

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 14th FEBRUARY 2017

COMMUNICATIONS BY THE PRESIDING OFFICER	7
1. The Deputy Bailiff:.....	7
QUESTIONS.....	7
2. Written Questions	7
2.1 DEPUTY J.A. MARTIN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE PORTFOLIO OF ASSISTANT CHIEF MINISTER SENATOR P.F. ROUTIER M.B.E: [1(99)].....	7
2.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING REVIEWS UNDERTAKEN IN RESPECT OF THE JERSEY INNOVATION FUND: [1(104)]	8
2.3 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR THE ENVIRONMENT REGARDING THE DEVELOPMENT OF A RENEWABLE ENERGY STRATEGY FOR JERSEY: [1(105)]	10
2.4 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE DECISION OF JT TO INVEST IN THE ENERGOUS CORPORATION: [1(106)]	11
2.5 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING CONCERNS RAISED, OR COMPLAINTS MADE, ABOUT THE NEGATIVE SOCIAL CONTRIBUTION OF HIGH VALUE RESIDENTS: [1(107)]	11
2.6 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING BLOOD DONATION BY GAY MEN: [1(108)].	12
2.7 DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING STATES MEMBERS' DECLARATIONS OF INTEREST IN RESPECT OF INVESTMENT HOLDING COMPANIES: [1(109)]	14
2.8 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE EXEMPTION OF HOME-CARE AGENCIES FROM THE GOODS AND SERVICES TAX: [1(110)]	15
2.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE DECISION OF JT TO INTRODUCE A SURCHARGE ON POSTAL BILLING AND PAYMENT BY CHEQUE: [1(111)].	16
2.10 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR THE ENVIRONMENT REGARDING AIR QUALITY IN THE TUNNEL: [1(112)].....	16
2.11 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF POLICY CHANGES WITHIN INCOME SUPPORT: [1(113)].....	18

2.12	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF REDUCED PAYMENTS OF INCOME SUPPORT: [1(114)].....	20
2.13	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING NEWLY QUALIFIED TEACHERS' SALARIES: [1(115)]	22
2.14	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE PUBLICATION OF DECISIONS BY THE HOUSING AND WORK ADVISORY GROUP: [1(116)].....	23
2.15	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING HIS ROLE AND THAT OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES AT A MEETING AT WHICH IT WAS DECIDED TO BREAK THE CONTRACT WITH MR ALWITRY: [1(117)].....	23
2.16	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE STATUS OF THE ZERO-TEN TAX POLICY FOLLOWING BREXIT: [1(118)]	24
2.17	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE ROLE OF THE ZERO-TEN TAX POLICY AND MEASURES TO ENSURE JERSEY'S TAX NEUTRALITY: [1(119)].....	25
2.18	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING THE PRODUCTION OF STATISTICS IN RESPECT OF VISITOR NUMBERS TO JERSEY: [1(120)]	26
3.	Oral Questions.....	27
3.1	Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding the impact of the freeze on Income Support basic component levels since 2009 on living standards and disposable incomes: [1(126)].....	27
	Deputy S.J. Pinel of St. Clement (The Minister for Social Security):.....	27
3.1.1	Deputy G.P. Southern:.....	27
3.1.2	Deputy S.Y. Mézec of St. Helier:.....	27
3.1.3	Deputy S.Y. Mézec:.....	28
3.1.4	Deputy M. Tadier of St. Brelade:.....	28
3.1.5	Deputy M. Tadier:	28
3.1.6	Deputy J.A. Martin of St. Helier:	29
3.1.7	Deputy J.A. Martin:	29
3.1.8	Deputy G.P. Southern:.....	29
3.2	Deputy M.R. Higgins of St. Helier of the Minister for External Relations regarding the recruitment of a Brexit 'public relations officer': [1(129)]	30
	Senator P.M. Bailhache (The Minister for External Relations):	30
3.2.1	Deputy M. Tadier:	30
3.2.2	Deputy M. Tadier:	30
3.2.3	Deputy J.A. Martin:	30
3.2.4	Deputy J.A. Martin:	31
3.2.5	Deputy M.R. Higgins:.....	31
3.3.	Deputy M. Tadier of the Chief Minister regarding whether he would ask Ministers responsible for signing off loans from the Jersey Innovation fund to 'step down': [1(128)].....	31
	Senator I.J. Gorst (The Chief Minister):	31
3.3.1	Deputy M. Tadier:	32
3.3.2	Deputy J.M. Maçon of St. Saviour:.....	32

