well then your proposition is that the remainder of Deputy McDonald's speech is conducted in camera? There afterwards, if that is passed by the Assembly, then as soon as Deputy McDonald finishes we will go back into open session automatically?

Deputy M. Tadier:

Yes, Sir.

The Deputy Bailiff:

Very well, is that proposition seconded? **[Seconded]** Does anyone wish to speak on the proposition?

Deputy A.D. Lewis:

I was sitting here getting increasingly uncomfortable with the way this debate was going, so I can understand why Members might feel this should go into camera. I think it is outrageous that we should be discussing an employee effectively in open public debate without her here to defend herself. I think it is not right **[Approbation]** so I would support going into camera. However, I will ask, does it mean that Members who have already spoken, are they allowed to speak again?

The Deputy Bailiff:

No, this is a continuation of the same debate. No, Members are not allowed to speak again.

Deputy A.D. Lewis:

I also warn Members, as has happened before, do not expect in camera transcripts to remain effectively confidential. So just a gentle reminder when you are speaking, there is no guarantee that it will not ever be released.

Deputy M.R. Higgins:

I think in this particular case Deputy McDonald is probably in the same position as I am. Had this gone forward on 13th September, the information could have been put forward to Members so they would have the facts and they could be able to see the details of the case and so on and, had they done so, they may have a different view. Deputy McDonald has been caught short, as I am sure I have. If I had had that information available today I would have given it out today but by bringing it forward as we have, I have been denied that opportunity, and Members have been denied the opportunity of seeing the cases that I have been working on, the issues that have been raised, and so on. I have a feeling that Deputy McDonald might well be in the same case. I think we should have asked him first whether he did wish to go into camera and to reveal any information, if he is ready to give information.

The Deputy Bailiff:

Well, Deputy McDonald can speak as to whether or not we should go into camera in the same way as any other Member can. The Connétable of St. John.

The Connétable of St. John:

I would just like to reiterate the point that there is no such thing as in camera because it is published online, as has happened in the past, within a matter of months. I must warn Members that if we do go into camera, that is highly likely to happen.

Deputy M.J. Norton:

My comment was very much directed, as others were, to Deputy McDonald, and I can fully understand why there would be a call for in camera, but during that call I could visibly see that Deputy McDonald was not keen on it going in camera and I would like that confirming, if possible.

The Deputy Bailiff:

Well it is entirely a matter for the Deputy whether he wishes to speak. The Deputy of St. Martin.

Deputy S.G. Luce of St. Martin:

Whether you agree with going in camera or not, whether you agree with the written word finally coming out on the internet somehow in the future, regardless of where you come from, I am unhappy or uncomfortable with changing the rules of a debate halfway through and I really feel that we are in a difficult position here now. But I am not comfortable with getting through 4 or 5 speeches and then changing the way in which the debate occurs. [Approbation]

Senator P.F.C. Ozouf:

Our Standing Orders are very clear in respect of each other: that we must not impute improper motives directly or by innuendo to any other Member of the States and I would not breach Standing Orders in any way. I would simply invite Members to consider that that Standing Order among ourselves should apply also to the responsibilities that we have to speak in public about an individual that cannot have any recourse for reply but also going into camera simply is not the way that this appointment is made. I would respectfully say that Deputy Higgins and Deputy McDonald have not, to my knowledge, contacted anybody in my department following the email that was sent, not just this morning, not yesterday, but on 17th June, that this matter was going to be brought forward and brought forward for a ratification by this Assembly. Another Member spoke earlier of how difficult it is to get people to apply for States bodies and States-appointed bodies when they

