

# STATES OF JERSEY

## OFFICIAL REPORT

MONDAY, 9th APRIL 2018

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[9:31]

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

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

### **1.1 Appreciation of former member of the States – the late Graham Thorne**

#### **The Bailiff:**

Members will no doubt be aware that Graham Thorne died on Monday, 26th March at the age of 81. He was elected to the States on 17th December 1981 as a Deputy in St. Brelade No. 2 and re-elected in 1984 serving 6 years as Deputy of that District. He was a member of the Resources Recovery Board and the Fort Regent Development Committee and to both those committees he brought his knowledge and skills of the plumbing and building industries. Graham Thorne was also familiar with the challenges which running a small business entailed and he was able to bring that experience to the Assembly in the various debates which took place. He stood unsuccessfully in 1987 and again in the Senatorial elections of 1993 from which one can see not only his interest in politics but also his desire to serve his island in, at that time, an honorary capacity. Graham Thorne had to suffer the loss of his son, Paul, before him and now he leaves his widow, Joy, to whom he was married for 59 years, his daughter, Tanya and 3 grandchildren. I know we would all wish to pass on the thoughts of the Assembly to his family in their grief and I ask Members to stand and show their appreciation in the usual way. May he rest in peace.

### **1.2 Welcome to H.E. The Lieutenant Governor**

#### **The Bailiff:**

First of all, I am very pleased, as always, to welcome His Excellency on behalf of the Assembly. **[Approbation]** There was an end of term feeling as I came up the stairs this morning. **[Laughter]** Those who are not standing again are encouraged to have a swansong speech and otherwise not to speak unless they have something relevant to say on the proposition, which has not been said already. Those who are standing again may not be re-elected so they should adopt the same course. **[Laughter]** We have a lot of business to get through.

## **QUESTIONS**

### **2. Written Questions**

#### **2.1 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR EDUCATION REGARDING THE NURSERY EDUCATION FUND: [WQ.69/2018]**

#### **Question**

Further to the response to Oral Question 48/2018, will the Minister –

- (a) advise whether the matter of the Nursery Education Fund (NEF) has subsequently been raised with the Council of Ministers and, if so, when;
- (b) advise what action, if any, is being taken to address matters surrounding the funding of the NEF and to address any concerns of private sector nurseries in respect of the NEF; and
- (c) if no such action is being taken, explain why not?

#### **Answer**



- (a) The Assistant Education Minister and Education Department officers have had discussions with the Treasurer of the States. However, it has not been possible to have any discussions with the Treasury Minister as he has been out of the Island since the last States sitting. The matter has therefore not been raised at the Council of Ministers.
- (b) The Assistant Education Minister and Education Department officers are aware of the issues highlighted by some private nurseries although a number have already signed the Nursery Education Fund agreement.

Following discussions led by the Assistant Minister for Education with the Chief Minister and the Treasury it has been agreed to increase the NEF hourly rate by 2% for the 2018-19 academic year. This will result in a rate rise from £5.15 to £5.25 per hour. This rate increase is in line with the 2017 pay awards for teachers and civil servants.

- (c) Action is being taken, as described above. In addition, a Ministerial Decision has been signed by the Treasury and Resources Minister (that will provide a commitment from the Treasury Minister) to underwrite the significant budget shortfall that will result from rescinding the nursery means-testing saving if it cannot be found from within existing education budgets. It is now hoped the nursery sector will work in partnership with the Education Department to deliver the forthcoming Early Years Strategy and review of Nursery Education for the benefit of children in Jersey.

## **2.2 THE CONNÉTABLE OF ST. HELIER OF THE MINISTER FOR INFRASTRUCTURE REGARDING THE LETTING OF WARWICK FARM; [WQ.70/20178]**

### **Question**

Will the Minister provide the following information regarding the letting of Warwick Farm?

- (a) The commencement date of the lease;  
(b) The rental income generated to date; and  
(c) The duration of the lease and any break clause that is included.

### **Answer**

- a) The lease commencement date is 1<sup>st</sup> January 2018. The tenant took early occupation by licence from 1<sup>st</sup> October 2017.
- b) Rental income needs to be considered across the term of the lease. The rental payable is as follows:
- For the first year of the Term £30,000 will be due;
  - For the second year of the Term £40,000 will be due;
  - For the third year of the Term and thereafter £75,000 will be due.
  - The rental sum is subject to the triennial rent review provision set out in the lease
- c) Nine years from the commencement date. The lease provides for a mutual break at the 5th anniversary after the commencement date following a 12 month notice period.

## **2.3 DEPUTY L.M.C. DOUBLET OF ST. SAVIOUR OF THE MINISTER FOR EXTERNAL RELATIONS REGARDING THE CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN; [WQ.71/2018]**

### **Question**

Further to his answer to Written Question 61/2018, in which the Minister stated that “work is underway” in respect of the Convention on the Elimination of Discrimination Against Women (CEDAW), will the Minister detail what that work involves and, in particular, will he –

- (a) advise whether he or his officials have taken part in any meetings to discuss the extension of CEDAW to Jersey and, if so, state when such meetings took place and provide the minutes of those meetings; and
- (b) provide his assessment of the matters that will need to be addressed in considering the extension of CEDAW to the Island?

### **Answer**

Officials in the Ministry of External Relations have discussed the extension of the Convention on the Elimination of Discrimination Against Women (CEDAW) internally and with a number different Departments over recent months, including a teleconference with officials in the UK Government Equalities Office in late January. These discussions were not minuted.

Before being able to make the request for CEDAW to be extended, it is first necessary to identify any gaps in the Island’s compliance that exist so that these can be addressed, such as any legislative changes that might be needed. A cross-Departmental meeting will take place in early May to begin this work.

Once compliance with the requirements of the Convention has been confirmed, the Island will be in a position to request extension.

### **2.4 DEPUTY L.M.C. DOUBLET OF ST. SAVIOUR OF THE CHAIRMAN OF THE STATES EMPLOYMENT BOARD REGARDING PUBLIC SECTOR PAY FOR MEN AND WOMEN: [WQ.72/2018]**

#### **Question**

Starting with the pay band £1 to £10,000 and increasing in bands of £10,000 up to the highest pay level (e.g. £10,001 to £20,000; £20,001 to £30,000 etc.), will the Chairman indicate the number of men and women employed in the public sector who fall within each such band; and will he also provide for each such band the median and mean pay for men and for women who fall within the band?

#### **Answer**

Public Sector workers, as illustrated in the tables below, consist of all employees paid by the States of Jersey. These statistics include pay groups such as Civil Servants, Teachers, Hospital Consultants, Ministerial and Non Ministerial States funded employees. These figures are based on actual basic pay per employee. Where an employee has more than one part time role, a combined salary is used to calculate their pay band:

### Number of Men and Women by each Pay Band

Pay Band	Male	Female	% Male	% Female
£1 - £10,000	20	151	11.7%	88.3%
£10,001 - £20,000	71	530	11.8%	88.2%
£20,001 - £30,000	502	1184	29.8%	70.2%
£30,001 - £40,000	502	787	38.9%	61.1%
£40,001 - £50,000	439	731	37.5%	62.5%
£50,001 - £60,000	508	625	44.8%	55.2%
£60,001 - £70,000	115	122	48.5%	51.5%
£70,001 - £80,000	152	87	63.6%	36.4%
£80,001 - £90,000	53	21	71.6%	28.4%
£90,001 - £100,000	39	15	72.2%	27.8%
£100,001 - £110,000	20	12	62.5%	37.5%
£110,001 - £120,000	21	8	72.4%	27.6%
£120,001 - £130,000	16	4	80.0%	20.0%
£130,001 - £140,000	12	3	80.0%	20.0%
£140,001 - £150,000	14	2	87.5%	12.5%
£150,001 - £160,000	3	0	100.0%	0.0%
£160,001 - £170,000	1	0	100.0%	0.0%
£170,001 - £180,000	0	0	-	-
£180,001 - £190,000	0	1	0.0%	100.0%
£190,001 - £200,000	1	0	100.0%	0.0%
£200,001 - £210,000	1	0	100.0%	0.0%
£210,001 - £220,000	2	0	100.0%	0.0%
£220,001 - £230,000	1	0	100.0%	0.0%
£230,001 - £240,000	0	0	-	-
£240,001 - £250,000	1	0	100.0%	0.0%

### Median Salary by each Pay Band

Pay Band	Male	Female
£1 - £10,000	£5,951	£5,110
£10,001 - £20,000	£14,601	£16,541
£20,001 - £30,000	£26,610	£25,593
£30,001 - £40,000	£34,719	£34,719
£40,001 - £50,000	£45,612	£44,805
£50,001 - £60,000	£51,542	£51,017
£60,001 - £70,000	£61,536	£61,536
£70,001 - £80,000	£74,883	£73,456
£80,001 - £90,000	£88,074	£88,074
£90,001 - £100,000	£93,683	£92,825
£100,001 - £110,000	£103,669	£107,844
£110,001 - £120,000	£116,334	£115,581
£120,001 - £130,000	£124,332	< 5 Employees
£130,001 - £140,000	£130,485	< 5 Employees
£140,001 - £150,000	£142,453	< 5 Employees
£150,001 - £160,000	< 5 Employees	-
£160,001 - £170,000	< 5 Employees	-
£170,001 - £180,000	-	-
£180,001 - £190,000	-	< 5 Employees
£190,001 - £200,000	< 5 Employees	-
£200,001 - £210,000	< 5 Employees	-
£210,001 - £220,000	< 5 Employees	-
£220,001 - £230,000	< 5 Employees	-
£230,001 - £240,000	-	-
£240,001 - £250,000	< 5 Employees	-

### Mean Salary by each Pay Band

Pay Band	Male	Female
£1 - £10,000	£6,032	£5,738
£10,001 - £20,000	£15,019	£16,023
£20,001 - £30,000	£26,322	£25,344
£30,001 - £40,000	£34,662	£34,575
£40,001 - £50,000	£44,803	£44,283
£50,001 - £60,000	£52,818	£52,635
£60,001 - £70,000	£62,939	£62,891
£70,001 - £80,000	£74,615	£74,303
£80,001 - £90,000	£86,391	£85,181
£90,001 - £100,000	£94,544	£94,412
£100,001 - £110,000	£104,819	£106,168
£110,001 - £120,000	£115,895	£115,633
£120,001 - £130,000	£124,094	< 5 Employees
£130,001 - £140,000	£131,663	< 5 Employees
£140,001 - £150,000	£142,560	< 5 Employees
£150,001 - £160,000	< 5 Employees	-
£160,001 - £170,000	< 5 Employees	-
£170,001 - £180,000	-	-
£180,001 - £190,000	-	< 5 Employees
£190,001 - £200,000	< 5 Employees	-
£200,001 - £210,000	< 5 Employees	-
£210,001 - £220,000	< 5 Employees	-
£220,001 - £230,000	< 5 Employees	-
£230,001 - £240,000	-	-
£240,001 - £250,000	< 5 Employees	-

\*Average salaries with less than 5 employees have been redacted so as to not identify individual employees.

## 2.5 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING THE EDUCATION OF CARERS IN THE ISLAND WHO ARE CHILDREN: [WQ.73/2018]

## Question

Will the Minister explain what data, if any, his Department holds regarding the number of carers in the Island who are children; and will he also explain what work, if any, has been done to confirm how their education is affected and what provisions he has, or proposes to have, in place to assist them?

## Answer

The Education Department's main point for contact with young carers is through the 'My Time' project run by the Jersey Youth Service. There are two sessions a week, one for young people aged eight to 11 years and one for 12 to 18 year olds.

The Education Department does not hold data about young carers other than that provided by the 2014 Picture of Health survey, in which 23% of young people surveyed identified as performing the tasks of a carer. This survey of young people has just been repeated and results are awaited.

The 'My Time' project is run by a 0.5 FTE Youth Worker funded from the Jersey Independent Care Inquiry response money. My Time aims to:

- Provide opportunities for young carers to take a break from their caring responsibilities and spend time with other young carers to share experiences.
- Provide opportunities for young carers to learn more about their relative's illness or disability.
- Liaise with schools so that teachers can better support their students.
- Provide advice and emotional support through the YES project counselling and drop-in service.
- Support young carers to use local services such as sports clubs, support groups, and health centres.
- Initiate Early Help to support the family.

Not all young people realise that they are taking on a role of a young carer, particularly if their responsibilities are long-term or habitual. Unless they disclose their circumstances, their school might not be aware of the issues. However, if students are known as young carers and have additional educational needs then a range of existing support mechanisms will be utilised in schools. There would also be an opportunity for co-ordinated multi-agency support, which could, for example involve the school's Family Support Worker or other professionals as required.

## **2.6 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE NUMBER AND TYPE OF CARERS IN THE ISLAND: [WQ.74/2018]**

### Question

Will the Minister explain what data he has regarding the number and type of carers in the Island; and will he outline what assessment, if any, has been made of their needs, what provisions he has made to assist them in meeting those needs, and what policies or initiatives, if any, are being considered to assist them in the future?

### Answer

Key information pertinent to carers in Jersey is collated and available through the 'Jersey Carers' Strategy' coordinated on behalf of the Carers' Partnership Group by the Jersey Association of Carers Incorporated (JACI).

The 2017 Carers' Strategy states that Jersey's 2016 Health & Life Opportunities Survey found that one in ten households include a self-identified 'carer' and that 1% of households have a young carer who is under the age of 19.

All agencies involved with carers, including the States, community & voluntary bodies and private sector organisations, have access to this information via the Jersey Online Directory (JOD) at [www.jod.je](http://www.jod.je)

Presently, any assessment of a carer's individual needs is incorporated within the assessment of the individual person who is cared for. This is the responsibility of the named care coordinator for the cared for person, and this assessment is provided by the Community & Social Services Adult Social Care Team. This assessment is known as CarePartner and forms a part of the overall care plan.

Unique short break arrangements, often known as respite care, are then provided as a part of the individual care plan. This can include day time support, outreach support and/or residential short breaks.

Dependent upon the individual's personal assessment, this may be funded via the Social Security Income Support personal care component or Long-Term Care Benefit.

Earlier this year, the Chief Minister, following discussion with Dr Margaret Bayes, Chair JACI, commissioned Professor Luke Clements to work with the Carers' Partnership Group to make recommendations as to the feasibility of carer-specific legislation for Jersey. This work is now in train.

## **2.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING POLICY IN RESPECT OF PRIMARY CARE: [WQ.75/2018]**

### **Question**

Further to the response to Written Question 10(2017) and the review commissioned in respect of primary health care services, will the Minister set out his policy with regard to primary care in the Island; and will he give details of the meetings (including dates, times, agendas and participants) he has had with representatives of the primary care sector over the last 12 months and of any disagreements he has had with such representatives with regard to policy and provision in this area?

### **Answer**

The review into funding of Primary Care being undertaken by Deloitte and Imperial College is nearing completion.

The response to Written Question 10 (2017) provided information regarding the scope of the review.

The policy regarding Primary Care is being developed in line with the Primary Care Strategy, which was launched in December 2015. This included the following priorities:

- Patients – including developing population needs assessment
- Payment – including retaining co-payment, assessing different payment systems, exploring a pharmacy contract and running pilots
- Partnership – including leadership, multidisciplinary working and a Clinical Forum
- People – including a workforce strategy and increasing training opportunities
- Processes – including expanding governance and developing integrated IT

The outcomes of the review will be consolidated during 2018, and a delivery plan will be produced later in the year.

The development of Sustainable Primary Care policies is being co-produced with representatives from GP, Pharmacy and Community Nursing. This includes frequent meetings and the involvement of representatives

in workshops as potential solutions are developed. The Minister has not met separately with representatives of the primary care sector over the last 12 months, and has not had any disagreements with such representatives with regard to policy and provision in this area.

## **2.8 SENATOR P.F.C. OZOUF OF H.M. ATTORNEY GENERAL REGARDING THE APROPRIATENESS OF INTRODUCING A ‘MAGNITSKY ACT’ IN JERSEY: [WQ.76/2018]**

### **Question**

Will H.M. Attorney General advise the Assembly on the appropriateness of introducing the equivalent of the ‘Magnitsky Act’ in Jersey and, if so, what such considerations are entailed?

### **Answer**

The term ‘Magnitsky Act’ is derived from legislation adopted in six other jurisdictions in recent years designed to, inter alia, sanction foreign government officials implicated in human rights abuses anywhere in the world. The countries that have adopted such legislation are the United States (2016), Estonia (2016), the United Kingdom (2017 effective 31 January 2018), Canada (2017), Lithuania (2017) and Latvia (2018).

The approach in the United Kingdom is to allow the freezing and recovery of assets which were obtained through unlawful conduct, such conduct being extended by statute in 2017 to specifically extend to gross human rights abuses or violations which occur outside the United Kingdom but which if they had occurred in the United Kingdom, would amount to an offence triable by the criminal law of the United Kingdom.

The States are due to debate the draft Forfeiture of Assets (Civil Proceedings) (Jersey) Law 201- (“**the draft Law**”) on 9 April 2018. This draft Law, if adopted etc., will extend the Island’s non-conviction based forfeiture regime to property held in bank accounts (currently the regime only applies to cash under the Proceeds of Crime (Cash Seizure) (Jersey) Law 2008). The test for whether property is vulnerable to forfeiture under the draft Law will be whether or not it is tainted i.e. property used in, or intended to be used in, unlawful conduct or obtained in the course of, from the proceeds of, or in connection with unlawful conduct. Unlawful conduct is defined as meaning conduct constituting an offence against a law of Jersey or which, if it occurs or has occurred outside Jersey, would have constituted such an offence if occurring in Jersey, and this is a similar definition to that in the Cash Seizure Law and the Proceeds of Crime Law/Act here and in the UK.

The draft Jersey Law does not specifically refer to gross human rights abuses or violations. The operation of the draft Law if adopted will be kept under review by the Chief Minister’s Department and the Law Officers’ Department. Having considered the definition of “gross human rights abuses and violations” for the purpose of considering the extended definition of “unlawful conduct” under the UK Law, it is hard to envisage a gross human rights abuse or violation which would not amount to unlawful conduct under the draft Jersey Law.

Nonetheless, if there is evidence of any property being held in Jersey which would be covered by Magnitsky type legislation but is not covered by the definitions of “unlawful conduct” and “tainted property” in the draft Forfeiture of Assets (Civil Proceedings) (Jersey) Law, then urgent consideration would be given to further legislation.

## **2.9 SENATOR P.F.C. OZOUF OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE FUNDING OF THE NEW HOSPITAL PROJECT: [WQ.77/2018]**

### **Question**

In respect of the new hospital project, will the Minister set out in a table the following information, broken down by each year of the project and including all types of costs?

- (a) The total funds required for the project;
- (b) The source (of any type) of the funds described in (a);
- (c) The latest planned year for borrowing to be incurred (i.e. bond proceeds taken);
- (d) The imputed year-end balances of such borrowing over the project lifetime;
- (e) The coupon or borrowing costs;
- (f) The expected, or assumed, returns from the balances of funds in hand not yet drawn or expected to be built up before repayments; and
- (g) Withdrawals from, or allocations to, the Strategic Reserve and the new hospital fund?

### **Answer**

- a) The overall project cost will need to be contained within the £466m in order to rely upon the approval made by the States Assembly under P107/2017. This is currently being verified.
- b) Once that assumption is verified, the funding source will be as described in P.107/2017 i.e. a blended solution with up to £275 million by means of borrowing, £23.6 million for budget previously allocated and the balancing amount from the Strategic Reserve Fund.
- c) No formal Ministerial decision has been taken as to when any borrowing will be incurred. The latest planned year for borrowing is the current year.
- d) Until the duration and quantum of any borrowing is decided, this is subject to the decision required in part c of this answer and to market conditions.
- e) The costs are subject to the decision referred to in part c of this answer.
- f) After consultation with the independent investment advisers for the States, an assumed long term return of the Strategic Reserve is RPI(Y) + 2%. For prudent modelling purposes a lower level of return, 1%, is assumed for any balances held in hand.
- g) Any sums borrowed will be paid into the Strategic Reserve Fund and will remain there and transferred into the Hospital Construction Fund in line with specified trigger points in a cash-flow funding statement provided from the Department for Infrastructure once that cash-flow is known.

## **2.10 SENATOR P.F.C. OZOUF OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING ESTIMATED INCOME TAX RECEIPTS FOR 2017: [WQ.78/2018]**

### **Question**

Will the Minister give the latest estimate for Income Tax receipts for 2017?

### **Answer (as originally provided)**

The latest published estimate for Income Tax receipts for 2017 remains at £483 million, which is the revised forecast figure from the 2018 Budget and included in the answer to WQ.56/2018, tabled on Monday 19th March 2018.

The outturn figures will be included in the Annual Report and Accounts for 2017.

In parallel, the Income Forecasting Group (IFG) are in the process of producing forward forecasts for 2018-2023 based on these provisional figures. The IFG forecasts will be available at the same time and will also

incorporate the revised economic assumptions from the Fiscal Policy Panel (FPP) and advised to States members on 1st March 2018.

**New response ordered by Bailiff under standing order 12(4):**

**Senator P.F.C. Ozouf:**

May I ask a question in relation to this written question? In the spirit of end of term jollity and good news, I wonder if the Minister really will reflect upon his answer where I asked for an up to date assessment of income. It is the 9th April and it has been the practice that the Assembly does know at this stage what the income actual outturn for 2017 is, and the answer basically does not say so, and I ask whether the Minister in the spirit of this last sitting that we are having would be willing to give us some good news, which I think is contained within the figures but he does not want to reveal it. I would ask him to reconsider it. Would he answer the question, Sir.

[9:45]

**The Bailiff:**

Well, it is always a great pleasure to look at new standing orders, Senator. I am looking at standing order 12, paragraph (4), which says that where the questioner is of the opinion that the answer contravenes paragraph 2(a) – that is to say that it will not be directly relevant – he is to give notice to the Bailiff before 12.45 p.m. on the day the answer is tabled. I think it must have been tabled on Friday.

**Senator P.F.C. Ozouf:**

I did exchange with you, Sir, another question on a written question and you kindly emailed me back, but standing orders appear somewhat unclear as to the day that the... certainly my reading is that the answer may be published helpfully by the Greffe on the 6th – it is actually published today, Sir, so it is before 12.45 p.m.

**The Bailiff:**

Tabled.

**Senator P.F.C. Ozouf:**

Today, Sir, it says so.

**The Bailiff:**

The Greffier corrects me: it was apparently tabled today, so you are right. However, I do think that the answer is not directly relevant because it has not dealt with it, Minister, the question which was the latest estimate. There must be some latest estimates, one assumes.

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

If you would like me, in the spirit of the end of term, to provide a revised written response then I would be happy to do so before the end of today. **[Approbation]**

**Senator P.F.C. Ozouf:**

I am extremely grateful to the Minister... as I am to you, Sir.

**The Bailiff:**

Very well.

**Answer – Revised in accordance with Standing Order 12(4)**



The latest published estimate for Income Tax receipts for 2017 is £483 million, based upon data and economic data/assumptions known in August 2017.

It is highly unusual for unaudited income tax or other income estimates to be released in an ad-hoc manner, as anticipated by this question, rather than in a well managed, professional and complete manner which allows Members and the public to understand the financial performance of the States in its entirety.

Furthermore it is important that the implications of the out-turn for coming years is fully understood before announcement, which is why the Income Forecasting Group (IFG) are in the process of producing forward forecasts for 2018-2023 based on these provisional figures. The IFG forecasts will be available at the same time as audited results for 2017 are available and will also incorporate the revised economic assumptions from the Fiscal Policy Panel (FPP) as advised to States members on 1<sup>st</sup> March 2018.

The unaudited, and therefore still subject to review, income tax estimate for the 2017 financial year is £515m.

## **2.11 SENATOR P.F.C. OZOUF OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TAXATION OF MUTUAL ORGANISATIONS: [WQ.79/2018]**

### **Question**

What information, if any, does the Minister have on whether the retail operations of the Co-op in the U.K. are liable to U.K. corporation tax and what was the basis for the Minister's statement made in comments on my amendment to the Draft Budget Statement 2018 (P.90/2017 Amd.(7)) that mutual organisations are not taxed in the UK?

### **Answer**

There are two parts to the question:-

1) What information, if any, does the Minister have on whether the retail operations of the Co-op in the U.K. are liable to U.K. corporation tax?

The Minister does not have any specific information as to whether the retail operations of the Co-op in the UK are liable to UK corporation tax.

However the principle that a person cannot trade with themselves (i.e. mutual trading) is applied to organisations engaged in mutual trading in the UK ( <https://www.gov.uk/hmrc-internal-manuals/business-income-manual/bim24015> ).

2) What was the basis for the Minister's statement made in comments on my amendment to the Draft Budget Statement 2018 (P.90/2017 Amd.(7)) that mutual organisations are not taxed in the UK?

The comments to P.90/2017 Amd (7) (Appendix I) do not say that mutual organisations are not taxed in the UK.

The comment only refers to the longstanding principle applied in Jersey that persons cannot trade with themselves and hence any profits arising from that activity is outside the scope of income tax.

Furthermore the footnote says that the principle that no taxable profits arise, and hence no tax is payable, is also applied in a number of jurisdiction including the UK and Ireland.

At the request of the Assembly the principle of not taxing mutual trading in Jersey will be the subject of a review by the Treasury. On completion of this review, consideration will be given as to whether legislative changes should be made.

### **3. Oral Questions**

#### **3.1 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding the prospect of lending material from the basement of Cyril le Marquand House to Jersey Heritage: [OQ.59/2018]**

Why are the originals of the war-time currency designs by Edmond Blampied and the post First World War cheque signed by Winston Churchill, currently held in the Cyril Le Marquand basement and not lent to Jersey Heritage for display to the public?

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

I can confirm that both the originals of the war-time currency designs by Edmond Blampied and post First World War cheque payable “to” and not signed by, as the Senator suggested, the Right Honourable Winston Churchill are indeed currently held safely in the vault in Cyril Le Marquand House. However, I am not aware of any previous request by Jersey Heritage to borrow these items for display. However, I am pleased to confirm that as a result of the Senator’s question I have instructed my officers to contact Jersey Heritage and to ascertain if the loan of these items would indeed be of interest to them.

**Senator S.C. Ferguson:**

I would thank for the Minister for this and I can assure him that I will be in touch with the former Deputy of St. Ouen to make sure that Jersey Heritage accept the loan.

**Senator A.J.H. Maclean:**

I would just also add that I have a copy of the said cheque here and I thought I would give it as a gift to the Senator [**Laughter**] and I would just hand it over. I know that is not strictly speaking within Standing Orders but nevertheless I am sure you will forgive me.

**The Bailiff:**

Just do not sign it, Minister.

**Senator A.J.H. Maclean:**

I should state it is a copy, not the original.

#### **3.2 Deputy K.C. Lewis of St. Saviour of the Minister for Economic Development, Sport and Culture regarding grants to small businesses in order that they might comply with the Discrimination (Disability) Regulations: [OQ.63/2018]**

Given the Discrimination (Disability) Regulations will come into effect from September 2018, will the Minister be awarding grants to small businesses to help them upgrade their premises in order to comply with the regulations?

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

In short, there are no plans currently to provide such assistance. Having said that, the regulations do not contain a specific requirement to upgrade premises to achieve compliance with the law until

September 2020 so there is time to work with business to ensure that they can meet their commitments. I would say that I am inclined, and whoever is in the new Assembly, I hope will feel comfortable in offering support for businesses, not just with this but other areas of social responsibility we are putting upon them.

### **3.2.1 Deputy K.C. Lewis:**

While I fully support the disability regulations, is the Minister aware ... also I must declare that I am a board member of EYECAN, the Jersey Blind Society. I fully support the new regulations coming in but is the Minister aware of how much a cost and the burden of this is going to be on small businesses and does he think there should be assistance in the future?

### **Senator L.J. Farnham:**

I thought I alluded to that but, just to be clear, businesses will simply be expected to do more than what is reasonable improving the accessibility of buildings. It is important but many reasonable adjustments can be inexpensive and relatively easy to implement and it is expected that the majority of changes will be relatively straightforward. Having said that, there are some that will not be and I do support, in principle, support for businesses to help to achieve these standards.

### **3.2.2 Deputy G.P. Southern of St. Helier:**

On a wider base does the Minister have a budget for assisting with industries' adjustments in the light of the Discrimination Law?

### **Senator L.J. Farnham:**

Not in the current budget but, of course, that will be a matter for the next Minister and the next Assembly during the process, but I would also refer the Deputy to the finance and manpower statement that was part of the regs when they were approved and he will see that some money has been put aside to help businesses in an advisory capacity.

### **3.2.3 Deputy K.C. Lewis:**

I thank the Minister for his reply which is very constructive. Will he also come down on businesses that are refusing access to guide and other assistance dogs under the Discrimination Act?

### **Senator L.J. Farnham:**

I think the law will do that but I think many forward-thinking businessmen and women realise that by adhering to these rules they are creating business opportunities for themselves.

## **3.3 Deputy G.P. Southern of the Minister for Education regarding the Jersey Early Learning Literacy Years (J.E.L.L.Y.) club programme for under-3s: [OQ.61/2018]**

Given the Government's commitment under the 1,001 Days Programme to early intervention and care for children, will the Minister advise whether the J.E.L.L.Y (Jersey Early Learning Literacy Years) club programme for under-3s was stopped at Easter, with 4 weeks' notice; and, if so, will he tell us why?

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

The J.E.L.L.Y. programme ... just to explain what J.E.L.L.Y. means, Jersey Early Learning Literacy Years, which is a programme that was started by the Bridge some years ago, has not been stopped. This early literacy programme is aimed at children below the statutory school age and is, therefore, entirely voluntary. The number of families taking up places has decreased over the last few years so that the number of clubs has reduced from 14 to 4. The Education Department has other flourishing strategies aimed at helping parents to get involved in early literacy with their children. For example,

the Making it R.E.A.L. (Raising Early Achievement in Literacy) programme is an award-winning initiative developed by the National Children's Bureau to offer parents and their children a variety of opportunities to get involved in fun activities designed to support their children's early literacy development and to help create a strong home learning environment. In addition, the Early Years and Childhood Partnership is working with the department to expand the R.E.A.L., which means Raising Early Achievement in Literacy Programme, across our schools and has trained a number of practitioners across the early years' workforce including health visitors.

### **3.3.1 Deputy G.P. Southern:**

If the Minister is correct in his statement that the programme has not been stopped why then have several parents contacted me saying to the contrary the J.E.L.L.Y. clubs have been stopped and I received a phone call saying that they would stop at Easter?

### **Deputy R.G. Bryans:**

I simply cannot answer that question. I have no idea why a parent would contact the Deputy with regard to this. As I have said already ... I do apologise, as most people are aware, there was a certain transition to power back on Friday afternoon so this has only come to me recently, but I was made aware at that point that there has been a reduction by parents, market forces, in some cases where parents have opted to look at these other programmes. So there has been no stopping on our part at all.

### **3.3.2 Deputy L.M.C. Doublet of St. Saviour:**

Can the Minister just outline whether the Making It R.E.A.L. programme; is that something that is just available for school age children or is that available from, I think, 3 to 4 months, from very young babies, the same as the J.E.L.L.Y. club?

### **Deputy R.G. Bryans:**

Yes, it is available from a very early age. It works with the Jersey Childcare Trust. They have been helping to establish it and run it through our schools. So it is available for very young children as well.

### **3.3.3 Deputy L.M.C. Doublet:**

Supplementary please. How is this making it real? How is that communicated to all parents who might, perhaps, not already have a child in school to have that contact there with the school?

### **Deputy R.G. Bryans:**

I think you will find it is on the Government website.

### **3.3.4 Deputy M. Tadier of St. Brelade:**

Is the Minister happy for any parent who has contacted Deputy Southern to contact the Minister directly to explain why they think that the scheme has been stopped?

### **Deputy R.G. Bryans:**

As always, my door is always open to any member of the public who has concerns with regard to the education of their children. So if anybody has any problems with that, yes, they can speak to me.

### **3.3.5 Deputy M. Tadier:**

Obviously, the door is always open but can they phone the Deputy and expect an answer if they wish to explain why they think that the J.E.L.L.Y. club has been stopped and fill in the Minister on the information that he obviously seems to be lacking?

### **Deputy R.G. Bryans:**

Thank you to the Deputy. I think the best course of action is rather than phoning me is to email me so that there is an explicit record of the actions taken by both themselves and myself in response to them.

### **3.3.6 Deputy G.P. Southern:**

The final supplementary might contain 2 questions. Will he, in the light of that last statement about clarity of the written form, state why the notice was given by phone and not by letter or email to parents and, further, would he explain whether the programmes he is referring as substitutes for J.E.L.L.Y. clubs were running alongside J.E.L.L.Y. clubs previously?

### **Deputy R.G. Bryans:**

I cannot answer the Deputy's first question because, again, this is the reason ... that is why I have suggested it has been dealt with my email, at least there is a track record of what happened. I do not know who phoned who at what particular time but I can certainly look into it and come back to the Assembly with ... sorry, could the Deputy repeat the second part of the question?

### **Deputy G.P. Southern:**

Yes. Previously, while J.E.L.L.Y. clubs were in existence with 14, or whether it is 4, were they running in parallel with the programmes that he suggests are alternatives to the J.E.L.L.Y. clubs and has there been a reduction of services thereby?

### **Deputy R.G. Bryans:**

I think that is correct. I think we have been running this for some time and Members may or may not be aware from past discussions regarding the Bridge that I used to volunteer for the Bridge, so I know the people who work there intimately and I know the individual who started the J.E.L.L.Y. club. I think it is worth saying that, as an Education Department, we totally support what the J.E.L.L.Y. club does. I think it is a brilliant concept and I think it is a brilliant idea but I think parents have just looked around and found other things to do.

### **Deputy L.M.C. Doublet:**

Could I ask for clarification please on an answer? The Minister referred to the Education gov.je website for details of Making it R.E.A.L. I have just been searching that website. I have also Googled for it. I cannot find any details on it and the page where you get information about the J.E.L.L.Y. clubs and other parenting support services has absolutely no mention of it and there are 6 J.E.L.L.Y. clubs there. So the Minister seems to have incorrect information. Can he clarify that please?

### **Deputy R.G. Bryans:**

Yes, and I have no intention to mislead the House. I was informed just this morning that that was the situation with regard to the website. I will certainly go back and have a look at that. If it is not up there and we are running these things then it should be. I could not talk about the discrepancy because once again the information I was given was that it was 4 and not 6 but I will look into the situation. I will repeat again, that we have always subscribed to the 1,001 Days notion of helping parents as much as we can in helping them educate their children and certainly we have been quite vocal in our support for things like the J.E.L.L.Y. club, like the R.E.A.L. programme, like Every Child Our Future so we will continue to do that.

## **3.4 Senator P.F.C. Ozouf of the Chief Minister regarding the independent assessment of the Jersey Competition Regulatory Authority: [OQ.64/2018]**

Will the Chief Minister update the Assembly on the action being taken for an independent assessment of the Jersey Competition Regulatory Authority and when the conclusions of this recently announced review will be publicly available?

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

The terms of reference for the review were confirmed on 20th March by Ministerial Decision which is publicly available. Based on the availability of leading counsel it is anticipated that the report will be completed post the election. It will be published once the newly elected Minister with responsibility for the J.C.R.A. (Jersey Competition Regulatory Authority) has had time to consider it and after any outstanding court matters have been resolved.

**3.4.1 Senator P.F.C. Ozouf:**

Included in the terms of reference is the infographic, which C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities) put out, and made a number of extraordinary claims about their work in the last few years in defence of what they have been doing. Is that included in the terms of reference and has he had a chance to have a look at the infographic and consider whether or not it is representative because clearly there are a number of representations in that infographic which have got nothing to do with C.I.C.R.A. at all, such as the cutting of the fixed price house purchases and another series of extraordinary claims and does he want ... if he has not included it in it, will he?

[10:00]

**Senator I.J. Gorst:**

It is well known that success has many fathers and that if, as the Senator is suggesting, there are things there which are difficult to allocate directly to the door of C.I.C.R.A. then that would be, of course, inappropriate. The terms of reference are about the particular case, in particular, but also we will be asking counsel for a view on amendments to the law. It seems to me, and I think this case perhaps is proven, that the current options available to C.I.C.R.A. can be seen as heavy handed and not working necessarily in the best interest of competition in the market.

**3.4.2 Senator P.F.C. Ozouf:**

Can the Chief Minister update Members as to the latest estimated cost of dealing with the case that he has referred to and is this in the terms of reference? Is it true, for example, that we are now heading towards the £2 million or £3 million mark for the public purse in chasing a start-up?

**Senator I.J. Gorst:**

I do not have any update on the costs from a personal perspective. I have not been briefed on that. From a personal perspective, the costs which are in the public domain, which are over £500,000 on behalf of C.I.C.R.A., to me are excessive when we consider the issue that was being considered. I would not expect you to respond to this but we know that litigation and going to court can be, in some cases, expensive because of the time and the expertise involved. Therefore it should not be an early recourse but a last resort if all other methodologies have not been able to solve the issue. I think this goes to the heart of the current Competition Law which points almost immediately to reference to court rather than seeing, as I said earlier, if there can be other more appropriate methods of seeking resolution, which will have the same result of ensuring that there is no anti-competitive behaviour.

**3.4.3 Senator P.F.C. Ozouf:**

I am looking at the terms of reference now and the Chief Minister is referring to the additional government funding of C.I.C.R.A. of £500,000. Would he confirm that indeed the likely cost for the public purse of dealing with and supporting C.I.C.R.A. in their failed case is likely to be a multiple of that figure? Moreover, is he now of the view that knowing what he now knows about the fuel

market and both the aviation, heating oil and petrol market, does he believe that there is a strong case to invalidate all the previous reports that were produced by C.I.C.R.A. and basically redo them and does he not think that this is a really important issue if we are to lower the cost of living for Island residents in the future?

**Senator I.J. Gorst:**

I am not sure that “invalidate” is quite the strong term that is appropriate in this instance but I think we have all learnt a great deal from the changing cost of airline fuel at the airport when we have an operator which is prepared to operate in a totally different more open and transparent way, albeit the court case is in the public domain. The reasoning is in the public domain and I have no reason to offer any comment upon that. We also see in the domestic fuel market the same reduction of price to the public. We are now also seeing in the motor fuel market the same reduction in price to the public. Some Members, perhaps one of those who is asking this question, has been banging on about this issue for year after year and he has been criticised and he has been vilified. Perhaps now he is being proven to have been right all along where we have an operator that is able to deal with markets, which may not in the past have been operating in a competitive manner in the best interests of Islanders. He, like I, absolutely believe in competition as the best way to reduce prices to the public and allowing the public to keep their money in their pocket where they can put it to best use and where they are getting best value.

**Senator P.F.C. Ozouf:**

As the Chief Minister has referred to the “forecourt”, while I have no business interests but I will just declare that I am a beneficial owner of a forecourt that he refers to but I have no commercial relations in relationship to it because it on a long lease, just to close it down.

**The Bailiff:**

That, I think, was not within the scope of the first part of the question. Very well, Senator Ferguson, you were flashing your light, not with a question to follow this up with a final supplementary, were you?

**Senator S.C. Ferguson:**

No. I have ... there were so many questions being asked I lost track.

**The Bailiff:**

Yes, and the Chief Minister did manage to answer one of the 3 of them but there you go.

**3.5 Senator P.F.C. Ozouf of the Minister for Economic Development, Sport and Culture regarding the administration by Locate Jersey of applications for high-value residency from so-called Russian ‘oligarchs’: [OQ.65/2018]**

In light of the recent response from the international community to the Russian Federation, will the Minister advise whether changes have been made to the way in which Locate Jersey deals with applications for high-value residents and so-called Russian ‘oligarchs’ and whether any safeguards have been put in place to ensure the Island’s international reputation is protected?

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

No changes have been shown to be necessary to date to the way in which Government deals with applications for high-value residency. I would like to remind Members that in determining applications for 2(1)(e), residency officers in my department work closely with their colleagues in the Treasury, Chief Minister’s Department and the Social Security Department and collaborate with officers of the Jersey Financial Services Commission and the States of Jersey Police as part of the

process. In cases where the application is for a high profile person who we believe would attract media attention the application is referred to the Assistant Chief Minister, as the Senator knows, because he has been involved in the past of further vetting of such persons, at the very earliest opportunity, usually before the application is received. The Chief Minister and his colleagues will obviously take this into account and the reputation of the Island when deliberating the issue. Can I finish by saying that it is unfortunate that recent geopolitical events have led to a deterioration in relations between Russia and certain other countries and this is likely to be a consideration for a future Government and a future States Assembly, but I am sure the Senator and Members can rest assured that the Government will liaise very closely and do everything it can to work with other countries to ensure our reputation is protected.

### **3.5.1 Senator P.F.C. Ozouf:**

Can I just clarify that? Can I just clarify, the Minister is deft at not saying who is responsible for the policy? Could he confirm that it is Locate Jersey who initiates the policy in relation to marketing and, ultimately, he will take political responsibility for Locate Jersey? He is responsible and it is Economic Development that is the department that is focusing on which high-value residents they are trying to attract and, therefore, if that is the case it is surprising that in light of the recent geopolitical events and real concern about oligarchs that there is not a review that is being carried out.

### **Senator L.J. Farnham:**

My department is responsible for Locate Jersey. Locate Jersey's job is to attract high-value residents and other global businesses and develop inward investment but it is fair to say that the process is robust and albeit blind to race, colour, creed agenda. That is because we work within a highly regulated area. As the Senator once said to me a long time ago: "Only ask a question if you know the answer." Well, he knows the answer to the questions he is asking today. Most high-net-worth applications are made by companies who themselves are well-established and highly regulated and we work with, as I have said, within a highly regulated regime so the system is robust and there is no policy to determine an application purely on the nationality of the applicant. As I have explained previously, there is a robust process to which we follow and my department is responsible for Locate Jersey but the Chief Minister's Department is responsible for the final say.