3.3.3 Deputy R. Labey of St. Helier:.....	32
3.3.4 Deputy A.D. Lewis of St. Helier:.....	32
3.3.5 Deputy M. Tadier:	33
3.4 Deputy J.M. Maçon of the Minister for Treasury and Resources regarding the appropriateness of J.T.'s decision to introduce charges for receiving a paper bill and non- direct debit payment services: [1(101)]	34
Connétable J.M. Refault of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):.....	34
3.4.1 Deputy J.M. Maçon:	34
3.4.2 Deputy M. Tadier:	35
3.4.3 Deputy M. Tadier:	35
3.4.4 Deputy M.R. Higgins:.....	36
3.4.5 Deputy M.R. Higgins:.....	36
3.4.6 Deputy J.M. Maçon:	37
3.5 Deputy T.A. Vallois of St. John of the Minister for Education regarding the use of carry forwards to cover the funding shortfall created by not achieving M.T.F.P. saving for the Nursery Education Fund: [1(121)]	37
Deputy R.G. Bryans of St. Helier (The Minister for Education):	37
3.5.1 The Deputy of St. John:	37
3.6 Deputy A.D. Lewis of the Minister for Education regarding the prospect of ensuring that private and public nursery education providers operate on identical supervision ratios: [1(130)].....	38
Deputy R.G. Bryans (The Minister for Education):	38
3.6.1 Deputy A.D. Lewis:.....	38
3.6.2 Deputy J.A. Martin:.....	38
3.6.3 Deputy J.A. Martin:	39
3.6.4 Deputy A.D. Lewis:.....	39
3.7 Senator S.C. Ferguson of the Chief Minister regarding the availability of the Gazette for people with no access to a computer or the internet: [1(122)].....	39
Deputy S.M. Wickenden of St. Helier (Assistant Chief Minister - rapporteur):	40
3.7.1 Senator S.C. Ferguson:	40
3.7.2 Deputy K.C. Lewis of St. Saviour:.....	40
3.7.3 Deputy A.D. Lewis:.....	40
3.7.4 Deputy A.D. Lewis:.....	41
3.7.5 Connétable C.H. Taylor of St. John:	41
3.7.6 Connétable J. Gallichan of St. Mary:	41
3.7.7 Senator S.C. Ferguson:	41
3.8 Deputy J.A. Martin of the Chief Minister regarding the replacement of the Interim Population Policy with a permanent population policy: [1(100)].....	42
Senator P.F. Routier (Assistant Chief Minister - rapporteur):	42
3.8.1 Deputy J.A. Martin:	42
3.8.2 Senator S.C. Ferguson:	43
3.8.3 Senator S.C. Ferguson:	43
3.8.4 Deputy G.P. Southern:	43
3.8.5 Deputy G.P. Southern:.....	43
3.8.6 The Deputy of St. John:	44
3.8.7 Deputy J.A. Hilton of St. Helier:.....	44
3.8.8 Deputy J.A. Martin:	44
3.9 The Connétable of St. John of the Minister for Treasury and Resources regarding charges levied by J.T. for customers to receive a paper bill or to pay by cheque: [1(102)].....	45