have to here. I thought we lived in a jurisdiction that you were innocent until proven guilty. I do not think there was anything that I have heard or anything that this Assembly should effectively be a court, or attempting to be a court of some judgment, in relation to somebody because some Member may bring forward some information. There has been proper oversight of appointments overseen by the Appointments Commission which is chaired by Dame Janet Paraskeva. Dame Janet Paraskeva is one of the most highly eminent individuals in the United Kingdom and further afield in relation to public appointments. This appointment has been made under her personal guidance. I have not heard anything in respect that could be aligned or could attach any importance of effectively impugning somebody's motives in the way that we have heard. Going into camera is simply going to move to a secretive world which will then be speculated upon which this candidate effectively does not deserve and is entirely wrong. If any person appointed by a proper process has then subsequently been found to do something, then there are procedures and processes in public, in courts, in other ways of investigations and accusations. There is no evidence that I have heard from any person from the Appointments Commission or anybody else. It is the personal view of a couple of Members who always seem to be ... or who have on a number of occasions made remarks which I wish on behalf of any Minister that has to stand here and defend an individual for public service, for making difficult decisions, needs to be defended, and I will defend that individual strongly. There are proper processes and going into camera is absolutely not the right way, while understanding if any other Members have got any issue with any public official, any judge, or anything else, there are proper processes to do so. Basically some sort of kangaroo court in this Assembly going into camera, going into secret, on something which was known about by other Members for a number of weeks is not the way to handle individuals. I wish this Assembly to send out a strong message to the Data Protection Commissioner that we will have no truck in these accusations that are brought forward under parliamentary privilege and we should not go into camera, we should go ahead and appoint this individual from a proper process which has been agreed by our colleagues in Guernsey forthwith and not have to subject individuals to such horrible and difficult and personally ... what do we put people through? It is outrageous. I urge Members to reject the proposition and then go on to appoint what is an excellent candidate who most people believe, who I have had the pleasure of speaking to, does an excellent job on our behalf in difficult circumstances. **[Approbation]**

Deputy T.A. McDonald:

As I said before, I had no intention whatsoever of speaking. Even if we were to go into camera I still would not be speaking because I have already been warned in no uncertain circumstances, as has Deputy Higgins, that some of the matters - I will use the word "matters" - that would need to be discussed, would not be permitted in this Assembly. I am afraid there is nothing more I can say, apart from what I am referring to is a matter of huge public interest, it is a matter where individual's cases could be prejudiced, individual's human rights could be prejudiced, and this is not only to do with the Data Protection Commissioner, it would have to develop further and I cannot allow that to happen.

Deputy J.A. Martin:

Here we are again and we are halfway through a debate; I have a lot of respect, and I direct all these comments towards Deputy Higgins, because he is a much longer-serving Member than Deputy McDonald, but this proposition has been lodged since 17th June. We have had innuendos, threats and we do not know what is going on behind the scenes. Only Deputy Higgins knows what is going on and Deputy McDonald has just told us that the issues cannot be debated in this Assembly. That was probably because they are either something that is investigating the Commission itself or something illegal. So I absolutely do not want to go into camera because we have already started, or a couple of Members have started assassinating a personality again in this House and think you

can go into camera and then justify yourself. Deputy Higgins said he wanted to adjourn tonight so he could come back tomorrow with the evidence. He has had since 17th June to put this in the right forum and he has not done it. If we gave him until next week, and if we carry on talking, we will still be here until September and you will all get your way and we will put these debates into time. We are where we are. No in camera debate. As everyone else says, do not think that you can go into camera and people are going to give out information and it will not be out there in 2 weeks' time assassinating people's personalities. I really, really wish that people who have got comments and think they have a case that they back them up or they keep shut. **[Approbation]**

Senator L.J. Farnham:

I am pleased to follow Deputy Martin, but I have never in all my years here witnessed such peculiar behaviour by this Assembly. Let us please just make the decision and get on with it. This is a very democratic, open Assembly. There is nothing we cannot say that we cannot share with the people in here, so please let us make the decision. As Minister responsible for agriculture, I am going to issue a "stop digging order" right away and get on with it. **[Laughter]**

Deputy J.M. Maçon:

Very quickly, if Deputy McDonald has said he will not add anything to an in camera debate, I would ask the proposer, Deputy Tadier, to withdraw his proposition because I do not see we are going to get anything from it. **[Approbation]**

The Deputy Bailiff:

Does any other Member wish to speak on the proposition that the States go into camera? I call on Deputy Tadier to respond.