### **3.5.2 Deputy S.Y. Mézec of St. Helier:**

Could the Minister inform the Assembly of the Russian applicants for the 2(1)(e) scheme to Jersey? How many of them have first had a period of residency within the United Kingdom and how many of them are coming directly from Russia? He also referred to the various bodies that they would engage with before accepting an application, could he inform the Assembly whether or not there are any U.K. (United Kingdom) agencies, any U.K. Government departments that were engaged with before accepting a 2(1)(e) application from a Russian citizen?

### **Senator L.J. Farnham:**

It is not our policy to discuss individual applicants and there are so few Russian nationals as part of this scheme that I would be reluctant to do so because it would enable identification of such members. Yes, the U.K. agencies are consulted on occasion when necessary.

### **3.5.3 Deputy S.Y. Mézec:**

Supplementary. I mean given the geopolitical situation we face I think that answer was very unsatisfactory. Could I just ask him if there have ever been any applications from very wealthy Russian citizens that have been refused?

### **Senator L.J. Farnham:**



I am not entirely sure. I would find it highly unlikely because usually the application process - and that is the process before the application is made - tends to act as a very good filter and any applicants that are likely to be refused do not make it through to the final application.

#### **3.5.4 Connétable C.H. Taylor of St. John:**

Having seen some of these individuals that we are talking about on television they invariably are escorted around with armed bodyguards. Would the Minister undertake to ensure that such activity is illegal on the Island and that if they come here they leave their bodyguards behind?

#### **Senator L.J. Farnham:**

I am not sure that I am empowered to answer that. Of course I agree with the sentiment. We live in a peaceful Island and we want it to stay that way. There are laws to protect society and any protection provided to certain individuals visiting or resident on Jersey would have to be lawful and that is perhaps ... the details of which is a question for the Minister for Home Affairs.

#### **3.5.5 Deputy G.P. Southern:**

The Minister mentioned the word “robust” I think it was 4 times, a robust process for assessing these candidates. Could he give details of what that robust process is and could he wind the question a little away from Russians, say how many applicants have had their application refused, the 2(1)(e) subjects, in the last, say, 5 years?

#### **Senator L.J. Farnham:**

Enquiries from potential high-net-worth residents are directed towards Locate Jersey who exchange information and ask clients to complete profile templates and provide copies of passports and relevant documentation. Checks are carried out on a well-check and significant desktop research is conducted. If the client is considered to be high profile the information is passed on to the Assistant Chief Minister for political consideration. The enquiry is then passed on to the Financial Services Commission and the States of Jersey Police for their comments and if the client fails any of these tests the process would stop there.

[10:15]

There are a number of other areas but in the interests of time I will not go through them now but I do undertake to provide that to the Deputy. I do not happen to know exactly how many applications have been refused in the 5 years but I can find that out, although to say again, I think it is unlikely that many are refused because the process before the application is made filters out a lot of those that would be refused.

#### **Deputy G.P. Southern:**

Would he circulate that to the whole Assembly rather than just me?

#### **Senator L.J. Farnham:**

Yes.

#### **3.5.6 Senator P.F.C. Ozouf:**

The Minister said: “You never ask a question without knowing the answer” and I would have thought that after 19 years, or nearly 19 years, in the Assembly that the Minister would have done a bit of a better job in answering these questions. Would he, in this final supplementary, concede in any way that he is concerned about the news that has been on every single newswire, every single newspaper, around the world about Kremlin links with oligarchs? While we never disclose individuals, will he give the Assembly the assurance that Islanders will no doubt be wanting to know, that there are the highest controls and checks being made not only on the applicants that have been given theoretically

a licence to buy but have not yet bought and that if there is new information, which there is in abundance, about the Russian Federation and their activities, particularly those around the Kremlin, that he will do what this question is asking to do; review the situation and put Islanders' minds at rest that we are not going to be a shady place for shady people with links with a brutal and horrific Kremlin alleged regime? Does he not recognise that there is a serious issue for many Islanders?

**Senator L.J. Farnham:**

Yes, I do and, of course, I am concerned, as I think all Islanders are, and most people in the civilised world are concerned about the position that is currently developing. Paramount is Jersey's reputation and its security and the security of our people but I am also satisfied with the robustness of our procedures. I am satisfied at the level of our regulation. We are one of the most well-regulated jurisdictions in the world and I do undertake to continue, and I am sure whoever follows us into government will do the same, undertake to ensure that that process is continuously reviewed to ensure it is fit for purpose and we are guaranteeing Islanders' security and we are making the right choices.

### **3.6 Senator S.C. Ferguson of the Chief Minister regarding the information about individuals to be contained in the Yoti app: [OQ.60/2018]**

How much information about individuals will the new Yoti app contain, including in relation to tracking, and how much of this information will be shared with the States?

**Senator I.J. Gorst:**

I ask Deputy Wickenden to answer this please.

**The Bailiff:**

Deputy Wickenden, you will speak English, will you not, in answering this?

**Deputy S.M. Wickenden of St. Helier:**

Sorry, I did not hear that?

**The Bailiff:**

That is all right. Okay.

**Deputy S.M. Wickenden (Assistant Chief Minister - rapporteur):**

So I say firstly for the benefit of everyone here I should clarify that Yoti is the company that was successful in the tender process to provide the States of Jersey with a digital identification solution. That was not quite clear in the question so I thought I would clarify. When setting up the Yoti app it will collect the individual's full name, date of birth, gender, nationality, address, photo I.D. (identification), email address and mobile phone number. The States of Jersey, when asking for verification, will only ask for the full name, date of birth and address. The Yoti company has no access to customer data. It merely provides the platform that enables customers to share selected information with third parties.

#### **3.6.1 Senator S.C. Ferguson:**

So when a youngster is attempting to enter licensed premises will it supply the location where the youngster is located? I am wanting to know what the ability of this app is to identify location and who can access that information.

**Deputy S.M. Wickenden:**

The app itself merely holds the information on the phone and then allows it to be shared, what information you choose. So you only choose which information you require to share with who you

are trying to access services from. So if it was for age verification you just share your date of birth. You do not share all of your information. There is no need for any geotracking to happen when this is available, but I am not 100 per cent sure that something does not happen but I will go and find out for you.

### **3.6.2 Senator S.C. Ferguson:**

Yes, I would thank the Deputy for this because the one question that I have been asked, which perhaps I have not explained terribly well ... things have changed since I studied this ... the one thing that people were worrying about was the access to information by States departments, such as the police or ambulances or fire or whichever, and what information is going to be available, and this is what is worrying people.

### **Deputy S.M. Wickenden:**

I thank the Senator. As I say, there is no one big database that holds the information. The information is held by yourself and it is a verification. So there is no database that can be hacked or shared with police services because the information is on the person's device, not anywhere else. So that information would not be available anywhere because there is no big database to ask about.

### **3.6.3 Deputy G.P. Southern:**

Is this new Yoti system a precursor to electronic voting?

### **Deputy S.M. Wickenden:**

I would say absolutely. I would say that we have got all the final pieces in place to start getting ready for online voting by the election after the one that is about to come.

### **3.6.4 Senator S.C. Ferguson:**

If the Deputy could supply more information because people are concerned about their information being accessed, not held in a database, but accessed and with everything else that is going on electronically it would be a good thing if the Deputy or the department could explain exactly what is available in words of possibly one syllable for those of us who are not quite up to date with this. So will the Deputy undertake to make sure that a nice simple explanation of who can access the information, who can identify where you are location-wise and generally explain about the app?

### **Deputy S.M. Wickenden:**

I think this is where there is a good benefit for this app because you share just the information you choose to share. When you hand over your passport you share all of your information, you do not get to pick and choose. So this is one of the things that certainly gets us ready for G.D.P.R. (General Data Protection Regulation). I will make sure that I get the relevant information about if there is a geotag location or if there is a location on when you use your service where you are and I will share that information but as it goes there is not a database. It is all on the device itself.

## **3.7 Deputy G.P. Southern of the Minister for Social Security regarding the impact of increasing the length of time someone should pay contributions to become entitled to parental benefits: [OQ.62/2018]**

Given that more than 70 per cent of respondents to *Living Today: Thinking Ahead Part 2* favoured increasing the length of time someone should pay contributions to become entitled to parental benefits, is it the Minister's assessment that implementing such an increase would worsen financial conditions for new parents and babies and will she explain how such a measure would be consistent with the 1,001 Days initiative?

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

I am very grateful to the 2,600 Islanders who took the time to send in their views on the future of parental benefits as part of our major review of the Social Security Scheme. As the Deputy said, respondents were supportive of having a longer contribution history before making a claim. These views, and the views of the public on bereavement benefits and old age pensions and the work we are doing now on incapacity benefits, will all be considered by the next Minister for Social Security and the next States Assembly. There are difficult decisions to make; how do you balance the 1,001 Days agenda and the needs of new born babies against the needs of pensioners or people living with a disability. Which group is most important? Which one is most deserving of public support? The answer is that they all need our support and that support comes from everyone paying contributions into the fund. This is the reason for the major Social Security review and the results of all the surveys and other research will be brought together to allow the next Assembly to weigh-up these issues, take these difficult decisions and ensure that the Social Security Fund remains sustainable in the long term.

**3.7.1 Deputy G.P. Southern:**

Supplementary, if I may. So as a result of all those words has the Minister answered the question? Does she consider that such a move, increasing the length of time required to make contributions, would contradict the initiative that we have currently and the commitment we have to 1,001 Days? Which, in her mind, is appropriate?

**Deputy S.J. Pinel:**

I believe I did answer the question. This is the whole part of having this review and we will collate all the results. The second part, as the Deputy says, has just been released. These are not Social Security recommendations. They are the views of the consultation and the public workshops and so when we collate all these responses we will be able to come up with various suggestions as to how to maintain the sustainability of the fund.

**3.7.2 Deputy G.P. Southern:**

Given that the only options in the question were to increase the length of time required for contributions between 2 amounts does the Minister not consider that this, in fact, was a leading question and did not fully consider the pros and cons of such action?

**Deputy S.J. Pinel:**

No, it was not a leading question and, as with all the questions in the consultation, there were 3 options; whether it would be to increase, decrease, not just in the circumstances in this particular thing but all the way through the consultation, or to have things remain as they are at present. The results, as the Deputy said in his question to me, were that 70 per cent of respondents were keen to increase their history of contribution before receiving the benefit.

**3.7.3 Deputy G.P. Southern:**

I believe the Minister may be in danger of misleading the House accidentally because in this question it was not make the period shorter, keep it the same or lengthen it, it was the shorter option was not there. It was keep it the same or lengthen it by various periods. That was the question and that is, I believe, begging for people to answer that particular aspect and to agree with the statement.

**The Bailiff:**

Well, that is a comment, Deputy. Is there a question in there?

**Deputy G.P. Southern:**

The question was: will she check her data to make sure that she is not misleading the House because that would be a shame?

**The Bailiff:**

Minister, will you go and check your data?

**Deputy S.J. Pinel:**

Yes, Sir.

#### **4. Questions to Ministers without notice - The Minister for Social Security**

**The Bailiff:**

We now come to questions to Ministers without notice. The first question period is the Minister for Social Security. It starts now. No questions for the Minister?

##### **4.1 Deputy G.P. Southern:**

My reputation precedes me. Why has the Minister failed to reduce overall social security contribution rates for self-employed businesses in the last 3 years when I believe she promised to do something about that?

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

The Deputy is quite right, I did say that I would look into this and I have fulfilled my promise inasmuch as this is under review at the moment, and I know the Deputy does not like things being constantly under review but it is. We are, as I have said in earlier speeches, concerned that start-up businesses are not aware of the deferred rate, which they can have, and so it is really a rebranding exercise which is going on at the moment and I acknowledge that the communication on the deferred rate, which will be then in future known as the start-up rate, will be communicated in a much better fashion.

##### **4.1.1 Deputy G.P. Southern:**

In more general terms, apart from the start-up rate, does she consider that there is a case for reducing overall the contributions paid by the self-employed from the current 12.5 per cent to something more amenable?

**Deputy S.J. Pinel:**

I think I just answered that. It is under review and it may not necessarily be a reduction but it may be a different way of approaching it with a deferment, which is what is already in existence of having to pay any of the rate at all until such time as the business can prove it is successful but this is going to come back to the States in the next Assembly.

[10:30]

##### **4.2 Deputy R.J. Renouf of St. Ouen:**

Referring to the Minister's recent media release about uprating the components within income support will the Minister undertake, when the proposition is brought before a new Assembly, to include information as to the level of income support and how that has kept pace or failed to keep pace within inflation rates since 2008 when the income support scheme was introduced?

**Deputy S.J. Pinel:**

I thank the Deputy for his question because that has just been released today; that there is a 3 per cent increase across the components of income support which is in line with the F.P.P. (Fiscal Policy

Panel) forecast for increase in R.P.I. (retail price index) and, as the Deputy will well know, a lot of the components of income support were frozen for 3 or 4 years due to the fact there was not the money in the system to pay them. This is very good news that it has now increased to 3 per cent.

#### **4.2.1 The Deputy of St. Ouen:**

Supplementary please, because I do not think the Minister grasped the essence of my question. Will she draw upon the Scrutiny report *Living on Low Income* and in particular the adviser's report appended to our own report, which gave information as to the extent that supports had fallen behind the cost of living over the 10 or 11 years of the income support being in place. Will the Minister provide that information and comment upon it in the future proposition to be brought?

#### **Deputy S.J. Pinel:**

I am sure I can provide the information if the Deputy has not already had it in our response to the *Living on Low Income* report that the Scrutiny Panel provided. But with a 3 per cent increase across all income support components, I think this is addressing the fact that perhaps there have not been enough increases in past years but that all depends on the whole state of the economy.

#### **4.3 Deputy G.P. Southern:**

Can I move off the subject to one of sanctions? Will the Minister reconsider her decision to make the minimum sanction level for any misdemeanour by any claimant of income support a minimum of £21 a week, whereas it used to be £7 a week? Does she not consider £21 a week taken from the calculation for income support that this is what a family needs; £21 less can cause hardship?

#### **Deputy S.J. Pinel:**

Yes, and I agree with the Deputy. Of course £21 a week less can cause hardship but sanctions are there for a reason. The sanctions are not imposed until such time as there has been 3 breaches of the requirements of somebody to search for work. They are assisted in doing this with huge amounts of mentoring from Back to Work, with help with interviews, with help with finding jobs and if they consistently refuse to try and find jobs, then the sanctions are imposed, so it is not something that just happens overnight.

#### **4.3.1 Deputy G.P. Southern:**

The Minister is in serious danger of misleading the House here. Can she assure the House that sanctions are only imposed as a result of 3 warnings for not actively seeking work and not for leaving work without good cause, which also attracts an instant sanction of a lengthy period?

#### **Deputy S.J. Pinel:**

As I said in my first answer that there are 3 warnings before a sanction is imposed and, as the Deputy has said, if somebody leaves a job that they have been found by the Back to Work team without good cause, then, yes, there is a chance of a sanction being imposed.

#### **4.3.2 Deputy G.P. Southern:**

Can she also assure Members that becoming ill because of the work is without due cause in her officers' books?

#### **Deputy S.J. Pinel:**

That is something for the officers of the department who interview the people in these cases; it is not for me to decide.

#### **4.4 The Deputy of St. Ouen:**

Does the Minister recall the resolution passed by this House to abolish exclusivity clauses in zero-hour contracts? Does the Minister recall that she told this Assembly that the Employment Forum was first working on its family-friendly recommendations but would then move on to deal with the zero-hour contract legislation? Can the Minister confirm that the Employment Forum will now be consulting and working on the resolution passed by this House?

**Deputy S.J. Pinel:**

Yes, the Deputy is right, this is what we did say but we have introduced now into these zero-hours the flexible working, which is a huge advantage and makes the whole zero-hours contracts considerably more appropriate than they are in the U.K., for instance. The Employment Forum have finished ‘family friendly’, as the Deputy said, and those results have been released and they have now just received our letter from Social Security to ask them to look at the minimum wage again for next year.

#### **4.4.1 The Deputy of St. Ouen:**

However, this Assembly had a robust debate about the exclusivity clauses that are sometimes imposed in zero-hour contracts, is that specific issue to be addressed, as clearly was the will of this Assembly?

**Deputy S.J. Pinel:**

Not at the present time, no, because, as I said, the Employment Forum are now having to look at the minimum wage for 2019.

#### **4.4.2 The Deputy of St. Ouen:**

Why is the Minister saying “not at this present time” when there is a decision made by this Assembly to proceed with that legislation to outlaw exclusivity clauses?

**Deputy S.J. Pinel:**

As I said in my first answer, the changes have already been made to zero-hours contracts with the inclusion of much more flexibility in the working hours and the ability then for the new regulations for an employee to request flexible working hours or to request a full-time contract if they are working full time. This has been introduced and we want to see at the moment how this develops before we try to change anything further.

#### **4.5 Deputy M.R. Higgins of St. Helier:**

Following up on the Minister’s answer, does she not think a request is totally inadequate with the abuses that have been going on with zero-hour contracts? Will she make it ... before she leaves office anyway, try and bring it forward that it should be compulsory that there should not be exclusivity agreements and so on?

**Deputy S.J. Pinel:**

According to the Employment Forum there is very little evidence of any serious abuse of zero-hour contracts and I can only do what the Employment Forum is capable of recommending.

#### **4.6 Deputy G.P. Southern:**

Is it not the case that the absence of evidence is largely caused by the absence of looking for evidence, either by her department or by the funding for the Employment Forum, which has not got the capacity to look for evidence? There is significant information that zero-hours contracts are regularly being abused and yet no inspection ever takes place on the use of zero-hours contracts. Will she arrange for her department to actively seek evidence and monitor the situation?

**Deputy S.J. Pinel:**

I am not quite sure how many times I can repeat this. The Employment Forum is not funded, it is voluntary; people are giving up their time to do this and they are completely independent of Social Security. They have just finished a very, very wide and intensive consultation on family-friendly rights and now, because of the timeframe, have to start looking into the minimum wage.

**4.7 Deputy M.R. Higgins:**

The Minister implied that she can only act if the Employment Board tell her. Can she tell us where the law that she has restricted and prevented from bringing these measures in?

**Deputy S.J. Pinel:**

No, that is not quite correct. The Employment Forum, as I have said, is an independent body who make recommendations to the Minister for Social Security. If the Minister then accepts them or not is the Minister's right but the Employment Forum are completely independent.

**4.7.1 Deputy M.R. Higgins:**

Just to clarify this again: is the Minister saying she has no power whatsoever to make amendments to the law to prevent this type of activity? Yes or no. You do not necessarily need the Employment Board to make a decision, is that correct?

**Deputy S.J. Pinel:**

No, I do not need the Employment Forum to make a decision for me but, on the other hand, their recommendation because they are independent and they do the consultation with stakeholders, businesses, individual people, and so it would be rather foolish of the Minister for Social Security to ignore their recommendations.

**4.8 Deputy G.P. Southern:**

Is the Minister saying that she can and is defying the will of this House by taking no action, either in the past or currently on the use of exclusivity clauses, which have been ruled out of order by this House? Is she saying she does not have to respond properly to that will?

**Deputy S.J. Pinel:**

No, I am not saying that at all and, of course, I would never consider ignoring the will of the House. It is just a matter of timing, as I think I explained quite carefully.

**4.9 The Deputy of St. Ouen:**

I think my question was largely asked by Deputy Southern. But does the Minister recall the undertaking ... perhaps I cannot recall it as an undertaking, I believe this Assembly was left with the view by the Minister that as soon as 'family friendly' was completed, the Employment Forum would start working on this very limited issue of exclusivity clauses and zero-hour contracts, which are not difficult to deal with and why will the Minister not now do that?

**Deputy S.J. Pinel:**

Yes, the Deputy is correct, that is what I said but it is a matter of timing, as I keep consistently saying. What happens if you divert the Employment Forum into exclusivity clauses, then the minimum wage will not be assessed. There is a huge demand from this House about the minimum wage consistently, so it is a matter of quite, which is the most important?

**4.10 Deputy G.P. Southern:**

Does the Minister not have her own officers who can bring legislation to ban exclusivity clauses, should she choose to act?

**Deputy S.J. Pinel:**



Yes, I will go back to the officers and ask for the Deputy to have a response. But, again, I suspect it will be the same issue as timing, which is more important.

**The Bailiff:**

No further questions for the Minister for Social Security; that will bring her time to an end.

**5. Questions to Ministers without notice - The Minister for Home Affairs**

**The Bailiff:**

The Minister for Home Affairs, luckily, will have an extra one minute. Any questions for the Minister for Home Affairs?

**5.1 The Connétable of St. John:**

Following on from my earlier question to the Minister for Economic Development and many other departments, would the Minister for Home Affairs give some assurance to this Assembly that armed guards for any immigrants, wherever they come from, high net-worth individuals, will not be permitted?

**Deputy K.L. Moore of St. Peter (The Minister for Home Affairs):**

It is an interesting question and one that I can give assurance that that would not be a practice that is acceptable here in this Island.

**5.1.1 The Connétable of St. John:**

The Minister said “in practice”, I would like a little bit more assurance than in practice.

**The Deputy of St. Peter:**

It is always very difficult to give absolute specifics in questions without notice, given that the Minister does not know what topics are going to be coming up. If the Constable would like further assurance in a more specific way, I would be happy to provide a written statement to that effect.

**5.2 Deputy S.Y. Mézec:**

Could I ask the Minister what powers, if any, she has with regards to hate preachers coming to the Island and taking part in events where they spread their hateful ideology?

**The Deputy of St. Peter:**

I am grateful to the Deputy for his advance notice in relation to this question. At the moment it is not known if the person in question, that I think the Deputy is referring to, is likely to cause any offence. There are 2 relevant offences available at the moment under Jersey law and, as the Deputy knows, we are currently working on hate crime and public order offences, which will be forthcoming, hopefully, before the next Assembly. Firstly, there could be an issue of breach of the peace and, secondly, the other relevant offence would be under Article 2 of the Crime (Disorderly Conduct and Harassment) Law 2008, which states that: “A person commits an offence if he or she uses words that are threatening or abusive, behaves in a threatening or abusive way or engages in disorderly behaviour within the hearing or sight of another person likely to be caused alarm or distress by the words or behaviour.”

[10:45]

**5.2.1 Deputy S.Y. Mézec:**

The reason, of course, that I have asked this question is because somebody has been invited to give a talk at the St. Brelade’s Bay Hotel, who is, in my view, quite clearly a fanatic and hate preacher

who has spread racist conspiracy theories about the former President of the United States and who has delivered lectures in which he has claimed that churches and synagogues have been infiltrated by Muslims who are preparing to wage a war against non-Muslims. If this person is to attend this meeting in Jersey, does the Minister consider that perpetuating that sort of thing is likely to cause a public order issue in the Island, given that we have a peaceful and much valued Muslim community in the Island who are no such part of any conspiracy and to incite hatred against them in that way would clearly be a risk to their well-being on the Island?

**The Deputy of St. Peter:**

It is difficult for me, as a layperson, to identify exactly the risk. However, the diversity and inclusion of our society is a very great thing and one that we ought to protect. I think that we are doing so in bringing forward the hate crime and public order legislation that is forthcoming. There are provisions under the immigration rules that would prevent a person from arriving in the Island if there were concerns in relation to ... that their behaviour would not be conducive to public good. It is unclear whether that is a relevant matter at this time, however, it is something for consideration. Of course, this would become slightly more difficult if that person was arriving from the common travel area because that would mean that they had already arrived into the common travel area from another place.

**5.3 Deputy T.A. McDonald of St. Saviour:**

Minister, I would like to take you back in time, 3 years in time in actual fact, when I first approached you ...

**The Bailiff:**

Through the Chair, thank you.

**Deputy T.A. McDonald:**

When I first approached the Minister back in June 2015, this is not 3 weeks or 3 months, this is 3 years ago and I would like to remind the Minister why I had asked to see her. I indicated that I wanted to discuss some very delicate and totally unprecedented matters and numerous complaints, which were all of huge public interest. Not only were these complaints and matters of huge public interest in existence but they were all based on hard evidence; I had satisfied myself about that. To help you remember the situation I also advised you that I had already met with quite a few other people, including Her Majesty's Attorney General, Mr. Robert MacCrae. I attended a joint meeting...

**The Bailiff:**

Deputy, you have 15 seconds to get to your question.

**Deputy T.A. McDonald:**

Right, Sir. I had attended a joint meeting with the Chief Minister, Assistant Chief Minister and Mr. Richardson and I also made sure that His Excellency the Lieutenant Governor was aware of the situation. My question is, bearing in mind that this was 3 years ago and we have had numerous meetings and we have conversed via email, what action have you physically taken to ensure that these unprecedented matters of huge public importance have been investigated?

**The Deputy of St. Peter:**

Along with officers, there have been a number of meetings following the Deputy's representations with various individuals and the hard evidence that the Deputy refers to has been requested and has never been absolutely forthcoming, so there we are. This has been an ongoing matter and it remains ongoing.

### **5.3.1 Deputy T.A. McDonald:**

I have not been able to provide the Minister with evidence in the true sense, basically because of the need to follow due process. One thing that I have to avoid is causing any form of prejudice to any subsequent independent criminal investigation by an outside police force. Much as I would like to have given her a lot of the evidence, I am afraid that I was unable to do so. But what I can do is assure her, and I speak as a former police officer, although it might be many years ago that I was more than satisfied that there were reasonable grounds to suspect that everything that I had been told by these claimants was absolutely true and that evidence is there and available and ready to use.

**The Bailiff:**

But what is the question, Deputy?

**Deputy T.A. McDonald:**

The question, again, is even though I have not provided the Minister with hard evidence, here we are 3 years later down the line; I feel in many ways that I have been obstructed from doing my duty. I have reached the stage where I might have no other option, other than to make these matters very public indeed and this is why we have discussed this or I have discussed this with the Minister and I will ask her once again: why have you not seen fit to take these matters further, based on the evidence that I have given you?

**The Deputy of St. Peter:**

As I said in my last response, this is an ongoing matter and it is something that is being given attention. But we have, at many points, come up against difficulties in responding to the matters in a way that the Deputy has seen to be appropriate perhaps. That is not due to our best efforts though in divesting our responsibilities and my responsibilities in seeking some conclusions to be drawn in these cases. However, it is rather difficult when at every option and every offer of direction and assistance it is turned down, as it is not considered to be appropriate or adequate for those that we are trying to assist.

### **5.4 Deputy G.P. Southern:**

As I understand it, as we lead the Minister on the 1,001 Days initiative, will the Minister undertake the review of what has been going around the J.E.L.L.Y. clubs and the alternative reading schemes mentioned by the Minister for Education in, essentially, by a question earlier, will the Minister investigate?

**The Bailiff:**

What has this got to do with you, Minister?

**The Deputy of St. Peter:**

It is in relation to the 1,001 Days programme, Sir, which I am the task course lead. Yes, I will be very happy to discuss the matter with the Minister for Education. I think he was very clear in his response earlier in the Assembly that this is not a withdrawal of a programme without replacement. It is a change due to a number of different and other additional services being in place.

**Deputy G.P. Southern:**

Investigate and report back to the House.

**The Bailiff:**

I am sure you will report back, Minister.

### **5.5 Senator S.C. Ferguson:**

Reverting to an earlier question: how will the Minister differentiate between so-called hate speech or merely stating an opinion or point of view?

**The Deputy of St. Peter:**

I think the Senator herself has in the past said that one man's hate crime is another man's freedom of speech and, of course, that is a matter for debate within society. At the end of the day it is considered consideration.

**The Bailiff:**

Senator, can I congratulate you on muting your telephone?

**Senator S.C. Ferguson:**

Thank you, Sir. Can I ask a supplementary now?

**The Bailiff:**

You may, yes, Senator.

**5.5.1 Senator S.C. Ferguson:**

Given the way in which these particular aspects are being perpetrated by the U.K. Home Office, will the Minister confirm that she is not going to follow the practices followed by the U.K. in the business about differentiating between rabble-rousers and people who just have a different opinion?

**The Deputy of St. Peter:**

I am not entirely clear on what exactly the Senator is referring to but, as I said in my earlier responses, we are drawing up hate crime and public order legislation. It is important to note that those 2 issues are being placed in one piece of legislation alongside each other, so that there would be opportunities for consideration of the 2.

**5.6 Deputy M.R. Higgins:**

Following up on Deputy McDonald's questions, what Deputy McDonald is talking about is corruption in the sense of people misconduct in public office, committing perjury and also perverting the course of justice. The Minister is aware that I have spoken with her Assistant Minister and your officers about the same thing. All I can say is the Minister has not dealt with this. What is the Minister going to do about this state of affairs, which is totally unacceptable in this Island?

**The Deputy of St. Peter:**

The allegations and the terms that the Deputy use are absolutely things that are not acceptable in our Island community and we take very seriously. I said earlier that this is an ongoing situation and action is being taken.

**5.6.1 Deputy M.R. Higgins:**

Will the Minister tell us what action is being taken? We have been on at this for about 6 years.

**The Deputy of St. Peter:**

I think I have tried to describe that this is a slightly delicate matter but that I am receiving advice and I am currently waiting for the latest piece of advice that I have requested.

**5.7 Senator P.F.C. Ozouf:**

The Minister has referred to her responsibilities for the 1,001 Days. I wonder whether she could update the Assembly on the success or otherwise of the centre that she recently was involved in, the child centre and whether or not at the end of her term she thinks that sufficient progress has been

made on the 1,001 Days manifesto, which was in a number of Members' manifestos at the last election.

**The Deputy of St. Peter:**

I am very pleased with the progress that is being made. Of a 20-point action plan 19 parts of that action plan have been completed and there has been considerable attention in this area and joined-up thinking between Ministers, for which I have been very grateful. It has shown a commitment to the importance of every child receiving a good start in life. Next, we will shortly, I hope, be able to welcome the parent and infant partnership approach that will be giving parent/infant psychotherapy service, which will be a new service available to people in that period of the 1,001 Days.

**The Bailiff:**

That brings questions without notice to the Minister to an end. Under D there is an urgent oral question, which was to be put to the Minister for the Environment, who took the particular decision, which is relevant perhaps to the question. As the Minister for the Environment is not here until tomorrow, the intention is to deal with that question tomorrow first thing, first questions tomorrow.

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

**6. The Chairman of the Health and Social Security Scrutiny Panel - statement regarding the Panel's report, *The Long-Term Care Scheme* (S.R.4/2018)**

**The Bailiff:**

There is nothing under J. We come to K, Statements on a matter of official responsibility and the chairman of the Health and Social Security Scrutiny Panel will make a statement regarding the panel's report; the *Long-Term Care Scheme*.

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

The Health and Social Security Scrutiny Panel is pleased to have concluded its review into the Long-Term Care Scheme. Our adviser considered the scheme to be among the best internationally in terms of the balance of responsibility between Government and citizens and commented that: "The States of Jersey was to be congratulated on the foresight, political will and expertise that was brought to bear in the creation of the scheme." Although there were teething problems and delays at the outset, we found that most of these are now resolved and the care needs of many Islanders are being met through the scheme. However, the scheme is complex and not always easy to understand. We have made some recommendations, which we hope will assist understanding and simplify administration. We are grateful to the members of the public and organisations who contributed to our review and we have made various recommendations that we feel would improve the scheme, as it approaches its fifth year of operation. In this statement I would like to highlight 2 areas of importance, which our report commented upon. Firstly, respite provision must be improved if we are to avoid a crisis in care.

[11:00]

Carers make a huge contribution to society by providing unpaid care and support to family members, often at a cost to their own health and well-being. They need and deserve adequate respite opportunities to enable them to continue with the care they give. From the evidence we heard, that is a problem, particularly in urgent or unplanned situations. Secondly, it is clear that the scheme provides for 2 distinct groups; on the one hand, older persons needing care due to frailty, on the other hand those who are born with or develop long-term conditions. The needs of the latter group are different; they wish to live their lives within the community, accessing social activities and

developing social bonds. Providing a means to pay a carer does not fully answer those needs. We recommend that Ministers should reconsider how the scheme can best meet the needs of this group. We were greatly assisted by our 2 advisers, Professor Malcolm Johnson, who has made a lifelong study of the issues around an ageing population and provided panel members with great insights. Secondly, BWCI, an actuarial consultancy firm, which looked at the financial sustainability of the scheme. Their reports, which are appended to our own Scrutiny report, make for interesting reading and we commend them to Members.

**The Bailiff:**

Are there any questions for the chairman?

**6.1.1 Senator P.F. Routier:**

I would like to thank the chairman and his panel for carrying out this review of the Long-Term Care Scheme. I would like to focus on the area that he mentions in his statements about the needs of those who have long-term conditions or were born with long-term conditions and ask whether he has any observations that he would hope that the next Minister for Social Security would be able to improve the scheme to assist those people in being able to lead a life within our community.

**The Deputy of St. Ouen:**

I would hope that the next Minister might move to a situation where the persons referred to by the Senator are considered on an individualised basis. Their needs will vary, according to each individual. There might be somebody who is afraid of leaving their home and needs support in leaving their home but once they have left their home they might want to take their support worker out for a burger somewhere or to go to the cinema somewhere, to engage socially, to contribute in their way to society. At the moment the Long-Term Care Scheme is set up to pay the costs of care, which is fine in a residential home setting but in the sort of setting I have referred to does not meet the costs of living within society, of paying for a cinema ticket, of going to a restaurant or just taking an outing on the bus somewhere because very little is provided under the Long-Term Care Scheme in terms of pocket money or those everyday expenses that are needed. Try to create individualised packages, is what I would suggest.

**6.1.2 Deputy C.F. Labey of Grouville:**

I wonder if the Deputy's panel investigated why care in the community is not measured by Governments in financial terms because there is no value put on care by Government. I would suggest that the contribution has a huge economic impact.

**The Deputy of St. Ouen:**

The Deputy makes a very good point. Our report does acknowledge the saving to Government that is provided by so many people working on an unpaid basis to care for their loved ones. It was not within our remit. We did not attempt to make any sort of calculation of the financial impact of that cost or that saving to Government, that it is clear that if those unpaid carers simply said: "No, it is too much for me, we will rely on the State to provide the care", then the Long-Term Care Fund would need to fund so much more and we would need to fund the costs of that, as taxpayers. These carers, unpaid, must be valued and that is the reason why we make the strong recommendation that they deserve and need more respite care.

**6.1.3 The Connétable of St. John:**

I would like to congratulate the panel for an excellent report. There is, however, one concern I do have and perhaps this should be in a legacy report and that is to investigate how the long-term care is given to families who care for their own elderly relatives. The reason I say this is that if a family cares and employs directly carers who are fully qualified, it costs between £70,000 and £80,000 a

year. However, they cannot access the long-term care because their carers have to be registered. The only way to register carers is to work for a registered care provider. These registered care providers charge in excess of £20 an hour or, in round terms, about £130,000 to £140,000 a year. If you access this scheme through a registered care provider and you get the long-term care allowance, you still end up paying more than just employing the people direct. The idea of the scheme was to help these families, not to put money into the pockets of care providers. I think that is a serious matter that requires urgent investigation.

**The Bailiff:**

The question is ...

**The Connétable of St. John:**

Would he put it in the legacy report for the future panel to look into?

**The Deputy of St. Ouen:**

Yes, the Connétable had made that submission to the panel and he really is talking about the interface of the Long-Term Care Scheme with the Regulation of Care Law because it is true, as he says, that all care situations must be provided by registered carers if they are to access the Long-Term Care Scheme and that is, in great part, a safeguarding issue. It would not be appropriate for public funds to be spent on providing care that is provided by persons who cannot be demonstrated to meet certain standards. I confirm to the Connétable that our legacy report will suggest that the next panel might wish to look into regulations that are shortly to be introduced under the Regulation of Care Law. It is an issue, it is mentioned in our legacy report. But I think it is not difficult for carers who wish to be registered to be registered and many have done so in order that the people receiving care from them can access the Long-Term Care Fund.

**The Connétable of St. John:**

Just on a point of clarification, a carer who is registered, employed, pays I.T.I.S. (Income Tax Instalment System) and social security and is employed by the family cannot be registered unless they work for a registered care provider and that is the issue.

**6.1.4 Deputy A.E. Pryke of Trinity:**

Like others, I congratulate the committee on their report and also the words that they said that: “The scheme to be among the best internationally in terms of the balance of responsibility.” I think after all the teething problems that occurred, it is good to recognise that. But my question is: in the penultimate paragraph it mentions there about: “Accessing social activities and developing social bonds.” Did the panel look at how the role of the Parishes could play in that with now more community support teams because isolation is going to be a big problem in the future? Is there a role or did the panel look at that?

**The Deputy of St. Ouen:**

I firmly do believe the Parishes have a role in this. We did take some evidence on the question of the elderly being isolated within their communities - and Professor Johnson in his report does comment on that - as a great risk and being isolated leads to a decrease in well-being and health outcomes and being connected with others socially often leads to better outcomes for those living in the community. That is important and I would commend the work of community support teams. We did not receive a great deal of evidence directly from Parishes or community support teams but clearly all have a role to play in ensuring the well-being of vulnerable members of the community; the Parishes no less and I hope that work can be taken forward.

**6.1.5 Senator P.F.C. Ozouf:**

I read the report with interest as well and would the chairman agree that the Minister that was originally responsible in promoting this scheme, which is our Chief Minister when he was Minister for Social Security, is the individual who needs to be congratulated, perhaps together with his immediate predecessor in putting the courageous scheme, as he rightly said? Could I also ask the chairman, the report focused very much on the benefit side; in reflection and with the benefit of hindsight, does he think it was the right decision and does the panel think it was the right decision to base the collection of the money into the scheme on income tax rates, rather than on the social security model, which was very controversial at the time and led to suggestions that the standard rate of tax had gone up? But does he think, in hindsight, that that was the right way, rather than the alternative way, which would have been on the social security collection system?

**The Deputy of St. Ouen:**

There were 2 questions there; yes, the question of congratulations, of course I would congratulate the previous Ministers for Social Security and the whole departments. It is not just Social Security but it is Health and Social Services also, at having put together the Long-Term Care Scheme and the Assembly, all Members for having supported it through its proposition and debate stage. As I have said, it is recognised as a good scheme. As to the question of whether it should be funded from income tax or social security, that clearly was an issue for debate a long time ago. It was not something that was within the panel's terms of reference. We wanted to look at the scheme as it had been set up. I think it would have been too big and ask to ask the panel to go and look at alternative schemes. The scheme had been put in place and we wanted to review what we had. No, we have not looked at alternative means of funding. But it would seem to me, as a personal observation, that a payment through the income tax system is a broadly-based contribution system and meets the fairness of the situation.

**6.1.6 Deputy M.R. Higgins:**

In written question number 6 I received some figures from the Minister for Health and Social Services and I asked about the number of carers and child carers. The answer that was given was that one in 10 households include a self-identified carer and that 1 per cent of households have a young carer who is under the age of 19. Did the panel take any evidence regarding child carers because obviously if they are looking after adults in the home their education is being affected and what support are they getting? If not, would he put that in the legacy report asking the next panel to address these issues?

**The Deputy of St. Ouen:**

The Deputy raises an important point but I do not recall we had any specific submissions from child carers or any submissions that mentioned care being provided by children specifically. We have not specially looked at that or made any key findings or recommendations relating to child carers. But it is an issue, I believe, and I will speak with other members of the panel to see whether our draft legacy report at the moment might be amended to include something about looking at child carers.

**The Bailiff:**

Any other questions for the Chairman? We come on to the next statement, which is being made by the Chief Minister.

**7. The Chief Minister - statement regarding implementation of 'United Nations Convention on the Rights of the Child: Compliance of Draft Laws and Training of States of Jersey Employees' (P.63/2017)**

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



In the weeks following the publication of the Independent Jersey Care Inquiry, this Assembly debated and supported a proposition from Deputy Doublet, which challenged us to do more to implement the U.N. (United Nations) Convention on the Rights of the Child.

[11:15]

Part of the Deputy's proposition required me, as Chief Minister, to update Members on the progress we have made on this work and today I am pleased to be able to do so. From my discussions with the Children's Commissioner we both agree more needs to be done to put the consideration of children's rights at the centre of our Government and our public services. The Care Inquiry was very clear that in the past we failed to consider the welfare of our children in everything we do. In my recent visit to Scotland I heard first-hand how the paramountcy of the child was being hardwired into developing children's policy and legislation. Full incorporation of the convention is seen as the logical next step. We do not need to look far to see how other countries have embraced this task; Spain, Norway and Iceland have all fully incorporated the U.N. Convention into their legislation. It is clear to me that incorporation will help us achieve the cultural change we need if we are to make our Island the best possible place for children to grow up in. The Children's Commissioner has invited a leading academic on children's rights and the law to help us develop our approach to incorporation. Dr Simon Hoffman is from the Swansea University and is a member of the Welsh Government's Children's Rights Advisory Group. He will be speaking to Members later this week and I look forward to this valuable opportunity to shape our approach to this important issue. I am pleased to report that work is progressing on a proposition requiring Ministers to assess the impact on children's rights of every law and regulation. With the support of the Greffe and the Privileges and Procedures Committee, I hope that a proposition can be brought forward early in the new Assembly's term. It is, however, important that the initiatives proposed by Deputy Doublet and agreed by Members are not seen in isolation. Our response to the Care Inquiry recommendations will also help us to embed children's rights into the heart of our community. The key foundations for transformation are now in place. We have set up a system of independent inspection for children's services. We have established a Children's Commissioner with direct access to the States Assembly and our plans to create one Government with integrated services for children will smash the silo working that has served children and families so poorly in the past. A proposition recently lodged by the Privileges and Procedures Committee lists for the first time the specific duties we all bear as corporate parents. This work, along with the initiatives in Deputy Doublet's proposition, is directly relevant to Article 4 of the convention that tackles the way Government supports and protects children's rights. In recent years we have made significant investment in services for children and young people, demonstrating our commitment to their welfare and their rights. The establishment of the Sexual Assault Referral Centre, enhancements to the Youth Inquiry Service and the new school-based Early Health Service are all designed to respond to specific Articles in the U.N. Convention. I hope Members recognise that this work and this investment demonstrates commitment from both the Children's Commissioner and this Government to implementing Deputy Doublet's proposals. In doing so, we will continue our progress towards placing the rights of children and young people at the heart of Government.