The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):	45
3.9.1 The Connétable of St. John:	46
3.9.2 Deputy K.C. Lewis:	46
3.9.3 Deputy R. Labey:	46
3.9.4 Deputy M. Tadier:	46
3.9.5 Deputy M. Tadier:	47
3.9.6 Deputy A.D. Lewis:	47
3.9.7 Deputy A.D. Lewis:	47
3.9.8 Deputy J.M. Maçon:	47
3.9.9 The Connétable of St. John:	48
3.10 Deputy S.Y. Mézec of the Minister for Social Security regarding the financial support available to 18 to 25 year olds who live with their parents and who have a diagnosed mental illness: [1(133)]:	48
Deputy S.J. Pinel (The Minister for Social Security):	48
3.10.1 Deputy S.Y. Mézec:	48
3.11 Deputy K.C. Lewis of the Chief Minister regarding the level of assistance provided to community banks: [1(135)]:	49
Senator P.F. Routier (Assistant Chief Minister - rapporteur):	49
3.11.1 Deputy G.P. Southern:	49
3.11.2 Deputy M.R. Higgins:	49
3.11.3 Deputy M.R. Higgins:	50
3.11.4 Deputy K.C. Lewis:	51
3.12 The Connétable of St. John of the Minister for Environment regarding the legal authority for demanding a ‘development levy’: [1(103)]:	51
Deputy S.G. Luce of St. Martin (The Minister for Environment):	51
3.12.1 Deputy M.R. Higgins:	52
3.12.2 Deputy M.R. Higgins:	52
3.12.3 Deputy G.P. Southern:	52
3.12.4 Deputy J.M. Maçon:	52
3.12.5 Deputy M. Tadier:	53
3.12.6 Deputy M. Tadier:	53
3.12.7 Deputy R.J. Renouf of St. Ouen:	53
3.12.8 The Connétable of St. John:	53
3.13 Deputy S.Y. Mézec of the Minister for Housing regarding measures to prevent letting agents from charging extortionate fees to tenants: [1(134)]:	54
Deputy A.E. Pryke of Trinity (The Minister for Housing):	54
3.13.1 Deputy S.Y. Mézec:	54
3.13.2 Deputy M. Tadier:	54
3.13.3 Deputy R. Labey:	54
3.13.4 Deputy S.Y. Mézec:	54
3.14 Deputy G.P. Southern of the Chief Minister regarding measures to meet the targets of delivering £70 million in ‘people savings’ and of re-establishing a partnership with public sector representatives: [1(127)]:	55
Senator I.J. Gorst (The Chief Minister):	55
3.14.1 Deputy G.P. Southern:	55
3.14.2 Senator S.C. Ferguson:	55
3.14.3 Senator S.C. Ferguson:	56
3.14.4 Deputy M.R. Higgins:	56
3.14.5 Deputy S.Y. Mézec:	57
3.14.6 Deputy S.Y. Mézec:	57

3.14.7 Deputy G.P. Southern:	57
3.15 Deputy T.A. Vallois of the Minister for Economic Development, Tourism, Sport and Culture regarding increases in input costs for businesses across all sectors: [1(125)].....	58
Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):	58
3.15.1 The Deputy of St. John:.....	58
3.16 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding the financial justification of J.T. for charging for paper bills and for bills paid by cheque or cash: [1(123)].....	59
The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):	59
3.16.1 Senator S.C. Ferguson:.....	59
3.16.2 Deputy S.M. Brée of St. Clement:.....	60
4. Questions to Ministers Without Notice - The Minister for Infrastructure	61
4.1 Deputy M. Tadier:	61
Deputy E.J. Noel of St. Lawrence (The Minister for Infrastructure):	61
4.1.1 Deputy M. Tadier:	62
4.2 Connétable J.E. Le Maistre of Grouville:	62
4.2.1 The Connétable of Grouville:.....	62
4.3 Connétable A.S. Crowcroft of St. Helier:.....	62
4.4 Deputy J.M. Maçon:	63
4.5 The Deputy of St. Ouen:	63
4.6 Deputy R. Labey:	63
4.7 Deputy A.D. Lewis:.....	64
4.7.1 Deputy A.D. Lewis:.....	64
4.8 Deputy M. Tadier:	64
4.8.1 Deputy M. Tadier:	64
4.9 Deputy K.C. Lewis:	65
4.10 Deputy D. Johnson of St. Mary:.....	65
5. Questions to Ministers Without Notice - The Minister for Environment	65
5.1 Senator S.C. Ferguson:	65
The Deputy of St. Martin (The Minister for Environment):.....	66
5.1.1 Senator S.C. Ferguson:	66
5.2 Deputy K.C. Lewis:.....	66
5.2.1 Deputy K.C. Lewis:	66
5.3 Deputy R. Labey:	66
5.3.1 Deputy R. Labey:	67
5.4 The Connétable of St. Helier:.....	67
5.4.1 The Connétable of St. Helier:.....	67
5.5 Deputy M. Tadier:	68
5.5.1 Deputy M. Tadier:	68
5.6 The Deputy of St. John:	68
5.7 Deputy M.R. Higgins:.....	68
5.8 Deputy A.D. Lewis:.....	69
5.8.1 Deputy A.D. Lewis:.....	69
5.9 The Connétable of St. Peter:	69
PUBLIC BUSINESS	70
6. Minister for Education: vote of censure (P.6/2017)	70