Deputy M. Tadier:

I am quite concerned when I hear that somebody has told Deputy McDonald that there are certain things that he is not permitted to say in this Assembly. The first thing that I would ask is: who would give that advice? Because the whole point of parliamentary privilege is that we can speak openly and freely without fear of prosecution, and that is a long-established parliamentary privilege for a good reason, which is because parliaments are sovereign. Of course, within that there is a judgment call on every Member to try and act responsibly but one acts on one's conscience. When we take the oath before the Royal Court, or when we affirm before the Royal Court, we do that on our conscience and I think that is for us to act in the public interests. While it might be inconvenient and difficult to hear some individuals and the criticisms that they have ... and by no means am I taking any sides on this because ultimately I believe that if you are making serious allegations about anybody, including somebody who fulfils an important and trustworthy role in our society, of course that should be backed up. At some point one has to question ... you need a smoking gun. The Americans have an expression to do with a pot but I do not think that is parliamentary in this particular case, to the effect of "put up or shut up" and that is quite understandable. But I am very concerned if somebody has been saying to any Member of this Assembly: "You are not permitted to say something." Now, I am aware of course that we do have to be responsible when it comes to things that will be or are appearing before the courts, and of course that is why the principle of having an in camera debate is there as a backstop. Of course there will always be a judgment call when it comes to whether or not to use that. I think this argument of just because we have had something leaked in the past, something which was in the public interest which was leaked - not within the space of 2 weeks I do not think - but it found the public interest.

[18:00]

That document came out and was put before the Committee of Inquiry and we said: “Yes, we are quite happy for you to publish this.” There is no such thing as absolute secrecy and nor should there be, but certainly the in camera device is there for a reason and no doubt it is something which will be discussed at future meetings of the Privileges and Procedures Committee. But I do take on board Deputy Maçon’s point, but it seems to me that if Deputy McDonald has finished his speech - as he seems to be - there is absolutely no point in going into camera. In camera, sorry, I never studied Latin. I know it is a Latin phrase but perhaps somebody can correct me, I think we say: “I am not going in camera” but I think the “in” is also Latin rather than English so we do not need to say “into” but perhaps that is something the Greffier can give advice on before the next sitting. So I would ask for the leave of the Assembly to withdraw my proposition to go in camera.

The Deputy Bailiff:

Does the Assembly agree that the Deputy should be entitled to withdraw this?

Deputy J.A. Martin:

No, I want the vote on it now, I do not want the Deputy **[Laughter]** ... no, no, sorry. I am not now trying to prolong proceedings. I want to vote against going in camera and I do not want the Deputy to be allowed to withdraw his proposition, sorry. **[Approbation]**

The Deputy Bailiff:

Do we really want to debate as to whether the Deputy should be allowed to withdraw his proposition?

Deputy J.A. Martin:

No, I will not push it, Sir, no. I did not think we needed a debate but I think the principle has been made. I would rather vote not to go into camera, but the Deputy wants to pull it. I cannot carry on. **[Laughter]**

The Deputy Bailiff:

Do Members agree that the Deputy can be allowed to withdraw his proposition? That is withdrawn. Deputy McDonald, had you finished your speech or did you want to continue to speak? You were interrupted by this proposition and you are entitled to finish your speech if you wish to do so.

Deputy T.A. McDonald:

No, sir, and I thank you for the opportunity to do so but there is nothing more that I can say at this moment in time, thank you.

20.1.3 Deputy M. Tadier:

It has been quite rightly said that this does not reflect well on the Assembly when we have these kind of debates, and that is what you get when you do not stick to parliamentary processes, when you try and cut corners. There are reasons why we have these things put in place and it is completely unsatisfactory that somebody employed on the public sector payroll sitting in her office or wherever she might be today is subject to this kind of debate because of Government incompetence and the fact that they will not abide by parliamentary procedures which have been put in there for a good reason. It is wholly unsatisfactory that any of my colleagues who have something that they feel they want to say, notwithstanding that they might have had 2 weeks to prepare this, they certainly have not had the requisite time when it comes to preparing this debate because I suspect, like me and like other individuals, Deputy Higgins does not just sit there working on issues relating to the Data Protection Department, he probably has other casework and maybe he has casework to do with legal aid, or maybe he has casework to do with other areas to do