#### **7.1.1 Deputy J.A. Martin of St. Helier:**

From memory, I do not have P.63, but I thought that by the end of March the Chief Minister should report back whether or not, after working with the commissioner closely, that we would incorporate the U.N. Convention on the Rights of the Child into all domestic legislation, so if I am wrong for him to confirm that. The last paragraph is working towards, to implement in Deputy Doublet's proposal but I cannot see that his statement is saying that in all our domestic regulations and laws it will fully incorporate the United Nations Convention on the Rights of the Child. Can he just confirm which one is correct?

**Senator I.J. Gorst:**

I am sorry if there is a lack of clarity. The statement is twofold; a commitment was given to Deputy Doublet that I would update the Assembly on the progress of the work and, secondly, to say that the work currently being undertaken and in consultation with the Children's Commissioner leaves me to say that the incorporation will take place and this is the progress that we have made in that regard.

**7.1.2 Deputy L.M.C. Doublet:**

This is related to the U.N.C.R.C. (United Nations Convention on the Rights of the Child) and I know many of the schools are carrying out the Rights Respecting Schools' programme, which I think goes beyond my proposition and the Children's Commissioner has recommended that that work be extended to other schools. I know that teachers are under a lot of pressure and, while this scheme, the Rights Respecting Schools' scheme is extremely valuable, will the Chief Minister undertake to ensure that additional funding and perhaps additional support staff is diverted to schools that want to take up the Rights Respecting Schools' scheme, so that other areas of work are not impacted?

**Senator I.J. Gorst:**

I have not been approached by the Education Department with regard to such pressures. If those pressures exist, then I have no doubt that the Education Department will relay them to me. Members might have seen the results of a survey that the Children's Commissioner has undertaken recently and was published this morning and it is, I have got to say, disappointing that still only 49 per cent of the 900 respondents aged between 11 and 18 years old that did not know about the Convention on the Rights of the Child. We really do have to step up our effort in this regard. If that requires more resources and the Education Department feel that it does, then in conjunction with the Children's Commissioner we will find a way of providing that.

**7.1.3 The Connétable of St. John:**

My concern is where the rights of the child and the responsibilities of a parent collide. If I just give an example, a parishioner came in - a young mother - very concerned because her daughter came home, walked into the living room, turned the television on and sat down. The mother came in, turned the television off and said: "No television until you have done your homework." The child crossed her arms and said: "I have rights." I think it would help enormously if the parents were to have some guidance on this. **[Laughter]**

**Senator I.J. Gorst:**

Just having spent an enjoyable week with my 8 and 6 year-olds, perhaps the Constable has been peering through the Gorst home window. **[Laughter]** But we all know that when families set the rules of their family, there is often kickback, perhaps around television and certainly nowadays about the use of technology. In my experience they are the best ways for families to come to an agreement about how they are going to manage it and that might be that there is an hour on the iPad once the homework has been completed. It might be after dinner, it might be before dinner. These are not issues that are directly within the remit of the U.N. Convention on the Rights of the Child *per se*; they are, I think, common sense. It does not make them easy, of course. I think they are common sense. But simply to say those parents and families who are struggling with these issues ... and there is nothing to be ashamed of, we all, as parents, struggle with these issues, that is why we are putting in lots more support around parenting. The Constable might know about the concept of mellow parenting but there are many others; some being undertaken by the States, some being undertaken by voluntary organisations, which can support parents and families in this regard.

**7.1.4 Deputy R.G. Bryans:**

This is not directly related to the rights, more about the voice of the child. Some years ago I spoke to the Chief Minister about creating Jersey, creating a child-friendly Island and we both attended a conference last month where a speaker related his work on making Leeds a child-friendly city; I think it is the first one in the U.K. Will the Chief Minister confirm that this is now on his agenda?

**Senator I.J. Gorst:**

The bit that Jersey should be a child-friendly Island; absolutely it is.

**7.1.5 Connétable J. Gallichan of St. Mary:**

Putting the welfare of our children at the heart of everything we do is obviously a laudable and an essential aim. Does the Chief Minister appreciate and understand that without adequate funding in every area it comes to nothing? Will the Chief Minister confirm that although the initiatives so far underway are all laudable and to be commended, they will not be at the expense of other initiatives already in place? I refer simply, for example, to the mini battle we had on the floor of this Assembly a few weeks ago about the nursery education funding. These things all have to be funded and what does the Chief Minister have in mind for this?

**Senator I.J. Gorst:**

The Constable is absolutely right; these things do need to be funded. What history has taught us, and we learn it when we look at other places around the world, you can have the best laws, you can have the best policies, you can have the best strategies but unless you are supporting change on the ground, which normally requires training, investment in people and money, then you will not deliver the change that we want and we are committed to delivering. The Constable will know that we allocated £5 million in the last Medium Term Financial Plan and we have been drawing down that to deliver on these initiatives. They are funded to the end of this Medium Term Financial Plan. I have no doubt, as I have said in this Assembly before, we are going to talk about requiring further funding for higher education. We will require further funding as well for the support of children right across our community. Balance between rights and responsibility is always difficult. We live in a society that likes to talk about rights and does not always want to talk about responsibilities. But what we know currently in our community, the balance and knowledge of rights among children and young people is not in the right place and we need to do more to improve that and to increase that; of course, we need to talk about responsibilities at the same time.

**7.1.6 Senator P.F.C. Ozouf:**

In the 15th century in a collection of homilies written by the Augustine clergyman called John Mirk, a proverb was originally written that said: "Young women were expected to keep quiet." The phrase and proverb then emerged... I am told, that it meant that it should emerge later that children should be seen and not heard. Would the Chief Minister, having ... I understand that the Children's Commissioner has heard somebody in authority in Jersey say such a phrase and thinks that it is still relevant; would he confirm that that phrase has no place in the Jersey of today and no place in the new Jersey way of tomorrow?

**Deputy J.A. Martin:**

Just for a point of order, Sir, the last 3 questions have not even been directly related to anything that is in the statement and I thought it was 20 minutes of questions on the statement. They are all very good questions, I do not deny.

**The Bailiff:**

Deputy, it is a very good point. I thought the Connétable of St. Mary's question was probably just related because it was related to the money and how the competing calls on that money might be

made available. I rather agree with the latest question, which has nothing to do with the statement at all.

**Deputy J.A. Martin:**

I have a question ...

**Senator P.F.C. Ozouf:**

Is the phrase compliant with the Convention, Sir, is that a better way of putting it?

**The Bailiff:**

Very well, is it compliant with the Convention, Chief Minister?

**Senator I.J. Gorst:**

It cannot be, can it? It might not be directly related but it is a very good question because it is what we have been hearing about and it is what the Children's Commissioner has just said in the published information that she has put in the public domain today. We have not listened to children and young people in the past. It should not be seen and not heard. We should see, we should hear and then we should act. The Constable of St. Mary talked about funding; one of the things that the Children's Commissioner is saying today, and it is right across all of those that she spoke to, there are not enough facilities for children and young people in our Island as well. Children and young people have been saying this for decades. Now is the time for us to not only see but to hear and then do.

**7.1.7 Deputy M. Tadier:**

The Chief Minister will know that Articles 1 and 2 state that every child under 18 has these rights and that no child should be treated unfairly on any basis. Articles 26 and 27 say that you have the right to help from Government if you are poor or in need and that you also have the right to have your basic needs met, including housing. Does the Minister accept that our discriminatory housing policy in reality means that if you are the child of a parent who is of unentitled status in Jersey, you will be discriminated against? You will not have, necessarily, the social security safety net of income support if they have been here less than 5 years and you will be living in accommodation precarity in that regard. What steps will he take to make sure that these issues are addressed in the next term?

**Senator I.J. Gorst:**

Asking about the Chief Minister's manifesto, I am not sure is directly related to the statement either.

[11:30]

But I am quite willing to talk about it, if he so wishes.

**Deputy M. Tadier:**

Sir, can I clarify?

**Senator I.J. Gorst:**

The ...

**Deputy M. Tadier:**

Point of order, Sir.

**The Bailiff:**

The Deputy wishes to clarify his question.

**Deputy M. Tadier:**

Clearly, it is related to the statement. The statement is about implementing the U.N. Convention on the Rights of the Child and I have asked about whether or not our housing policy is compliant with those Articles.

**Senator I.J. Gorst:**

Sir, you will know, as the Member knows, that legislation brought before this Assembly is reviewed in light of human rights. The Law Officers undertake an audit and that audit is now attached to all legislation, as required. Are there going to be some difficult issues around housing, around children's rights, which is what I think the Deputy is referring to about time limits of access to financial support, about time limits of access to suitable and good quality accommodation? Yes, there are. But we are not going to address those if we try and divide and we retreat to our old conversations about you are not interested in these issues, you are interested in them. We will, however, be able to make change if we come together to deliver that change. We carefully think about the implications. We bring forward proposals that will change and then we communicate them to the public because we have got a lot of work to do to explain the implications. We bring forward proposals that will change and then we communicate them to the public because we have a lot of work to do to explain the unforeseen circumstances of some of our housing regulations and some of our housing laws. We will only do that if we come together as an Assembly across party political lines, if that is what the Deputy wants me to say, to deal with some of these long-outstanding issues. The Minister for Housing is already starting to make good progress. This Assembly decided in its wisdom, not very many weeks ago, that it did not want to regulate social housing, some because they did not think the regulation went far enough and others because they did not want regulation at all. The inquiry said we must come together as a community to address these long and difficult issues from the past if we are to deliver the change that children and young people in our community deserve. I am prepared to come together; I hope the Deputy is as well.

**7.1.8 Deputy M. Tadier:**

Supplementary. While for all the good words, the comments are largely deflective of what the real issue is. I am not trying to be divisive, I am simply asking whether the Chief Minister, who granted did not make the housing laws in Jersey, recognises the fact that they are discriminatory and that they are in conflict with the spirit and practice of the U.N. Convention on the Rights of the Child and that there are children being left behind and unless we change the housing laws and unless we change access to make sure that all children in Jersey are looked after, not just those who have parents of an entitled status, then we will continue to let those down. Does he acknowledge that is the problem and will he acknowledge whether it is his wish to reverse those trends?

**The Bailiff:**

Chief Minister, you have 30 seconds.

**Senator I.J. Gorst:**

There are many housing issues that we need to address; cost, supply, but also the regulation of housing and the detrimental effects that it has on some in our community. But I stand and I make the same point, if we try to make political bargaining points out of it, the issues that have dogged some families, some children and young people in our community, will continue. We will need to come together in order to address them.

**PUBLIC BUSINESS**

**8. Higher Education funding proposal (P.33/2018)**

**The Bailiff:**

That brings K on the agenda to an end; we now come to Public Business. The first item is the Higher Education funding proposal - P.33 - lodged by the Council of Ministers and I ask the Greffier to read the proposition.

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

Before we start, could I seek your guidance about declaring an interest? I have 2 children who will be affected or may be affected by the decision by the States and I would have a direct financial interest in the outcome of this debate if that were to be the case.

**The Bailiff:**

This is rather like income tax; it is a financial arrangement proposal of general import and does not affect Members specifically individually, although Members may be so affected. It is right to declare the matter but you do not need to withdraw.

**Senator P.F.C. Ozouf:**

Members will be aware that I have lodged an amendment late because I read the Scrutiny report and thought that it should be put beyond doubt that we were approving an interim policy. I did it to be helpful and perhaps at this stage I could ask whether or not the Assembly wishes to take the proposition or not?

**The Bailiff:**

I was going to take it after the Minister had proposed the amendment. So 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 (a) the introduction of a new Higher Education Student Grant Scheme, as set out in the report accompanying this proposition; (b) the removal of the Higher Child Allowance from the year of tax assessment 2019; (c) the transitional arrangements as set out in the report accompanying this proposition.

**Senator I.J. Gorst:**

I am asking the Minister for Treasury and Resources to act as rapporteur on behalf of the Council of Ministers for this item.

**8.1 Senator A.J.H. Maclean (The Minister for Treasury and Resources - rapporteur):**

I am delighted to be presenting this proposition on higher education funding on behalf of the Council of Ministers. This is, as Members will know, my final States sitting, so this cannot in any shape or form be described as an election giveaway as some have disingenuously suggested in recent months. In fact I cannot think of a more worthwhile proposal to be presenting on such an occasion than this greatly improved higher education grant scheme. **[Approbation]** It represents many things, but above all is an essential investment in our young people and importantly in their futures. It recognises the importance of quality education to young people and our community, in particular, the value of investing in the development of a highly-skilled home-grown workforce to support the economy and help manage migration pressures. The number of students attending higher education, particularly university, has declined in recent years. This is worrying and this is certainly unacceptable, especially at a time when the demand for graduate workforce is higher than ever. It has been suggested that approximately 80 per cent of new jobs in western economies ask for degree-level education. Skilled staff are vital for the Jersey economy and are recognised as one of the best ways to help grow business, innovate and improve productivity. Yet the rising cost of higher education is a clear barrier to students being able to access the education opportunities they want, need and indeed deserve. While the current grant system is generous compared to many other jurisdictions, the level of funding

is still described by parents and students as inadequate and insufficient. It quite simply does not do the job. Alongside the Chief Minister and the Minister for Education, we undertook to consider and address these issues. Indeed this process started alongside the Medium Term Financial Plan addition back in 2016 where an additional £2 million was allocated specifically to the Education Department to increase the higher education budget. However, it later became clear that additional funding alone was not the answer and that the scheme itself needed reworking. I announced at the end of last November in the 2018 Budget Statement new proposals aimed at helping students achieve their higher education aspirations. I made it clear that these draft proposals, representing a new and improved scheme, would be subject to public consultation. The consultation took place during December and January with over 3,000 people taking the opportunity to share their thoughts and comments on the subject. While the feedback received was overwhelmingly supportive, we have also listened to all the comments made and have reconsidered some elements of the draft scheme as a result. I believe that the scheme before Members today is fairer and more balanced. Importantly, it better supports those on lower incomes. Members will be able to see that the report to the proposition that all eligible students in a household with income below £110,000 will receive tuition fee grants up to a maximum of £9,250 per annum. This will apply to students studying for the first undergraduate degree from September 2018. It will also apply to students partway through their course. Households with income between £110,000 and £200,000 will also receive assistance with their tuition fees at a reducing percentage on a sliding scale. An illustrative table is in the report accompanying the proposition. For the avoidance of doubt, a cap has also been introduced meaning that households with income above £200,000 will not be eligible for any support. We have also made some changes to the draft proposals relating to the maintenance grant for living expenses. This grant has now been increased by £1,500 per annum to £7,500 per annum for all households with income of up to £50,000. This was recognised as particularly important to ensure lower-income families were not disadvantaged. A student from a household with income below £50,000 will now be eligible for an increased maximum grant of £16,750 each year; that is a combination of tuition and maintenance fees. Members will see in the report to the proposition that a maintenance grant will be available on a sliding scale for all households with income of up to £90,000. Households with income over £90,000 will not receive any grant support for maintenance or living expenses. Members should also know that extra fees for doctor, dentist and veterinary courses will still be covered by an additional grant as they are under the current scheme. I should also make it clear that grants are available for degrees in Jersey and in the United Kingdom. They are also available for recognised qualifications at universities outside of the U.K. and also the Open University. Many elements of the existing scheme have also been retained, such as the examination criteria, the residency requirement, and the asset cap. Turning now to the affordability and funding of this new improved grant scheme, firstly, and as I have previously made clear, this new scheme is fully funded during the current Medium Term Financial Plan period. Furthermore, this proposition asks Members to agree that the H.C.A. (Higher Child Allowance) should be removed in this year's budget with this coming into full effect in the year of assessment 2019. In the interim period, transitional arrangements will be in place, which are intended to address the potential for the doubling-up of support, i.e. where grants and the provision of tax relief apply potentially at the same time. The removal of the higher child allowance will provide approximately £3.5 million of funding per annum towards the new proposals. Removing the higher child allowance will mean all funding of higher education is amalgamated into one scheme making it clearer and easier to understand. From 2020 a further £2.5 million per annum will be required to fund this scheme. This funding will need to be prioritised within the next Medium Term Financial Plan, the period 2020 to 2023. I should add that support for this proposition today will make that priority clear. Members will be aware that our colleagues in the Education and Home Affairs Scrutiny Panel have reviewed these proposals and issued their own report on this matter. I thank them for their report and for the considerable amount of time and effort and hard work that has gone into it. **[Approbation]** I am going to address some of the comments made in that report as no

doubt they will be at the forefront of Members' minds. Firstly, I am pleased that the panel acknowledged that the final scheme before Members today is a significant improvement in the support available to students and that it is well supported by the public.

[11:45]

But turning specifically to the recommendations within the report, which I will address on an individual basis, the first recommendation is about introducing greater flexibility of maintenance grant payments to address the issue of up-front costs. I believe that it is prudent to review all schemes once they have been established and operational for a period. I see no difference within this proposal. The matter of upfront costs for students is a valid concern. As such, it might well be useful to consult specifically with students to establish what additional flexibility they feel might be required in the future. The second recommendation is to set up a contingency fund to cover the potential for unpredictable demand. I can confirm to Members that a contingency is already in place for the remainder of this Medium Term Financial Plan period. Furthermore, when the scheme is reviewed the level of demand will be clearer, as will the expectations for the levels of future grant payments. The third recommendation asked the Minister for Treasury and Resources to report back to this Assembly in October of this year, 2018, on the number of students accessing the new scheme and the subsequent financial impact. Here I think that colleagues from the Education Department would be most appropriately placed to confirm the take-up in numbers and the level of grants paid at the time requested. The fourth recommendation asks me to provide detailed costings and analysis of a loan scheme for funding higher education. I am somewhat surprised and I must say a little disappointed with this particular recommendation. The cost and quantum of debt models has already been supplied to the panel. The rationale for not proceeding with a loan scheme has also been explained. Indeed, a loan scheme was rejected by the Council of Ministers before the draft proposal was announced last November. There are several reasons to have rejected a loan scheme, the main one being that we did not wish to burden our students or their families with significant levels of debt for many years to come. We do not do this today and I am not convinced that should change in the future. Indeed, experience from the United Kingdom and elsewhere shows the difficulties that such debt can cause, not just to the students and their families, but also to public finances. This proposition provides increased support for lower-income families, as I have already alluded to. However, most loan schemes would reduce this level of support for these families and instead replace it with debt. I do not think that is the appropriate approach to take. Other factors when considering loan schemes are the administrative costs and of course the recovery of any debt from students. It is estimated that a loan scheme would cost approximately £1 million per annum to run from the outset, a figure that would increase by inflation on an annual basis. Current estimates suggest that around 50 per cent of graduates return to Jersey immediately after completing their degrees. This means that the other half of students would be spread around the globe, therefore making debt recovery extremely challenging. On a simplified basis, and using a very low default rate of 10 per cent of all loans, the annual cost of administration and write-offs are estimated to be approximately £3 million per annum after 10 years. There is also the burden to the States balance sheet from a loan scheme. Modelling showed that the total debt level of a loan scheme for public finances would peak at around £127 million and that is not to mention that students would be carrying debt of close to £132 million. Lastly, the Council of Ministers were very cognisant of the need to act now in the interests of our students. Any loan scheme would not have been able to be implemented before at least September 2019 at the earliest. Finally, the panel have recommended that this proposal should be an interim measure, which is revisited by the Council of Ministers before the end of the Medium Term Financial Plan. As I have already stated, it is prudent to review all proposals once they are properly bedded-down, but to do so before the end of the second year would be wholly inappropriate. It would be irresponsible to let students and prospective students think that this scheme is only temporary. It must not be temporary. How can anyone plan ahead on that basis with such uncertainty? I would like to make clear my



strong conviction that this scheme is both affordable and secure if Members approve it today. It has been designed to be a long-term solution and that is what it should be. To review the figures after such a short period as suggested would not account for any impact of a backlog of deferred applications, nor would it allow for proper assessment that the scheme had achieved the take-up in higher education that is expected. The proposition already includes regular formal reviews. These will ensure the grants paid in household income brackets continue to keep pace with inflation and average wage growth. An assessment of the impact of the scheme can be carried out at the same time. In summary, the cost of university education has risen significantly in recent years. Parents and students are citing these costs as a barrier that is either preventing them from being able to consider higher education or causing considerable hardship to those who do. It is no coincidence that these rising costs have coincided with the worrying decline in the number of students attending university. This proposition aims to make higher education more affordable and reduce the financial pressures on families at the same time. Increasing the number of university students would enable Jersey to meet the increasing demand for a graduate workforce. This proposal is a significant improvement on the current grant scheme. It is affordable, targeted and simple. I am confident that it will reverse the recent decline in the number of students opting for university. Members will also have received numerous emails from desperate students and their parents in recent days urging them to support the proposal. The sheer numbers and many heart-rendering stories of those having to either sell homes, take on debt, or choose between siblings as to who can and who cannot go to university within the same family. I urge Members to support this higher education student grant scheme and give hope and opportunity to hundreds of our young people. They are the future.

**[Approbation]**

**The Bailiff:**

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

**8.2 Higher Education funding proposal (P.33/2018): amendment (P.33/2018 Amd.)**

**The Bailiff:**

Members will be aware that an amendment was lodged on Friday by Senator Ozouf, which is not lodged in the timely basis. Senator, do you wish to say something?

**Senator P.F.C. Ozouf:**

I do not want to take up the Assembly’s time with any lengthy period; it was simply that I, as explained, lodged an amendment because I read the Scrutiny Panel report. The Ministers have made their proposal that it should not be an interim scheme; the Scrutiny Panel have said it should be. A 3-year scheme is what I have put in place. I know I need to do both, ask for a reduced lodging period, but effectively it is one and the same thing, they are either going to probably accept it or not, but I ask for Members really it is up to Members whether or not they want to reduce the lodging period. I was given no other alternative in the timing because the panel’s report came quite late and I saw no other amendment, which I thought was coming from the panel or somebody else, in order to do so. So I was just trying to be helpful, but if it is not helpful Members will vote against it.

**The Bailiff:**

Senator Ozouf asks Members to agree that the lodging period be reduced. We are not going to have a debate about the subject matter of the amendment, but will Members kindly show if they agree that the lodging period should be reduced to allow the amendment to be debated? The appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

<b>POUR: 27</b>		<b>CONTRE: 14</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator A.J.H. Maclean		

Senator P.F.C. Ozouf		Connétable of St. Peter		
Senator L.J. Farnham		Connétable of St. Mary		
Senator P.M. Bailhache		Connétable of St. Saviour		
Senator S.C. Ferguson		Connétable of Grouville		
Connétable of St. Helier		Deputy J.A. Martin (H)		
Connétable of St. Clement		Deputy G.P. Southern (H)		
Connétable of St. Lawrence		Deputy M. Tadier (B)		
Connétable of St. Ouen		Deputy E.J. Noel (L)		
Connétable of St. Brelade		Deputy R.G. Bryans (H)		
Connétable of St. Martin		Deputy S.Y. Mézec (H)		
Connétable of St. John		Deputy of St. Ouen		
Connétable of Trinity		Deputy S.M. Bree (C)		
Deputy of Grouville		Deputy P.D. McLinton (S)		
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 of St. Peter				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

**The Bailiff:**

I ask the Greffier to read the amendment.

**The Deputy Greffier of the States:**

Page 2, paragraph (a). For the words “a new” substitute the words “an interim” and after the words “accompanying this proposition” insert the words “, for any students either currently in higher education or commencing higher education in the next 3 academic years with the Scheme to run for the duration of their studies”. Page 2, paragraph (c). After the words “accompanying this proposition” insert the words “, subject to paragraph (a)”. Page 2, paragraph (c). In paragraph (c) substitute the full stop with the words “; and” and, after paragraph (c), insert new paragraph (d). “(d) that the Council of Ministers should review the interim scheme and bring forward proposals for a permanent scheme as part of the next Medium Term Financial Plan, having regard to the recommendations contained in the Scrutiny Report ‘Tertiary Education: Student Finance Proposals’ (S.R.5/2018) and any new policy proposals announced in the United Kingdom.”

**8.2.1 Senator P.F.C. Ozouf:**

I am not going to take Members’ time because I think it is quite clear. There is a really quite narrow debate as to whether or not what the Council of Ministers is proposing is a permanent scheme or is in effect an interim scheme because everything in the sense that this Assembly passes without a head of expenditure is an interim scheme. I would have thought that the Scrutiny Panel were correct in saying, and indeed I cannot not agree with every single word that the Minister for Treasury and Resources rightly said about the injustice that has been occurring for many years where students have had the uncertainty of not being able to go to university. What the amendment seeks to do is to create certainty that, for the next 3 years, this scheme will be in place and therefore will be funded and this

also does perhaps put the stricture on the Council of Ministers that will come afterwards to bring forward, because they must within the period of time that the next Assembly will debate a Medium Term Financial Plan, put in place the certainty for students for the next M.T.F.P. (Medium Term Financial Plan) period. It just puts all of those issues beyond doubt. My fear was that a number of Members might not want to approve something because there would be a debate about whether or not it was permanent or not and I was grateful for your observations by email and also as to what is a permanent and what is not a permanent scheme. So it was just a commonsense amendment, which seems to say what it is on the tin, and that is this is an interim scheme and it improves the Council of Ministers' proposal because it makes it absolutely clear that it is there for 3 years before a review. I cannot really see why that would be in any way objected to, because it creates the certainty for young people and requires the next Council of Ministers to create further certainty for students thereafter. I move the amendment.

**The Bailiff:**

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

**8.2.2 Deputy J.A. Martin:**

You did not allow us a debate on whether or not this could be brought and we are here. I would not have supported it and Senator Ozouf seems to have had correspondence with you and I always read the word "interim" as to be exactly that. I was really heartened by the Minister for Treasury and Resources when he spoke. Of course the scheme is going to be reviewed but I am not giving this Council of Ministers the word "interim" that anything is brought a few weeks before the election that a new Council can wriggle out of. I am sorry, I understand where Scrutiny are coming from and the scheme is not perfect, it is so much better than what we have now, it has to go ahead. I do not like this word "interim" and of course it is going to be reviewed and this is such a late amendment and, why? Scrutiny did not bring it because I think they were of the opinion they do not want to put "interim" in the Council of Ministers' minds because you do not know, there is no certainty, who is going to bring this forward.

[12:00]

If funding is a bit tight, will they say: "Well, there was an amendment brought and it was an interim scheme, you lot are okay for the next 3 years but after you ..." Are we going to take another 12 or 15 years to get a better scheme? It is here, it will be reviewed, this needs throwing where it should have started from, in the bin. Do not support this amendment; it does not make any sense. It does give to me, and I am very simple-minded, but I can read "interim" and I can see a new Council in 3 or 4 months' time saying: "Yes, we have to fund this for the next few years but we do not have to do it because they passed the word 'interim scheme'." So please do not support this amendment. The Senator was trying to be helpful. We are having a debate on it. Throw it out.

**8.2.3 Connétable M.P.S. Le Troquer of St. Martin:**

"Hi there, to all who read this, hello." "Dear States Member, good morning, hi." "To whom it may concern." "Dear Senator/Deputy." Sent to the Connétables. "Dear Senator." Sent to all Members. Forget some of the grammar, even an emoji when I received a smiling face, they know I am going. **[Laughter]** They know I am leaving; I probably should think they would have sent a grumpy one. Not that I am a stickler for etiquette, I am not a snob and I am not proud, I do not mind being called anything. But not a good start when you are trying to reach out to those who will be voting for something you want, grants for your further education. Of course a very many emails we received towards the end of last week did not all start like that but most of them did and it is great to see how times have changed since I was young. The issue I found quite worrying was not the emails, there was none of the emails that suggested a way that this was going to be funded. What young people and what parents - and I have been a parent myself and my children have gone to universities - it was

what they were seeking and no other ways as how where that funding may come from. It is not a bottomless pit at Treasury, we know that, cupboards full of spare cash; they just sought something that made no mention of the possible increased taxes that may have to fund it. That was the Council of Ministers who indeed, putting forward the proposition, and therefore very unlikely that it was going to be rejected by Members today, and I am sure it will not be, and that if taxes are not increased to cover it then something else is going to have to fall away, obviously it is going to have to fall away. Then we had the emails of course from people who do not have children and whose taxes or new taxes will have to be found to fund those concessions. Indeed it appears a very good concession now on offer. So the original proposals that were even higher were curtailed following the public consultation, we know that, and it was good sense. Yet we still have to understand that those without children have a right to complain as well that the funding is something that they should not be funding and I suppose you have had that in the last 2 or 3 years in this Assembly when non-churchgoers raised issues about the funding and the upkeep of Parish churches, it has been mentioned many times in this Assembly. You could have those people who are never sick saying why should they have to pay social security because they are never sick, to pay for others that are. You are just taking it to the limits I suppose of those having to pay for a police force who say: "Well we never break the law but we are having to pay our taxes to pay the police." It is a funny old world. I wanted to speak because I welcomed Senator Ozouf's intervention in this matter. When a former Minister for Treasury and Resources questions what is before us and he says there are a number of serious and important financial sustainability questions that need to be addressed before an open-ended commitment to fund a scheme is approved, they are pretty important words I think. The Chief Minister this morning has already said that Senator Ozouf in the past had been saying things and proved to be right at the end of it. Once again it is one of these propositions that can be approved and then come back to bite us in years to come because of unexpected consequences. I have seen that too many times in my short term in this Assembly and even with the expertise and advice that the Council of Ministers have had to reply on to bring this proposition, I feel the amendment brings just a little bit of protection for the future. We should be comforted by the word "interim" in the amendment. The Senator may wish to... I would like him to explain to me that my understanding of this amendment to ensure those are currently in higher education although starting in the next 3 academic years, but the amendment that is brought goes a bit further I believe, commencing in the next 3 years with the scheme to run for the duration of their studies, which I take this to be a bit longer. This is not just for those students now. Maybe I have misread it and I am sure he will explain it. Those starting a 3-year course in October 2021 would not complete their studies until July 2024, maybe 2025 depending on the course, and funding would be provided right until the end of that time, I understand it. Therefore the department or the Government are having to provide sufficient funding for this amendment for at least 6 years from now, maybe 7. Unless of course the Council of Ministers bring forward proposals for a permanent scheme in the next Medium Term Financial Plan and I assume that no parent would complain if the funding levels were increased at that time and they would seek the new higher grant figure and likewise assume that those who may have started their university course would not suddenly be told that their funding for the new course was to be curtailed if the review suggested a lower figure. I am not sure if there is some sort of double-lock that would be in place for those students and their parents if those circumstances applied. The former Minister for Treasury and Resources has raised his concerns, I do not think we should make light of them, we see an annual cost of this at £2.5 million but we know that even with the main proposition clearly states we do not know how much this may cost. We hear much of an ageing population but we have a young population too, many of whom will want to leave the Island to study away. Both my daughters took that opportunity and made that step - probably to escape their dad - one came back, one did not; one now works in the U.K., and the suggestion that increasing the number of university students will enable Jersey to meet the increasing demand for a graduate workforce... I said do not hold your breath, there is no compulsion for the young people to come back to the Island once they receive the

States assisted grant and we could see less students at Highlands, maybe some of the courses undersubscribed and see loss of jobs in the Island at that excellent facility. It is good to see so many young students in the gallery today. **[Approbation]** Not all emails are on this style that I have mentioned in my speech, there were a couple of very well put together contributions and I thank those students, all the students in fact and their parents who made comments. I just believe that this amendment is just like fitting some brakes to the bicycle. I will be supporting Senator Ozouf's amendment as I too, like the Senator, am concerned with the proposition if left unamended. The amended version, if approved, will give some assurance to those parents and students facing immediate concerns.

#### **8.2.4 Senator A.J.H. Maclean:**

I do not - and Members will not be surprised by this - agree with the proposition, the amendment at all. The Senator says that this brings certainty. I think it is completely the opposite, it brings uncertainty. An interim measure is not what we want to be signalling at this particular time. I have made it clear in my opening remarks and also in public statements prior to today that funding is in place for the remainder of this Medium Term Financial Plan. The Senator himself in his amendment talks about giving certainty for 3 years. The reality is there can only be absolute certainty for the period of the Medium Term Financial Plan, which is 2016 to 2019. There are 2 years remaining of that plan and we have funding in place for the measures that Members have to consider before them today. Quite simply, it is a function of our Public Finances Law of the way we arrange our business that until the next Medium Term Financial Plan has been prepared, until this Assembly has voted it through, then there is no certainty for the next 4-year term from 2020 onwards. Nevertheless, a clear signal by this Assembly today in supporting the main proposition and not the amended version would give clear priority, which I believe is the case anyway, as it has been in the existing Medium Term Financial Plan, for this area of public funding, which is education, in particular the case of today's debate, which is higher education funding. I feel it is almost a case of hypocrisy, if I may say so, that this amendment has been brought by the Senator. He will not be pleased that I say this. I did encourage him to withdraw the amendment. But I can give examples, I could give to Members a number of examples where Senator Ozouf brought plans in budgets in other areas where there was no certainty of future funding, partly because there is no possibility in some respects to do that, and on other occasions where he was quite the opposite. I would give an example of a budget measure, which was the reduction in the marginal rate of tax from 27 to 26 per cent. That was costing £8 million a year and yet there was no certainty of the affordability of that measure when it was brought and, as Members will be aware, we were faced with a structural deficit of £28 million following that. So that is why I suggest there is a degree of hypocrisy in this proposal about the need for certainty when the Senator in his previous role I am afraid brought measures to this Assembly, which did not have that certainty either. We owe it to the students of this Island, to their parents, and for the benefits more broadly that it brings to the community and to the economy, to create a plan that is going to work, a plan that is affordable, and a plan that we have confidence in for the long term. I believe such a plan is before Members today and I strongly urge therefore for Members to reject this amendment and focus on the proposal before them and support and send out a strong message to our young people about the importance of higher education and the need to give absolute certainty for the future.

#### **8.2.5 Deputy J.M. Maçon of St. Saviour:**

Now Members will know that, when it comes to this particular topic, it is something that has been very close to my heart during this term. It was not a matter that was in the Council of Ministers' Strategic Plan; in fact it was me as a Back-Bencher who initially got the ball rolling on this topic. So quite clearly I think it is fair to say that I care about our students and the future available to them. But regarding this amendment, Members will know that I have chaired 2 Scrutiny reviews into this

topic, so perhaps I am a little bit more informed than other Members in going into the nitty-gritty detail of the proposals. What has not been said, and I appreciate the passion in which Deputy Martin said, but what has not been said is either way the next Council of Ministers will have to review these proposals. So why not therefore should this Assembly not be upfront and honest about that going forward? The elections are just about to start and how often are we going to hear the word “integrity”? “Blah, blah, blah, has integrity.” Well, being integral, having and showing integrity, surely is about being honest and being upfront and telling the public what the impact of proposals are going to be. Now we know from the figures that are provided what has been brought forward by the Council of Ministers, which I welcome, I think it is a great improvement, we said that in our Scrutiny report. Certainly many families and students are grateful for the changes, not all; there were a few issues with the boundaries and the levels change over, but overall it is a great improvement on the scheme. But we know that, in order to make this happen, it is being used out of the underspends from the current scheme, which have not been able to have been used because the current scheme was not enough in order to support our students to be able to attend university. So we know, when it comes to the next Medium Term Financial Plan, we know that there is a deficit. We know, for example, that the ongoing costs by 2021 from a budget of just under £10 million will go to £16.5 million. You are looking at a £16.5 million increase on the higher education budget recurring every year, annually. You are looking at almost doubling the higher education budget. Given that is the situation, we know therefore a funding scheme and a mechanism for these proposals need to be brought forward by the next Council of Ministers. Therefore, we need to ask ourselves how this is going to be funded and is it not right that we let the public know honestly that this scheme needs to be looked at again by the next Council of Ministers? Is that not something we all stand up for or we say we do? Now I agree with what the Minister for Treasury and Resources said that education again will be placed as a priority of the next Council of Ministers.

[12:15]

But, again, we do not know who they are going to be; we do not know who is going to be here; we do not know what decisions are going to be made; and we do not know for the next Council of Ministers what priorities are going to be. We know that there are huge pressures within the education budget as it is. We know there are huge pressures for our state schools, we know there are huge pressures on the nursery education fund, we know that our education budget needs a huge amount of support. So what has Senator Ozouf come forward with? Well it is looking at our recommendation of our report and saying that for those students, whether they are current or going forward, have the certainty of going forward and having some protection for the next 3 years, they know where they are going. If we do not accept it and go with the proposal of the Minister for Treasury and Resources as is, we are only giving a guarantee for 2 years. We are only giving a guarantee for 2 years because the next Council of Ministers can come back and say: “Well we are going to do something else.” I am really surprised and shocked that a Member who has been in the Assembly as long as Deputy Martin is turning around and saying: “I am going to accept something on a hope and a prayer, on an undertaking that a Minister has given in this Assembly.” It astounds me because certainly she is always one of the Members to turn around and say we should not just accept a promise or an undertaking in the Assembly from an individual because that is just not good enough. Time and time again we have been misled and those types of issues have not been implemented or supported, particularly when a change of personnel has occurred. Perhaps I am going to get a little bit passionate as the subject area I care about. Either way, I think the public can take away from this Assembly that the Assembly does have a moral commitment to support our young people in the future in providing the skills, which we need as an Island, and meeting the aspirations of those individuals. Now the argument is whether we should have the word “interim” there or not. We know, if we do not accept it, it will still be an interim scheme, we just will not be open about it, and we know that the next Council of Ministers can come back and change it. Now, to be fair to the Minister for Treasury and

Resources, it is fair to say that I can only operate within the bounds of the law as it allows me and that is absolutely a fair point to make and we say that in our Scrutiny report. But again it is asking about whether we have that integrity, which all of us have said that we should have and demonstrate in this Assembly. So I am going to support the amendment of Senator Ozouf simply because I believe we should be upfront and open with the public about what the undertaking this Assembly is going to give them and be quite clear that we know that the next Council of Ministers will have to come back and look at this issue regardless of how the vote goes and certainly I believe it is something that will be dealt with, with the elections. I hope that has brought some clarity and fished out a few of the red herrings before this debate continues. I want to support this, I want to support the proposal as a whole, it is a great step forward for our young people, for the Island, but we need to be honest and upfront about it.

**Senator A.J.H. Maclean:**

If I may, the previous speaker is rather indicating that in my opening speech I was not honest and upfront about all the funding and I just wanted him to clarify that in my opening speech I did clarify all the figures in terms of additional cost and that is indeed £2.5 million from 2020. He did give some other figures but of course failed to mention that was going to be funded from the proposed removal of the higher child allowance, which is £3.5 million. I just felt it was rather misleading what he said and he gave the impression that we were trying to cover up and hide the facts. In fact I laid out all the details in my opening remarks.

**The Bailiff:**

I did not understand the Deputy to be saying that, Minister. I understood him to be saying that there would inevitably be some review in the future and therefore saying “interim” was just a way of being honest about things. That is all I understood him to say.

**Deputy J.M. Maçon:**

Given the opportunity to clarify it, yes, I did not mean to, if that is how the Senator interpreted what I had said, that is certainly not where I was going. What I would say about the figures, yes, to note that, but of course there is still, even by the time you factor-in the removal of the higher child allowance, there is still an unbudgeted figure of I think about £2.5 million recurring, so therefore we still have a situation whereby the next Council of Ministers will have to come back and find that £2.5 million.

**The Bailiff:**

There are 7 Members who wish to speak so far. Can I just remind Members we are speaking only about the amendment and not about the underlying proposal?

**8.2.6 Deputy S.M. Brée of St. Clement:**

I stand to echo and support particularly Deputy Martin. This amendment is asking us to agree to an interim policy. The proposition itself is asking us to agree to the introduction of a new higher education student grant scheme. We have failed our students in the way in which we support them to go to university for years. Now is our opportunity to introduce a new scheme. By supporting Senator Ozouf’s amendment it is saying: “No, no, no, no, it is only an interim policy because we need to look at it again in 3 years.” To me that is not supporting young people wishing to go to university, it is just saying: “I might change my mind in 3 years’ time.” There has been the argument put forward by Deputy Maçon that we have to show integrity because we have to be honest. Well working on the idea that every 4 years there is an election and every 4 years there is the possibility that the new Council of Ministers will go against any previous decisions or policies made by this Assembly, then that is going to happen. But what we need to do today is to send a clear message to future students, young people in higher education going forward, we support you, we are here to

assist you in achieving your aims and your dreams, not just to have an interim policy. The other thing about the amendment that I would like certainly Senator Ozouf to explain why he feels it is so important that this is included, are the words: “And any new policy proposals announced in the United Kingdom.” Yet again we have Senator Ozouf slavishly following what the United Kingdom do. Why do we need to follow what the United Kingdom do? Now obviously it is going to affect the tuition fees, but surely, if our higher education funding policy, the proposition itself, is making a decision that we are going to support our students through a grant scheme, then it goes and it follows that we will be looking, because the whole point about it is we are looking to support students going to higher education, not only in the United Kingdom, but other areas as well. That is a decision that we can make today, we can send that message out and not say: “This is just an interim policy.” So I would urge Members to reject this amendment and move on to the important debate, which is do we support students through higher education?