6.1 Deputy G.P. Southern:.....	70
LUNCHEON ADJOURNMENT PROPOSED.....	74
LUNCHEON ADJOURNMENT.....	74
6.1.1 Deputy R.G. Bryans:	74
6.1.2 Connétable M.P.S. Le Troquer of St. Martin:.....	76
6.1.3 Deputy A.D. Lewis:.....	77
6.1.4 Deputy M.R. Higgins:.....	78
6.1.5 Deputy S.M. Brée:.....	78
6.1.6 Deputy K.C. Lewis:	78
6.1.7 Deputy M. Tadier:	79
6.1.8 Deputy S.Y. Mézec:.....	80
6.1.9 Senator I.J. Gorst:.....	80
6.1.10 Deputy R.G. Bryans:	82
6.1.11 Deputy G.P. Southern:	82
7. Draft Bank (Recovery and Resolution) (Jersey) Law 201- (P.134/2016).....	84
7.1 Senator I.J. Gorst (The Chief Minister):.....	84
7.1.1 The Deputy of St. John:	86
7.1.2 Deputy M.R. Higgins:.....	86
7.2 Senator I.J. Gorst:.....	88
7.3 Senator I.J. Gorst:.....	89
7.4 Senator I.J. Gorst:.....	89
7.4.1 Deputy M.R. Higgins:.....	90
7.4.2 Deputy J.A. Martin:	91
7.4.3 Senator I.J. Gorst:.....	91
7.5 Senator I.J. Gorst:	92
7.5.1 Deputy M.R. Higgins:.....	93
7.5.2 Senator I.J. Gorst:.....	93
7.6 Senator I.J. Gorst:.....	95
7.7 Senator I.J. Gorst:.....	95
7.8 Senator I.J. Gorst:.....	95
7.9 Senator I.J. Gorst:.....	96
7.9.1 The Dean of Jersey:	103
7.9.2 Senator I.J. Gorst:.....	96
8. Draft The Law Society of Jersey (Amendment No. 4) Law 201- (P.136/2016).....	97
8.1 Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):.....	97
8.1.1 Deputy R. Labey:	98
8.1.2 Senator P.M. Bailhache:	98
Deputy J.A.N. Le Fondré of St. Lawrence (Chaiman, Corporate Services Scrutiny Panel):	98
9. Draft States of Jersey Police Force (Chief Officer and Deputy Chief Officer) (Jersey) Regulations 201- (P.139/2016).....	99
9.1 Connétable D.W. Mezbourian of St. Lawrence (Assistant Minister for Home Affairs - rapporteur):.....	99
9.2 The Connétable of St. Lawrence:	101
9.2.1 Deputy M.R. Higgins:.....	102
9.2.2 The Connétable of St. Lawrence:	102
9.3 The Connétable of St. Lawrence:	102

9.3.1 The Deputy of St. John:	103
9.3.2 The Connétable of St. Lawrence:	103
10. Draft States of Jersey Police Force (Police Negotiating Board) (Jersey) Regulations 201- (P.140/2016)	104
10.1 The Connétable of St. Lawrence (Assistant Minister for Home Affairs - rapporteur): .	104
11. Senators and Deputies: candidates' qualifications (P.1/2017).....	106
11.1 Deputy M. Tadier:	106
11.1.1 The Connétable of St. John:	111
11.1.2 Senator P.M. Bailhache:.....	112
11.1.3 The Connétable of St. Martin:	112
11.1.4 Deputy M.J. Norton of St. Brelade:	114
Mr. R.J. MacRae, H.M. Attorney General:.....	115
Deputy M.J. Norton:	116
11.1.5 Deputy J.A. Martin:	116
The Attorney General:	117
Deputy M. Tadier:	117
Senator I.J. Gorst:.....	118
ADJOURNMENT.....	118

[9:30]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1. The Deputy Bailiff:

There is nothing to be said at the moment under A.

QUESTIONS

2. Written Questions

2.1 DEPUTY J.A. MARTIN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE PORTFOLIO OF ASSISTANT CHIEF MINISTER SENATOR P.F. ROUTIER M.B.E: [1(99)]

Question

Will the Chief Minister list, for each area of responsibility currently delegated to Senator P.F. Routier M.B.E., the policies in each area being developed for approval by the Assembly and provide the development timetable for each such policy; and if he is unable to do so, will he explain why that is the case?