with constituents. That is why it is absolutely imperative that we abide by parliamentary procedures, they are there for a purpose. It has been an unfortunate debate for something that could have waited until September in both cases and would have probably gone through, either with no controversy or if there was controversy at least there would have been some material to back it up. Unfortunately we are not going to be in that situation. But I think it is completely inappropriate for any Minister to criticise a Back-Bencher who has valid concerns about anybody who is being appointed, be that correct or not, if they feel that they have valid concerns because it is the Council of Ministers and it is the Jersey law which requires this to be put before the Assembly. If you do not want States Members to have an opinion on somebody being appointed, do not ask them to have an opinion. If we are simply here to rubberstamp whatever the Council of Ministers or rather what the appointment procedure comes up with then that is fine, let us do that, and I think that is what is going to be done. But certainly do not have a go at an elected States Member for speaking his mind because this is very dangerous territory when it comes to censorship and the freedom of this Assembly to speak openly and represent their constituents. I have nothing further to say on the appointment of this individual. **[Approbation]** Do not stamp too hard, you might need your feet later on. I have nothing to say about this individual and her ability for this job but process, as we know, is also important. If I or any other Member votes against this - and I have not yet decided how I will vote on this one - it is not because of the individual, it is because I do not think that the due process in terms of parliamentary procedure has been adhered to.

20.1.4 Senator L.J. Farnham:

This has to be said: nobody has been questioning Back-Benchers’ right to speak, it is encouraged, especially encouraged by the Government and the Council of Ministers. I think what is disappointing is the total disrespect that I think Deputy Tadier has shown Members of this Assembly by trying to make a point and stringing this out far longer than it should have been.

The Deputy Bailiff:

Does any other Member wish to speak on the proposition as to the appointment of the Data Protection Commissioner? I call on Senator Ozouf to respond.

20.1.5 Senator P.F.C. Ozouf:

It is a curious state of affairs that the very individual which upholds the Government and holds the Government to account to be open and prising open indeed in dealing with F.O.I. and protecting people’s data and protecting people that they have to be themselves is subjected to what has been this afternoon. I have nothing further to add, apart from the remarks that I made in my opening proposition. Emma Martins has discharged the functions of Data Protection Commissioner with distinguished service. She has an appeal and a tribunal process with a due process under law for any appellant who is unsatisfactory judicial review, and other legal processes, and I urge Members to vote overwhelmingly for the reappointment of the Data Protection Commissioner so that she may continue her excellent work with the full knowledge of those appeal mechanisms in process for those Members that may wish to take issue with any public decision that she or her office discharges. I urge Members to overwhelmingly vote in favour and I ask for the appel so that we may send a very clear message for those Members who might not have spoken of our support and confidence in the Data Protection Commissioner for her work. I move the appel.

The Deputy Bailiff:

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

POUR: 30		CONTRE: 3		ABSTAIN: 0
Senator P.F. Routier		Deputy M.R. Higgins (H)		

Senator P.F.C. Ozouf		Deputy S.Y. Mézec (H)		
Senator A.J.H. Maclean		Deputy T.A. McDonald (S)		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

21. Jersey Competition and Regulatory Authority: appointment of Chairman (P.69/2016)

The Deputy Bailiff:

The next item is the proposition lodged by the Chief Minister regarding the Jersey Competition and Regulatory Authority: Appointment of Chairman - P.69. I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion, in accordance with Article 3(1)(a) of the Competition Regulatory Authority (Jersey) Law 2001, to appoint Mr. Michael O'Higgins as a member and non-executive Chairman of the Jersey Competition Regulatory Authority for a period of 3 years, with immediate effect.

21.1 Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):

May I first of all start this brief set of remarks - and I will be as fast as I can - by wholeheartedly offering our thanks to the outgoing chairman whose term of office expired rather earlier but, because of the appointments process that we have discussed earlier, who completed 2 successful terms of office as C.I.C.R.A. chair and who brought C.I.C.R.A. together and got the bodies working together. I take this opportunity of publicly thanking him for the difficult work that he has done in discharging that function. **[Approbation]** I then move on to propose with enthusiasm, because I have had the privilege of meeting Mr. Michael O'Higgins after a due process, and I feel that I can say with confidence - because that has been a process overseen by the expert and independent

regulatory Appointments Commission - and happily my opposite number who oversees this matter in Guernsey has also separately met Mr. O'Higgins. I know that he shares my view that Mr. O'Higgins is uniquely qualified and will bring further important improvements for consumers and holding to account. If there is anything that is the C.I.C.R.A. role it is the economic policeman, as I call them, and it is vital that there is a strong J.C.R.A. chair - hopefully C.I.C.R.A. chair - in order to discharge to improve consumer benefit. I have no hesitation in recommending Members for the appointment Mr. O'Higgins to discharge this important role.