### **8.2.7 Deputy T.A. Vallois of St. John:**

I speak on behalf ... well as a member of the Scrutiny Panel, who have carried out, not one, but 2 reviews on higher education, and I would just like to refer to the ministerial response we have only received this morning from the Minister for Treasury and Resources based on this specific recommendation that Senator Ozouf refers to in his amendment. So our recommendation was that this proposal should be seen as an interim measure and the Council of Ministers should revisit and review the scheme if adopted by the States Assembly prior to the end of the current Medium Term Financial Plan to ensure it is appropriately targeted. If the proposals are not regularly reviewed then the issues, which have affected the current system, may continue. The Council of Ministers have rejected our recommendation and their reason for this is that it would be irresponsible to let students and prospective students think that this scheme is only temporary. To review the figures after such a short period of time would not account for any impact of a backlog of deferred applications, nor would it allow for a proper assessment that the scheme had achieved the take-up of higher education that is forecast. The proposition already includes regular formal reviews every 5 years and the first of these reviews will be the appropriate stage at which the Council of Ministers can consider the success of these proposals. It states that the target date for that review, January 2022. So I challenge the Minister for Treasury and Resources now because he will remember and, as Scrutiny does, we carry out our reviews objectively and evidence-based, and we received the Student Loans Group before us in a public hearing who stated that they had concerns over the scheme being reviewed every 5 years because what happens, and what they have been fighting over for the last 3½ years, was the fact that the argument that was constantly thrown in their face was that they did not have any money and the appropriate place to review this was before every Medium Term Financial Plan. The Minister for Treasury and Resources turned around to us when we questioned him on this and we asked him whether that would be more appropriate and he did agree. But he has chosen not to amend the proposition and we are being asked to agree everything in the report. I am not being irresponsible. I absolutely support the students and I have been working hard with the Scrutiny Panel over the last 2½ years doing these 2 reviews and trying to force the Council of Ministers to put something in place that assists our younger students. So I think either the Minister for Treasury and Resources has misinterpreted our recommendation that we have made; we have made it, not just because there will be money missing because the Medium Term Financial Plan... the next Medium Term Financial Plan will be decided by the future States Assembly, but it is the very fact that the Student Loans Group came to us and stated to us in a public hearing that they have concerns. They do not want another fight in January 2022 when the next Council of Ministers then turns around and goes: “No, we have already agreed the Medium Term Financial Plan, sorry, we cannot find the funding, you will have to wait until the next Council of Ministers comes in and finds the funding.” Is the appropriate place to have this discussion just before the Medium Term Financial Plan because it involves inflationary figures, it involves requirement for appropriately assessing what the amounts are required for going



to university, and that is why we made the recommendation. There are no ifs or buts or trying to play around this or trying to play politics in any way, it was purely because of the evidence that the Scrutiny Panel obtained was that we put that recommendation in. I can only thank Senator Ozouf for putting the amendment because maybe we were naive to think that the Minister for Treasury and Resources, taken on the evidence that we questioned him with, would amend the proposition when he agreed with us at that public hearing. So I will be supporting the amendment on that basis, not any other basis, no underlying view here. The point is that this will have to be reviewed before the M.T.F.P. because the £2.5 million will have to be found from somewhere within budgets.

**8.2.8 Senator S.C. Ferguson:**

I am pleased to follow the previous speakers but in common with most of the Members in the Assembly I have received a lot of emails from students who are wanting to go to university and being one of the few people here with 2 degrees I can understand them. I can understand them wanting to go to university because it is great fun. I am impressed with the diversity of the subjects, which the students are planning to do or already studying. These include marine conservation, business and law, architecture, chemistry, French and Italian, marketing, speech and language sciences, geological engineering and geotechnics, and then I heard about one graduate who has gone on to live in the U.S. and is now commencing a course in A.I. (Artificial Intelligence) based on gaining a scholarship at a very prestigious American college. This is an impressive range; we have a great range of talent in the Island.

**The Bailiff:**

You will be coming to the amendment I am sure please, Senator, will you not?

**Senator S.C. Ferguson:**

Absolutely, yes, because it appears to be a sort of wandering way around but I shall not speak again, you can be assured.

**The Bailiff:**

Senator, you may certainly speak again as long as it is relevant to the debate. We are talking about the amendment.

[12:30]

**Senator S.C. Ferguson:**

Well, no, I had one student ring me up with points she felt extremely strongly about connected with grants for university. She, along with the rest, was strongly in agreement with the concept of setting up a sustainable funding strategy rather than having to rely on things like an underspend in the Education Department. But she also commented on the fact that some universities offered courses, which are more expensive and may be located in cities such as London, which are also considerably more expensive to live in, and wondered if perhaps we should be varying the value of the grants proportionally to the costs of the course and living costs. But everybody to whom I replied came back and said they felt there should be a plan for a sustainable funding mechanism, and it is noticeable that the U.K. Auditor General has complained that we are deliberately thinking of higher education as a market and, as a market, it has a number of points of failure. Young people are taking out substantial loans to pay for courses without much effective help and advice and the institutions concerned are under very little competitive pressure to provide best value. If this was a regulated financial market, we would be raising the question of mis-selling. The department is taking action to address some of these issues but there is a lot that remains to be done. The report goes on to query whether the various U.K. institutions are even giving value for money. Do our careers advisers consider this when they are advising students?

**The Bailiff:**

You will come to the amendment, Senator, will you not? We are talking about whether it should be interim; that is what the debate is about.

**Senator S.C. Ferguson:**

I am saying in fact that, because of all the changes that are going through, we do need to have an interim policy in order to review the costs so that our youngsters going to university can go and are not short of money to live when they go there.

**The Bailiff:**

We have got there, good, thank you. [Laughter]

**Senator S.C. Ferguson:**

I was merely going to suggest that there are a number of ideas for funding mechanisms and it has been suggested that a fund should be set up into which parents pay when a child is born or they set up a type of endowment policy and when the child reaches 18 and wants to go to university the funds are available and if the child does not want to go to university then the funds are available for the parents to spend as they wish. We have a very intelligent finance industry, which should assist in the development of such a scheme, and which makes allowances for the level of income to be paid in depending on the income of the parents, whether it is a means test or whatever, and low-income families would have to have a degree of States support. However, in the meantime, we must have funding to cover the interim 20-year period so that we do not get this current period of worry and uncertainty occurring again. As I say, we need to look at things like this sensibly because there will be changes in the U.K., there is one lass who is suing her university because she reckons that her degree was not value for money, and I just wonder if our local careers advisers know whether universities are doing reasonable courses. As far as the brain drain goes, we do not ...

**The Bailiff:**

Is that an interim measure? [Laughter]

**Senator S.C. Ferguson:**

I will save that one and come back with it then. This amendment merely reminds the Council of Ministers that they must review the scheme and, knowing the States, unless we specify a review it might never happen and, as the Deputy from St. John says, what is the point of reviewing a scheme after the Medium Term Financial Plan has been fixed? Looking at then the case of uncertainties in the U.K., the grant might be sufficient after a few years, it might be insufficient, we do not know. I will be in fact unusually supporting Senator Ozouf's amendment.

**The Bailiff:**

It is the end of term.

**8.2.9 Deputy S.Y. Mézec:**

Just a starting point that I hope goes without saying, but the process of getting to this point has been a shambles from the very start and I do not just refer to the actions of the Jersey Government, but I think the U.K. Government is pretty culpable in this as well for pursuing such a bankrupt funding policy for higher education. I will come to that element to it in the main debate, but the reason that I will not be supporting this particular amendment is because it is redundant. The fact is that the funding mechanism for this policy is going to have to be revisited in a few years because of the ramshackle and incompetent way that the Government has handled this process up until now. What they are proposing is a funding mechanism that includes a £2.5 million black hole. That is it; £2.5 million black hole, money that is going to have to come out of thin air to pay for this. Now I

happen to think that it is an absolute disgrace to offer something to the young people of this Island, this opportunity to go out and live out their dreams and achieve their aspirations, but not be prepared to tell them where the money for it is coming. Now of course it is absolutely right that we should be improving the grant system and so I will of course be supporting the main proposition, but the fact is that in 2 years' time the States will have to come back and reassess this. So what point I want to make in this speech when I ask Members to reject this amendment is I say to Members: "Do not dare go around the Island speaking to young people in this upcoming election and pretend that the solution was found today", because it was not; this £2.5 million is going to have to come out of somewhere. That is either going to be cuts to the education service in other areas or it will be from tax rises. So be honest about that when you speak to people; do not mislead them, do not pretend that this is money that will magically be found from somewhere, because it will have to come from somewhere. It is right that we improve our grant system and I will be absolutely supporting that and I know that I speak for my colleagues, all 18 of them, that we have a funded mechanism to deal with this. This Government has made a serious error of judgment by proposing a policy that has a £2.5 million black hole; it is a real shame that they have chosen to do that, but that will have to be a debate for another day. What we need to do now is provide at least the short-term certainty to those young people to know that they can go to university without having to worry about the costs. So I wholeheartedly endorse the main proposition; I will support it, but this amendment I think is redundant because it will have to happen anyway. I just ask Members in this upcoming election campaign to be clear about that and let us not have any attempt to paint some sort of rosy picture that does not exist and let us treat the young people of this Island with the respect they deserve by being honest about that.

#### **8.2.10 Senator L.J. Farnham:**

Fortunately previous speakers have covered most of my points but I have to respond to Deputy Mézec and other Members who suggest that the only way to deal with a challenge is to raise taxes. That is not simply the case and it is scaremongering. This States Assembly approves expenditure of in excess of £700 million a year and the solution to this, and the sum we are looking for is very small in the scheme of things, and the solution to this is to reprioritise our existing expenditure, not in education, but a look right across the spectrum of what we spend. While we spend some money wisely, we spend some money unwisely. Part of the process that we are now carrying out in restructuring the public sector will lead to considerable savings and we must not allow new taxes and charges to be thought of until we have delivered the very best value for the taxpayer from the money we spend at the moment. That is why, to achieve this, we do not have to think about new taxes and charges, we just have to reprioritise sensibly if we think that supporting and paying for our young people for higher education funding is important. I am sure the next Assembly will do that. Speaking to this amendment specifically, we are talking about the difference between we will fund this because the proposal on the table is for a permanent solution and not an interim measure. An interim measure will mean "if and how" and there is a get-out clause if we have an interim measure. If we accept the proposal to fund this on a permanent basis, of course we will have to review it in the future, it will be about how we fund it, but it will give certainty now to young people to go ahead and plan for their studies for the future.

#### **8.2.11 Deputy M. Tadier:**

I will keep it fairly brief, my concern today is that, if we specifically put the word in, "interim", then it gives a green light to the next Assembly to say: "This was only an interim policy, therefore I am quite within my rights." These may be new Members of course who can say: "Well I did not make the decision." A completely new Council of Ministers, which says: "This was not our decision and I am afraid the money simply is not there and it was only an interim proposal therefore we have a get-out clause if you like to be able to renege on the promise because it was not really a promise anyway, it was only an interim." Whereas if we at least keep it aspirational, which I think it is at the

moment, and say: “No, but there has been a commitment by the previous Assembly, which we wish to follow up on”, then quite rightly it gives more weight to this policy becoming permanent. I think it is quite right though that Members have flagged-up that of course this is interim in the sense that we cannot bind the next Assembly, and the key thing therefore is to make sure that we have States Members returned or new States Members in this Assembly who do have a firm commitment and have a fully-funded mechanism by which to propose the longevity of this scheme so that it is not something that is simply pulled out of a hat like a rabbit by the Minister for Treasury and Resources a few months before an election to perhaps court favour with an unpopular Council of Ministers, because we know obviously the Minister for Treasury and Resources himself is not standing for election. So I think that cynicism, which seems to have infected Senator Ozouf, is perhaps understandable because he knows in the past only too much that it is very easy for a politician who then becomes a Minister to make a promise just before an election and then only a few months later to break that very promise and so perhaps that is the motivation. We saw it of course on G.S.T. (Goods and Services Tax): “I will not raise G.S.T. from 3 per cent to 5 per cent. I will give a categorical assurance.” Then of course G.S.T. did go up to 5 per cent and what was more is that he is the one that presided over that. So it is understandable that Senator Ozouf, as he is leaving the front line of Jersey politics, might wish to make sure that another Minister does not do that, whoever the future Minister for Treasury and Resources is, but strangely it makes it more likely that the future Minister for Treasury and Resources would be able to renege on the promise that this Assembly is making today. So I do think that we have to reject this proposition, let us get on to the main debate I think where we can outline perhaps what the possibilities are for the more sustainable funding in the future.

#### **8.2.12 Senator P.M. Bailhache:**

I cannot help thinking this is a good educational experience for students in the public gallery **[Laughter]** in how much time can be consumed in this Assembly on a matter of such little consequence. The debate is whether it should be a new scheme or an interim scheme. I happen to think that Senator Ozouf is right. But we are playing with words because, whatever happens, the matter is going to be reviewed, both by the Council of Ministers and by the Assembly, in 2 or 3 years’ time. The truth is that more money should have been put into higher education a long time ago. **[Approbation]** I recall as an Assistant Minister for Education having long discussions with the Minister about how the higher education funding scheme could be revised and being told that no more money was available. Happily that obstacle from the Treasury has now been removed. I think that Senator Ozouf is right to signal that the review will and must take place in 2 or 3 years’ time. Maybe more money should be put in. We are, in any event, almost at the bottom of the European League in the way in which we treat students and student funding. Maybe the matter should be tweaked in some other way. I think it is... what is the word... when I use the word “honest” I do not mean to imply that the other approach is dishonest, but I think it is honest to make it absolutely clear that there is going to be a review and that in that sense this is an interim scheme. I hope that it will be made permanent in a way which is perhaps even more beneficial for student funding in the future.

### **LUNCHEON ADJOURNMENT PROPOSED**

#### **The Bailiff:**

The adjournment is proposed. The States now stand adjourned and we will reconvene at 2.15 p.m. this afternoon.

[12:45]

### **LUNCHEON ADJOURNMENT**

[14:18]

**The Deputy Bailiff:**

Very well, we continue with the debate on the amendment to the higher education funding proposal.

**8.2.13 The Connétable of St. Mary:**

I will be succinct but, firstly, could I just say an apology, please, to anyone, members of the public, who have emailed me - and I am sure other Members feel the same - and whom I have not got back to. There is simply a huge amount of correspondence to deal with. I waxed and waned over the amendment, but I have been persuaded by the incisive speeches of both the Deputy of St. John and Senator Bailhache. The use of the word “interim” is not the issue here. Deputy Tadier, when speaking I believe against the amendment, noted that essentially everything we do in this Assembly could be construed as interim as it could be repealed or turned over by a future Assembly. There are 2 issues here. One is timing. It is absolutely crucial that whatever we call the scheme that we bring in today - and bring in one we must, I think - it is crucial that it is reviewed at the correct time. That correct time is immediately prior to the next and probably to successive M.T.F.P. debates. The other matter here is certainty. Certainty - and I speak from experience here - is what parents need when they are helping their youngsters to make important decisions about their future education and it is important for the youngsters, of course, as well. The proposal is for an enduring scheme where the funding is only in place for 2 years. The amendment has the same funding issue but specifically notes the inclusion of all students starting courses in the next 3 years for the duration of their courses. I would argue that that would be a much harder issue for a future Assembly not to honour, and as the amendment also calls for a permanent scheme to be set up at the time of the next M.T.F.P. I cannot see how it could be claimed that supporting the amendment in any way shows a lack of support for a sustainable solution to student financing being found. I believe that quite the contrary is true and, although I came here not expecting to, I am persuaded that I will support the amendment.

**[Approbation]**

**8.2.14 Connétable J.M. Refault of St. Peter:**

I have to admit, looking through the amendment, particularly the amended part (d) of the amendment, it does look quite enticing. Unfortunately, when you look a little bit further you realise it does not comply with the Public Finances Law and certainty can only be achieved through the Medium Term Financial Plan. So it only will live as long as the next Medium Term Financial Plan. We have already agreed to review the funding in January 2022 when we have enough data available to have a meaningful review. Therefore, if we do accept this today, there is still going to be a degree of uncertainty because no funding can be committed outside of the Medium Term Financial Plan without some certainty.

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

I think, essentially, I will not be supporting the amendment. I will very clearly be supporting the financing, and in some shape or form student financing I am sure will be approved today. To me, the word “interim” is quite important and I am afraid, without going off at a tangent, I am reminded of the interim population policy. That was brought in pretty well with the same sort of timing in the last elections. In fact, I was looking at Senator Gorst’s previous election manifesto and on his election manifesto he says: “Delivered interim population policy.” You will find my panel has just commented on the one that has finally been lodged for debate now in September, I believe. I am just worried that, therefore, it becomes almost like a political sop and I do not like “*ad hoc*-ery” at all. We are also very clear that there has to be a sustainable funding mechanism there, and I think it does not matter which part of that argument you fall on, that has to happen. The other side of the coin with this element is the Chief Minister was obviously ... and I was listening to him or watching him in the Youth Assembly not that many days or weeks ago and he said he would eat his hat if this

proposition did not go through today. I must admit there were some looks of mirth among the other politicians who were in the public gallery at the time, and I think some of us did wonder if that was worth it, but that is probably making too much levity. I think the Senator's hat is very safe today. What I am concerned about is not just ... to an extent, from the outside world this is counting how many angels dance on the head of a pin in terms of the debate between the amendment and the actual proposition, but there are some extra bits in there. I think Deputy Brée has already commented on the new policy proposals announced in the U.K. I would be perfectly happy with his amended part (d) up to the point where it says "after the Scrutiny report" and gives the title. The capping, though, at "commencing higher education in the next 3 academic years" leaves me slightly uneasy. I know the Connétable of St. Mary has just said it gives greater certainty. I am not convinced. I think the fact that you have an interim policy leaves scope for someone to say we have only agreed the funding up to, broadly speaking, I think 2022 - I may have my maths wrong there - whereas the other one is putting the policy in place. There has been argument around that. I think on balance that gives greater certainty and that is why if the amendment goes through, fine, but I will not be supporting the amendment in its first instance. I am worried about these debates being so close. Nomination day, as we all know, is either tomorrow or Wednesday. Certainly, the Minister for Treasury and Resources and Senator Ozouf cannot be accused of political shenanigans because they are both standing down. I would just like to take the opportunity ... this is obviously going to be a legacy issue for the Minister for Treasury and Resources. I want just to say I think he has served his post and the Island well, particularly in his role as Minister for Treasury and Resources, and I think his legacy that he has left, although we have had disagreements at various times, is stronger than the one he inherited. On that note, I will welcome his engagement. We have not always agreed. I welcome his engagement with Corporate during the time that we have all worked on opposite sides of the Assembly as a critical friend. Going back to the amendment, we can review any scheme at any time and it certainly does make sense. It is part of the M.T.F.P. I do not think having it written down makes it certain. I am worried, though, that the specific reference to the next 3 academic years limits the certainty for future students and on that basis I will not support the amendment. I will support the final proposition.

#### **8.2.16 Deputy S.M. Wickenden:**

I am glad to follow the Constable of St. Mary's always very, very good speeches. I agree on a lot of things. I think the emails I received from students and parents over the last week or so have been really helpful. I wish we would get more like that when there is a debate. I would say to all those people who did email in, or maybe that did not that wanted to, that after the next election there will be a whole new load of people here. Many of us will not be here again. Email in again. Email in again because this has to continue. This is about certainty in some ways as well. Until we have a sustainable funding mechanism for this, there is no certainty no matter what. There is no certainty until the next States Assembly looks at how we can make it a sustainable funding mechanism and what it looks like. What I think this is is when the students have contacted us and the parents contacted us saying: "Please make sure you vote in favour of this" I do not think they want just the uncertainty that it is for 2 years, and then they do not know where they are and they are going to hope for the next States Assembly. By putting the words in to say it is for the whole 3 academic years and the fact that university runs normally on a 3-year, maybe sometimes 4-year academic term, this gives the people that have emailed us, that have asked for this funding so they can go to university, higher levels of certainty for their entire academic term. I will be supporting it on that basis. I think that no matter what the certainty is not there. It is up to the next Assembly to make sure the sustainable funding mechanism is in, but I think this is a good start and I am certainly going to support it. I would urge other Members to support it, too.

#### **8.2.17 The Connétable of St. John:**

In the reasonably recent past I attended the Royal Agricultural College, Cirencester. This was and is still the world's leading agricultural educational establishment. When my parents applied for a grant, they were told: "We do not recognise Cirencester as a suitable centre for education." More recently, my own children have gone to university. The eldest went to Durham and about 3 weeks before she graduated I received an urgent letter stating she will not graduate until the fees are paid. I rang the university and said: "What the heck is going on? I have paid the fees" to which the response was: "The council has not." Being a U.K. establishment, I realised that what they meant by council was, of course, the States of Jersey. I immediately sent them a cheque in the region of £3,000 with a note saying: "Please, if it is paid, could you refund me the money?" I have never had a refund, so whether the States paid or whether the university pocketed the money I cannot say. My second son went to America because the only course in the world that he wanted to do was available at this one university in America. I was particularly concerned at the cost and I was given an absolute assurance by the Education Department that I would pay no more than sending him to the United Kingdom. £100,000 later I appealed because I had not received a single penny from the States. After appeal I met the Assistant Minister, who very graciously gave me an *ex gratia* payment of approximately £1,300. I wish I was a little richer because I would have framed it rather than banking it. I did not bother with my third child, and for my fourth child I was so fed up with the support given by the States of Jersey that I did not even bother applying. I paid his full fees and told him to get on with it. That is precisely what I would like to say now: get on with it. For 40 years-plus the States of Jersey has not supported tertiary education, not to the degree we need to. Our future are the youngsters and we must educate them. Somebody just whispered to me, somebody far more intelligent than me, that what it needs to do is to put into the education legislation the funding for tertiary education because by doing that it is in the legislation and the States will have to find the money. We have messed around for long enough.

[14:30]

It is time we looked after our youngsters. I do not care whether this amendment goes through or not, but I want this Assembly to make the commitment to pay what we should. **[Approbation]**

### **8.2.18 Senator I.J. Gorst:**

It is not often I stand to my feet and say that I am pleased to follow the Constable of St. John. The students of this Assembly will know I am generally not pleased to follow him at all because he is normally, from where I am sitting, endeavouring to cause some trouble. Sometimes that might be about policy, sometimes it feels a little more personal than that. But he, in summing up his speech, said, to paraphrase, it does not matter whether this amendment is accepted or not, let us get on with delivering the change to higher education funding. In many respects, he is absolutely right. We are very good, unfortunately, in this Assembly at drilling down sometimes to what are quite technical matters and thereby confusing most listeners. I would not like to say whether those in the gallery feel confused now about what this scheme is and for how long it is going to be in place and what the legal basis is, but I would not be surprised if our couple of hours of debate has led to some confusion. The confusion about the word "interim": does interim mean it is just for a period of time until something is put in place? I am pleased that some of my fellow Senatorial candidates have been looking at my manifesto. Perhaps when I get time I will pay them the same compliment. What does "interim" mean? Does it mean it is something before something more permanent is put in place? In this instance, for how long is it? The reason we have got a little bogged down is because of the interplay between how we provide for budgets. We now work on a 4-year budget called the Medium Term Financial Plan, as you know. The current Medium Term Financial Plan had the extra £2 million put in and it is right at this time that we do pay tribute to those who helped ensure that that money was in the Medium Term Financial Plan - that £2 million- a certain Deputy that spoke earlier. We knew absolutely that if we did not put that £2 million in, he had given an undertaking to the Assembly

that he would come back and put it in and round the Council of Ministers' table we used that as ... I am not sure if leverage is the word but leverage to make sure that money was in the budget and it was uprated. It is quite important that, because the reason we find ourselves where we are today is because historically the provision had not been uprated. It had not kept pace with prices. What we had done instead was follow a policy change of uprating tax incentives for those who sent their young people to university. So you ended up with a mismatch where certain families felt the tax benefit, albeit lagging, and the actual grants not having been uprated. This is a scheme that takes those tax benefits and says: "Now we are going to take those tax benefits and we are going to smooth them out over all of those who have been struggling to send young people to university." Is it a sustainable funding mechanism? Is it a black hole? Well, we heard from one speaker who tried to suggest that £2.5 million in a budget of over £700 million, where we know that for the last 2 or 3, if not more, years we have underspent that budget to the tune of something like £30 million ... so we have heard that trying to find £2.5 million from up towards £30 million worth of underspend is a black hole. It is not a black hole in any accountancy that I ever learnt about, but there we are, we are running up to an election so we will use that emotive term. The Scrutiny Panel in their 2 pieces of work around the Medium Term Financial Plan tried to take away that £30 million underspend. They said we should reduce baseline budgets for it in advance. We could have done that, but surely far better to have the flexibility that we now have today to say: "No, this is a growing and increasing pressure." Has it taken too long? Yes, it has. Of course, it has taken too long. Deputy Maçon has been not quite a lone voice, he has been joined by Deputy Vallois on the Scrutiny Panel and others as well, saying the system is not working, it needs to be improved. The Minister for Education has listened and we have come up with this scheme. But it has been creating heartache for members of our community for a number of years now, overwhelming pressure that no family in our community should have to suffer. So, we are in the Medium Term Financial Plan right now. The Treasury Department is paying bills out of the bottom line allocated to departments day in, day out, week in, week out, month in, month out, year in, year out. The current Medium Term Financial Plan comes to an end at the end of 2019. Nobody thinks that we are suddenly going to stop having a prison, we are suddenly going to stop having a police force, we are suddenly going to stop educating our children at the end of 2019 because we will have to have a new financial plan. It does not occur to anybody to think like that. We in this Assembly know that underneath those financial plans there are pieces of legislation that we have to abide by. Therefore, theoretically it is possible for us to say: "We are going to just cut our budget by £200 million and only the things that have a legislative base [I think it was Deputy Vallois who was saying this] are the things that we are going to provide for." Ultimately, if we want to eliminate that theoretical risk, the only way of doing it is creating a legislative base for this provision. I have no doubt that the next Council of Ministers will want to absolutely do that. Senator Ozouf, as ever, always trying to be helpful, is saying: "Is that theoretical issue at the end of 2019 going to stop parents and families from sending their young people to university?" If it is, he has put his amendment forward. He has used the word "interim." I may not have used that because of the connotations that others attach to the word "interim." He did not mean it as in it is going to stop in 3 years' time. Trying to extend that 2019 theoretical cut-off of the Medium Term Financial Plan, he brings forward his amendment to extend it to 3 years and those who have started their higher education in those 3 years. I was questioned by members of the Youth Assembly in this very place not very many weeks ago and I did say I would eat my hat. I will be absolutely flabbergasted if Members do not vote for this provision to provide greater funding to young people and families to have a greater choice about where they are going to complete their higher education. Rather than saying that the general scheme is a bad thing, what we are doing is arguing about theoretical risk, about when the Finance Law starts and stops, when the Medium Term Financial Plan starts and stops. This cannot be considered as an interim measure. It cannot be, absolutely it cannot be. Will it need to be reviewed so that we do not fall into the same trap of not uprating this current approach in the way that we did with the last approach? Of course it has to be reviewed in line with what has happened, whether families and



young people have been able to and found it has eased the pressure of going off Island for a university education or not and what the costs are. It is not slavishly following the United Kingdom to say we will have to see what the United Kingdom are doing because the majority of our students go to the United Kingdom and, therefore, the fees that they are charging are the fees that we will have to provide for. If they reduce those fees, of course we will argue that we will pay those reduced fees. We know, in light of Brexit, that there will need to be a new conversation about overseas fees and the level thereof as well because also the United Kingdom Government is doing a root and branch review about how it provides for higher education funding as well. So, in respect that this scheme has to be reviewed, in respect that this scheme will respond to what is happening, to where the majority of our students are going to go to university, one might want to use the word “interim.” It is not a word I would use, as I have said earlier, but we might want to. But be absolutely clear, the overhaul of this scheme, the giving of grants for fees and the improved maintenance provision cannot by any Member who presses their “pour” vote today be considered as not the scheme that we are going to go with going forward. It is just a matter of whether we want to argue about the date at the end of the M.T.F.P. theoretical or the 3 years that Senator Ozouf’s amendment is putting in. Which gives greater certainty? You know the almost answer to that? I do not think any of us really know which gives greater certainty because there will be a proposition that says this, there will be a Finance Law that says this, and there will be the requirements of the States of Jersey Law as well about the Medium Term Financial Plan. But my message is this: whatever Members decide on this amendment or not, this scheme is not going away. It is not going to be downgraded. It is not going to be removed while I have anything to do with it, and I believe the vast majority of Members believe the same. So, let us vote on the amendment one way or the other and then let us get the main scheme agreed because it is the main scheme that gives certainty that parents and families absolutely want and absolutely deserve.

**The Deputy Bailiff:**

Does anyone have anything to add to the debate on the amendment? Very well, I call upon Senator Ozouf to respond.

**8.2.19 Senator P.F.C. Ozouf:**

I thought this was the end of term and that the Minister for Treasury and Resources was going to be really nice to me. I was really quite taken aback at the savage attack that he made on me. I have had to use the luncheon adjournment to go back to see exactly whether or not it is true the fact that the marginal rate of tax left a black hole, which I notice Deputy Le Fondré not congratulating me in my tenure as Minister for Treasury and Resources. I do hope some time in this last session we might get at least something in agreement. But let us just be clear about the marginal rate of tax because it was used to pray in evidence as to why I was being imprudent. I have some beans here because I know Ministers for Treasury and Resources are bean counters. Can I just tell the Minister for Treasury and Resources that he voted in favour of the marginal rate of tax cut in 2015? I also tell the Minister for Treasury and Resources I am waiting for the figures for income tax receipts from last year because I know one thing: they are going to be up. They are going to be up because the marginal rate of tax cut that this Assembly and he overwhelmingly approved has meant that there are more jobs, more people and better household incomes and paying more taxes. It is a win-win. So, please, Minister for Treasury and Resources, if I may say through the Chair, get your buttons right. Can I say that as for Senator Ferguson I almost broke out in song **[Laughter]** because she said she had 2 degrees? Now, I do not know and I must check with the Education Department. I think I have 3 degrees because I went to 3 different places.

[14:45]

It was a bit of a struggle getting a grant but I will not go there with that. I was really delighted with Senator Ferguson, who has absolutely put her Senatorial nail on the head. I did think whether or not... because I know that the Three Degrees are a U.S. (United States) band, and the lead singer was actually Sheila Ferguson. I did not know that. I thought that she was absolutely right. “Gee, baby, I’m sorry” was one of their leading songs and some of their other hit songs are obviously really important to this debate, because she was right. She was right. There were some songs by the Three Degrees: “I don’t know,” “We’re all alone,” ...

**The Deputy Bailiff:**

Senator, I do not want to cut across you because this is very, very entertaining but I am wondering whether it is germane to the debate and what we are considering.

**Senator P.F.C. Ozouf:**

It will. I am going to come to the French connection in a minute with Deputy Brée. **[Laughter]** Senator Ferguson was absolutely right because I had some beans over lunchtime. I have my beans back and I just want to show there are 2 different sheets here. Just so that somebody can see the colour coding, one is what the Council of Ministers is proposing in terms of guarantee. That is that one; there is one green bar. That is what I am proposing; there are 6. I do not know whether the Minister for Treasury and Resources wants to add it up but there is one versus 20 versus 6 versus 12. Let us not have an argument about “interim.” The English definition of ... I will do the French one if Deputy Brée would like. I can do it in French if he wants: *provisoire, intérim*. The definition of “interim,” as the Chief Minister has rightly said, is not really the issue here. What matters is what “interim” means. “Interim” means during, belonging to for a period of time. What I am doing is I am creating certainty for a period of time. I did not start out by this but it has been Deputy Maçon and Deputy Vallois’ razor-like knowledge of the facts that brought it to our attention, the fact that there is no certainty in any budget, as the Chief Minister says. If I may respectfully tell Members of the Assembly, and to all of those students who are listening to this debate, there is one certainty in the wording of the amendment that I am asking Members to support. That is that my amendment adds in ... let us forget the word “interim.” We can have a discussion in Russian or French or whatever on what it means. Interim does not matter. Let us look at the words. I am suggesting the addition of the words: “For students currently in higher education or commencing higher education in the next 3 academic years with the scheme to run for the duration of their studies.” That means - and I was not being stupid, I know exactly what this amendment means - that for students that start in 2018 they will have certainty for a 4-year degree until 2021. Students that get entry in 2019 will have a 4-year certainty because that is what the words say. In 2020, a year after the new M.T.F.P., it is going to be very difficult for the next Assembly to do away with those words that are going to be explicitly part of this Assembly’s amended proposition, which I very much hope is going to be approved enthusiastically. Because quite apart from putting uncertainty, it puts certainty and it means that the next Council of Ministers ... and we do know and the Attorney General or you, Sir, will tell me that I am wrong, or even the Minister for Treasury and Resources, who has his beans out again, whether or not he is right. They are given not a budget for a line item but a head of expenditure for the whole department. Therefore, armed with a proposition that says for 3 years there is certain funding for students, they are going to get that certain funding and they are going to have to find the money in the M.T.F.P. or else they are going to have to rescind this current decision. Because the proposition unamended - and perhaps I did not realise this when I went into the detail of it because I went with basically what the Scrutiny Panel had said, and they were right - creates the certainty for students in the next 3 years. I brought some tiepins here for some Constables and I did not know which ones to give out. I cannot give them out now, but the Constable of St. Martin was absolutely right. The Constable of St. Peter does not get one because he is not quite right, if I may say. **[Laughter]** I like him very much and he needs more houses, but basically ...

**The Deputy Bailiff:**

Senator, this is not amounting to an incentive to Constables to vote ...

**Senator P.F.C. Ozouf:**

No, it is an incentive because they are sensible. They are sensible and they do know that a proposition that says guaranteed funding for the next 3 academic years is what it says on the tin. That is the next 3 years are guaranteed and it means that whatever the public finances that the last Minister for Treasury and Resources left the place in - and of course we do know that there was an illusory black hole and we do know that there is some more money, which is great - I know that my proposition is affordable and it is certain. It is more certain than what the Council of Ministers was operating. I am grateful for Senator Ferguson having pointed that out. I am grateful for the Chief Minister moving the debate away from the word "interim" and looking at the words. I am grateful for the other Members that have spoken. If I may merely say to Deputy Brée, it has been enjoyable being in this Assembly, it really has, but frankly to be told that I am an Englishman again is not really relevant. Can I just say to the good Deputy - he is Deputy at the moment; he wants to put his hand up for Senator - if he wants to stand for Senator and start talking about what the U.K. scheme is about, there is a relevance in adopting the other part of the proposition. Because what the U.K. Government does... I do not know whether he has looked at the figures, but the vast majority of our students, many of which are sitting in the gallery, are going to be going to United Kingdom universities. If the United Kingdom Government is doing a substantial review on their higher education funding arrangements, including fees, then that is a relevant consideration, as Deputy Maçon is nodding. That is a relevant consideration and should be taken account of. Even if Members did not want the certainty that my amendment, almost by the back door, is giving, then they will also want to have relevant and probably good discussions on the basis of the report. Clearly, he does not know what goes on in the United Kingdom. Maybe he is too busy looking in Jersey, which is fine, but I need to tell him that there is a substantial review going on in higher education in the U.K. which my amendment sought to have regard to. This is no laughing matter. This is a serious issue. What has been one of the saddest issues I have had to deal with as an Assistant Minister is for a number of years having I.o.D. (Institute of Directors) students. I had a number of wonderful I.o.D. students. The tragic is that 2 of them out of the last 6 doubted that they could go to university, and they were in the lower sixth, not the upper sixth. What my amendment does is it creates certainty for students that are in the sixth form. There is an urgency, and the Chief Minister is right and I will not speak in the main debate again. Students have already applied for university. They will have to go through the U.C.A.S. (Universities and Colleges Admissions Service) system and get their offers by 1st May, and then they will be applying in the lower sixth in the year after. What my proposition does is it gives students that are currently doing their G.C.S.E.s (General Certificate of Secondary Education), the first year of their A levels and their A levels certainty that they will have this scheme because the States would have to rescind this proposition and change the scheme to do it. The unamended proposition does not do that and I am afraid that it is correct to say that there is no certainty in funding and it is also correct to say that it should be on a statutory basis, but this is not a statutory basis. This is an Act of the States to approve a scheme, and I would say that including those words to give certainty to those students is a more certain situation and a more responsible way forward for this absolutely needed debate so that we stop the travesty that has been occurring on a scale of dozens, if not hundreds, of students who have not been able to go to university because of an absence of means. My amendment deals with that and creates the certainty for a 3-year or 4-year degree course for the next 3 years and it also requires the next Council of Ministers, rather than leaving it to the last minute as this Council of Ministers has done, to bring forward a scheme which is on a proper basis having regard to the U.K. scheme, which surely must be a relevant consideration. I move the amendment and ask for the appel.

**The Deputy Bailiff:**

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

<b>POUR: 33</b>		<b>CONTRE: 12</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator A.J.H. Maclean		
Senator P.F.C. Ozouf		Senator I.J. Gorst		
Senator P.M. Bailhache		Senator L.J. Farnham		
Senator A.K.F. Green		Connétable of St. Peter		
Senator S.C. Ferguson		Connétable of Grouville		
Connétable of St. Helier		Deputy J.A. Martin (H)		
Connétable of St. Clement		Deputy G.P. Southern (H)		
Connétable of St. Lawrence		Deputy J.A.N. Le Fondré (L)		
Connétable of St. Mary		Deputy M. Tadier (B)		
Connétable of St. Ouen		Deputy R.G. Bryans (H)		
Connétable of St. Brelade		Deputy S.Y. Mézec (H)		
Connétable of St. Martin		Deputy S.M. Bree (C)		
Connétable of St. Saviour				
Connétable of St. John				
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 M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Peter				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

### 8.3 Higher Education Funding Proposal (P.33/2018) - as amended

#### The Deputy Bailiff:

Very well, we now return to the main proposition as amended.

#### 8.3.1 Deputy K.C. Lewis:

We did have a previous commentator with the BBC who would often quote: “If you have nothing to say, kindly resist the temptation to say it.” So, I will be complete within 2 minutes. This is not about the Senators having a final dust-up. This is about the students and their families. **[Approbation]** All States Members have had the emails from students and their families and some of them are quite heart-wrenching. I had some between 6 months and a year ago from very emotional parents who said that their eldest could go to university but younger siblings could not. That is a very, very hard decision to make and this proposition will correct that injustice, and it will have my full support. I do hope there are enough like-minded Members in the States or returned to the States or new States

Members in the new Assembly who will pursue this through the new Medium Term Financial Plan. As I say, this will have my full support.

### **8.3.2 Deputy J.M. Maçon:**

I will not repeat what I said in the previous debate. There are a few things which I feel need to be said. The first thing I would like to say is a thank you to the student loan support group [Approbation], who have done a huge amount of help in raising this particular matter and contributing to the Scrutiny review and the work that we have done. I feel that in some ways we may not be here today if we did not have the Scrutiny reviews raising this matter before the Assembly, so it just shows the effect that organised individual groups can have on this Assembly. I hope other groups will make a note of that. What I would also like to say, to put on record again, is to thank those who contributed to our Scrutiny review in this matter and also, in particular, the panel themselves, Deputy Vallois and Deputy Mézec. We have all worked invariably hard - and, of course, back in the day Deputy Doublet as well - and also our Scrutiny Officer, who worked incredibly hard under an incredibly huge workload in order to get our report out on time. [Approbation] I would like to just put that on the record. I will not go through all the concerns that are raised within our report. We know that while this scheme is to be welcomed, and I believe all the panel members will be supporting the proposal, nevertheless we do have our concerns about the figures, about the numbers that will be drawing on the scheme, what the final cost will actually be, but overall it seems that this is the right way forward, a battle that I have been fighting for the past 3 years. As the Chief Minister mentioned, I managed to get the Council of Ministers to put an extra £2 million towards this scheme. I think for the opportunities this is going to give our young people, for the relief of the stress that it is going to give for our students going forward, and we hope in the future the skills that our young people are going to bring back to the Island to develop our Island and the unique abilities that Jersey has, it is also good. Again, when we looked at the consultation there were a lot of people raising concern about those students who would not come back to the Island. In my mind, I am not too worried about that because if someone goes away and becomes a neurosurgeon and does a great service in the U.K. providing those skills, then that is a benefit to humanity. Sometimes that gets lost in this education debate that education has a worth not only to the individual but also to society, wherever that society is, as a whole. If we have someone who might come up with the next solution to renewable energy going away from Jersey, then that is a credit to Jersey but good on that individual as well. I think when we look at education in the broader perspective, this is something which definitely needs to be supported.

[15:00]

As we know, it will have to be looked at. Now, Senator Ferguson in the previous debate did mention alternative proposals, perhaps a savings scheme, but again part of the problem with things like a savings scheme would be even if you did save for a long time, as I think Deputy Mézec pointed out during one of our hearings, even if you had saved for a £3,000 a year student fee system, we know that the U.K. Government in that time put them up twice to eventually £9,000. So even if you had that scheme in place, it still would not have been enough in order to finance a student of today, which is why when looking at the alternatives towards this particular scheme when the Scrutiny Panel examined them broadly we supported the notion of uprating the grant scheme. We still have issues and concerns about the grant scheme as it is. For example, it is still based on household income. It seems that there is always the issue about as an 18 year-old where through the rest of society you are deemed as an individual, for this particular scheme you are still based on your parents' household income. That problem is in the current scheme and will remain in the next scheme. In this particular scheme, for example, there is not a variation for the amount of money if you are studying, for example, in Cardiff, which has a lower cost of living, compared to inner city London. So, what is coming forward, just to make Members aware, is not a perfect scheme but it is certainly a scheme

that is going to provide much more help and much more assistance to many of our young people and many of the families on the Island. With that, I hope Members will find themselves being aware of the criticisms and of the concerns of this particular scheme but overall being aware of its strengths. I hope that they will be able to support our students and families in supporting this proposition today.

### **8.3.3 Deputy R.G. Bryans:**

I think Members will not find it strange that I will be supporting this proposition. I think the Minister for Treasury and Resources has covered all the detail so I will attempt not to repeat those matters. The issue of why we have increased the budget and created this new proposition is not just an economic one, it is also a moral and philosophical one. In fact, comment made in the original Scrutiny report that struck a chord with me was from the expert brought in, who stated that in an Island like this, financially secure, he could not understand why we had not found a solution. The Chief Minister, the Minister for Treasury and Resources, myself and our various departments, as is well documented, have struggled with this conundrum for years, holding public consultations, talking to parents and students alike, meeting with Scrutiny, trawling through the data, seeking solutions far and wide, and now finally collectively getting to this point. It may not be a perfect solution, little is, but at least it provides security for all of those parents and students that have struggled to find finances to support their access to a quality higher education. So the question remains: do we want every child educated in Jersey regardless of social standing to have an equal opportunity to reach his or her potential? Surely that is what we are all working towards, yet social mobility has been eroding for the poor and middle class. Without easy and affordable access to good quality higher education for everyone, the collective intelligence, the Island's economic prospects and access of opportunity could also erode. It is also worth reiterating while we have been working on this proposition what we have been doing in other areas because this may help people understand that we have never been complacent or out of touch or lacking focus on helping students wherever we could. It is my belief that in years to come the Island's children will recognise greater benefits of finding a degree on-Island or recognising that the world has grown smaller and take the opportunity offered by our closer neighbours Europe and access either a French, Dutch or German college. Quietly, diligently, progression has been made in all of those areas. We have recently signed an agreement with Normandy, Caen University in particular, to further strengthen our relationship with France and create even more opportunities. We created the concept of Campus Jersey so that those institutions already operating on the Island can draw together to both share and complement each other's resources. A clear illustration of that working is how Highlands College has welcomed the move of the Jersey Law Institute from their current home on to the Highlands campus. We now offer a comprehensive range of degree courses throughout Jersey International Business School and degree courses in co-operation with Chester University for our nursing fraternity. It would be my hope that once the issue of the hospital has been settled it could be a training hospital, providing a pan-Island solution. Both Highlands College and the University College of Jersey have produced stunning results and for many young Islanders have provided not just high levels of qualifications but clear routes through to sound employment here on the Island. Parents are beginning to recognise that sending their children away is not the only solution. Skills Jersey, a small dedicated team with a bigger budget, working more closely than ever with the construction and engineering industries, the retail and tourism sector and more recently the digital sector have seen significant numbers increasing in these areas. I am sure the great work being done there will carry on unabated. We shared our information and worked with both Guernsey and the Isle of Man in trying to find a common solution that would benefit us all. I am aware that today with this proposition they will look at us with some envy. My colleagues at the department have annually sought out every U.K. college to make sure that we were not treated any different in the fee structures, and that has resulted in nearly all colleges agreeing not to charge us overseas costs. All of this work continues while we look for an equitable solution to higher education funding. What we have tried to do is increase the opportunities for every

school leaver for whatever occupation or career they desire and with the right level of financial support to be given the right of access, whether it be work-based learning, an apprenticeship or a university education. That is equally what this proposition achieves. A better educated population should result in smarter decision making at every level of our society, which should lead to faster progress in solving the Island's most difficult collective challenges. Students should be able to focus more on their studies rather than worrying about how to scrape together enough funds to see them through college. Parents who for generations have suffered incredible financial hardship to make sure their children fulfil their potential will now appreciate that the Government has listened and responded in full. Both their well-being and that of their children should reflect in healthier and happier lives for all and ultimately lessen the burden on the state. If I have one regret, it is that we were not able to do this earlier, but we are where we are. It is important to note that a university education requires commitment, commitment of the student to at least 3 further years of hard work and study, commitment of the household to support the student both financially and emotionally, commitment of the Government to provide security about the funding entitlement, and finally commitment of our local employers to recognise the skills and education through the provision of appropriate employment. Given this, it is important that this proposition is not seen as a short-term fix but a permanent solution which will give financial security to the students and their families over a number of years. It goes without saying that the scheme needs to be reviewed - we have already discussed that - and adjusted in a timely manner, particularly in light of any changes within the U.K. But the fundamentals should remain to give the students and their families the security they need when embarking on a degree course that they have the means to finish their education. All departments will keep a keen eye on developments in the U.K. and will react accordingly. The Scrutiny Panel raised the issue of a loan system. It was not one they initially supported and I believe the panel themselves remain divided on the issue. Our focus, apart from the increasing level of access, was always to make sure that the students do not carry a high level of debt when they graduate. A loan system would simply return us to the same place. Graduating with high amounts of student loan debt has been shown to reduce a person's chances of owning a home, getting married, having children and accumulating wealth. It is simply not a healthy option. Scrutiny raised 2 other issues, and we have already dealt with one, which is the interim situation, and the concern over the likely future demand for the scheme and, therefore, the implications on funding. I will just deal with the demand for the scheme. I wish to reassure Members that significant consideration has been given to the likely uptake in the scheme. Indeed, the likely numbers have been modelled on 3 different bases and all have produced a similar result upon which the modelling has been based. Number one, numbers of students currently taking A levels. It has been assumed that all students with 2 or more A levels will go through to university for the average course length. While we know that this is not the case, we decided to take a prudent view. Number 2, from H.E.S.A. (Higher Education Statistics Agency), which is the higher education stats unit in the U.K., we took the average number of Jersey students going to university over the last 6 years and multiplied that by the average course length. Number 3, we based our calculation on the number of students registered with student finance and inflated this for the percentage difference to those reported by the U.K. universities. Furthermore, we then increased this figure annually to recognise that as standards improve more students will gain the qualifications to attend. Against this, it should be noted that there is an increase in desire from industry to recruit A-level students and then train them directly without the requirement for a degree, together with an increase in alternative pathways recognising that a degree education does not suit everyone. Many students prefer to study while working and remaining on the Island. We recognise that there may be an initial increase in university uptake where students who have recently been denied access to university on a financial basis may now go, but this is likely to be an initial peak which will settle over the longer term. I know that there has been much debate over the future funding of the scheme post this current M.T.F.P. However, as discussed and highlighted earlier, Members are aware that higher education has been underfunded for many years so it is right to invest now. As

with all departments, funding for anything is only guaranteed for the period of the current M.T.F.P. Finally, the “accident” - and I put that word in quotation marks - of birth remains our greatest source of inequality here in Jersey. The strongest predictor of academic achievement should not be how much your parents earn, but it is. This proposition should go some way to removing that inequity. We introduced the Jersey premium to relieve the pressures of inequity at the early stages of a child’s education and I believe it to be a profound investment by this Government and in the future will benefit the Island immensely. Although the current financial aid system has benefited many students, it fails to provide an equal opportunity to every qualified student. Again, this proposition goes a long way to righting that wrong. There should be no barriers. Every child that wants to go to university should be able to go. That small piece of jigsaw that was missing when I arrived will now be put in place if this goes through. I want to thank everyone involved in getting this to this point: the Chief Minister for placing this firmly on his agenda and pushing for its conclusion at every opportunity; the Minister for Treasury and Resources and his department for finding the funding and, critically, the Treasurer, who finally created the tipping point; the Education Department for putting their heart and soul into constantly seeking a solution under increasing pressure; the Scrutiny Panel who aligned themselves with us in sourcing a solution; the Jersey loan support group for keeping the pressure on; and for everyone who will press the “pour” button to help get it over the line, thank you very much.

#### **8.3.4 Deputy R. Labey of St. Helier:**

I cannot imagine there is a single Member in the Assembly seriously considering voting against this proposition. Let us not spend too long pushing against an open door. Let us not give those who have joined us today a living definition of what playing to the gallery means. [Laughter] I am sure we are all grateful to the students who have engaged with us via email. I think the best way to reply to those emails, and it will be the only way I will be replying to those emails, is by voting in favour of this proposition.

#### **8.3.5 Connétable S.W. Pallett of St. Brelade:**

I am going to be very, very brief. I just want to think a little bit about the past. As a parent, one of my children went to university and I know it was extremely difficult for us to do that. It was very expensive and I do feel for those that over the last decade have had to suffer financially getting their children through university. We cannot turn that clock back. That is unfortunate. We failed many of those people and there is nothing we can do about that. What we do not want to do is fail those that are upstairs, those that are watching us here today, but I am not going to go too much in repeating what people have already said. I am supportive of this proposition. As Deputy Labey has just said, I do not think there is anybody here that will not be, or very few that will be. I am a huge supporter of scrutiny. I know I have had my disagreements with Scrutiny at times, but they have done an excellent report on this and put forward some really excellent recommendations. I thank them for that. I thank the chairman for that. The amendment was absolutely quite right.

[15:15]

Although the majority of emails I received were pro this higher education funding, I did have one or 2 that questioned the sustainability of it and making sure that we do the right checks and balances over a period of time. So, I thank Senator Ozouf for the amendment that he has brought. At the end of the day, we need to encourage more of our children, more of our students, into further education. They are our future. What we do need is, if possible, if we can make sure that more of them come back and support all sectors of our economy, I think that is something that we need to try to do. I think we need to understand as well that some will undoubtedly end up working further afield. I think that is just unavoidable, but I am supportive of this. Like I say, we do need to make sure that we invest in our future and our future is up there.

#### **8.3.6 Deputy M. Tadier:**



I will not give up this opportunity because I tend to play to the gallery every time anyway. **[Laughter]** Most of the time the gallery is empty, of course, so I thought why pass up this opportunity. It is nice to be able to see so many people. First of all, can I just thank the parents and students who have contacted I think all States Members and probably teachers who have perhaps unofficially organised some of the lobbying because it is some of the most effective correspondence that I think we have seen in a long time? It really does engage States Members with the discussion to have that done so effectively. Of course, there are other reasons. Even if we had not been contacted by anybody on this issue, there are very good reasons why we should be supporting it anyway. I remember watching BBC Question Time, as I used to like to do even as a young student, and I remember people, whether they were Liberal Democrats, Labour or I think most recently the S.N.P. (Scottish National Party) who have been campaigning for the abolition of tuition fees in the U.K., saying: "It would be very hypocritical of me [and these were older politicians] who received a fully funded and free State education to pull up the drawbridge, pull up the ladder after me and refuse people nowadays, who have admittedly even more problems to deal with in terms of affordable housing, *et cetera*." We all know what those issues are. It would be very hypocritical of us to do that. Of course, in Jersey we have a very different situation. We are not responsible for setting tuition fees in the U.K. We know most students will end up going to a U.K. university. We then have to decide as a community how we pay for those funds: whether we have a generous system; whether we have a parsimonious one; whether we have a means-tested system or in fact whether we should be looking to fund universal education for people in general. What came up at the by-election, probably a year and a half or 2 years ago, was that there seemed to be agreement on there ... my colleague on the left, Deputy Mézec, who was one of the candidates and, interestingly, the Conservative candidate who was standing at the time as well, both agreed that your ability to go to university should not be linked to your parents' ability to pay. Certainly my colleagues at Reform Jersey, are going to be supporting this wholeheartedly today and I think we have responded, hopefully, to all who have emailed us on this, if not there may have been some more recently. I will just reiterate some of the points as to why we are doing that. We are supporting the Government's higher education policy, because it is a step in the right direction. We know that it will help parents and students who are struggling to manage with the higher costs of university. Not just in terms of the tuition fees but, of course, the living costs that come with it. We also know that Jersey is an expensive place to live anyway. I do want to put on record at this point that it is not wholeheartedly, because it is quite right that these funds have not been secured for the future. This is a step in the right direction, but we need to make sure that we get the right people who are committed to higher education and to education at all levels, whether it is nursery, primary, secondary, tertiary and also on-Island education. We need to make sure that, of course, those who cannot or do not wish to go to university have appropriate opportunities on-Island in terms of skills training and also academically within the Island. We know that there is great stuff going on at the university college at Highlands. Lastly, I think it is important that I say a thank you to Jersey, because I was one of those individuals who was funded to go to university and who received a full grant. I know that if my parents at the time had earned perhaps slightly more money, then they had been in a different bracket, and the reality would have been that I could not have gone to university. As I have said, university is not the be all and end all. It is not just about getting an academic education. But, it does afford you so many opportunities in life and it does allow you to expand and flourish as an individual. If, like me, you are somebody who studied languages, it does allow you to go abroad and to meet interesting people and to have a completely different way of understanding and looking at the world. Some people will come back to Jersey; Deputy Maçon mentioned that. We should not be putting any kind of duty on individuals to come back to the Island. I was very disturbed to hear people saying that we should only fund people if they are going to come back to the Island and make sure that they have to do what they need to do in Jersey. Inevitably many will come back to the Island. It might not be straightaway. It might be 5 years, 10 years, 20 years. They may come back here to retire. They may go away and

make their millions and then decide to move back to Jersey and then be philanthropists or even run for politics. Who knows what they might do. I think today is a good day to do this. We must make sure that in the future we have a fully costed scheme. I am not going to stand here and electioneer for the party, because I think the manifesto will be published very soon and individuals need to be asking the question of all candidates. It is easy to say that you support something. I can electioneer fully if people want me to. It is a valid point to mention that any candidate can stand up and say: "We support X, Y and Z. We support higher education," but for me, it is really important that we have universal access to all levels of education, which must be fully funded. You cannot do that on a low tax system. Any tax system has to be fair, transparent and equitable. So, we cannot expect a promise to the public, low taxes or indeed stealth taxes for some, but to deliver fully funded and effective policies for the future. We have to expect that if we want good public services then those who can pay should pay. It is not right to target lower and middle income earners in Jersey, but those who can pay with the money. When I was a student, money was coming from corporation taxes, which were abolished. That is a big issue that needs to be looked at. Of course, let us support this debate, but let us make sure in the future that we have people in government that are capable of putting things in place in the long term, who support education both ideologically and who will support it with the relevant funding sustainably.

### **8.3.7 Senator P.F.C. Ozouf:**

Very quickly. An issue that has arisen during the course of the debate that I would like the Minister for Treasury and Resources to confirm is the applicability of this scheme for people who are not engaged in university courses, but university-like courses. I call to mind particularly a young individual who I know is seeking to avail themselves of a Trinity Corporation maritime qualification, which is not a university education, but is equivalent to a university education. Effectively it is a maritime apprenticeship. I wondered whether or not the Minister for Treasury and Resources will undertake, if it is not clear, that the scheme includes such of what I would describe as professional apprenticeships; whether he would confirm whether or not the scheme does include them. I think it would be hugely unfair in approving this scheme that gives certainty for 3 years. **[Interruption]** That is not me.

### **The Deputy Bailiff:**

Someone is making a contribution to the Greffier's fund, unless it is in the gallery. As no one has confessed from the Assembly, could I just remind people in the gallery that they should turn off any communication devices, if you have not already done so.

### **Senator P.F.C. Ozouf:**

For clarification, does it include, and if it does not, will you bring confirmation that it will be brought in to allow degree equivalent courses to be covered for those people who do not wish to go to university. As we have clearly said, university is great for some people, but not the solution to everybody.

### **8.3.8 Deputy S.Y. Mézec:**

I am not going to say too much, because I think everything has been said. Just to reiterate, obviously this is a hugely important step for many, many young people in Jersey who will be able to fulfil their dreams and their aspirations as a result of this, so that is something that certainly does have to be applauded. I served on the Scrutiny Panel which looked at this and there were just a couple of practical points I wanted to raise, because it might be food for thought about how the system could develop into the future. One of the points that we raised on the Scrutiny review was the issue of maintenance grants being paid in equal instalments per term. That is something that I hoped the department will look at because the reality on the ground of being a student is that you incur a lot more costs in your first term that you do in your second and certainly in your third, where you may

end up not spending much. In your first term you have to find the deposit for the property you will live in, you get given the list of books that you will need for that year that you have to buy. That is just a point in future I think should be looked at. I remember when I was a student at university and I got quite a generous grant, I sometimes had a difficulty with the communication between Student Finance and my university. There were incidences where I turned up to university, went to scan my card to get in and was not let in because my fees had not been paid. That was a whole day of lectures I ended up missing while I was on the phone saying this needed to be sorted out. I do not know exactly what the solution to that is, but that is obviously something that is important so students are not literally locked out of the building and not able to do what it is that they are there for. Further questions were raised throughout the course of the review and what I have received as a Member as well. Questions about what else can be done to support other options for further education. There are still questions about PhD funding. My best friend is currently doing a PhD and has found that incredibly difficult. Some of the inconsistencies there have meant he struggles quite a lot to find the time to do his PhD while he is working, trying to make ends meet. There are also questions about what can be done to improve on-Island access to particular courses, because university is not right for everybody else. It is just to make the point that although this is an incredibly important step forward there are those things we need to consider in the future. Not just the long-term funding of this scheme, which is something that I think has not been handled very well here, but also the other options for education. So that every single young person with talent and aspiration can fulfil that and money should never, ever come into it. It should be purely about what you are capable of achieving and what you are prepared to work hard for to do, not money. That is the sort of society we should be looking to create.

**The Deputy Bailiff:**

Does any other Members wish to speak on the proposition? I call on the Minister for Treasury and Resources to respond.

**8.3.9 Senator A.J.H. Maclean:**

I would like to thank all Members that have made a contribution, whether in the main substance of the debate or indeed as a part of Senator Ozouf's amendment. I think it is pretty clear that Members are going to support this proposition and for that I thank each and every one. I am sure that those sitting in the gallery and those listening more broadly will also feel a great deal of satisfaction that at last significant progress has been made with regard to improving the position for young people of this Island to access higher education which is critically important. I probably have just a couple of points to make on areas that Members have raised. Specifically Deputy Mézec, who has been an important member of the panel, just asked about upfront fees. I did mention it in my opening remarks that I believe it is an important point and it will need to be looked at. I think consultation with students on this matter would also be helpful, to understand the true impacts. Ultimately, as part of the process of reviewing this scheme, this is a matter that will need to be given further consideration. That is important. That is why reviews were put in place as part of the proposals that were before Members in the substantive proposition. I would like to also just thank those on the panel who have done, as I mentioned previously, such an excellent job in reviewing these proposals and being very much part of the development of the scheme that we have before us. The chairman, in particular, sitting opposite me, has been a strong advocate and voice for young people in the Island and for this particular proposal he has made some very clear recommendations for areas that need, in his view, to be improved in the future. I believe that they will be listened to and taken on board. I think the scheme can only develop from here, in terms of improvement. I am disappointed that Members took the decision to support the amendment. I feel that in some respects, and I am sure Members and Senator Ozouf himself will not like me saying this, but I do feel in some respects that Members were

slightly hoodwinked by the silver tongue of Senator Ozouf in this regard. The reason I say that, and I am going to just very briefly explain why ...

[15:30]

**The Deputy Bailiff:**

I am sure the Minister for Treasury and Resources did not mean deliberately hoodwinked.

**Senator A.J.H. Maclean:**

No, indeed, Sir, I did not. I meant inadvertently. If I failed to mention “inadvertently” then I would correct that at this point. I simply wanted to make the point that reviews were built into this proposition at the outset. I feel that the difficulty that now has existed with the amendment is that it has created the word interim. Students, of course, for the next 3 years are absolutely clear and certain about funding, which is very good. Beyond that point, it is a matter for the Council of Ministers to come back with a permanent scheme, in time for the next Medium Term Financial Plan. That is the plan for the period 2020 to 2023. Now, why this is relevant and why it concerns me is that it gives very little time to collate meaningful data as to how the scheme is working before the next Council of Ministers has to bring forward a permanent plan. Also, by the way, the permanent plan will only be as permanent as the 4-year term from 2020 to 2023. So, that is why I felt it was an unnecessary decision to take, because quite simply there was a permanent solution in place within the confines of the Public Finances Law and the system under which we operate. I feel some reluctance, because I believe that some students now will have perhaps slightly less certainty than they would have had had the amendment not been approved.

**Senator P.F.C. Ozouf:**

Point of order, Sir?

**The Deputy Bailiff:**

Point of order?

**Senator P.F.C. Ozouf:**

Point of order. The Minister for Treasury and Resources, I am sure, does not wish to mislead the Assembly, but the amendment that has been passed gives certainty. Sir, could you rule whether or not this is more certain than before?

**The Deputy Bailiff:**

No. It is not a matter for the Chair to rule upon. I do not think that is a point of order. However, Minister for Treasury and Resources, it did seem to me that your words are straying into re-opening the debate on the amendment, as opposed to moving the proposition as amended.

**Senator A.J.H. Maclean:**

Thank you for that guidance. I had completed my comments with regard to the impact of the amendment upon the proposition. I have said to Members that I am very thankful for what appears to be overwhelming support for this proposition. I was simply suggesting that there is now some uncertainty, which is disappointing. I think there is probably very little to add. This is a dramatically improved proposition in terms of higher education funding for young people of this Island. I believe, and have believed since it was developed, that it was affordable. I believe that it is well targeted now and it has simplified, in many respects, what was available previously. I think all of that is very positive as far as young people in this Island seeking to access higher education are concerned. I believe that it gives a great deal of hope to those who wish to look to develop opportunities in this area. I think it is very positive for the Island as a whole. I therefore would hope that all Members will give 100 per cent to this proposal to show to the young people of this Island that the intention is

to make it absolutely permanent into the future, which is what it was intended to be and what I believe it should be. **[Approbation]** I believe that by voting in that way, with 100 per cent of Members of the Assembly supporting this proposition, it will send out a very strong and a very clear message, not only to young people who are listening, but also to future Assemblies, to a future Council of Ministers, who will have to now bring back a permanent scheme in the future. Sir, I ask for the appel and I ask Members to support wholeheartedly.

**Deputy M.R. Higgins:**

Sir, I would like the Minister for Treasury and Resources to answer the question that Senator Ozouf mentioned about alternatives to university, equivalent courses for other students.

**The Deputy Bailiff:**

You are entitled to ask for clarification about an element of the Minister for Treasury and Resources' speech. It is up to him whether he provides it. It does not appear to me to be relevant to passing this item or not, but it is a matter for the Minister for Treasury and Resources.

**Senator P.F.C. Ozouf:**

I did ask him, Sir.

**The Deputy Bailiff:**

Yes. People can ask questions. The political consequences exist of not answering. There is no rule that they have to be answered. This is not question time. Did you wish to make any observations?

**Deputy J.A. Martin:**

That would have been a good amendment.

**Senator A.J.H. Maclean:**

I will just make one comment. It was contained largely in my opening remarks, albeit that it was some time ago, that the scheme is similar, in terms of qualification criteria, to the existing scheme that is in place. Therefore, qualifying degrees, as is the case in the past, will still qualify. If there are any particular cases that the Senator is interested in raising in particular, then he can do so with the Education Department.

**The Deputy Bailiff:**

Very well. The appel has been called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

<b>POUR: 45</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
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 Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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 R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**Senator A.J.H. Maclean:**

Sir, if I may just offer thanks and gratitude to the officers that have worked on this across departments. It has been a cross-departmental effort. Clearly the Education Department has been very much leading on it; Chief Minister's Department has been involved; and obviously officials within the Treasury Department who have put in a considerable amount of time to develop this scheme. I would like to thank them. I would also like to thank, as I have done already, but just for good order, the Scrutiny Panel, its chairman and everybody else for their very valuable contribution to the scheme that I am delighted Members have overwhelmingly supported and sent out a very clear message.

**9. Future Hospital: review of proposed site location and costs (P.37/2018)**

**The Deputy Bailiff:**

The next item is the Future Hospital: review of proposed site location and costs (P.37/2018) lodged by the Connétable of St. John. 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 note the recommendation of an independent planning inspector that the planning application for the new General Hospital should be

refused, and the Minister for the Environment's subsequent decision to refuse that application, and to refer to their Act dated 1st December 2016, which approved in principle the site location for the new General Hospital, and to their Act dated 13th December 2017, which approved the Preferred Scheme contained within the Future Hospital Outline Business Case, and (a) to request the Chief Minister, in consultation with the Minister for the Environment and the Minister for Treasury and Resources, to appoint an independent team of advisers, including a planning inspector, to (i) conduct a review of the proposed site location for the new General Hospital in the light of the decision to refuse planning permission, including identifying any additional information now required for this purpose; (ii) report by 1st September 2018 on the suitability of the proposed site location, given the new circumstances which have arisen because of the refusal of planning permission, in comparison to (A) a site on the Waterfront, including the Esplanade; (B) St. Saviour's Hospital; (C) the Overdale Hospital site; (D) land at Warwick Farm; and (E) any other sites considered by the independent team to be suitable; (iii) report by 1st September 2018 on the estimated cost and timescale for the development of a new General Hospital on each site set out in paragraph (a)(ii); (b) to request the relevant Ministers not to enter into any new contractual and financial commitments and contracts for or in consequence of the proposed development on the proposed site location agreed on 1st December 2016 until the report by the independent team of advisers has been presented to the States; (c) to request the Minister for Treasury and Resources to present a report to the States detailing the costs so far incurred by the Future Hospital project and any contracts currently signed.

### **9.1 The Connétable of St. John:**

Before I start, I wish to acknowledge the very hard work that the Future Hospital Team have put in so far. I also wish to advise the Assembly I will be withdrawing part (b). This is following discussions with the Minister for Treasury and Resources. I had intended that it would stop any construction contracts being signed, but unfortunately the way it was worded would have prevented the Minister for Treasury and Resources from taking out the bond. This could cause additional costs were interest rates start rising and I did not wish to tie the hands of the Minister for Treasury and Resources. My concern is the decision making that has been taking place on the political side. A decision based on facts is a sound decision. It can be challenged, but the decision will stand up to scrutiny, because the evidence supports the decision. All decisions should be evidence-based. The public of this Island have lost faith in the hospital project. Let us look at why. The planning application was strongly supported by the Minister, who stated: "This is the best design. We have experts who have worked long and hard on the project." The Minister now acknowledges: "We got it wrong." If those decisions had been based on evidence and the experts supported it, why did it go wrong? Can we have confidence in that decision making going forward? In the local press there was a picture, very pretty picture, of the grand entrance to the new hospital. I hope Members have seen it. There was a great big stairway going up into the hospital. Most people who go to hospital are on crutches, in wheelchairs or are in some way injured and assisted by a colleague. To have an entrance to a hospital as a grand staircase is a very, very serious error. To say the Minister has got it wrong, I think is one of the understatements of the century. I have already stated evidence-based decisions are what we want. So, let us go back to when the Future Hospital Panel first met. We took on the expertise of Concerta, who sent over a young lady with very great experience. She came to the Island and after 2 days reported back: "Stop. There is no framework in place. There is no strategy." This caused great alarm by the Future Hospital Group. The young lady was replaced and bridges had to be build and compromise was the order of the day. Since then the Comptroller and Auditor General has published a report on decision making, with reference to the new hospital. She highlighted the same issues as the young lady from Concerta. There was no clinical strategy, no framework. W.S. Atkins, employed by the States, said: "The Waterfront site ranked as the best, following evaluation." The response from the ministerial group was: "Although the Waterfront option had attractions, in terms of potential benefits and cost and ease of construction any option

involving the Waterfront would be out of keeping with the existing Esplanade Quarter Masterplan.” That has now been superseded as the Esplanade Quarter Masterplan is being re-examined. That no longer holds water and was merely an opinion by the Ministers rather than fact. W.S. Atkins also explained to the Ministerial Oversight Group that the Waterfront option was likely to have a detrimental impact on the development of Jersey’s International Finance Centre. Where is the evidence that a hospital next to a finance centre is detrimental? There are hospitals next to office blocks all over the world.

[15:45]

We move on to Warwick Farm. Here it is very interesting. W.S. Atkins explained that Ministers did not consider this site to be suitable because it would require re-designation of a green zone land site. But, it is quite all right to build Les Quennevais School on a green zone. I do not want to stick my neck up too high above the parapet, for fear of having it shot off, but I think a hospital is slightly more important than a secondary school. Since the lodging of my proposition, the Future Hospital Team have come forward with, effectively, option C. Option C, as put forward by Gleeds, showed it as costing £630 million and taking 11 years and 5 months to build. I note your very carefully counting the number of Members in here. It obviously appears that a large number of Members of the States are not interested in one of the biggest capital projects this Island is ever going to undertake. **[Approbation]** Could I call for the appel?

**The Deputy Bailiff:**

No, we are entirely quorate, it is clear to continue with your speech.

**The Connétable of St. John:**

All right, Sir. Thank you. Not wishing to repeat myself, Gleeds put option C at £630 million, taking 11 years and 5 months. That, all of a sudden, in a 2-month period, became £466 million in 8 years. How can they have provided the necessary evidence to make such a drastic change of opinion? Where is the evidence? I have been told: “We have changed from oil-fired heating to electric.” That was the evidence I was given when I asked the question. There is an awful lot of material on this subject, but a lot of the material is opinion and is not evidence based. The evidence is clear, the States have not adopted what the experts said was the best site. Why then were experts employed and money spent obtaining their advice if at the end of the day we do not accept it. I am not going to get bogged down at looking at the individual sites. I am not going to be drawn by the fact that it will cost half a million pounds, I have been quoted, at looking at each individual site. The terms of reference have not been determined. Until the terms of reference have been determined by the Chief Minister and the Minister for Treasury and Resources we will not know what the cost of this inquiry will be. What is certain is there is much public anguish about this particular project. To say it has been badly handled is not for me to say. But, what we do need is a line in the sand. We need certainty that what has and is being proposed is correct. What better way than having an individual set of eyes to overview everything that is taking place. It is quite simple. That is what any good business would do. The only reason why you would not want an individual set of eyes is because they might find something. If your decisions, all good and if your decisions are all sound, if your decisions are all based on evidence, you have nothing to worry about. The independent experts will say: “Yes, well done, keep going.” Anyone, therefore, in my humble opinion, who opposes this proposition, I suspect is fearful that something they do not like might be found. I am sure there are many Members who have many personal and other things to mention in the debate and I look forward therefore to the debate. I look forward to summing up at the end.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Connétable, I understood you to say at the beginning you were not moving paragraph (b). Is that correct?



**The Connétable of St. John:**

Yes, Sir. Paragraph (b) to request the relevant Ministers not to enter into any new contractual and financial commitments.

**The Deputy Bailiff:**

Yes. You did explain why. Of course, because it has been read, that can only be now withdrawn with the leave of the Assembly. It is a matter, I suppose, for you when you ask the Assembly to withdraw it, to leave, not to move it, but you might want to deal with that now before we open the debate generally.

**The Connétable of St. John:**

Yes, indeed, Sir. I would take each part separately and when we come to (b) the Assembly can decide whether they wish to vote on it or not.

**The Deputy Bailiff:**

Very well, we can deal with it when we come to (b). What I suggest you do is then when you sum up at the end of the debate, you at that point indicate to the Assembly that you, again, will not be moving paragraph (b), if that is still your wish. Very well.

**Senator A.J.H. Maclean:**

Sir, I just want to be clear. Some Members might not wish to support part (a) if there is a chance that part (b) might be voted on. I am not entirely clear if it going to be removed or just voted against. If it is going to be removed, why can we not just agree to do it now?

**The Deputy Bailiff:**

It is open to the Connétable to seek the leave of the Assembly to remove it now.

**Connétable L. Norman of St. Clement:**

I think we should decide now whether we withdraw or not, otherwise we are going to debate it. There is no point in debating it if the States are going to withdraw it.

**The Deputy Bailiff:**

Very well. Connétable, you ask the leave of the Assembly to withdraw paragraph (b), do you?

**The Connétable of St. John:**

Yes, Sir.

**The Deputy Bailiff:**

Do Members of the Assembly agree that paragraph (b) can be withdrawn? Very well, then paragraph (b) is no longer part of the proposition. Deputy Noel?

**9.1.1 Deputy E.J. Noel of St. Lawrence:**

I, like other Members, find myself thinking that we have been here before and to misquote Del Boy: “It is *déjà vu* over again.” This Assembly twice looked at the location of the new hospital. In 2016 we agreed the site. In adopting P.110/2016 we approved in principle as the site location of the General Hospital: “The current General Hospital site with an extension along the east side of Kensington Place and the other nearby sites, including Westaway Court.” Members will recall that that was voted 34 pour and 3 contre. In 2017, we agreed the Outline Business Case and the funding proposals for the development of a new hospital on the approved site location of the existing hospital, nearby sites and Westaway Court. On that occasion the vote was 30 votes pour and 16 contre. The Outline Plan Application submitted last year was unsuccessful, but not because of the site, but

because of the scale and massing. The revised scheme that is being lodged this week - it was signed off last week - addresses these issues. In his report, the planning inspector said: "In broad special terms the application proposal would be a sustainable and a successful location." He went on to say: "This accords with the Island's Planned Spatial Strategy, Policy SP1; its sequential approach to site selection, SP3; and the Policy SCO2, which directs healthcare developments to the grounds of existing healthcare facilities and/or the built-up area." He also confirmed, and again, I quote: "The proposal would also contribute to the objectives of Policy SP2 in terms of the efficient use of resources and Policy SP6, which seeks to reduce dependence on the car. The proposal's compliance with these high level strategy policies attracts weight in its favour." He went on to conclude that the proposals would accord with the respective Island Plan Transport Policies and this weighs in the proposals favour. Indeed the Minister for the Environment confirmed, and again I quote: "The location is spatially appropriate." We have determined the site. It is the right site. There is not a perfect site. If we keep searching for it we will lose the opportunity to develop the right hospital on this the right site. I feel like a cracked record, with the Constable as the blunt needle. We go round and round the sites again and again. I can understand that he wants to ensure that we are doing the right thing. I can understand he wants assurances that taxpayers' money is being spent wisely. I agree with him. We all do. But that is not what he is proposing to achieve. His proposal is somewhat illogical and his reason discombobulated. The decision to refuse the Outline Planning Permission was not based on location. Indeed, as we have seen, the inspector positively endorsed the location. We already understand the merits and disadvantages of the other sites he lists. They have been considered and rejected and would be rejected again on review. Myself and my colleague, the Minister for Health and Social Services and indeed the Hospital Project Team, received a lot of feedback from the recent exhibition at the Radisson and the pop-up shop at Liberty Wharf. It is fair to say that a number of people had views on alternative sites. The common thread was that it would be easier, quicker and cheaper to build on an unencumbered site. If we had an unencumbered site in the right location, I would agree, but we do not. Let us briefly consider the sites on the Constable's list and how they would fair in terms of planning policy. Members may wish to refer to the information that I left on their desk over the lunchtime. The first page just shows some basic statistics of the current activity at the existing hospital. The other pages go on to explain the pros and cons of the different sites. I list them in the order that appears in the proposition. Site (A), the Waterfront and the Esplanade. This site is in St. Helier, but it is not the heart of town. It is currently dislocated from the transport network. While this may change in the future we need to deal with the here and now. To produce a building that even stands a chance of fitting into the skyline, the footprint would require the loss of large areas of well-used amenity space: well-used amenity space which includes Les Jardins de la Mer, which incidentally, some Members standing for re-election are hoping to provide as a fitting home for a skateboard park. To create the necessary clinical adjacencies, the building would have a large mass. It would dominate the buildings around it and it would harm the heritage and setting of Elizabeth Castle. Can we build a good hospital on the Waterfront? Yes, of course, everything is technically possible. Will we be complying with planning policy? Highly unlikely. I would like to quote from a letter from the Planning Department in 2015, which says about the Waterfront site: "The assessment process identifies that the Waterfront has strongly negative issues, representing considerable risks, particularly in relation to the scale of the building, the loss of the strategic importance of public open space, on the basis of the current Planning Policy context, this option would be extremely difficult to support." So, highly unlikely that we would get it through the planning policy. We would deliver a good hospital on that site, but not one that is better than one that is planned. Why would we move to another location in St. Helier when we already have one that works and has worked for over 100 years? The second site is the St. Saviour's Hospital site. I have talked to a number of people, including some of my fellow States' Members who think that this is a good site. In that I include the good Constable of St. Saviour. I have read letters in the *J.E.P.* (*Jersey Evening Post*), trawled through the collective wisdom on Facebook and I have listened to all

those promoting this site. But I have yet to hear a single coherent argument that explains how this site could possibly work. It cannot accommodate a building on the scale required.

[16:00]

The original planning application was considered by the planning inspector to produce an alien building in the town centre. The current application addresses that in urban context. But transpose that building in an urban context to the rural location of St. Saviour. Such a building would be so out of character as to utterly dominate the countryside for miles around. I ask Members and I ask members of the public to simply look at a map of our Island and to see where the population centres are. In doing so, to my mind, it makes it absolutely obvious that we would have to massively invest in our road structure to cope with the extra 200,000 or so vehicle movements each year, especially through the narrow Five Oaks junction. Utilities: water, sewerage, power, would need huge investment to meet the needs of such a building. Any out of town site will need specifically more parking to provide for staff, out patients, visitors and other traffic. Indeed, in Gleeds own report, in paragraph 8.2 of their report, they state that up to 1,230 spaces may be required for an out of town hospital. Currently we have 800 staff arriving at the hospital before 9.00 a.m. every working day. As they arrive, the nightshift leaves, but there will be need for ever greater parking to be provided for capacities on that changeover period between shifts. When challenged, people say that we can put on a bus service. That is simply not credible. We have been working very hard to get commuters out of their cars, onto buses, onto their bikes, onto their electric bikes and indeed on to their own 2 feet, we have had some success, but the Jersey character to get them out of their car is really difficult. That is when the journey is to and from town. When that journey is to the outskirts, a bus service is simply not going to do it. The road and cycle networks and bus networks only make it possible to do that within St. Helier. On top of that there is the small matter that we would have to demolish a listed building and destroy the setting at the St. Saviour site. So, the St. Saviour site would fail the transport policy test and every other relevant planning policy test. The same would be true for both Overdale and the Warwick Farm sites. These out-of-town sites all lack the basic requirements to service a modern hospital stand pretty much a zero chance of succeeding the planning process. In my mind, they are simply non-starters. The Constable of St. John helpfully adds “any other sites” to the list. Is it quite possible that there is no site on the Island that could contain a building the scale and massing within the existing Island Plan policy parameters? Why are we spending hundreds of thousands of pounds and many months doing a superficial exercise or possibly several millions of pounds doing a comprehensive review to the same level of the Outline Business Case to find out what we already know? I am surprised, in fact, that this has come from the Constable of St. John, because he is the Chair of the P.A.C. (Publics Accounts Committee). I am surprised he is even bringing this proposition, because we would simply be wasting taxpayers’ money. The current site, the one that we have approved, that we have approved twice, meets the needs for the new hospital. The revised scheme addresses the planning issues. The planning process, including a further public inquiry by an independent inspector, will again consider the suitability of the preferred site. The Constable considers that we can both set up and manage the review during the period that would assess the suitability of the named sites and with regard to item (E), potentially a number of additional sites, all by 1st September 2018. That is simply not possible. It may be unparliamentary, but you may be living in cloud-cuckoo-land to think otherwise. It is patently obvious that to have both identified additional sites by that date and to have undertaken and completed the requirements of part (a)(iii) at the same time. I know we have a lot of doctors at the hospital, but this would require a task in time travel. We do not have Dr. Who or his Tardis available. Even assuming that the September deadline was achievable, which it is not, a report to the States is likely to take at least a month to prepare, agree and lodge and at least 6 weeks before debating it. Then what? We are back to where we started. No site is perfect. We know that. The current site is the best practical option. I think in our hearts we know that. That is why we have twice endorsed it as the preferred location. We have

gone round an expensive block to get back to square one. But, unfortunately, it will not be square one. On our journey, we have incurred additional inflation. Assuming the main contract cost for building the hospital will be around the £300 million mark, at 4 per cent per annum this means that we would be burning £1 million per month on inflation costs alone. I would suggest that this combined with the double-whammy argument when you link it to the risk of delaying the bond issue, this could potentially become quite costly to Islanders. We would have added to the risk of running the existing hospital for longer than absolutely necessary. Let us not undermine that. That is a real risk we are carrying every day with the current hospital. Those neighbours, those properties that we hope to buy, they would be left in limbo. That is simply not fair. We would lose credibility with lots of our professional partners. Let us progress with the new scheme and allow the planning inspectors to do their job. We are on the cusp of delivering the most important project the Island has ever seen for generations. If we pause now we risk stopping the project, not for just a few months, but possibly for years. This Assembly, at its very last sitting, owes it to Islanders to respect the previous decisions of Members, to trust in the planning process and let the hospital project team deliver a building for future generations of which we can all be proud of. I urge Members: do not let the public we represent down. Do not kick this tin can into the long grass? Let us do what we are elected to do: let us reject this proposition and move on. **[Approbation]**

**Deputy M.R. Higgins:**

Sir, I do not know if I am next to speak or not. I am not making a speech, I want to make a point of order, but I did not want to stop him in full flow. I think the Deputy was in danger of inadvertently misleading the States as to what the planning inspector has said about the site.

**The Deputy Bailiff:**

Deputy, to assist you, I am calling on you next to speak and you can put this as part of your speech if you wish to. That might be the sensible thing to do.

**Deputy M.R. Higgins:**

In that case, I will make the point now, yes.

**The Deputy Bailiff:**

Very well, this is the start of your speech.