The Deputy Bailiff:

Is that proposition seconded? **[Seconded]** All Members in favour of adopting the ... the appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 33		CONTRE: 1		ABSTAIN: 0
Senator P.F. Routier		Deputy J.M. Maçon (S)		
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

That concludes Public Business for this meeting and I invite the Chairman of P.P.C. to propose the arrangements for Public Business for future.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

22. The Connétable of St. Clement (Chairman, Privileges and Procedures Committee):

Yes, before I do that I was wondering if I could just mention briefly 2 things which fall into the remit of my role as the Chairman of the P.P.C. Firstly, if I could remind Members that tomorrow at lunch time, 1.00 p.m., we have a final consultation with States Members on the sub-committee looking into the composition of the States, and that is in the States common room tomorrow at 1 p.m. A very important meeting and we will have all the buttons so I hope we will have a good turnout of Members for that. Also could I point out to Members that this is the last time we shall have the pleasure of the company of Mrs. Belinda Pugh with us in the corner of the Chamber. **[Approbation]** Mrs. Pugh has been with the Greffe for some 14 years, most of it looking after us in the corner of the Chamber and looking after us quietly and efficiently. She has played an important role in the development and production of Hansard and at last, after all this time, she will have her name in Hansard. **[Laughter]** She has been a very important cog in the Greffe wheel and on behalf of Members I wish her well in her future career. **[Approbation]** The Arrangement of Public Business is as per the Consolidated Order Paper, except for the 2 items that we just debated, P.65 and P.69. There are 2 months before the sitting so whether all of these items will be debated on the 13th or not, I have no idea, whether other items will be added or not, I have no idea at this stage. But if things remain as they are then the sitting on 13th September will last 2 days. I make the proposition for the order of business for the future.

Senator P.F.C. Ozouf:

If I may just make a parallel comment in relation to future business, stretching the point there is a meeting at 8.30 a.m. that was designed because we were going to fit tomorrow but it has moved to 11.00 a.m. for the digital framework, I will send Members an email. But I thank Members.

22.1 Deputy A.D. Lewis:

I would like to make a request to the Chairman of P.P.C. that a digital item is added to the agenda for October, is that possible?

The Deputy Bailiff:

What is that?

Deputy A.D. Lewis:

I have taken some advice from the Greffier and apparently this is the best way to do it, I would like to propose inclusion on the agenda for 11th October sitting an in committee debate on the subject of higher education funding.

The Deputy Bailiff:

That is a matter that can be brought by way of a proposition and lodged and ...

Deputy A.D. Lewis:

I did ask that of the Greffier and I was advised that I could do it in this manner, rather than bringing a proposition I could request the Chairman of P.P.C. to include it on the agenda at a future date sitting and I am suggesting 11th October.

The Deputy Bailiff:

Chairman, I think this is a matter that can be raised on the floor of the Assembly in the way that it has been because what is not being suggested is a proposition, there is no lodging period, no vote can be taken, it is a simple request to include something at an appropriate point in the next few

sittings, an in committee debate. So it seems to me that is something that you could certainly take on board and give consideration to.

[18:15]

The Connétable of St. Clement:

Yes, we certainly can and as the Member has requested it I am sure that is what we will do. But at the end of the day the States are masters of their own affairs and if they do not wish to have an in committee debate they can vote against it when I propose it at the next sitting.

The Deputy Bailiff:

Yes, that I think is entirely the way forward. If you list it and it can be discussed at the next sitting by the Assembly if they do not wish to have such a debate.

Deputy A.D. Lewis:

Thank you, and in the meantime I can circulate to Members perhaps the reasons why I am suggesting an in committee debate and then they are better informed about my suggestion.

Senator P.F. Routier:

Just regarding that debate, will there be some documents for us to review and to consider what we are going to be talking about?

Deputy A.D. Lewis:

Yes, the purpose is to review the report the Minister published in May, that is R.51.

The Deputy Bailiff:

Very well, do Members agree that we take the future business in the manner proposed by the Chairman of the P.P.C.? Very well then. Can I just wish Members a very happy break over the next 2 months and the States stands adjourned until 13th September.

ADJOURNMENT

[18:16]