**9.1.2 Deputy M.R. Higgins:**

As I say, I believe that the Minister for Infrastructure, and I think previously the Minister for Health and Social Services, have muddied the waters and confused States Members as to what the planning inspector said. The planning inspector was given terms of reference. The terms of reference did not include considering other sites. They have all implied he has said: "This is the best site." He was not tasked with looking at that. In fact, the letter of 17th August 2017 from the Minister for the Environment to the planning inspector stated: "Given that this is a public project, it is important that the assessment is undertaken in an open and transparent manner. I envisage the public inquiry to be the forum for this. The inquiry should focus on the planning issues as relevant to this application. [This is the existing hospital site]. I do not envisage the inquiry will consider, for example, alternative sites or funding mechanisms. Such matters are of undoubted interest to members of the public and it is possible that the inquiry has an accessible public forum may be used as a vehicle for some to express a view on such issue. However, I am clear on my remit as Minister for the Environment to focus on the relevant planning matters." I have heard it time and time again on radio or within this Chamber that Ministers are saying: "He said this was the best site." It is not true. Let us get it clear. I know at the last minute we have been given a document here showing some of the advantages and disadvantages of the other sites. I am sorry, it has come very, very late. We have not really had a chance to look at it. Besides that, far more detail is required. I must say that I have felt from the very

beginning that the Minister for Health and Social Services has been fixated with this site and believes it is this site or no site. I do believe that we have not had all the information that we should have had to have decided on the appropriate site. I will not be going into much more detail, but all I would say is: we are told that we need this hospital. Everybody in this Chamber and I think within the Island knows we need a new hospital. However, the existing site will lead to the longest time period before we get the ideal hospital. A brand new, clean site, instead of having demolition costs, demolition noise, disruption, you are starting with a virgin site. You can clear it and build in a much faster time. However, the point is that if we go ahead with the existing site we are going to have disruption for the people in the hospital. I might add, a lot of the staff are not in favour of the hospital being on that site. This is why I have asked the Minister previously whether he has consulted with the staff. He has consulted with a number of senior clinicians, but he has not consulted with most of the staff. What I would say is that I believe that the existing site will take longer; there may be unforeseen problems when they are demolishing and trying to construct; and I think that we should have an investigation into the alternative sites. I do not believe the delay would be that long. I think it could save a great deal of money as well. I must say, I am not overly happy with some of the figures that have been bandied about. We have had £26 million already spent by the Minister and his colleagues since they came up with the site. That money will not be increased by much if we have another review. Besides that, they have always said it is within the contingencies. My goodness, there is a big contingency fund for this one. What is the actual core cost of the hospital? Okay. But the point is ...

**The Connétable of St. John:**

Sir, a point of correction.

**The Deputy Bailiff:**

Well, you will get a chance to respond at the end, Connétable, of course. You can ask for a point of clarification of the speaker's speech or a point of clarification of your own, but only if the speaker gives way.

**Deputy M.R. Higgins:**

First of all, I am not giving way. I do not have the actual figures at hand; the Ministers do. However, I have worked in the construction industry. I was a buyer for Sir Alfred McAlpine at their head office. We were building hospitals in Liverpool; we were building motorways; pipelines; and everything else. What I would say is: you get increased costs with existing sites where you have to demolish and you have to do all sorts of other work. The other thing too is: we know that the hospital site is located closer to the sea and everything else. I will just give a word of warning. We had one contract that was in Blackpool; it was going to be a very large building and we were doing piling. Everything was going ahead until they lost the first pile. Lost the first pile? You are piling into the ground; it should be there; it should be firm; it is to support the hospital. No, it had disappeared. There was quicksand. It took an awful lot of money and an awful lot of time to solve that problem. So, what I am trying to say is that this particular site ... okay, we could also argue the site on the Waterfront, but unless you have done the proper analysis of the ground beforehand you will not know. What I will say is: I would ask Members to consider the Constable of St. John's proposition, because I do believe it is the correct way to go. I think they have become fixated on this site. I believe that we could have perhaps a cheaper hospital at an alternative site and quicker. I will be supporting the proposition.

[16:15]

**9.1.3 Deputy J.A. Martin:**

I think somebody already said in this debate: it is a bit of *déjà vu*. But, please listen to all the Ministers who are going to stand up and tell you what they told you in 2016. It is now the best site. In 2016 it was the preferred site and, basically, the only one they could get through. In 2017, when we had the debate on funding, I for one, and I was also one of the 3 who voted against the original preferred site, was concerned that this was going out to an independent planning inspector, but every Minister who stood up went: "Oh, it is just a formality. They are going to come back, it is going to be okay." Did they not only come back and say "no", the Minister for the Environment then voted the plans out. Then suddenly we are all called down to the Waterfront for another: "This is better." How they turned that around on the back of an envelope to tell me it is still going to come in, it is going to have this, except now we are going to have a massive basement. I have always been against this site for the simple fact that it is going to take longer. It is going to be so disruptive for the patients and the staff that have to put up with this for years and years and years. So, we have the Waterfront. What Deputy Higgins said, wherever you are going to go, you are going to flood. Well, they have managed to build 6/7 storey flats on the Waterfront and they are still building it. If you read the comments: this is what the Waterfront is against. That is why they are against the Waterfront: "We might lose income. We might lose this. The Waterfront is not accessible." Well, put something there that somebody and everybody in the Island needs to go to and you will make that place accessible overnight. You will have a Hoppa business; you will make sure there is parking; and you will make sure people get there. It is a clean site. Again, funnily enough, I was an Assistant Minister and suddenly the Waterfront is Les Jardins de la Mer. Other plans I saw, do you know what, get rid of Kentucky Fried Chicken, Pizza Hut, the underused cinema and move it all that way. If you got rid of the first 2 you would not need as many people in the hospital, because they are not eating Kentucky Fried Chicken and Pizza Hut food. **[Laughter]** It is ridiculous. So, they have come along now and say there are 3 options on the Waterfront, and a certain Senator - and he is not in the Assembly at the moment - absolutely would not because it is such expensive land. This says it was reclaimed for the people of Jersey and this is the people's hospital. I cannot just go for one site because the proposition from the Constable of St. John asks to have a review of all the sites. But if it has got to be in town there is only one other place. It is madness that we are going for something that is now completely different from what we agreed on. Somebody did stand up. and I will not say the Member, but everyone was in agreement. How was it so embarrassing that they all thought we were ticking a box in December, the planning inspector was going to come along and would not find too much wrong, and he found everything wrong - everything wrong with the plan - it was too big, it was too dense, it was too wide and now it still has Westaway Court. I heard the retiring Minister for Health and Social Services on the radio this morning. He has already got a preferred contractor in, that is probably why we have got rid of part (D). But this is rolling along the biggest project and, as I say, my grandchildren will be nearly as old as me before we come to pay the capital back and they want to wait ... "Oh, we cannot wait another few months." It is madness. It is all right, you are all walking out, some of you will not be re-elected but you cannot agree this is the right site, and now the best site. Please remember what all these Ministers told you. It came down after years of debating we had good sites they were all thrown out. It was the preferred site in December 2016, it was coming to the best site in December 2017 and do not worry about the planning inspector, he is going to come back and give it a big tick. He did not. So be very careful of all the Ministers, and we have just had one and I respect him very much, but he has got to say what he has got to say, he is still a Minister. He said it before, they have said it over the last 3 or 4 years on every debate and nothing they have said has come true. In fact it is completely opposite, everything they have told us has been wrong. The planning inspector said no and they are still going ahead buying all these properties around that area. Patriotic Street is full every day since the bank moved into the offices there and they are now also, in these plans, going to have less extra parking at Patriotic Street. So poor people might have to still park at Pier Road and get down there. It is madness. You really need to have some convictions and listen to what they are going to tell you again today, what they have told you in the previous debates.

Whatever they have told you has not come true. I will not say they lied because they did not but what they told us did not come true because it was a tick box exercise. They stood up in December and said: "Do not worry about it." Why did we not wait until January when the planning report came in? Because maybe they did see this coming so now it is harder to rescind and the Constable of St. John is not trying to rescind, he is saying this is the biggest project we are doing. It is not just the most expensive, it is so fundamental we get the hospital right, we get all the services in one place. We cannot do that on the current site and even with the revised plans that is not happening. Let us have a look. Read the C. and A.G. (Comptroller and Auditor General) report, even she said there is not a lot of leadership over the site determination. Please think about this. We are going into purdah, we have time to re-look, we have time to have all these questions answered, some really good questions. We need to step back and we need to know for the future of Jersey people, the children who are being born now and those, as I say, will be in their 40s when the capital comes to be paid back, that this is the right decision. It is not about not having the courage of our convictions and it is not being gung-ho that we have got to do this. I will do it when I know it is the right site. This, I am not convinced is, it certainly does not deliver everything under one roof. Imagine you have been diagnosed with a broken leg, you have to go across the road to have plaster put on it; it is mental. Sorry, absolutely mad. Who is pushing me in that wheelchair with my umbrella over the top of me? I cannot make it up. I am just asking today to go back, spend a few ... I do not care if it takes 6 months, to the Minister who spoke before me, that it might put the project back a few months, it might take 6 months. If it takes a year to get it right I do not care. Sorry, I think you might know which way I am voting on this and that is supporting the Constable and I urge everybody to really listen to what the next lot of Ministers are going to stand up and tell you and it will be the same and it is not always exactly what happens. Thank you.

#### **9.1.4 The Connétable of St. Helier:**

It is a great pleasure to follow Deputy Martin, particularly because if I had gone first she would have castigated me. She would have called me "my Constable" but she would have then gone on to castigate me as she did over the police station matter. I mention the police station because I am still stopped by some people who tell me that the police station is in the wrong place and that we should build it somewhere else. I say to them: "Well, look, I do not know if you have been down through the tunnel and Route du Fort roundabout but we have finished it; it is occupied and all the police that I speak to are quite happy with it." So I say that sort of prefacing my brief remarks on this, that inevitably in Jersey people do take a very passionate interest in how we use our land. They really do not want to let go and I think there are a lot of people in the Island who are implacably opposed to the project being where it is. I respect their views but there comes a time when, as States Members, we have to move on. I was going to make the comparison with Macbeth who talks about being halfway across the river of mayhem, blood I think he talks about it and saying it would be tedious to go back, he might as well go and finish the job. It is not a good comparison of course because **[Interruption]** ... yes. But I do feel that we have been around this one extensively, as Members have said, and certainly I have sympathy with some of the people who have written to me and I have reminded people that not that many years ago - at least it does not seem that many years ago - I stood in this Chamber and I said to Members: "We should not be building on the Esplanade Quarter." At that stage it had not been built upon, it was a blank sheet and I said: "Surely we should be considering creating a central park for St. Helier on the Esplanade Quarter land, or how about the new hospital." I remember the Deputy of Trinity - I do not know if she was the Deputy of Trinity then I think she probably still was - telling me that it would not be suitable for the hospital, but unfortunately it was not suitable for a park either. So, I certainly suggested other sites back in the day. But that was probably a decade ago and we are now faced with a plan that has been consulted upon extensively, it has been through a public inquiry. We of course have had a lengthy digression when the Council of Ministers wanted to build it on People's Park. That was regrettable for lots of reasons but not least

because it took a lot of time and money to go down that blind alley, if you like, and have to come back again. Although I recently had a letter saying that we should put it back on People's Park. So, there will be people who will go on saying that it should be on People's Park, that it should be on the Waterfront. I have always said, as far as the Waterfront goes, that it would be far more of an eyesore, it would stick out far more on the Waterfront than it will if it is rebuilt in its present position. Certainly the latest plans show that you really will not see it from a lot of angles on its present site because of the good work that has been done by the planning process, and particularly the comments of the planning inspector and the way that the future hospital team have taken on board those comments. The new scheme is, I think, particularly pleasing. I stood in a resident's flat in Patriotic Street and that flat was going to lose all its sunlight. Because they have pulled the building away from the windows, at least from some of the windows in those flats, their lives are going to be improved. Kensington Place, again very concerned by the loss of the street life in that quaint street and it will not be the same after that, we know that. But the team has said they will endeavour to put in place activity at street level so that there will be restaurants, there will be shops and Kensington Place, it will be different but it will still have a liveliness that we will enjoy when we use it. Criticism has been made of the fact that the Minister for Health and Social Services is also looking to put outpatients on the Westaway Court site and a new mental health unit up at Overdale. We like to talk about campuses, it is a bit of a buzzword these days, but I think the idea of a health campus for St. Helier, with Parade Gardens as a park between outpatients and the new General Hospital, with People's Park between the new hospital and the mental health facility at Overdale, I think that makes sense, I get that. I have the feeling that there will be doctors and nurses and patients and consultants moving around those buildings and this will be a place where there will be a real sense that this the centre of the Island's health facilities. I can see ancillary things springing up. I think there will be a lot of trickle-down benefit from the fact that we will have this health campus there. It will be good for Cheapside; it will be good for restaurants in the area, local doctors and so on. It is of course a surprise, in a way, that the Constable of St. John is bringing this proposition to the Assembly not the Constable of St. Helier. I see some people are making noises at that point, perhaps they think I should be bringing it. But the Constable of St. Helier could of course, and there are perhaps some of my predecessors who would jump at the chance of getting rid of the hospital from their Parish. Why not put it in one of the rural Parishes on a greenfield site? Why not put it in St. Peter? We know they have got space there and they have greenfields. Why not put it in St. John? But the fact is if you believe in environmental sustainability, which I do passionately, then even if you are the Constable or a member of an urban Parish, perhaps particularly if you are a representative of an urban Parish, you understand that development must go in the urban area if we are to keep this Island that we love in a state which is attractive, not only to tourists but also to residents. Particularly to residents who live in the urban area because by taking the development in town, by taking the new hospital in town we keep the rest of the Island in its green state so that we, as townies, can go out and enjoy it. I really enjoy the drive down to St. Saviour's Hospital, it is one of the few places I will not say where you can really open up, that would be wrong. **[Laughter]** I speak as a driver, as a motorcyclist, as a cyclist, it is a really nice open stretch of road down past those agricultural fields to St. Saviour's Hospital. I do not want to see St. Saviour's Hospital and that area turned into sort of an extension of town. I do not really want to see Warwick Farm urbanised. I do not want to see fields in St. John turned into an urban area. When we last spoke on this subject, not that many months ago, I reminded Members that there was once a plan to put the Island's harbours in St. Martin where they built the harbour that failed at St. Catherine.

[16:30]

If that had happened, St. Martin would be a completely different place it would be an urban part of Jersey. Perhaps St. Helier would be really nice and rural and a coastal town, I do not know. But the fact is we have an Island Plan. We have decided to focus development in town, not just to keep the



rest of the Island nice and attractive but because town works best if it has people living in it. I feel that the presence of this new hospital in town ... we have been told by the Minister for Infrastructure how many people depend on the proximity of the hospital at the moment and that will only increase as urban living becomes more attractive. I must say one of the letters I have seen today from St. Peter where someone said that they are going to be forced to live in St. Helier really made me very sad because I know a lot of people who live in St. Helier by choice and I believe that town is becoming more and more of an attractive place in which to live and raise a family. I think if people can live in town and work at the hospital or live in town and go to the hospital for their healthcare needs, that makes sense. It reduces the traffic that is pouring around the Island and benefits all of those other Parishes as well. So I urge Members to reject this yet another attempt to rethink the plan. I think the plan works, I think the new proposals, of course they have got to go through the public inquiry, there is going to be more of a chance for people to get involved but I believe that we are moving to a place where we have a hospital in Jersey that we can be proud of. I urge Members to reject the proposition.

**Deputy J.A. Martin:**

Can I ask the previous speaker for a point of clarification, please? I think he hopefully did not intend to mislead the Assembly but he said the plan would be for the hospital, Westaway Court and a mental health facility at Overdale. Now, that is not in the plan, it is not costed and it is just an aspiration at this point. We do not want this red herring going along with the rest of them, thank you.

**The Connétable of St. Helier:**

I absolutely agree with Deputy Martin. Certainly Westaway Court is part of the scheme but not the mental health facility, that is something for the future. Thank you.

**9.1.5 Senator P.M. Bailhache:**

The Constable of St. Helier is of course right to say that you cannot please all the people all of the time and with a project such as this there are inevitably going to be those who are opposed to frankly whatever is proposed. But if I may state the obvious, the construction of this new hospital represents the largest building project that the Island's Government has ever entered upon and at half a billion pounds it is the most significant investment probably that the Island has ever made. One would like to think that, at this stage of the project, there would be a broad consensus among the public that we were on the right track and that we were about to lay the foundations of a building which would satisfy all aspirations and in which all Islanders could take pride. I think even the most optimistic of the Government's supporters, and I am one of them, would not be able to claim that there is that broad consensus in the Island today. Regrettably we have failed and as a Member of the Island's Government I accept a share of the responsibility for that failure. We may be on the right track but a significant number of people to whom I speak think that we are not on the right track. The people to whom I speak are consultants, with a number of whom I have unfortunately come in contact in recent months, general practitioners and intelligent and well-informed members of the public. So the question for the Assembly this afternoon is whether we take the view that it is in fact too late to change track, or too expensive, or both, or whether, as the Constable suggests, we pause to take stock. I think, and here, I am afraid I will not find any sympathy from the Constable of St. Helier, that the first serious mistake that we made was the decision to withdraw the proposition seeking approval for building the hospital on the People's Park. I do not say that it would necessarily have been successful, probably it would have failed but we shall never know. What we do know is that we cannot say to members of the public who think that People's Park is the obvious and cheapest choice, as I must say at one stage did the Council of Ministers, that it was considered and rejected. I think that is a pity. I think it is also fair to say that we have not really had a debate upon alternative sites. Some people are convinced that there are better choices and the Constable has put forward the St. Saviour's Hospital, the Waterfront, Warwick Farm and so on. It is true that we did, however, debate and

approve the hospital site and by implication I suppose one could say that we therefore rejected all the other sites. But the merits and the demerits of all the other options have not really been considered on the floor of the Assembly in any detail. Some of my ministerial colleagues will say, and have told me, that all this information is in the public domain and perhaps that is so. But it is not in the public domain in a shape or form that is readily understandable by members of the public. I do not think that there is a single document which clearly states the advantages and disadvantages of each of the other options, whether St. Saviour's Hospital, Warwick Farm or so on. Numbers of Members have made speeches saying that the disadvantages of one are obvious, and they are traffic or whatever it might be, that planning objections are overwhelming in other respects. There is no single document to which we can look which sets out clearly and succinctly the advantages and disadvantages of the other options. I think that is why, perhaps, following the report of the planning inspector, that we have lost the public relations battle with the public, or, if not all of it, a significant part of it. Even if public anguish, as mentioned by the Constable of St. John, is an overstatement, there is very substantial anxiety. The report of the planning inspector did point out, as I think my colleague, the Minister for Infrastructure, correctly pointed out some of the advantages of the existing site. But taken overall the conclusion that he reached on the previous plans was excoriating. Perhaps I may quote, just briefly, from the summary of that report. He said: "I assess that the proposal raises some serious planning objections that weigh against it and these fall into 3 broad areas. First, in terms of its siting, scale and mass, the development would be grossly out of scale with its immediate surroundings and with the wider townscape. It would appear as an over-dominant, obtrusive and alien structure that would harm the St. Helier townscape and detract from visual amenities in many locations. Put simply, the application site area is far too small to accommodate successfully the amount of floor space proposed. Second, the proposal would cause harm to the settings of numerous protected heritage assets. The harm to the immediate setting of the 19th century grade 1 listed hospital building, the granite block, within the application site would be particularly severe as it would be overwhelmed and overshadowed by a very large, tall and imposing modern building. Third, the impact of the proposal on the amenities of existing neighbouring residential properties will be negative and, in many cases, serious harm would result. The impacts on the residential flats at Patriotic Street and Newgate Street would be particularly serious. The overbearing presence, overshadowing at certain times of the day, loss of light and likely overlooking effects arising from the proposed hospital building and the upward extension of Patriotic Street car park would individually and collectively cross the unreasonable policy benchmark by a considerable margin." He went on to say, towards the end of that summary, something which seems to me to be quite important: "The critical issue here is not the case for a new hospital facility but whether the application proposal represents the one and only vehicle that could deliver it." This raises questions about 2 matters that are beyond the scope of the inquiry. The first concerns site selection and the comparative merits of alternative sites. The second concerns the brief, which is currently premised on a single-phase, comprehensive, new-build project if the Minister were to be satisfied that no other site/project brief combination could meet the future hospital needs of Jersey that could potentially provide sufficient justification for departing from the Island Plan. Now, it may be, and I hope it is the case, that the revised plans are in accordance with the Island Plan but if they are not, and common sense suggests that in some respects they might require some discretionary treatment, then would it not be helpful, I ask rhetorically, for the Minister to have a document upon which he could rely which objectively and definitively stated the advantages and disadvantages of other options and from which he could draw the conclusion that the only sensible option was the existing site. What the Constable of St. John is saying, as I understand him, in the light of that inspector's report is that a further review of the other sites is desirable in order to ensure that we have made, in fact, the right decision on what is a particularly important matter for the Island. As against that, it must be said that there is the question of delay and even if the report can be made available by 1st September the report would need to be considered and there is little doubt, I think, that there would be discussion following that

report which would extend the consideration by several more months. Then there is the redeployment of the team engaged in the project while the review takes place. There is also a possibility of the question, of course, of whether it is possible to do the review in the timeframe suggested and I certainly would like to hear from the Constable of St. John, when he replies, what is the basis for the conclusion that it could be done by 1st September. So, where is the balance to be found? I confess that I do not find it an easy decision. I would like to feel that the public was firmly behind us in proceeding with the new hospital on the current site and I am not sure, at the present time, that they are.

[16:45]

#### **9.1.6 Connétable P.B. Le Sueur of Trinity:**

In common with many Islanders I have no doubt that we urgently need to invest in a new hospital: a fact and one that is becoming more critical day by day. On 9th January this year the Minister for the Environment published his decision to refuse the first application. This was a result of at least 2 years' detailed research, investigation, financial appraisal, architect's design and consultations. It must have represented an enormous amount of work to come up with a scheme to cost no more than £466 million. Then, just some 9 weeks later, on the 12th of March, I, along with other Members, attended a presentation of a totally revised scheme. I am afraid I cannot accept that a scheme of this importance, potential cost and magnitude can be rushed out in 2 months and will provide me and the public with the confidence to push forward with the largest capital project this Island has ever undertaken. All this based on nothing more than a few sketches, a block phasing plan, confident assurance that it will be all right on the night, and incidentally we can keep within the £466 million budget. Members will forgive me but it appears we are just lurching from one crisis decision to the next, coming up with quick-fix answers and that is not good enough. We have already spent to date circa £25 million, two-thirds of the cost of a new school at St. Brelade, and with nothing tangible yet to show for it. I have, from the outset of this project, had serious concerns that the existing hospital site is not big enough to accommodate the modern facility that we all want for the people of Jersey. Why are outpatients and other services still going to be located at a redeveloped Westaway Court? This screams at me that the site is just not big enough. When I raised questions about the original 2-site hospital proposal it was made absolutely clear to me, at the time, the Pathology Department had to be located away from the construction activity as their working conditions were critical and must avoid any risk of disturbance by vibration. Therefore, they must be moved out to Westaway Court and will be linked to the main hospital by a vacuum tube. In this latest proposal, we are informed that all those problems have now miraculously been solved and they are now to be permanently located in phase A. If I remember correctly, they will have to stay there while the demolitions go on around them and phases B and C are also delivered. Despite repeated assurances that it is common practice in London and elsewhere to redevelop around a live hospital, I continue to have real concern about the inevitable disruption to patients, clinicians, staff and visitors during the 7 or 8 years proposed for construction. I also question whether sufficient weighting has been given to this negative aspect when comparing this with alternative sites. Where else in the world, given a choice, would they set out to deliver a major new hospital scheme and not provide all the services under one roof? The project director has, on a number of occasions, informed us that there will have to be compromises. We need a proper understanding of exactly what those compromises are going to be with this latest proposal. We should not be expected to wait to find out what those compromises are later. I find it regrettable that, following the public outcry and rejection of the proposals earlier this year, political reputations appear to have been so quickly nailed to the mast. We have continued to burn public money rather than step back from the fire and take time to regain public confidence. I am truly sorry to be negative on such a serious issue. There is no point in believing in your heart something is fundamentally wrong and being asked to vote to the contrary simply because we need to get on with something. I would be failing in my responsibility to serve the best interests of the

people I am here to represent and as such I will be supporting the Constable of St. John's proposition and urge other Members to do likewise. Thank you.

### **9.1.7 Deputy R. Labey:**

It is a privilege to follow the previous 2 speakers. I think where the Constable of St. Helier went wrong, with respect to him, is that he gave us a précis of his individual opinions and assessments of each site and that is not what this proposition is about because, you know, a little knowledge is a dangerous thing. We all have favourite sites and ones that we prefer or not for various reasons but that is not the issue here. The issue is whether, independently, this site should be looked at again. Members will remember that at the beginning of the debate when we were asked to approve this site before Christmas I asked Members to defer the debate until after the planning inquiry and we would be in a better situation if we had done that. I lost that vote narrowly. Senator Bailhache crystallises, for me, the entire argument perfectly. I am not against this site. I would love this site to work for all the reasons that the Constable stated but I cannot be sure. I have lost confidence in the process so far and I think that the public have lost confidence in the process so far. I think that the rush to spin the results of the public inquiry were wrong and I think people could see through that. The spin that was being put on aspects of what the inspector said, and the denial and ignoring of other aspects of what the inspector said was not clever. People are not stupid and they can see through that. Then we had this poll that happened and the spin that was put on that. It was patently ridiculous the questions that were asked in this poll like: "Are you okay with the delay?" *et cetera*. It was never ever, as far as I can see, put to the public the option of: "Would you be happy with the delay if the finishing date came forward a little bit, if the hospital was built in less time?" So, once again, I feel - I am not having a go at the Minister for Health and Social Services here, who is a brilliant communicator and he was excellent again on the radio this morning - but I do feel after the planning inquiry result came through, and also I think back to the time of one workshop that we had at the hospice, one of the workshops, and on a couple of groups' flip chart it said that planning considerations should be of secondary importance on the hospital debate. It is alarming that legislators would make that sort of claim because that is simply breaking the law. The Planning Law is there, not just so that the States can build what they want and what they think is needed but also to protect the neighbours of that development and the environment and the historic buildings and what have you. So, you cannot say that, it has to be planning compliant. There is, of course, weight that can be applied to different arguments and that is what the Planning Committee do but effectively to present that monolith on Gloucester Street, with the Government backing and sponsoring that disaster, I think again, it broke so many rules. I think, again, that that is where the public have lost confidence and I have wanted, after the public inquiry result came through, for there to be a period of reflection. But no, bang. No, we are going to come in, we are going to squash it down and it is going to work and we will have it by the end of March, we will have another plan. That has really worried me. I think that perhaps one option that would speed things up is, if this is successful, that we ask Philip Staddon, who chaired the public inquiry, to return because he has started his work already and he is familiar with the argument. But he was specifically not permitted, in the public inquiry, to examine other sites. That was out of his remit, it was out of his terms of reference, he was not allowed to go there. But, you know, he did seem to suggest that perhaps that process should happen, and Senator Bailhache was right, the best option of course. Just taking away people's considerations and love for the People's Park, geographically the People's Park. I absolutely understand why the Minister for Health and Social Services went for that option but perhaps he should not have pursued it for as long as he did. But if you are going to ask to take the People's Park away from the public, first of all present them with something spectacular, something amazing to tempt them and just to offset it. That is what you do in that sort of situation. Just say: "Look, this is what we would like to do with St. Helier. Look at all this green we have found for you. This is where you could play football within walking distance of your houses, *et cetera*, but we have got to put the hospital on the People's Park." It was a clever

notion because of course it is going to be a tall building and if you put tall buildings against something like Westmount then they are a little more acceptable. But that is not an option anymore and it could not be an option in the way that it was sold. I mean I have doubts about the Waterfront and all the other sites and I would love this to work but I think it is time for independent assessment of this for the sake of the public and for all our sakes.

#### **9.1.8 Senator L.J. Farnham:**

I had previously envisaged a new hospital being located out of town but having examined carefully the options, I believe that for practical and logistical reasons a town centre location is sensible. Notwithstanding the considerable costs of building the hospital, it is worth noting that over the next 30 or 40 years the taxpayer will spend in excess of £10 billion in running the health service at something relating to about 3 per cent of the capital cost. So it therefore makes sense that, while this is important, we should also be thinking about what we do with the building, investing in the staff, in the technology and the equipment, that is where the really important work is to be done. Having said that, I am torn because what we failed to do and what the Government, of which I am a part, has failed to do is, on a number of occasions, bring people with us when we make these decisions. We need to re-engage, we need to work harder to make sure that people understand the decisions we are making are correct, and that is why I am tempted to support this because we have to work harder to make people understand why we are making this decision. Now, it is odd because I am saying that I think the decision is the correct one, albeit the important work, I think, lies ahead of us in running the health service, but I also want to engage the considerable number of members of the public and to persuade them that what we are doing is correct. That is the position I find myself in. I also would like the Constable of St. John to address, I know he did in the proposing speech, the costs because there is talk of the costs amounting to many millions, perhaps Senator Green will address this in his speech. Are the costs millions or are they not millions and is the timescale weeks and months or is it months or months and years? We need to be absolutely as clear as we can on that. Thank you.

[17:00]

#### **9.1.9 Deputy S.M. Brée:**

We need to look at what the Constable of St. John is proposing. None of us, I believe, in this Assembly are experts in this particular area. We all have probably our own preferences as to sites. But really what this proposition is saying is we have to accept that this Council of Ministers has failed to take the majority, I would say, of the public and certainly a certain number of Members of this Assembly with them on the decision-making process that ended up with the preferred scheme, that being the preferred site, the current hospital site, and the preferred funding envelope of £466 million. But that £466 million contains within it some £70 million worth of contingency. Now, also I think we need to bear in mind as well that the preferred funding scheme involves borrowing £275 million over possibly 40 years. There is no such thing as free money, despite what some of the cash machines tell you outside supermarkets, you have to pay a coupon rate of interest on that. So if you take that into account we are ending up at a cost of somewhere in the region of £800 million total cost. That includes the borrowing cost. So, in December 2016 I was one of the 3 Members of this Assembly who voted against the preferred site and I did so for a whole range of reasons, which I do not intend to go over again. Then we had, a year later in December 2017, this Assembly approving the preferred scheme, as I said, the site and the funding. Once again, I did not vote in favour of that because I did not agree with the fundamental site and nobody, but nobody, had shown me anything sensible that I could understand, that I did not feel was manipulated data that there was not any other alternative. Now, if we agree - and I think we all agree - that this is the largest capital project this Island will ever have undertaken, we all agree that we do need a new hospital, but we also have to take into account the fact that whatever decisions we make here today are going to affect generations to come. I feel that this proposition by the Constable of St. John is saying, and I will read from the proposition, if I

may: “Let us get to appoint an independent team of advisers including the planning inspector to look at the site location issue once again because we are faced with a very major decision.” Now, I am pleased that the Constable of St. John has indicated that he will not be pursuing clause (b) of his proposition, which I hope I am correct in that understanding, because what that means is we have a set of plans that have been, I believe, lodged today with the planning department. We know there is... well, we do not know but we are fairly sure that there will be another independent planning inquiry, so no plans are going to be probably passed until end of September/October this year. In between now and then, surely we can go ahead, as a parallel activity we have the independent inquiry going to look at is this the right site. The hospital project team, which I have to say I have had a number of meetings with them and I am highly impressed by their, dare one say it, fortitude in the face of severe hardship. They are a very, very able and very qualified, enthusiastic group of people but they have been tasked with: “Deliver a hospital on this site.” They are trying to do that to the best of their abilities and, I have to say I think they are an exceptionally good group of people. However, we have heard time and time again from this Council of Ministers that: “The planning inspector said this is the best site.” Well, no, and I read from their own comments: “The planning inspector did not criticise the appropriateness of the proposed location.” Well, he was never asked to look at any other locations and he was presented with a site that already had a hospital on it. So, it is hardly likely that he is going to criticise the appropriateness of the location. So I think we need to put that to one side. We are here to represent the members of the public. The members of the public are, a lot of them, very concerned about is this the right thing to be doing. We need to show them, one way or another, whether it is the right thing to be doing. If you really do believe that the current General Hospital site is, for all the reasons, the right site for the future hospital, then you should be supporting this proposition because it will prove beyond doubt that the future hospital site should be built on the general hospital site. If you do not, as I do, feel that it is the right site then you should be supporting this proposition because it will prove, I hope, that there is a better site. But either way, it does not matter which way you feel, if you support this proposition you will be putting in train an independent team to look at the site location and they may come back with: “No, all things considered the States were right back in December 2016 when they chose the preferred site.” Now for everybody who firmly believes the preferred site is the right one, if you get behind this proposition from the Connétable of St. John then you will be giving the public what they need, which is assurance. It is assurance that it is the right one. So I firmly believe that every Member of this Assembly should support this proposition for different reasons but we are looking to reassure and assure the public of this Island that what we are doing, the biggest major project we have entered into, the most important part of the health service that we wish to deliver is on the right site. Thank you.

#### **9.1.10 The Deputy of Trinity:**

It really saddens me that we are in this position here again. We started looking at the need for a new hospital back in 2012. Here we are 6 years later still trying to sort out a preferred site but the decision for a preferred site was made in 2016. Yes, there have been many debates, many speeches and today the same, of the costing. We have got a costing we have got a way of funding it. This site or that site, which is the best site? But very few people have mentioned about people. From my nursing background, and I have nursed in our hospital, not for very long but been in so many times talking to patients, talking to families. The state of that hospital leaves a lot to be desired, it is just not fit for purpose. We talk about people, we talk about money but we talk very little about the importance of people and health care. We all know that we are living longer and all the more complicated conditions. Instead of people coming in with just one condition they are coming in with multiple conditions and need more intensive nursing. I congratulate our nurses for still working hard in a building that is not fit for purpose [**Approbation**] because they give the best care possible in not very good surroundings. We have all seen it and I hope most of you have had an occasion, perhaps, to witness how it is when you are told perhaps bad news or a family member is told bad news, and all

the bay can hear that news. How it is for the patient, how it is for the family, but how it is for the rest of patients within that bay? It is just not right for this day and age. The Island deserves better, people deserve better, patients deserve better and our staff deserve better. The site is the right site and I think if you have thoughts of that, just look at that front page. Why would you want to put it out of town when more than 800 staff arrive in the hospital for work before 9.00 a.m. each day? This is basic stuff but it is important. It is reality, it is how staff work every single working day of the year. Nine thousand emergency services: well, I hope I will never need an ambulance on a 999 call because if I am in town and the hospital is out of town it is going to take me much longer and I know every single minute on a 999 call is vital; every single minute.

[17:15]

Another one: a third of users arrive on foot. Visitors, perhaps an elderly relative visiting their loved ones and can walk to the hospital. Is that not what we want? We want our loved ones to visit the patients in hospital; that is important it aids recovery. But also part of that third, I would have thought, is outpatient appointments. Right, you are working, finance sector, shop, retail whatever. I have got an outpatient appointment at 11.00 a.m. Right, I can leave at 10.30 a.m. I will be there probably 10.45 a.m. or 10.50 a.m., fine, in time and back to work, hopefully, if there are not too many people waiting, 11.30 a.m., 11.45 a.m. If it is out of town, be it Warwick Farm, be it St. Saviour's Hospital, that is going to take at least 2 or 3 hours of working time. Are they going to get paid for that time they have taken out? I do not know, perhaps they will if they have got good employers, perhaps they will not. Forty per cent of staff live in St. Helier. So why would 40 per cent of staff want to go out of town, catch the bus, car, whatever, to either Warwick Farm or St. Saviour's Hospital? It just does not make sense. I plead with people, please let us get on with it. The hospital, as I said, is not fit for purpose. Even over the lifespan of the next 8 to 10 years to build it, it is still going to need significant investment in the present hospital. You can just see the theatre block, that cost £10 million because it was essential though the previous theatres could not operate anymore. But the theatre has probably only got a lifespan of 10 to 15 years. So, we need to move forward. We need to take a bold decision and get on with what is the main, most important project in the Island. Health care is the most important thing, being fit, being healthy. But when you are not, when you need that care you want to go into a modern fit for purpose building. It just saddens me at the end of a political career and at the end of a nursing career that we are still absolutely where we were 6 years ago. It really does sadden me and it saddens me that we are not able to make a decision or work together to bring this hospital ... because it could be an iconic building and I am sure it will be by the time it gets there. This is a process but we need to move forward because people matter. Those patients in the hospital matter, staff matter, doctors matter. Please, I urge Members, please, not to delay it any longer and take that step forward. Thank you. **[Approbation]**

### **9.1.11 The Connétable of St. Peter:**

I think about the events of last week when I think about the hospital, with my development in St. Peter, the one that focuses on people and not property nor politics; it is about people. As I look around this Assembly right now I echo what the mover of the proposition said when he was making his proposition: "Where are all the Members, we are about to spend £466 million?" I have to say that I have a spreadsheet here, a spreadsheet of all the people that attended all the workshops and the briefings and you will be surprised to note that those who have been most against this proposition attended the least. Only one Member of this Assembly attended every briefing - I will mention his name because he is not standing again - and that is Deputy McDonald. Well done, Deputy McDonald for showing that level of commitment. Yet, the ones that did not go to most of them have got the most to say against the decisions that were made at those briefings. We agreed this site should go forward. We agreed that this site should have planning permission and be inspected by an independent inspector from the U.K. That is what we agreed to on the basis of all the work that was

done at all the meetings that we had to determine which site we were going to take forward, which we have agreed. I find it extremely irritating to hear people postulating when they have not even bothered to attend the meetings. I have been involved with the hospital ... well, in Health, from my very first term. When working with Senator Ozouf in Treasury, in my very first term, he appointed me on some ministerial oversight group for what we now call P.82 the New Way Forward for Health, to develop a way of ensuring that when we built our new hospital it was not as large as it would have been had we not brought in all those provisions of P.82. I continued, in my second term of office, working with Deputy Pryke as Assistant Minister for Health, the principal role of anything involving the hospital, and I sat in on all the meetings to do with the redevelopment of the hospital. We went through 2-centre, we went through part-build, part-renew, we looked at demolishing Kensington Place, we looked at demolishing all the properties between Kensington Place and Lewis Street; 68 different contracts, that would have taken. We have looked at all the options possible to do. We even looked at Parade Gardens. We even spoke to the Dean about taking down the church in Parade Gardens and he did agree, providing we built a new one I hasten to add. We looked at People's Park and to say we have not done the homework, quite frankly, is offensive. It is offensive to the people who have spent so much time and effort, and particularly the officers who have spent literally the midnight hour burning the candles working into the night and weekends to make sure we, in this Assembly, got the information that we asked for. Yet, in looking down at this spreadsheet, I see so many spaces against the names of people who should have been there. I do remember, and I think if I am wrong Deputy Mézec will correct me, I think at one of the briefings he referred to a special case for a special place and that was really talking about the planning issues. That because of the special place perhaps they needed to trump the necessary planning issues which made us focus on where we are in Gloucester Street. A lot of people are saying the public are against this. Yes, the public are, and there is an old saying that the role of media is to misinform the uninformed. But I would change that slightly and say social media have misinformed the uninformed. I also say that is our fault because as Members that I have worked closely with on this project know, I have continually harped on about needing to inform the public more. That has allowed social media to take the high ground or to misinform the uninformed. If we are talking about the public not wanting to do this, my memory goes back to 2009 and the other Members that were here in 2009 will remember the mammoth 3-hour speech. Does anyone remember that 3-hour speech, what that was about? That was about trying to rescind the energy from waste plant and there was a public cry against the energy from waste plant. If we look at the I.F.C. (International Finance Centre), look at all the parades they had against the I.F.C. But I have not seen one parade or rescindment motion for the hospital. A lot of people are commenting, both in social media and in the Chamber, so if it takes 10 minutes longer to get to St. Saviour or 15 minutes, so what? Because people will die. The reason that the ambulance service is required to have a no more than 8 minutes response time is because if it is longer than that people will die. That is the standard set for ambulance services throughout the United Kingdom. All of you that live in the west of the Island will have seen, on most days of the week in the busy times, an ambulance parked, not getting their hamburgers but waiting for a call, because they are parked at the hamburger shop, to ensure that they can get to their call-out, particularly to the west with heavy traffic in the afternoon, within 8 minutes. So do not tell me it does not matter just because we have got to go an extra 10 to 15 minutes out to St. Saviour because it will matter, hopefully not to me, but to the person in the back of the ambulance it is a matter of life or death. Just picking up on some comments that Deputy Higgins spoke about piles and quicksand. How many Members are aware we have already done some pile tests around the hospital with people working in it? We have tested all the ground around the hospital and it is suitable. How many ...

**Deputy M.R. Higgins:**

Sorry, Sir, I must interrupt.

**The Deputy Bailiff:**



No, only if the Connétable will give way can you ask a point of clarification.

**The Connétable of St. Peter:**

I give way, Sir.

**The Deputy Bailiff:**

Yes, very well.

**Deputy M.R. Higgins:**

The Constable is saying they have looked at every site. The existing buildings, many of them do not have deep foundations. You have not checked under those buildings to see whether those areas are quicksand.

**The Deputy Bailiff:**

That is another speech. You could ask could the Connétable clarify whether or not other checks have been done on the buildings, that would be ...

**Deputy M.R. Higgins:**

I will do it properly then. Could the Constable clarify, please?

**The Connétable of St. Peter:**

Certainly. I would agree with Deputy Higgins, under the Granite block I do not think they could get in there to do the core drills under the Granite block but under the 1960s block and the 1980s block they certainly did and that will be an indication of the ground conditions immediately under the current hospital site. I am sure if there is quicksand under the Granite block it would not be there now, not after nigh on 200 years anyway. There is just one other comment I would like to make. There was a comment, I think it was my fellow Constable of Trinity talking about the £635 million scheme and that was a different scheme entirely. That was one of the early ones that came through and that was a scheme that was a rolling programme with refurbishment and redevelopment over a much longer period and therefore the costs of factoring in the costs of R.P.I. over that period of time drove those costs up quite significantly and also relocations. While on the point of relocation, the comment has been made earlier on about the pathology and the sensitive equipment. I think some of the Members will remember that I was very deeply involved with the pathology and I do know a little bit more about pathology than most people without a medical background. The great difference here is block A is being built to the south of the site, further away from where the pathology lab currently is. Had we stayed with the original piece of work the new block would have covered right up to the Granite block, right the way across there and that could have taken some of the tremors into the top end of what is the extension to the Gwyneth Huelin wing where the pathology lab currently is. That will be the first thing to move out before they do any more demolition and that will move out into block A, the first block to be delivered. Somebody dismissed the block drawing earlier on and the numbers on there. Well, I went with Deputy Pryke to see the new hospital at Tunbridge Wells to have a look and get some ideas how we might like to structure our hospital. The original Tunbridge Wells Hospital was in the centre of Tunbridge Wells but they decided, because they had a lot of spare land in Tunbridge Wells, they would move it outside the town. They did what we were asking and thinking we could here. They put on a shuttle bus and in the first week their car park was full because why drive into Tunbridge Wells to park your car to get in a shuttle bus to go up to Tunbridge Wells, the new hospital? The number of staff that then used their car because it was outside the town and then all the people that were driving that had previously walked into the hospital from where they worked in Tunbridge Wells, exactly the same scenario that we have here. Approximately 200,000 patient visits a year in our hospital, a third of whom either live or work, who walk into that hospital do not need to use other transport. I think, for me, one of the things that really I have to say irritates

me in the main is we are talking about politics and we are talking about property and we are not thinking about the patients. I think if you went into the hospital today and spoke to most people in there, and I certainly do, I speak to most people as I go through the Gwyneth Huelin wing as I am walking through to the meeting in Peter Crill House, they think our hospital is lovely. They like that it is convenient and they are sitting there waiting and I say: "What are you waiting for?" "Oh, my daughter's just gone to fetch the car to pick me up." Well, that would be the same at Westaway Court because Westaway Court has got double the amount of car parking spaces that there are down at the Gwyneth Huelin wing. So the issues about people not being able to get to the Westaway Court I am afraid is not a real-life issue. Another one that I often talk to people when they talk to me about the hospital, I ask them: "Is the current hospital, in your view, in the right place?" "Of course it is, it has been there for years. We all know where it is. There is a car park there. Buses all stop just down the bottom of the road." So why, if it is the right place for the hospital today is it not the right place for the hospital tomorrow? A hospital is a place where people go through a journey, a journey to health, a journey to improve health. Where new arrivals arrive, in babies, and elderly people sometimes, unfortunately, depart. It is a place of journey, a place where we need to look after the people that are using our hospital and not think about the politics and the property issues which seem to be consuming us more than the issues of the people that we are here to serve. I wanted to give one point when I give way and that is to Deputy Brée. In part, only in part, he does make a point. I think in these next few months we could do a lot more to get the public more on board, to get a lot more work out to them. Going back to P.82, Deputy Pryke and I went round all the Parishes in my first term of office to let people understand what we were doing and why we were doing it. Perhaps that is something we need to do a bit more. Having said that, the team have gone out and they have had briefings and only recently they have been doing those briefings but perhaps we need to do a little bit more. I think it might have been ... no, it was not Senator Bailhache, it was an ex-Senator who said to me: "Why do you not take a double-page spread out in the *Jersey Evening Post* and give people more ideas of why we are not using those other sites?" In that way Deputy Brée is right. The people need to know simple reasons why we are not ... and that does not mean we have got to stop this work today and leave it until September, we can get on and do that. That is something we can do. The current team are so consumed with the work of what they are trying to do to get this work done they do not have the time to do it. Therefore we could easily bring in some external resource to do that work for us. That simple information which would allow the public to understand why we are doing what we are doing; why we are spending £466 million, potentially, including the £78 million optimism bias that we have within there as a contingency. That is where the different numbers come from, for the Constable of St. John. I do not think there is very much more that I can say other than I think most of the public just want to see us get on with it. Just get on with it.

[17:30]

They have all got the Nike swoosh on their backs: "Just do it", I think the Nike swoosh means. Just do it, and I think that is what they want us to do. Thank you very much.

### **The Deputy Bailiff:**

Does any other Member wish to speak on the proposition? Can I ask Members, if they are going to speak, to indicate promptly when I ask because other than that from the moment I call upon anyone else to respond that is the end of the debate so people run the risk of not being able to be heard. I have now received note that one other person wishes to speak at least. It is 5.30 p.m., do Members wish to take a break at this point for half an hour? Yes. Very well, the States stand adjourned until 6.00 p.m.

[17:31]

### **ADJOURNMENT**

[18:00]

**Senator P.F.C. Ozouf:**

May I give notice of the intention to bring the guillotine motion?

**The Deputy Bailiff:**

So you wish to give notice, Senator, under Standing Order 84, proposal to close debate? Very well. Yes, more than 10 Members, including the proposer, have spoken and we have been going for well more than an hour, so you are entitled to do that. So that is 30-minutes' notice to close the debate.

**The Connétable of St. John:**

A point of clarification, does that include my summing up or exclude?

**The Deputy Bailiff:**

No, at the end of a 30-minute period, the Senator will be entitled, having given notice, to stand and say he proposes to close the debate. That is then put to the vote without any further discussion upon it. If it is defeated, then the debate carries on. If it succeeds, then you will immediately move to your closing speech. Very well, the Deputy of St. Ouen.

**9.1.12 The Deputy of St. Ouen:**

I hope that by now we might all have come to the realisation that there is no perfect site for the hospital that we want in this Island. **[Approbation]** It seems that every Islander, including myself, has an opinion on what might have been the best site, but when we think about it all our opinions are really subjective. We have an idea of, for example, in the case of Overdale, some people might think the healing views of the sea and Noirmont Point are a factor which might outweigh access difficulties to Overdale. There all sorts of issues which might impinge upon us to formulate our subjective views. So how do we arrive at a proper decision-making process to identify a site that works? Well, there is a methodology which is used by all those who are engaged in building hospitals, at least in the U.K. and on the Scrutiny Panel that I have served on, we have seen this. We have seen that there are benefits and risks criteria that are used as an industry standard, very specific criteria that is applied, and that is Government Home Office standards. The benefits and risks of each site were assessed here in Jersey according to that methodology and all this is available for us to see. It is buried among all this plethora, thousands and thousands of pages of paperwork that this project has produced, but that measurement, that assessment, is there for examination. We have reported on it in previous Scrutiny reports and in particular the Health and Society Security Sub-Panel report on the Future Hospital Project which reported in November 2016 immediately prior to this Assembly agreeing the preferred site. It is true that some sites were assessed at much greater detail than other sites because at first review it became clear that some sites just would not work and that must be right. You would not expect to bring forward 40-plus sites on to a shortlist. You have to refine the process, so a shortlist was prepared, and that is a proper process. Each site is given a score, a numerical score, using the benefits and risks criteria. Then of course there is, understandably rightly, a concern to ensure that those advising the future hospital team have got it right. So, an independent review takes place and when we debated the preferred site in December 2016, we saw an evaluation process review that had been prepared by EY, the consultancy firm. That was available to us, to this Assembly, at the time, as was the Scrutiny review. We had spent some months as a Scrutiny Panel looking through - but not just ourselves, our ill-informed, inexperienced selves - we appointed Concerto to look at the evaluation as Scrutiny's advisers. Now Concerto, we first met them in 2016, but they have worked for Scrutiny on subsequent hospital reviews also. I think all those who have worked with Concerto have been impressed by the knowledge that team has and the expertise they bring, and they do this regularly for national health trusts throughout the U.K., so we can place store, I think, on what they say. By the time we reported in November 2016, it was clear from the scoring process that there were really only

2 sites that could deliver an acceptable hospital and one was a Waterfront site and one was the preferred site that was being brought forward by the Ministers. Concerto told us in their report to the Scrutiny Panel which was available to this Assembly: “The evaluation of the 2 remaining site options under active consideration has been carried out in a fair, consistent and comprehensive way. The same requirement has been considered in the appraisal of both options and the evaluation process has been equitable.” So here we are, I believe, objective, independent and knowledgeable assessment from U.K. experts tell us that in arriving at a proposal for the preferred site, the evaluation of the 2 top sites was carried out fair, consistent and in a comprehensive way. That gives some comfort, I believe, so that we can believe that all the other assessments that preceded it of other sites were also carried out fairly, consistently and comprehensively. Do we believe that any of them were incorrect, that all sorts of other sites now need to be reconsidered? Well there is no evidence to suggest otherwise. Overdale and Warwick Farm were assessed on the basis of the benefits and risks criteria, but they scored not as well as the Waterfront site or the preferred site, so this information is out there; the reasons why some sites scored better than others are out there and can be accessed. This work has been done. It is true that maybe it is not easy to access, as one speaker has commented, and that may be why members of the public are concerned, why the Constable of St. John is concerned, that the information is not readily available. But I predict that if this proposition is passed and advisers are appointed, they are simply going to call for what has already been done and they are going to review all that has already been done and they will tell us again what the scoring is. So, if we accept this proposition we will have independent people reviewing what independent people have already reviewed. We could do that but, why on earth, because we accepted that advice when we debated the preferred site. We reported that the site on the Waterfront, and when I say “we” I mean the Scrutiny sub-panel, the site on the Waterfront was marginally better scoring and was marginally cheaper to build than the preferred site that this Assembly eventually went for basically because it was a clean site, yes. So it may be - in fact, it is very likely - that if this proposition is approved and if independent experts again tell us what the scoring is on all these sites, that the Waterfront will come out as a good score. So where does that leave us? We will have that information, it is suggested, in September, although I agree with Deputy Noel that is a very short timescale to ask for this wide-ranging piece of work to be done. But even if it is September, we will know in September that the Waterfront could deliver us a good hospital. But we reported, and this Assembly knew when we debated the preferred option, about the political difficulties of delivering on the Waterfront, so our Scrutiny report set out what we had learnt in our public hearings. The chief officer of the Department for Infrastructure told us that one of the difficulties, regardless of which site comes out on top and how close it is, is if there is political discussion about whether the Waterfront is in or out and it takes an additional 2 years, that is a massive cost to this project regardless of what the outcome was. Now the challenge the Council of Ministers face is that there was a lot of resonance around extending the current site and they believe that gave them a quicker-to-market project which we believe as well. The Waterfront will not be quick to market because of the political challenge around it and the people in this room know that challenge full well. So it was another massive risk to this project way beyond the numbers here of a delay of an additional 2 years. So even if we receive this report from newly-appointed experts in September, do we still face that political discussion over whether we can build on the Waterfront? Because we learnt on our Scrutiny review that some Members wanted to keep it for housing, luxury flats, and indeed that is the present planning designation within the Island Plan, so we would have to change the Island Plan or proceed contrary to the Island Plan if we wanted to put a hospital there. It might be possible, but it will take time.

[18:15]

But we also learnt in Scrutiny from the Minister for Health and Social Services who told us that the St. Helier Constable has already told us, and the other Parish Deputies have told us, Jardins de la Mer is as sacred to them as the People’s Park, so we have got to face all of those arguments as well. We

know what happened over People's Park. We know the Connétable of St. Helier has said, I believe in this Assembly and the Minister recalled it, that he will fight for the preservation of Jardins de la Mer in just the same way as he fought for People's Park and no doubt the town Deputies will. So we could build a hospital there, but we have got to have that fight, we have got to resolve that issue. So, perhaps you might say: "Well, keep Jardins de la Mer and let us restrict the site" so that means we have a small footprint and have to go tall. Does that make any resonances over something that has happened recently? We cannot do that on the Waterfront, so what could we do? Well we could build part on the north side of the road and part on the south side of the road and we could have a bridge perhaps spanning 6 lanes of traffic. What a building. It is possible, we could decide that, and as Deputy Martin has alluded to, we could perhaps take Pizza Hut and - what is the other one there? - the cinema as well, but we would have to put the cinema somewhere else. We would have to do that first and I do not know what the costs of that would be. How much delay are we going to incur in having those discussions, in overcoming those obstacles if we proceed with this proposition because it does not take us to a good place? We will get a score, we will get some information repeated to us about what sites are good, what sites are not so good, but it does not get us over those political arguments and those arguments about planning issues and building. We delay, and we essentially go back to square 1 because we start arguing over: "Where do we site the thing?" again. Meanwhile, the risks of operating our current hospital escalate. We have learnt on Scrutiny, and it is not just on Scrutiny, we have learnt in this Assembly, of the sterling efforts that the current staff do to keep our hospital running. But there are risks that something will fail, something very significant will fail, and we may have to take patients off to the U.K. in order to receive their treatment because we cannot deliver it here. I do not want that to happen. It is costly running a hospital that is crumbling; those costs are going to increase the more we delay. So it seems to me we have made a decision. We had material on which to base that decision, sites have been evaluated in a proper process and that evaluation has been independently assessed and found to be acceptable. Let us move forward, let us ensure that we can build safely. The 2014 Scrutiny Panel, the one before the existing one on which Deputy Hilton served and my predecessor in office in St. Ouen, took some evidence about 2 London hospitals which were being refurbished and rebuilt on their existing sites, and that discussion was started in early 2014. So the hospital project team tell us that they can satisfy us and a planning inspector that it is safe to build what is now proposed, and I look forward to them satisfying us and satisfying a planning inspector so that we can get on with providing this desperately-needed hospital. There will be, let us face it, some disruption but it can be disruption that is acceptable. Let us learn more about considerate contractor schemes, let us learn more about how these things are done at Great Ormond Street and - what is the other one? - the King's College Hospital in London. [Aside] University College, thank you. Let us understand, and I hope in the months to come we will get more information to understand, how this will be done as the planning process is gone through. But let us not go back over information that is already out there and which we seem to have forgotten. We made a decision to build on this site. It was a good decision, it is available to us to do so without all those political ramifications that will mar any further debate on changing sites. So I urge Members to reject this proposition. Thank you.

### **9.1.13 Senator S.C. Ferguson:**

We have had a lot of angst aired today but surely all we are asking for, or all the Connétable is asking for, is a final review of the popular sites. I must say, all the public I meet have different views apart from the fact that they are all terrified by the £1 billion repayments which will be required. People are not convinced that Gloucester Street is the best site and clinicians and other professional staff are unhappy about the decision, but they dare not voice an opinion. It is much like those nurses who were quoted in *Bailiwick Express* last week who have asked to be anonymous because otherwise they will be in trouble. What people are wanting is an open and transparent debate. They are tired of the: "There, there, dear, do not bother your pretty little head about it" approach. They want to know a

straightforward to-the-same-baseline comparison of the sites. We have got a lot of highly-intelligent and well-qualified people asking these questions. Treat them like adults and let us have a proper to-the-same-baseline comparative assessment of the sites. There is no reason why these should not be available by the time the inspector has reviewed the plans. Just a little postscript which somebody might be able to tell me, I would like to know why world-leading hospital consultants or experts in designing hospitals, Atkins, were dropped and Gleeds, with very little, I understand, hospital experience were engaged.

#### **9.1.14 The Connétable of St. Mary:**

You will be very pleased to know there is really very little point in me speaking for more than a moment or 2 because I think practically everything I wanted to say was said incredibly well by the Deputy of St. Ouen and in much more detail than I could possibly have given. But it is simply, for me, a matter of the fact that I have attended, not quite all, but the vast majority of the workshops and I have understood piece by piece as the information has unfolded reasons why certain sites have been discounted or not. But I have been very vocal, and I was particularly vocal I think at the end of the Radisson presentation, when I said that the constituents who were asking me: “Why are we not going to Warwick Farm? Why are we not going somewhere else?”, they are all intelligent people, but they did not have the information readily available to them. I criticised the project then, only to the extent that we had not shared the information properly with people. It was interesting when we started to debate today, and we had the little infographic and some detail, I think it was Deputy Higgins who said: “This information is all very well, but it has come very late” but of course as States Members we all have this. We will have this and a lot more, but the public, had this been given in a document similar to the things that perhaps the interim report for the Electoral Commission did or whatever, the public would have understood a lot more. In the absence of solid information and fact, speculation and rumour has run rife. It is very true, there are lots of people who have alternate sites in mind, but by and large I think if they were analysed we would already have the information on them. Looking at the sites that are here, each one of those has been addressed and I cannot see what the point of revisiting them is. The catchall point (E) “any other sites”, well at the time we started out on this project the net was cast far and wide in order to pick up I think the 42 original sites that were considered, so I have great difficulty understanding what possibly at this stage can come new. Also, I have a great deal of concern that no matter what we do, there will still be some people who will prefer their own site and we will never possibly satisfy them, and that must be partly a failure of the process. Having said that, the actual clinical process, the process which we used has, as the Deputy of St. Ouen has said, been of an industry standard and we do have the information to enable us to go forward. I have had a few really difficult moments during this debate, especially hearing the Deputy of Trinity before and while someone else was speaking, of having about 8 or 10 years ago spent a lot of time with someone in the hospital in a 6-bed ward while effectively, they did not die there, but the last 2 months of their life was not in very good quality. That really bites back to me when I think that that was in 2010 and here we are in 2018. At the beginning of this year I had the same situation again with another person and it is not right that we have that. I mentioned in the last debate that when I discussed this with my parishioners recently, one of them said to me: “Well it does not matter what you do, my darling, because it is going to be too late for me now.” From my point of view, it is a huge decision, as other Members have said, because largely of the huge financial cost to us and to the next generations. That is what makes this decision so difficult. We are, I think, loath to take that step because it is such a monumental decision but the people I have been speaking to are telling me to show leadership and to make that step and to take the decision not to keep shilly-shallying backwards and forwards asking for more information while we waver on the brink of a monumental decision. Take the decision because every single month that goes past when we do not take this decision, 10, 20, 30 people face what I faced with their families on those wards. That, quite categorically, is not right. No doubt about it. Having attended all the presentations, I feel I am in a

good position, much better than the people that I represent, because I have had access to this information they have not. That is a shame. They should have had at least something from it. But I cannot let that stop me making the right decision and the right decision is to provide our Islanders with the hospital care that they so desperately need. Thank you.

**9.1.15 Senator A.K.F. Green:**

I am pleased to follow the Constable of St. Mary but also pleased to follow the Deputy of St. Ouen. I did want to remind Members of the consequences of delay but before doing so also wanted to run through the individual sites that we have looked at, not all 41, but the ones compared to the current location. But I do not think, frankly, that I could do a better job than the Constable of St. Ouen did in his independent analysis of the Concerto report and so I am not going to repeat it, but I agree entirely with everything that the Deputy of St. Ouen said in his analysis. I might add a couple of little things. He was right about the political content or challenge among others of the Waterfront, but not least that I had a very robust, at the very beginning when we were looking at sites, a very robust discussion with the Minister for the Environment about the Waterfront. He made it quite clear, and I have also seen a letter from the planning officers, that they would not support a development of this nature on that site. So you could spend a lot of time coming up with, as the Deputy of St. Ouen said, a very good hospital for that site but it will not see the light of day. We have done that work, so I am not going to repeat it. Others have said, and I am really grateful to the Deputy of Trinity, the Constable of St. Peter and the Constable of St. Mary who I think brought us back to where we are.

[18:30]

We are talking about structures, we are talking about plans, we are talking about developing a hospital, but we are talking about the people of Jersey [**Approbation**] and the need to provide them with a dignified, safe hospital. My good friend, the Constable of Trinity, said that we had nothing to show for the £26 million; I do have to just pick up on that. What we did with that money is develop 4 extra beds at Overdale to give us breathing space during the development of the new hospital so that we know if we get a bad winter we can cope, unlike Guernsey at the moment who are struggling to cope. We put in new facilities for C.A.M.H.S. (Child and Adolescent Mental Health Service) which are opening this month. We provided new doctors' accommodation as well as all the plans for that money, so we have got something to show for that money. Others have said that one-third of people will walk into the hospital. There was what was described, I think, in the pop-up show down at the Liberty Wharf and the Radisson with some members of the public what might be described as a light-bulb moment. I take on board what the Constable of St. Mary said, I think Deputy Higgins also said it, we could have done better with our communication. We did try. We had a double-page spread in the paper on one occasion with infographics in there, but I know we did not do well enough, and I do take that on board. Maybe that is something that our new chief executive with the special projects team can make sure is not repeated in the future. I take that on board, but this light-bulb moment was one young man, for example, saying: "Do you mean if we go outside town, I will not be able to pop down to the hospital to have my blood test done at lunch time? I will have to take the afternoon off to go to the hospital." That is just one thing. You do not build a hospital for the total convenience of people that live in St. Helier, but when you look at the map of the population, as the Minister for Infrastructure said, when you look at that map and when you see the clustering of the population around St. Helier and St. Clement, the edge of St. Saviour going west, it does not go east, that proves that that is the right place. You do not bring people to the hospital, you bring the hospital to the people. All the other sites have lots of what I am calling encumberments because the Constable of St. John said he wanted an unencumbered site. Well there is not such a thing. They all have some encumberment of some sort, be it planning considerations, be it the wrong location, be it the lack of infrastructure, be it that the site is just not big enough. Some of them just

cannot be approved if there is a viable alternative site, and we have a viable alternative site. We have a good site that will provide a good hospital for the people of Jersey. I am just trying to keep it short and not repeat what people have already said. I did get some criticism, and I am not going to respond to all the criticism, but I did get some criticism over the People's Park. I got it from Senator Bailhache and I got it from Deputy Labey of St. Helier. He said we should have come out with an all-singing, all-dancing such attractive plan that people could not have said no to it; it was Deputy Labey. We did not get a chance to do that, unfortunately. It was leaked when we had only really just started to look at it. Senator Bailhache says that I should have gone through with the debate. That is one of my regrets. We would have lost it, and I think it would have been a bitter debate, but it is one of my regrets because I cannot look at some of my consultants in the face who want to build a hospital on the People's Park. I cannot look them in the face and say: "The States said no, I withdrew it." I do wish I had gone to allowing the States to say no, but I did it in the spirit of co-operation with States Members. It was quite clear it was lost. I had Ministers speaking against me in the *Jersey Evening Post* that day, so it was quite clear it was lost. At first, I thought it was the right decision because the spirit of co-operation that came from Members and the workshops that followed and all the advice and suggestions and work that we did with Members was fantastic. I am very grateful to those, which is the majority of Members. I am very grateful to those Members that gave up their time and worked on that. I could go on for ever but at the end of the day, there is no new information here. It has been robustly looked at. It has been independently checked by Scrutiny's advisers, as the Constable of St. Ouen has said. We could do it all again, we will end up back in the same place. Meanwhile, we have got a facility that is failing, that we are spending more money on to keep it safe, that is not dignified. Can you imagine sitting in a 6-bed ward? It might have been acceptable 30 years ago and 60 years ago to have the Florence Nightingale wards, that is the wards with 20 or 30 people in them. That might have been acceptable 30 years ago. We have 6-bedded wards with people departing life, getting bad news, or basic functions like sitting on a commode with 5 other people listening because there is only a bit of curtain between them. We can do better than that. I know it is a lot of money. We have talked about the funding briefly, Members have talked about that, but whatever scheme you go for it is going to be a lot of money, it is going to be around the figure that we said. One question I would like to pick up with on the Constable of St. John, he said it has suddenly gone down from £630 million to £466 million. No, Constable, the scheme you were looking at was the 2-site scheme with half a hospital up at Overdale and a renovated, a 11-year renovation, of the old building. That is what we decided would not work, so it has not suddenly gone down. That scheme was rejected, and it was not working near the current hospital, it was working in the current hospital. I remember in my speech for being the Minister for Health and Social Services, when I wanted to be the Minister, when I made that bid saying that I would not want that for my mum and I did not see why anybody else's mum should put up with that either. But we can develop a new hospital on the current site safely with a minimum of inconvenience, but the longer we wait, the more the work will have to be done. I went into the hospital on Sunday, I went to visit a friend who had had a knee replacement, and I am pleased to say they are doing very well. They are repairing one of the lifts and they had the Kangos out and all the rest of it. There will be more of that unless we get a move on, and patients deserve to have their treatment in peace and quiet. If we can develop a hospital just like the International Finance Centre, you could stand within a metre of that and not know they were building. Not know they were building, and that is the modern sort of construction that is needed here, but I am not the builder. I just need to get this through so that we can delay no more because delay is going to be more inconvenience for patients, delay is going to be more costs. Members talk about the credibility of States Members. I think the credibility of the internationally-qualified experienced advisers that we are working with might suffer as well. Senator Ferguson made some comment about Gleeds not being experienced hospital builders. They are experienced hospital builders. They were appointed before I came along, but I have to say I think their work has been first class. **[Approbation]** First class, and I am really pleased with the support that we have done. I have not



mentioned today, but I will pick up on it so that Members know, we keep getting told that when you compare our costs to other builds in the U.K., it is not comparable. That is not true. When you compare - and our advisers have looked at it - when you compare like-for-like, when you compare an acute general hospital for a fully-equipped acute general hospital, we do well. But you cannot compare one that was finished today with the one that we are going to deliver in 6 years' time because you have to allow for inflation in that time, but the inflation has to be right. I do not think I can say much more. This is not the time to stop. This is the time to show leadership, as the Constable of St. Mary said. I know this Assembly can do better than go back to the drawing board on one of the most important projects in our Island's history. Through the Chair, I know Members can do better than that and I urge them to reject this proposition and allow the team to get on and deliver that hospital for the patients of Jersey, the Islanders of Jersey and, just as importantly, the staff that work in it. Thank you. **[Approbation]**

**Senator P.F.C. Ozouf:**

Can I put the guillotine motion?

**The Deputy Bailiff:**

Yes, there has now been more than a half an hour passed since the Senator gave notice and well more than an hour since the debate opened. The motion therefore is to close the debate. There is a vote on that motion. There is no debate upon that motion, it has been put, and I therefore with the motion invite ... call for the appel?

**Deputy J.A. Martin:**

Yes, the appel, that is all I was going to ask for. I was not going to discuss it.

**The Deputy Bailiff:**

No? **[Laughter]** Very well, I invite Members ...

**Senator L.J. Farnham:**

Are there many more people listed to speak?

**The Deputy Bailiff:**

I have 2 people listed to speak in addition obviously to the Connétable's summing up, but if anyone else ... well, I could ask Members if they wish to indicate whether they intend to speak and have not yet spoken. No? Very well, we will put the matter to the vote. Those who are in favour of closing ... **[Interruption]** very well, the appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

<b>POUR: 26</b>		<b>CONTRE: 16</b>		<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf		Senator P.F. Routier		
Senator P.M. Bailhache		Senator A.J.H. Maclean		
Senator A.K.F. Green		Senator I.J. Gorst		
Connétable of St. Peter		Senator L.J. Farnham		
Connétable of St. Ouen		Senator S.C. Ferguson		
Connétable of St. Brelade		Connétable of St. Clement		
Connétable of St. Saviour		Connétable of St. Lawrence		
Connétable of Grouville		Connétable of St. Mary		
Connétable of St. John		Connétable of St. Martin		
Connétable of Trinity		Deputy J.A. Martin (H)		
Deputy J.A. Hilton (H)		Deputy of Grouville		
Deputy of Trinity		Deputy J.A.N. Le Fondré (L)		
Deputy E.J. Noel (L)		Deputy K.C. Lewis (S)		

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

So one is voting pour to close the debate, contre to keep the discussion open. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The proposition has been adopted: 26 votes pour; 16 votes contre; no abstentions. [INSERT VOTE TABLE]

**The Deputy Greffier of the States:**

Those voting pour: Senators Ozouf, Bailhache and Green, the Connétables of St. Peter, St. Ouen, St. Brelade, St. Saviour, Grouville, St. John and Trinity, Deputies Hilton, Trinity, Noel, Maçon, Pinel, Bryans, St. Peter, Rondel, Mézec, St. Ouen, Labey, Wickenden, Brée, St. Mary, Truscott and McLinton. Those voting contre: Senators Routier, Maclean, Gorst, Farnham and Ferguson, the Connétables of St. Clement, St. Lawrence, St. Mary and St. Martin, Deputies Martin, Grouville, Le Fondré, Kevin Lewis, St. John, Higgins and McDonald.

**The Deputy Bailiff:**

Therefore, in accordance with Standing Order 84(5) I invite you to reply to the debate, Connétable.

**9.1.16 The Connétable of St. John:**

Before I start I will correct the Minister for Health and Social Services who said that I was incorrect in stating that the option (C) was £630 million, involved building off-site, I think you said up at Overdale. If you read option (C), 100 per cent new-build hospital on the current General Hospital site and adjacent land in Kensington Place, it is £630 million taking 11 years 5 months. That is what it says in your report.

**The Deputy Bailiff:**

Through the Chair, please.

**The Connétable of St. John.**

Through the Chair. [Laughter]

**The Deputy Bailiff:**

No, “through the Chair” means: “That is what it says in the Senator’s report.” [Laughter]

**The Connétable of St. John:**

Thank you, Sir, I apologise. We have received a wonderful report from the Minister for Infrastructure which we have not had time to read in any detail. It is interesting that each section for each of the proposed plans he puts: “No. No. No.” Well, it is quite easy to produce these reports. I could have produced the report: “Does the present proposal on the hospital site breach height guidelines?” Yes,

it does. "Does the site require the purchase of private properties by compulsory purchase, if necessary?" Yes, it does. "Does this site cost more than other sites?" "Yes, it does. "Does this site take longer to build than other sites?" Yes, it does. "Is the site in a flood plain?" Yes, it is. "Is this site a higher risk to patients than other sites?" Yes, it is. Could you place that in the wastepaper bin where it belongs? **[Members: Oh!]** Thank you. We received a lot of emails over the weekend from students asking us to support their loans. Indeed, it was commented on. I have not received one single email from anybody working in the hospital saying: "Please, can we get on and build this hospital?" Not one. But I have had a lot of phone calls saying anonymously: "I am so-and-so, I have ghosted my number, please do not call me back, but you have got to stop what is happening."

[18:45]

I am very sad that people should feel in such fear of their jobs and that has hurt me very, very greatly. Recently there was a presentation both at the Radisson for the current hospital site proposition and also it went on at the Weighbridge. The Minister for Infrastructure was quoted as: "This is the least worst option." Well, I am sorry, I want what is best for Jersey. I was very interested by what the Deputy of St. Ouen had to say because he was careful to say that there was only a marginal difference between the Waterfront and the existing hospital site. There was a clear advantage on the Waterfront and, indeed, I think I can say had I not resigned from the committee, and the committee had more time, and I said this at the time of the debate, that it may well have been that the committee itself brought the proposition. But I resigned, and it made a difference to the committee who brought forward their proposition. The decision before this Assembly in accepting P.110 showed very clearly that the height of the hospital would be 36 metres. What went to the Planning Department was a height of 47 metres, so one has to question the decision-making that took place to have such a big difference. I was criticised that as chairman of the Public Accounts Committee I should be concerned about the cost. Yes, I am, that is precisely why I bring this proposition, because to re-examine with a fresh set of eyes may well make savings on the existing site or may well come forward with another site with the necessary savings. The Waterfront back in the early 1980s was identified as a site for a new hospital. It was also to have an ambulance, fire and police station amalgamated to save costs, so we had an amalgamated emergency services right next to the hospital all on the Waterfront. What a wonderful idea. So what did we do? We built a cinema. Senator Bailhache asked, he would like to know a little bit more about what was being looked into and, as it were, the terms of reference. I think this is something that I have in my proposition which would be agreed by the Chief Minister and the Minister for Treasury and Resources, but what I have envisaged is that this independent team would examine all the data on the various sites. They would identify any relevant data that is needed to make a decision on the site that is not available. That does not mean produce the information, just identify this information is missing; to also comment on the quality and safety of the evidence so far provided and also to advise on the safety of the decisions that have been taken on the evidence that has been presented. That is what I would envisage, so that can be carried out relatively quickly and this can be done in parallel with the planning application. The planning application I understand will go to the planning inspector, who will make a decision probably sometime around September. There is no delay. Do not be fooled by that. There is no delay, because the 2 can work in parallel and report at the same time. If I may, I shall finish with the words of a very good letter that was sent to me: "I was so pleased to see through the Friday email of the Chamber of Commerce that you have lodged a proposition for the States to review the proposed site location and cost of our new hospital. This is a subject that has been on my mind constantly in recent months and I have read many eloquent letters in the local newspaper and I know I am not alone in my concerns. Without exception, there has been not one person I have spoken to, and I have spoken to many, that thinks the proposed new hospital on the current site is acceptable. I have spoken to one politician and one ex-politician, who have said the same thing. I have been in hospital twice in the last 2 weeks and I spoke to everyone I could regarding their thoughts about this subject and everybody, including nurses, said that they were

so against the hospital being in town, that the doctors were in absolute agreement and were not in favour of the proposed site, but were gagged against saying what they really wanted.” That has been a common theme and one that seriously injures me. The letter goes on: “Yesterday I had a long conversation with 2 nurses, who became quite animated when speaking about how wonderful Warwick Farm or St. Saviour would be. They went on to say: ‘No one asks us for our opinion and we work here. We are on the front line.’” In conjunction to that, the recent Rescon survey showed 55 per cent of the population would support a review. I am merely a servant of both this Assembly and the public of the Island and I bring forward the wishes of 55 per cent of the population wanting a review. I call for the appel, sir.

**The Deputy Bailiff:**

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

<b>POUR: 19</b>		<b>CONTRE: 25</b>		<b>ABSTAIN: 0</b>
Senator P.M. Bailhache		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Connétable of St. Saviour		Senator A.J.H. Maclean		
Connétable of St. John		Senator I.J. Gorst		
Connétable of Trinity		Senator L.J. Farnham		
Deputy J.A. Martin (H)		Senator A.K.F. Green		
Deputy of Grouville		Connétable of St. Helier		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Clement		
Deputy K.C. Lewis (S)		Connétable of St. Peter		
Deputy of St. John		Connétable of St. Lawrence		
Deputy M.R. Higgins (H)		Connétable of St. Mary		
Deputy J.M. Maçon (S)		Connétable of St. Ouen		
Deputy S.Y. Mézec (H)		Connétable of St. Brelade		
Deputy R. Labey (H)		Connétable of St. Martin		
Deputy S.M. Wickenden (H)		Connétable of Grouville		
Deputy S.M. Bree (C)		Deputy J.A. Hilton (H)		
Deputy T.A. McDonald (S)		Deputy of Trinity		
Deputy of St. Mary		Deputy E.J. Noel (L)		
Deputy G.J. Truscott (B)		Deputy S.J. Pinel (C)		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		
		Deputy of St. Ouen		
		Deputy L.M.C. Doublet (S)		
		Deputy P.D. McLinton (S)		

**10. Immigration (Biometric Registration) (Jersey) Order 2018: extension to Jersey by Order in Council (P.41/2018)**

**The Deputy Bailiff:**

Very well. As I say, the next item is the Immigration (Biometric Registration) (Jersey) Order 2018: extension to Jersey by Order in Council, lodged by the Chief Minister. 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 signify, pursuant to Article 31 of the States of Jersey Law 2005, that they agree that a request be made to Her Majesty in Council for the

making of an Order in Council that would extend to Jersey, with appropriate modifications: (a) sections 5 to 15 and 61 of the U.K. Borders Act 2007; and (b) sections 9, 12(4), 13, 14, 77 of and schedule 2 to the Immigration Act 2014, as summarised in the Chief Minister's report attached to this proposition.

**Senator I.J. Gorst:**

I would like to ask the Minister for Home Affairs to act as rapporteur, please.

**The Deputy Bailiff:**

Certainly. Minister.

**10.1 The Deputy of St. Peter (The Minister for Home Affairs - rapporteur):**

The extension to Jersey of these sections of the U.K. Borders Act 2007 and the Immigration Act 2014 will allow provision to be made within the Island for biometric immigration documents. Were the Order in Council to be extended, the States Assembly would in future be able to make regulations requiring a person applying for an immigration document to provide their biometric information, such as their fingerprints and a photograph of their face. The use of biometric information for immigration documents is already a regular practice in other parts of the C.T.A. (Common Travel Area) and this Order in Council would lay the foundation for Jersey to be able to meet this standard of registration.

[19:00]

It is important to emphasise that the Order in Council, if extended, is an enabling provision allowing for regulations which will contain most of the information around the use of biometric documents to be made. There will be no requirement for a person to apply for a biometric immigration document unless and until the States make the regulations to lay down that requirement. I should also point out that the draft Order in Council and the proposed extended provisions in their modified form have been included in the proposition as appendices for the information of Members. As Members are aware, the grant of permission for a person to be in Jersey, i.e. leave to enter or leave to remain, also equates as permission for that person to be anywhere in the British Isles. Accordingly, it is important for Jersey, as a member of the C.T.A., to play a full and proper part in securing the border around the British Isles. An important aspect of enhancing this security throughout the C.T.A. is to keep identity abuse to a minimum by ensuring that immigration documents are more secure and can be easily verified. In turn, this allows the holder of the document to prove with less difficulty, if required, that they have the necessary permission to be here. A central part of delivering this objective has been the progressive transition since 2008 to the use of biometric immigration documents. This forms part of the overall strategy of ensuring that foreign nationals living in the British Isles who are subject to immigration controls have secure, reliable evidence of their immigration status and comply with any conditions imposed on them. Under the U.K. Borders Act of 2007, the Secretary of State may make regulations to require foreign nationals subject to immigration control to apply for a biometric immigration document, and as part of that application, to provide their biometric information. As Members know, the legislative framework in Jersey for the functioning of the C.T.A. is via the extension of the Immigration Act in suitably modified form by Order in Council. The purpose of this proposition is therefore, as previously stated, to seek the approval of the Assembly to such an Order in Council, which would provide a legislative framework for Jersey to issue biometric immigration documents in the same way as the U.K. has since 2008. In the interests of time, I will not repeat the information that is already contained in the report regarding the proposed extended provisions, especially as much of the detail will come in the regulations themselves. I will, however, highlight a few key points. The Order of Council, by extending sections 5 and 6 of the U.K. Borders Act 2007, provides the enabling provision empowering the States to make regulations for the same purpose as the regulations made by the Secretary of State in the U.K. Under section 7, if a person does not

comply with the requirement of the regulations, the Minister would have the power to impose a sanction by way of a civil penalty. Section 7 also allows the regulations to set out when applications may be refused or discarded. Under section 8, the regulations would need to make provision for the use, retention and destruction of biometric information. Sections 9 to 14 make provisions for the Civil Penalties Scheme for those who fail to comply with the regulations. There would be a right of appeal to the Petty Debts Court in cases where a penalty was levied. The provisions in the 2007 Act, as extended, would also require the Minister for Home Affairs to issue a code of practice under the matters which the Minister must consider when determining whether to issue a civil penalty notice. The Act, as extended, would require the Minister to publish proposals and consult the public before issuing or reissuing the code. I can assure Members that a draft of the code will be available to the Assembly at the time of the regulations being brought forward. The amendments proposed to the Immigration Act, as extended to Jersey under this Order in Council, are in relation to powers to take biometric information and include, for example, provisions regarding the use and retention of such information. This proposition invites Members to approve the principle of introducing the requirement for foreign nationals who are subject to immigration controls to apply for biometric immigration documents. The adoption of this Order in Council would be a significant step in allowing Jersey to ensure that it is contributing, as far as possible, to the security of our collective borders in the C.T.A. and improving immigration control. This is an objective of considerable importance and providing a legislative framework for the introduction of biometric immigration documents will be of significant beneficial assistance. Should the Assembly agree to the extension of the Order in Council, work would immediately begin on the regulations, which will contain the detail of the areas I have referred to. These regulations will be brought forward, along with a draft code of practice, later in 2018. I would be pleased to answer any questions that Members might have and I propose the proposition.

**The Deputy Bailiff:**

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

**10.1.1 Senator S.C. Ferguson:**

Just a quick question. I wonder if it would be helpful for those of the public who are listening to this if the Minister could explain what a biometric registration is.

**10.1.2 Connétable D.W. Mezbourian of St. Lawrence:**

As Members know, I have delegated responsibility for the Jersey Customs and Immigration Service, so I think it only right that I speak briefly to this proposition. Members may be interested to know that Assistant Ministers are not able to bring Orders in Council to the Assembly, which is why the Minister has done this on this occasion. As a member of the C.T.A., Jersey aligns its immigration control to that of the U.K., thereby allowing free movement of persons within the C.T.A., as well as a secure collective border. We have heard the Minister mention that the transition to the use of biometric immigration documents using facial photographs and fingerprints has been ongoing since 2008. It does and will provide more secure and robust evidence of a person's identity and immigration status. That is an advantage to both the immigration authorities as well as to the individual and it is therefore logical to provide a legal basis for Jersey to also be able to collect biometric data and to issue biometric immigration documents. As Members know, we need to provide the Jersey Customs and Immigration Service with all the necessary means of keeping our borders secure. It is of considerable importance that Jersey Customs and Immigration officers are able to use the most secure methods available in providing a robust and common immigration control. I said I would be brief, so to sum up, I am pleased to offer my support for this proposition and ask that Members approve the making and extension of this Order in Council.

**The Deputy Bailiff:**

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

**10.1.3 The Deputy of St. Peter:**

In answer to Senator Ferguson: a biometric registration would be the process of people registering their biometric data under this Order in Council. I hope that is clear for the Senator.

**Senator S.C. Ferguson:**

I am sorry, Sir ...

**The Deputy Bailiff:**

I think perhaps the Senator is asking for an explanation as to the meaning of “biometric.”

**The Deputy of St. Peter:**

Sorry, I thought I had referred to that in my speech. Biometric data that we are suggesting would be collected for registration would be pictures of a person, so that their facial recognition can be deduced in immigration controls, and also their fingerprints. As the Constable of St. Lawrence pointed out in her speech, this has been common practice in other parts of the C.T.A. over the last 10 years and we see it as an essential part of our duty and responsibility within the C.T.A. to ensure that we meet these other practices, as the modern practices enable us to secure a person’s identity and prove that identity with greater ease and confirmation, because of course a person’s identity is absolutely crucial and the guarding of that identity is a very important issue to members of the public who wish to travel. I consider this to be an important part of enhancing our security and borders and I hope that the Assembly will support this proposition and this Order in Council. I call for the appel.

**Deputy M.R. Higgins:**

Sorry, is it possible just to seek clarification of a point? Can the Minister confirm that fingerprints are taken from U.K. citizens with their new passports? That is the first I have ever heard of it. I do not know if anyone else is aware of it in the States.

**The Deputy Bailiff:**

It is a point of clarification of your speech. I suppose it is a reasonable question to ask, if you are aware of that, Minister.

**The Deputy of St. Peter:**

As I mentioned in my speech, this has been the practice in the U.K. for the past 10 years.

**Senator S.C. Ferguson:**

Can I ask for a point of clarification, Sir?

**The Deputy Bailiff:**

Yes, if it is a point of clarification, Senator.

**Senator S.C. Ferguson:**

Yes. Having also Googled “biometrics”, are these ...

**The Deputy Bailiff:**

That is not a point of clarification, is it? That is providing information to the Assembly. It is a speech and you have already spoken.

**Senator S.C. Ferguson:**

No, it is just are the biometrics stored over here?

**The Deputy of St. Peter:**

I think I referred in my speech to the fact that there would be, in regulations, an outlined proposal of how data would be stored and also when it would be destroyed, when relevant. Shall we go to the appel, please?

**The Deputy Bailiff:**

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

<b>POUR: 32</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
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 of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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 of St. Peter				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

**11. Income Support Medical Appeal Tribunal: appointment of member (P.52/2018)****The Deputy Bailiff:**

Very well. The next item is the Income Support Medical Appeal Tribunal: appointment of a member, lodged by the Minister for Social Security, and I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to appoint, in accordance with Article 9 of the Income Support (Jersey) Law 2007, and further to a process overseen by the Jersey



Appointments Commission, Dr. Benjamin John Griffiths, Medical Practitioner, as a member of the Income Support Medical Appeal Tribunal for a term of 5 years.

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

I am pleased to propose the appointment of Dr. Benjamin Griffiths, a medical practitioner, as a panel member to the Income Support Medical Appeal Tribunal. The tribunal deals with appeals regarding medical grounds affecting a claim to income support, the level of care being provided affecting the award of home carer's allowance and care levels affecting the award of long-term care. A tribunal panel consists of a legally-qualified chair or a deputy chair, a medical practitioner and a layperson, being an individual who has an understanding of the impact of disability through their own experience. The recruitment process was overseen by the Appointments Commission and I am satisfied that Dr. Griffiths has the appropriate professional qualifications, knowledge and experience to fulfil the medical practitioner member role. I ask Members to agree that the proposed candidate is appointed to the Income Support Medical Appeal Tribunal for a 5-year term of office starting from 10th April 2018. I ask Members to support the proposition and ask for the appel.

#### The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak? The appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 34</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
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 of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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 of St. Peter				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy S.M. Bree (C)				

Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

## **12. Social Security Medical Appeal Tribunal: appointment of member (P.53/2018)**

### **The Deputy Bailiff:**

The next item is the Social Security Medical Appeal Tribunal: appointment of member, lodged by the Minister for Social Security, and ask the Greffier to read that proposition.

### **The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to appoint, in accordance with Article 34 of the Social Security (Jersey) Law 1974, and further to a process overseen by the Jersey Appointments Commission, Dr. Benjamin John Griffiths, Medical Practitioner, as a member of the Social Security Medical Appeal Tribunal for a term of 5 years.

### **12.1 Deputy S.J. Pinel (The Minister for Social Security):**

I am pleased to propose the appointment of Dr. Benjamin Griffiths, a medical practitioner, as a panel member to the Social Security Medical Appeal Tribunal. The tribunal deals with appeals regarding the award of long-term incapacity allowance. A tribunal panel consists of a legally-qualified chairman or deputy chairman and 2 medical practitioners. The recruitment process was overseen by the Appointments Commission and I am satisfied that Dr. Griffiths has the appropriate professional qualifications, knowledge and experience to fulfil the medical practitioner member role. I ask Members to agree that the proposed candidate is appointed to the Social Security Medical Appeal Tribunal for a 5-year term of office, starting from 10th April 2018. I ask Members to support the proposition and also ask for the appel, please.

### **The Deputy Bailiff:**

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

### **12.1.1 Deputy J.A. Hilton of St. Helier:**

Just very briefly, I am wondering if the Minister can inform Members whether any of the - I think it is - 100-plus claimants who do not live in Jersey, but live in a variety of other jurisdictions, costing the taxpayer something in the range of £600,000 per year, whether any of those claimants ever have lodged an appeal to the tribunal.

### **The Deputy Bailiff:**

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

### **12.1.2 Deputy S.J. Pinel:**

I think the Deputy is referring to the long-term incapacity claimants who, as she quite rightly says, some do live abroad. They have to apply to doctors in their place of abode in order to have their certificates endorsed by the medical practitioners where they are, unless it is a very long medical condition, a chronic medical condition, in which case the doctor here will extend it. I am not aware of any tribunal claims.

### **The Deputy Bailiff:**

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

<b>POUR: 35</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
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 Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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 of St. Peter				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

### **13. Draft Capacity and Self-Determination (Amendment) (Jersey) Law 201- (P.42/2018)**

#### **The Deputy Bailiff:**

The next item is the Draft Capacity and Self-Determination (Amendment) (Jersey) Law and I ask the Greffier to read the citation.

#### **The Deputy Greffier of the States:**

Draft Capacity and Self-Determination (Amendment) (Jersey) Law 201-. A Law to amend the Capacity and Self-Determination (Jersey) Law 2016. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

I think Members will be pleased to hear that I intend to have a sort of preamble that will cover all of the different propositions and then obviously will talk very briefly about each proposition when we get there. It is a privilege - and I mean that, it really is a privilege - to be able to introduce the

proposed secondary and associated legislation connected with these 2 hugely important laws, laws which this Assembly have previously adopted, namely the Mental Health (Jersey) Law and the Capacity and Self-Determination (Jersey) Law. The Assembly will be aware of my personal ongoing commitment to improving the lives of people with mental health. Indeed, I think most Members share that commitment. Each of these laws in different ways has the potential to fundamentally reform the intervention and approach of organisations and individuals alike in how they work with and support some of the most vulnerable people in Jersey. Both laws received Royal Assent and each now await the Appointed Day Act for commencement. These Acts are also tabled for consideration on the Order Paper and I will be asking Members, probably tomorrow, if they will agree for them to come up the Order Paper to follow the different propositions on the Mental Health (Jersey) Law, but that is for tomorrow. We are now at the stage of considering regulations required for the implementation of both the Mental Health (Jersey) Law and the Capacity and Self-Determination (Jersey) Law. I want to emphasise right from the start that these laws are built on the bedrock of human rights.

[19:15]

The Regulations serve to support our observance of the importance of these rights in what is a complex and challenging context. The journey at arriving here has not been a simple one and neither has it been hurried. I have been on this journey for about 3½ years. There is good reason for this. In considering the existing Mental Health (Jersey) Law, notwithstanding the minor occasional amendment, the law has been largely unchanged for over 40 years and was in itself drafted on the even more distant Mental Health Act of 1959. Mental health practice and the understanding, I am pleased to say, over the years has changed, but unfortunately our legislation had not. In respect of capacity legislation and the Mental Capacity Act, which was introduced in England and Wales in 2005, Jersey never had the equivalent legislative framework. Instead, we have relied solely on the capacity policy as a means of making decisions on behalf of adults who are unable to do so for themselves. Where that policy has been insufficient to meet the needs of those lacking capacity, the only means available to us for making decisions of serious consequence has been to refer them to the Royal Court. This Assembly, which I am grateful for, recognised through the adoption of the Capacity and Self-Determination (Jersey) Law in 2016 that we needed legislative development in this area. The regulations proposed today further enhance that initiative. The implementation of reform in the field of mental health and capacity will also require intense dialogue, a willingness to listen to the experiences of those whose lives are affected by mental health or incapacity, but also for those who provide services, who support and care for patients, either as part of their working lives or as carers, due to personal circumstances. I would like to take the opportunity to acknowledge the work of the professionals and the support staff within our service, but also the very many informal carers throughout the Island, including child carers, who provide such an essential and integral part of supporting Islanders with special needs. In some cases, we would otherwise have to provide even more residential care. We owe it to those people, not only to the patients, but we owe it to those people who provide the informal care to see through the implementation of this new legislation. As was the case in the development of the new laws, there is a raft of secondary legislation that is proposed today. It has been through a lengthy period of targeted engagement, dialogue and consultation, involving professionals and stakeholders. Equally, this legislation has come about through a process of understanding where our gaps are in legislation, how that legislation might best ensure that the outstanding need is met and, finally, why the context of the service provision in Jersey is sometimes quite different from the context which we might find elsewhere in the British Isles. The new laws and their supporting regulations are not simply carbon copies of the existing U.K. legislation, nor are they an amalgamation of different legislation and policies moulded in a way so as to fit the Jersey context; rather, it is legislation formed around the specific needs of our Island. In devising training and codes of practice to accompany the new legislation, the principle of Jersey

training for Jersey laws continues to be upheld throughout. My department is well supported by a small team of officers who have formed links and work closely with operational staff in the Law Officers' Department, the Judicial Greffe and the Viscount's Office. It is their combined efforts that have ensured that the ground has been well-prepared for the enactment of new legislation, with systems, policies, processes and procedures being reformed in readiness for a whole new way of working. I commend them and thank them for their work, and would urge Members to recognise their efforts. **[Approbation]** The appetite for change is great; in undertaking training and in speaking with members of professional organisations and members of the public alike, my officers have continually highlighted the interest in the new legislation and the desire for enactment. The theme which runs through this is one of empowerment as much as it is one of protection. The balance between keeping people safe from harm while ensuring that people are able to make and take responsibility for their own decisions is a many-faceted one; one which will continue to challenge services as well as posing a challenge to ourselves. The strive to keep people safe is a powerful driver and is part of our humanity. Nevertheless, it is essential that we do not shy away from those critical debates pertaining to an individual's right to self-determination, and this legislation strikes at the heart of that balance. The Mental Health Law is essentially concerned with protecting individuals and members of the public in the context of ensuring that mental health needs are met, and that mental health illness is treated appropriately. The Capacity and Self-Determination Law is a far-reaching piece of legislation with the overriding objective of ensuring that the individual has the right to make their own choices where they have the ability to do so, with the additional provision for when they do not. The principle of empowerment and the least restrictive approach is reflected quite clearly in the law's provision for statutory independent advocacy. This is a means of ensuring those who are most vulnerable and those who are most at risk of not being heard have the provision of an independent statutory professional; a professional who has the skills and experience necessary to ensure that the views of service users are considered as central to the decision-making process. Two sets of the regulations proposed will provide for the appointment and the provision of their services. The Mental Health Law will be there for there to be clearer processes for assessing and making provision for the detention of people to hospital. A new code of practice will accompany both laws and be available both as hard copies and online. This will ensure a better understanding of how processes are undertaken, and there will be an opportunity for redress if it is felt that codes have not been adhered to. I am therefore confident that, alongside the modernisation and reform, there will exist an improved sense of transparency and accountability. Seven separate propositions are set before us today, plus the 2 Appointed Day Acts. I start now to talk about P.42, the Draft Capacity and Self-Determination (Amendment) (Jersey) Law, which I will refer to as the "supervision regulations." This will designate the Viscount with responsibility for investigating complaints about the conduct of delegates and attorneys and supervising delegates where supervision is deemed to be necessary. In preparing the supervision regulations it was acknowledged that part 4 of the 2016 Law did not provide sufficient *vires* for the imposition of fees where the Royal Court deemed the Viscount supervision to be necessary. The charging of fees for facilitating the supervision of delegates is an approach already in place in England and Wales where the Public Guardian has the power to charge a fee for its supervision of court-appointed deputies. The draft law will amend the Capacity and Self-Determination Law to confer a power for the States, by regulation, to make provision as to the charging of supervision fees. The supervision regulations will bring forward that provision to enable the Viscount to charge a supervision fee where the Royal Court assesses, on the appointment of a delegate for a person lacking capacity, under Article 24 of the primary law, that that delegate in question would benefit from the supervision by the Viscount in the performance of that role. I make the proposition for P.42

### **The Deputy Bailiff:**

You are moving the principles at the moment, are you, Minister?

**Senator A.K.F. Green:**

Yes.

**The Deputy Bailiff:**

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

**13.1.1 Senator P.F. Routier:**

The Minister spoke generally about the provisions of the new laws and what these Regulations are going to do, and I think it would be only right that we should congratulate the Minister for getting us to where we are today. **[Approbation]** This is a really important day for people who are cared for, those who are doing the caring, those people who have contact with people who are suffering from mental health issues, and for those who have learning disabilities as well. It is something which we should have done many years ago. I can remember before I was a States Member, many years ago, I joined a working party to try and change the new Mental Health Law, and it faltered because it was such a massive piece of work, and there has been new thinking which has got us to this new legislation today. I was fortunate to be party to some of the meetings which helped to form this legislation, and I know the amount of work that has gone into formulating this legislation. I hope Members will feel able to get fully behind this legislation, because it is needed, and this will support people who are being cared for within our community. I wholeheartedly support the legislation and the Regulations which are going to come forward.

**The Deputy Bailiff:**

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

**13.1.2 Senator A.K.F. Green:**

I thank Senator Routier for his very kind comments, but particularly for again highlighting the very essential support and need that sufferers from mental health get from informal carers in the community, for which we are, I know, all very grateful. Sir, do you want me to take the Articles now?

**The Deputy Bailiff:**

Well, we still have to pass the principle, so all Members in favour of adopting the principles ... the appel is called for. I invite Members to return to their seats, and I ask the Greffier to open the voting.

<b>POUR: 32</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
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 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 J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

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

No, Sir.

**The Deputy Bailiff:**

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

**13.2 Senator A.K.F. Green:**

Yes, Sir. There are only 2 Articles: Article 1 covers the amendment and Article 2, the citation. Unless Members have got something that they want me to answer, I propose the Articles, Sir.

**The Deputy Bailiff:**

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

**Senator A.K.F. Green:**

Yes please, Sir.

**The Deputy Bailiff:**

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

**14. Draft Capacity and Self-Determination (Capacity and Liberty - Assessors) (Jersey) Regulations 201- (P.43/2018)**

**The Deputy Bailiff:**

The next item is the Draft Capacity and Self-Determination (Capacity and Liberty-Assessors) (Jersey) Regulations, and I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Capacity and Self-Determination (Capacity and Liberty - Assessors) (Jersey) Regulations 201- . The States, in pursuance of Articles 43, 44(8) and 69 of Capacity and Self-Determination (Jersey) Law 2016, have made the following Regulations.

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

A very short introduction to this one, having done the introduction for all of them before. This Draft Capacity and Self-Determination (Capacity and Liberty - Assessors) (Jersey) Regulations; the assessments of significant restrictions on liberty are a robust process to allow the Minister to proportionately and justifiably restrict the Article 5 of the European Convention on Human Rights for persons lacking in capacity, the appointment of a capacity and liberty assessor and the assessment process. The assessment must be undertaken to very high standards to ensure that the Minister can be confident that any restrictions are proportionate, necessary and lawful.

[19:30]

The Regulations ensure such rigour in selecting the capacity and liberty assessor and ensuring that any external scrutiny of their appointment and function will be transparent, accountable and robust. We have undertaken considerable research to ensure that the lessons learnt from the mistakes made in the implementation of the deprivation of liberty safeguards under the U.K.'s Mental Capacity Act 2005 are not repeated here, and to ensure that the Jersey model of significant restrictions on liberty are both fit for purpose and E.C.H.R. (European Convention on Human Rights) compliant. I make the proposition.

**The Deputy Bailiff:**

Is the proposition in principle seconded? **[Seconded]** Does any other Member wish to speak on the principles? Would Members in favour of adopting the principles kindly show? Those against? The principles are adopted. Deputy of St. Ouen, do you wish to call this matter in?

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

No, Sir.

**The Bailiff:**

Very well. How do you wish to deal with the matter in Second Reading, Minister?

**14.2 Senator A.K.F. Green:**

Sir, I am entirely in the hands of Members. There are 6 regulations; I could take them *en bloc*, if Members wish, or I can go through them. I am in the hands of Members, if they would like to indicate. *En Bloc*, I am getting.

**The Bailiff:**

The indication is that you would take them *en bloc*.

**Senator A.K.F. Green:**

In that case, Sir, Regulations 1 to 6, please, *en bloc*.

**The Bailiff:**

Are Regulations 1 to 6 seconded? **[Seconded]** Does any Member wish to speak on Regulations 1 to 6 in the Second Reading? Those in favour of adopting Regulations 1 to 6 ... the appel is called for. I invite Members to return to their seats. I ask the Greffier to open to open the voting.

<b>POUR: 34</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				



Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
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 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 M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

**Senator A.K.F. Green:**

Yes, please, Sir.

**The Deputy Bailiff:**

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

**15. Draft Capacity and Self-Determination (Independent Capacity Advocates) (Jersey) Regulations 201- (P.44/2018)**

**The Deputy Bailiff:**

The next item is the Draft Capacity and Self-Determination (Independent Capacity Advocates) (Jersey) Regulations 201- and I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Capacity and Self-Determination (Independent Capacity Advocates) (Jersey) Regulations 201- . The States, in pursuance of Articles 62, 63 and 69 of the Capacity and Self-Determination (Jersey) Law 2016 have made the following Regulations.

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

The role of an independent capacity advocate is enshrined in the primary legislation. It is an important role, one which clearly defines functions under the law in supporting those who lack capacity in making specific decisions. These Regulations provide the Minister with the powers to appoint a suitably-qualified independent capacity advocate, or a service provider who can provide an independent capacity advocacy service. This provision would enable the Minister to ensure continuity of services. The Regulations also ensure that individuals carrying out this important role are trained professionals, given the nature and the importance of the role that they will be carrying out, and make associated provision for the function of independent capacity advocates. I make the proposition.

#### **The Deputy Bailiff:**

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

#### **15.1.1 The Deputy of St. Ouen:**

The Minister will be aware, from our comments paper lodged as the Health and Social Security Scrutiny Panel, that we, as a panel, received a submission from Independent Advocacy Jersey, who were concerned about advocacy services not being statutorily available to persons who are voluntarily detained. We understand the reasons why the law has been drafted that those statutory services are only available to persons detained against their will but, nevertheless, it must be helpful for all persons undergoing mental health difficulties to be able to access the services of somebody who can draw alongside them and help them through the process of recovery. We very helpfully received briefings from the Minister's team and they assured us that it was their intention that those services would remain available to voluntarily-admitted patients. I would be grateful if the Minister could confirm his intentions, and what is proposed in the long term, because there may be a fear that those services will perhaps last for just the remainder of this M.T.F.P. What is the Minister's view about continuing them beyond that time?

#### **The Deputy Bailiff:**

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

#### **15.1.2 Senator A.K.F. Green:**

I am very grateful to the chairman of the Scrutiny Panel, both for working with us on this over the 3 years, but also for his very thorough piece of work that he has done over the last fortnight or so. The statutory availability of independent capacity advocates is something new for Jersey and, up until then, it was always voluntary, both for detained - those are people with mental health illness that are detained by order of the Minister, if you like - and for voluntary patients who volunteer to come into our services. Those services have been provided on a non-statutory basis up till now. When we drafted the law we made it statutorily available for those who are detained ... I will not say against their will, but certainly are not voluntary patients. It might have been the right thing to do to have done that for the voluntary patients, but I can assure the chairman the budget to provide independent capacity advocates for the voluntary patients is in place, and remains in place, and the statutory one obviously is in place as well. It would be a simple amendment to primary law to change that to make it statutory for all. Unfortunately, the suggestion came through rather too late for this sitting, but there is no intention to deprive voluntary patients of that independent capacity advocate service. If the Members who remain, or new Members who come in wish to change that primary law to give them some comfort, that is something they could do later on.

**The Deputy Bailiff:**

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

<b>POUR: 36</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
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 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 of St. Peter		
Deputy of St. Ouen		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy S.M. Bree (C)		
Deputy T.A. McDonald (S)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		

**The Deputy Bailiff:**

Deputy of St. Ouen, do you wish to ...

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

No, Sir.

**The Deputy Bailiff:**

Very well. How do you wish to deal with the matter in Second Reading, Minister?

**15.2 Senator A.K.F. Green:**

Again, there are 10 regulations, Regulations 1 to 10. I will test the mood of the Assembly. I would like to propose Regulations 1 to 10 *en bloc*.

**The Deputy Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on any of Regulations 1 to 10? Those in favour of adopting Regulations 1 to 10, kindly show. I am sorry, more people will need to show than that for me to be comfortable. Thank you. Those against? Very well, the Regulations are adopted in Second Reading. Do you move the matter in Third Reading, Minister?

**Senator A.K.F. Green:**

Yes please, Sir.

**The Deputy Bailiff:**

Are they seconded? **[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.

**16. Draft Capacity and Self-Determination (Supervision of Delegates, *et cetera*) (Jersey) Regulations 201- (P.45/2018)**

**The Deputy Bailiff:**

The next item is the Draft Capacity and Self-Determination (Supervision of Delegates *et cetera*) (Jersey) Regulations 201-, and I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Capacity and Self-Determination (Supervision of Delegates, *et cetera*) (Jersey) Regulations 201-. The States, in pursuance of Articles 33, 36 and 69 of the Capacity and Self-Determination (Jersey) Law 2016, have made the following Regulations.

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

These Regulations facilitate the supervision of attorneys and delegates by the Viscount. The roles of attorney and delegate are provided for in parts 2 and 4 of the Capacity and Self-Determination Law respectively. The role of a delegate is a court-appointed position in relation to people who lack capacity, and a delegate may be appointed to provide support in decisions relating to either property or financial affairs, or health and welfare matters, or a delegate may be appointed to do both. It should be noted that the enactment of the new Mental Health Law will result in a move away from the system of curatorship provided for under the Mental Health (Jersey) Law 1969. This is a new, a more comprehensive, system of court-appointed delegate. The development will necessitate the transitioning of those under the curatorship into the new system. These Regulations make provision for this, and those provisions have been proposed further to consultation with the Viscount, and the Judicial Greffe in particular. A lasting power of attorney may be appointed by a person who, at the time of the appointment, has the capacity to make an appointment and informed decision to nominate a person to undertake the role of managing the person's financial affairs, health, welfare, or both matters, at the time when future capacity is lost. What we are saying here is the lasting power of attorney can be made by someone who has capacity to cover those areas when they no longer have capacity. I make the proposition.

**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 ... the appel has been called for. I invite Members to return to their seats. I invite the Greffier to open the voting.

<b>POUR: 37</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
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 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 of St. Peter				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

**The Deputy Bailiff:**

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

**16.2 Senator A.K.F. Green:**

Again, I will test the mood of the Assembly, Sir. There are 23 regulations in this particular proposition. I will propose them *en bloc*, but I am happy to do otherwise if any Member has a particular Regulation they wish to discuss. I propose them *en bloc*.

**The Deputy Bailiff:**

Proposed *en bloc*. Is it seconded? **[Seconded]** Does any other Member wish to speak on any of the 23 Regulations? Those in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted. In fact, I should have asked you at principles, and I apologise for that.

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

Sir, no, we do not wish to call them in.

**The Deputy Bailiff:**

That is a huge relief to me. Thank you very much. Minister, do you propose the matter in Third Reading?

**16.3 Senator A.K.F. Green:**

Yes please, Sir.

**The Deputy Bailiff:**

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

**16.3.1 The Deputy of St. Ouen:**

Very briefly. I know the Assembly has passed these Regulations at speed, but I think the Minister needs to be congratulated for making **[Approbation]** what is a very significant change for a very large class of people in Jersey, and their families. It must also perhaps be the opportunity to comment on the excellent service that so many Islanders have received from the Viscount's Department and the Judicial Greffe, who have, for many years, undertaken the role of curatorship responsibilities for those that have not got the means of appointing curators, lawyers, *et cetera*. This, clearly, new and much more modern arrangement is going to be, I think, of significant comfort to those people who become mentally incapable because of Alzheimer's, and other such devastating diseases, but also for the families concerned as well. That is not to say that the court process which this replaced has not served Islanders well, because it has, but nevertheless, it is a hugely important issue. Many Members will know people who have been under curatorship and of all sorts of difficulties that have arisen, but the Viscount has done an excellent job and we take this opportunity of thanking him.

**The Deputy Bailiff:**

Very well. Does any other Member wish to speak in Third Reading? I call upon the Minister to respond.

**16.3.2 Senator A.K.F. Green:**

I thank the Senator for his comments, but also align with the comments particularly that he made around the support and excellent work that the Viscounts have done in respect of the old legislation. Also, I would like to acknowledge the work that the Viscounts have done in preparing us for the new legislation. I make the proposition in the Third Reading.

[19:45]

**The Deputy Bailiff:**

Is that seconded? **[Seconded]** Members in favour of adopting the Regulations in Third Reading, kindly show. Those against? The Regulations are adopted in Third Reading.

**The Deputy Bailiff:**

Before moving on to the next item, the following documents have been lodged: Draft Income Support (Amendment No. 18) (Jersey) Regulations, lodged by the Minister for Health and Social Security,

Draft Financial Services Commission (Amendment No. 7) (Jersey) Law, lodged by the Chief Minister, and the Draft Proceeds of Crime (Amendment No. 3) (Jersey) Law, also lodged by the Chief Minister.

**17. Draft Mental Health (Guardianship) (Jersey) Regulations 201- (P.46/2018)**

**The Deputy Bailiff:**

The next item of public business is the Draft Mental Health (Guardianship) (Jersey) Regulations 201-, and I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Mental Health (Guardianship) (Jersey) Regulations 201-. The States, in pursuance of Articles 30, 32 and 94 of the Mental Health (Jersey) Law 2016, have made the following Regulations.

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

We have been dealing, up till now, with the Capacity Law and the Regulations, and this is the first of the Regulations to be considered under the new Mental Health Law. Regulations enable services to support and safeguard vulnerable people in the community. The legislation ensures that, where compulsory powers have to be used, the care and treatment is in the least restrictive setting, consistent with the patient’s best interests and safety, and also in the interests of the safety of the public. Guardianship allows a person to be cared for in the community rather than spend long periods of time in a hospital setting, but to be recalled to hospital if it is necessary in the person’s best interests, or for the protection of other persons. The Minister is provided with powers to receive reports from private guardians about care plans of patients, and any changes of address. The reporting is important as it facilitates an oversight and a review of the patient’s care. The Regulations allow the Minister to transfer the care of a patient to another guardian. This would be done if the current guardian was in any way negligent or became incapacitated, or is no longer considered to be a fit or proper person. The Regulations also give the Minister the power to convey a patient to a new address. These Regulations support information-sharing with the guardian, the nearest person, and the manager of approved establishments. They also facilitate the transfer of a patient into an approved establishment from guardianship. The Regulations also act to protect the data of individuals by requiring that all relevant data is kept confidential. I make the proposition.

**The Deputy Bailiff:**

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

<b>POUR: 39</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				

Connétable of St. Mary				
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 J.A.N. Le Fondré (L)				
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 R.G. Bryans (H)				
Deputy of St. Peter				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

**The Deputy Bailiff:**

Deputy of St. Ouen?

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

No, sir.

**The Deputy Bailiff:**

How do you want to deal with the matter in Second Reading, Minister?

**17.2 Senator A.K.F. Green:**

There are 6 Regulations here and again I propose if Members are happy to take them *en bloc* although if Members wish to pick out any of the Regulations I am happy to debate them.

**The Deputy Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? Will those in favour of adopting the Regulations kindly show? I am afraid I will have to ask again. Will those in favour of the Regulations kindly show? Those against? The Regulations are adopted in the Second Reading. Do you wish to deal with the matter in Third Reading, Minister?

**Senator A.K.F. Green:**

Yes, please, Sir.

**The Deputy Bailiff:**



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

**18. Draft Mental Health (Independent Mental Health Advocates) (Jersey) Regulations 201-(P.47/2018)**

**The Deputy Bailiff:**

The next item of public business is the Draft Mental Health (Independent Mental Health Advocates) (Jersey) Regulations and I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

The Draft Mental Health (Independent Mental Health Advocates) (Jersey) Regulations 201-. The States, in pursuance of Articles 79 and 94 of the Mental Health (Jersey) Law 2016 have made the following Regulations.

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

These Regulations make provision as to the appointment of and services to be provided by an independent mental health advocate, I.M.H.A., as defined in Regulation 2(i) to represent qualifying patients and their rights under the Mental Health Law. Professional, independent advocacy already exists in Jersey and it is acknowledged that the local advocacy service continues to play an important role in providing a voice to those people who are least able to speak up for themselves. These Regulations will support the implementation under the new Mental Health Law of independent advocacies on a statutory footing. I make the proposition.

**The Deputy Bailiff:**

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

**18.1.1 Senator P.F. Routier:**

I wanted to highlight the fact that there were some contributions made by Mind Jersey and also Jersey Mencap, which people know I have been involved with. It is an important aspect with regard to these Regulations that are fully supported by the voluntary community sector and it is a valuable service having the advocates in place to be able to support people who are in need, so I hope Members will get fully behind this and expand this provision that is valued by the community.

**The Deputy Bailiff:**

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

**18.1.2 Senator A.K.F. Green:**

I am very grateful to Senator Routier for his comments but I was going to single out Mind for mention at the end of this but I will do it now. Their contribution, not just their letter to ask us to support this, but their contribution in developing the primary law and subsequent regulations has been outstanding and it would have been impossible without them so I wonder if the Members could show appreciation to Mind. **[Approbation]** I now make the proposition.

**The Deputy Bailiff:**

Will those Members in favour of adopting the principles kindly show? **[Laughter]** I think we have just about got there. Those against? Very well, the principles are adopted. How do you wish to deal with the matter on Second Reading, Minister?

**18.2 Senator A.K.F. Green:**

I will test the mood of the Assembly again. Twelve Regulations this time, Regulations 1 to 12 *en bloc*, please.

**The Deputy Bailiff:**

Are they seconded? [**Seconded**] Does any Member wish to speak on any of the Regulations? Will those in favour of adopting the Regulations kindly show? Those against? I have forgotten to ask Scrutiny whether they wish to take the matter in. I am moved by the momentum of the Mexican wave. [**Laughter**]

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

I am sorry to interrupt the Mexican wave but no, we do not.

**The Deputy Bailiff:**

Thank you very much. How do you wish to deal with the matter on Third Reading?

**Senator A.K.F. Green:**

I propose them in Third Reading.

**The Deputy Bailiff:**

Are they seconded? [**Seconded**] Does any Member wish to speak in Third Reading? The appel is called for. I invite Members to return to their seats and I invite the Greffier to open the voting.

<b>POUR: 37</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
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. 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 J.A.N. Le Fondré (L)				
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 R.G. Bryans (H)				
Deputy of St. Peter				
Deputy of St. Ouen				

Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

**Senator I.J. Gorst:**

I wonder if I could beg the indulgence of the Assembly to allow the Minister to take P.65 and P.66 now as well. They are Appointed Day Acts. They finish the mental health change amendments and we have probably 5 minutes.

**The Deputy Bailiff:**

I have the next being the Draft Mental Health and Capacity (Consequential Amendment), Chief Minister.

**Senator I.J. Gorst:**

I apologise.

**19. Draft Mental Health and Capacity (Consequential Amendment and Transitional Provision) (Jersey) Regulations 201- (P.48/2018)**

**The Deputy Bailiff:**

It would be nice if the Assembly was to get to the end of that, whether or not. Very well, the next is the Draft Mental Health and Capacity (Consequential Amendment and Transitional Provision) (Jersey) Regulations 201- and I ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

The Draft Mental Health and Capacity (Consequential Amendment and Transitional Provision) (Jersey) Regulations 201-. The States in pursuance of Article 94 of the Mental Health (Jersey) Law 2016 and Article 69 of the Capacity and Self-Determination (Jersey) Law 2016 have made the following Regulations.

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

In many ways this is the least important of the propositions but it is important because it is consequential to all the other laws the changes we have made and, if we do the Appointed Day Act, were made. Regulations 1 to 64 make provision for consequential enactments of the Mental Health Law and the Capacity and Self-Determination Law amending a range of enactments that are impacted by the enactment of other laws. The majority of these, as Members will have seen, are just dealing with the updating of terminology and cross-referencing to the provisions of offices or functions under the Mental Health (Jersey) Law 1969. Many of these changes that would be affected by these regulations reflect the change from the system of curatorship under Article 43 of the 1969 Law to that of the court-appointed delegate under part 4 of the new Capacity Law. Others reflect the re-enactment of various aspects of the 1969 Law that have been brought forward into the new legal framework, for example, the provisions relating to the compulsory detention, guardianship and so on. To pick out 2 of the notable amendments they are to the Power of Attorney (Jersey) 1995 Law to distinguish provisions under the Capacity and Self-Determination Law around the registration and execution of lasting powers of attorney that are a new form of power of attorney for Jersey. Hence, a specific provision needs to be made.

**The Deputy Bailiff:**

Minister, are you moving the principles?

**Senator A.K.F. Green:**

Not yet, sir. I am just explaining the 2 most important ones and then it would be a matter for Members if they want to go through all 60 of the Regulations.

**The Deputy Bailiff:**

You still want to adopt the principles?

**Senator A.K.F. Green:**

Yes, but I just want to explain the 2 important ones. I could stop there if you prefer.

**The Deputy Bailiff:**

No.

**Senator A.K.F. Green:**

The second amendment to the Inquest and Post-Mortem Examination (Jersey) Law in order to distinguish the death of a person while under a significant restriction of liberty imposed under part 5 of the Capacity and Self-Determination Law. This amendment is brought so that such deaths are not automatically considered to be deaths in a place of detention and therefore automatically requiring an inquest in the way that a death of a person in prison would, or in custody of the police. This amendment has been requested specifically by the Viscount and reflects similar arrangements in the law to the U.K. Regulation 66 gives the title by which these Regulations may be cited. I will leave it there and then we can take each individual amendment, there are 66 of them, if we need to.

**The Deputy Bailiff:**

The principles are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on the principles? The appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 39</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
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 J.A.N. Le Fondré (L)				
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 R.G. Bryans (H)				
Deputy of St. Peter				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

**The Deputy Bailiff:**

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

**19.2 Senator A.K.F. Green:**

I would like to deal with them *en bloc* because although there are a lot of them they are generally changing an old word for a new word so we are doing away with the word curatorship and replacing it with delegate and things like that. They are listed quite clearly so I propose the Regulations 1 to 66 are *en bloc*.

**The Deputy Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? Will those in favour of adopting all the Regulations kindly show? Those against? The Regulations are adopted. Do you move the matter in Third Reading, Minister?

**19.3 Senator A.K.F. Green:**

Yes, please, but in so doing I would again like to particularly acknowledge the work of the law draftsmen and the Law Officers, my own officers in the department and the voluntary sector and particularly Mind.

[20:00]

Without the work of all those people this would not have been possible. This is a massive piece of work. **[Approbation]** I apologise to Members that we bring it towards the end of the Assembly but believe me they have not stopped work on trying to get it here. Today, if we do the Appointed Day Acts, we would have made life much more structured and fairer and protected the most vulnerable people in our Island so I am very grateful to all those that have been involved.

**The Deputy Bailiff:**

Very well, is the matter seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? Will those in favour of adopting the Regulations in Third Reading kindly show? Those against? The Regulations are adopted in Third Reading.

**Senator A.K.F. Green:**

I wonder if the Assembly would just indulge me on the 2 appointed day acts. It will not take long.

**20. Draft Capacity and Self-Determination (Jersey) Law 2016 Appointed Day Act 201-(P.65/2018)**

**The Deputy Bailiff:**

Very well, then the next item is P.65, Draft Capacity and Self-Determination (Jersey) Law Appointed Day Act and I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Capacity and Self-Determination (Jersey) Law 2016 Appointed Day Act 201-. The States, in pursuance of Article 73 of the Capacity and Self-Determination (Jersey) Law 2016 have made the following Act.

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

This Act would appoint 1st October 2018 as the day on which the Capacity and Self-Determination (Jersey) Law 2016 comes into force. I make the proposition.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? Will those in favour of adopting all the proposition kindly show? The appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

<b>POUR: 39</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator A.J.H. Maclean		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Peter		
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Deputy J.A.N. Le Fondré (L)		
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 R.G. Bryans (H)				
Deputy of St. Peter				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

## **21. Draft Mental Health (Jersey) Law 2016 Appointed Day Act 201- (P.66/2018)**

### **The Deputy Bailiff:**

The next item is then P.66, Draft Mental Health (Jersey) Law 2016 Appointed Day. I ask the Greffier to read the proposition.

### **The Deputy Greffier of the States:**

Draft Mental Health (Jersey) Law 2016 Appointed Day Act 201-. The States, in pursuance of Article 98 of the Mental Health (Jersey) Law 2016 have made the following Act.

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

This Act would also quote 1st October 2018 as the day on which the Mental Health (Jersey) Law 2016 comes into force. I make the proposition.

### **The Deputy Bailiff:**

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

#### **21.1.1 Senator P.F. Routier:**

We cannot let this go by without marking this as being an important and good day for our Assembly. [**Approbation**] The Minister who is bringing this forward and quite a few other candidates in the last elections made mental health one of the priorities for our community and are committed to achieve better services. This new legislation is going to help a lot of people within our community so I congratulate the Minister on getting us to where we are today and I hope everybody is going to support it.

### **The Deputy Bailiff:**

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

#### **21.1.2 Senator A.K.F. Green:**

I thank Senator Routier again and I totally agree with the comments he made. This is a very important day for the people of Jersey but particularly those who suffer from mental health issues and their carers. This will enable a good framework to protect them, protect the public and support them in their decision making. I am very grateful to Members for the work they have done. I am also pleased, although I think I might have pushed Members a little bit last time, that we went through when we did the primary law the detail of every Article so that Members were fully *au fait* with what we were trying to achieve. With that, quit while you are winning. I would like to thank Members for their support, Mind again and the officers for all their work. I make the proposition.

**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.

<b>POUR: 38</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator A.J.H. Maclean		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Helier		
Connétable of St. Clement		
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Deputy E.J. Noel (L)		
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Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy of St. Ouen		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy S.M. Bree (C)		
Deputy T.A. McDonald (S)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		

**Senator P.F.C. Ozouf:**

I was just going to propose a slight ... there are 2 items on the bottom of the Order Paper tomorrow concerning the Consumer Council that might fall off. The Assistant Minister is not here but I know how keen he is to deal with the Consumer Council matter and perhaps it might be appropriate for Members to agree to that being pushed up the Order Paper because the Consumer Council issue would fall away if it was not dealt with. There is also the other issue of whether or not the Assembly



is going to give Deputy Higgins leave to debate P.68. Either we are or we are not going to have the opportunity of doing it and I thought maybe we might not get there. I was hoping somebody would propose the Retail Tax rescindment be pushed up the Order Paper but I will not take my chances but I might ask after lunch tomorrow just in case they want a bit of indigestion. Maybe we can agree for the Consumer Council matter to be the first item of business tomorrow because that needs to be dealt with and also settle the Deputy Higgins question.

**The Deputy Bailiff:**

We will have to take those 2 at the time. It is a matter for the States Assembly, of course. The Senator proposes that P.67, Jersey Consumer Council: appointment of Chairman, is moved up the Order Paper to be the first item of business tomorrow morning so that will come in front of P.56, Code of Practice for Engagement between “Scrutiny and Public Accounts Committee” and the “Executive”. Is that seconded? **[Seconded]** Does any Member wish to say anything about that? Will those in favour of adopting the proposition kindly show? Those against? It is not sometimes clear that there is a clear majority in doing it that way. Very well. Was there a proposition relating to Deputy Higgins?

**Deputy M.R. Higgins**

Mine is the last item on the Order Paper and it will not be heard unless the States agree to bring it forward. I would ask all Members to do so because it is an exceptionally important measure for the people who live along the Inner Road. I would ask Members to agree to bring it forward and hopefully we will have time to debate it tomorrow. Otherwise it will fall away.

**The Deputy Bailiff:**

Are you proposing it goes second in the Order Paper?

**Deputy M.R. Higgins**

No, I am asking it to just be put on the Order Paper for tomorrow.

**The Deputy Bailiff:**

I see. It is because it requires the leave of the Assembly to be dealt with at all. I understand.

**Deputy M.R. Higgins**

It is shortening the lodging period by one day so we can debate it tomorrow.

**The Deputy Bailiff:**

The proposition is to shorten the lodging period by one day in order that it can be debated tomorrow. The test is, as Members will be fully aware, the public interest, the matter of public interest. Is that proposal seconded? **[Seconded]** Does any Member wish to speak on it?

**Deputy E.J. Noel:**

I would like to remind Members that I have issued comments on that particular proposition. I hope Members have chance early tomorrow or this evening to read those comments prior to the debate.

**The Deputy Bailiff:**

Does any other Member wish to speak on that proposition? I will not call on you to respond. It was just a note to Members. Will those in favour of adopting the proposition kindly show? Those against? Very well, that will be dealt with tomorrow at the bottom of the Order Paper but leave is given to deal with the matter tomorrow.

**Senator I.J. Gorst:**

Could I just confirm to Members that I am moving P.54, Draft International Co-operation? It was an administrative oversight. It sits with the Draft Access to Justice Law, P.50, which is now tabled for debate on 25th June and therefore P.54 will move to 25th June as well.

**The Deputy Bailiff:**

Very well, so that will not be dealt with tomorrow, then. Presumably we are past the point where the Assembly agreed to adjourn. Could I remind Members that there is a photograph first thing tomorrow morning at 9.00 a.m. so people will want to go for haircuts and makeup and all that kind of thing? I will certainly have to get up an hour or 2 early. **[Laughter]** I just remind people it is there at 9.00 a.m. and it is a photograph to mark the end of the constitution of one Assembly so if people would make sure they are there promptly so we can get that done before the Assembly sits. Is the adjournment proposed? Very well, the States stands adjourned.

**ADJOURNMENT**

[20:09]