Answer

The following schedule outlines the key deliverables for consideration by the States Assembly in 2017 in respect of the delegated responsibilities held by Assistant Chief Minister, Senator P.F. Routier M.B.E.

AREA	CONSIDERATION BY THE ASSEMBLY

Long Term Plan and Population Policy	Quarter 3 2017 – for consideration by the States Assembly following completion of further consultation on long term plan, inclusive of population policy indicators (consultation March – April)
Regulation of Care Law (Jersey) Law 2014	Quarter 3 2017 - secondary legislation for consideration by the States Assembly
Charities (Jersey) Law 2014	Quarter 4 2017 – secondary legislation for consideration by the States Assembly
New Data Protection Law	Quarter 4 2017 - legislation for consideration by the States

In addition, policy work will continue to advance in 2017 in a number of areas for which the Assistant Chief Minister has responsibilities, including the following:

- Disability Strategy - completed strategy to be laid before the States Assembly, May 2017
- Access to Justice - The Third Interim Report was presented to the States Assembly on 1st August 2016. The Review is now focusing on legal aid, affordability, and the working of the legal profession. A final report on this topic will be presented to the States Assembly, August 2017
- Legislative amendments to the competition and regulatory framework - in the early stages of development and discussion with the JCRA, with an outline plan to be developed in Quarter 2 2017, and progress on extension of relevant intellectual property conventions (update Quarter 3).
- Liquor Licensing Law (Senator Routier is Chair of Shadow Licensing Policy Group) – Draft law to be approved by Shadow Alcohol Licensing Policy Group, and ready for lodging by the Assistant Minister for Economic Development, Tourism, Sport and Culture, February 2017.
- Consultation on Telecoms Strategy, which may result in legislative amendments, and work in relation to broadcasting, including extension of UK Digital Economy Bill relating to TV Licences and provisions to allow Ofcom to perform their new regulatory role to the BBC.

2.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING REVIEWS UNDERTAKEN IN RESPECT OF THE JERSEY INNOVATION FUND: [1(104)]

Question

Following the presentation of ‘Jersey Innovation Fund’ (R.3/2017) and in light of the Chief Minister’s statement to the Assembly on 17th January 2017, will the Chief Minister –

- (a) release the results of the review undertaken by accountants between 22nd February and 15th March 2016 of the existing loans from the Fund, along with those of the subsequent reviews of loans C, B and E, as mentioned on page 33 of R.3/2017;
- (b) inform members of the terms of reference given to the independent U.K. former employment lawyer engaged to investigate the actions of civil servants involved in the Fund, along with the timescale and fees involved, and agree to release this report, when completed;
- (c) agree to release the report of the external accountant employed to review all the financial arrangements States departments have with external bodies; and
- (d) release the name of the person identified to review whether any political involvement contributed to failings identified in respect of the Fund, along with the terms of reference and timescale involved, and agree to publish any findings?

Answer

As much information as possible will be released into the public domain in relation to the reviews being undertaken, in particular, the report in relation to political responsibility will be published in full.

However, there are natural and appropriate limitations on the ability to publish in full matters concerning individual loans, individual officer conduct, and detailed matters concerning financial arrangements with external bodies.

In making decisions on publication, the rules for the publication of information, as clearly outlined in the Freedom of Information (Jersey) Law 2011, will be followed, inclusive of the requirement to publish information in the public interest, subject to exemptions, and processes around review and appeal.

Having noted this and in advance of receipt of these reports and any final decisions, the answers to parts (a) – (d) are as follows:

- (a) It is not expected that it will be possible to release the requested information as this could prejudice the commercial interests of the companies concerned.
- (b) The review is expected to be completed within six to eight weeks of commencement.

It is expected to cost between £20,000 and £25,000 depending on the scope of work as interviews progress.

The review will consider the extent to which officer involvement contributed to the deficiencies identified in R.3/2017, inclusive of:

- Clarifying and establishing all officer roles.
- Identify whether they discharged their duties in accordance with their defined roles and professional responsibilities.
- Identify any breaches that may have occurred.
- Identify individuals who have failed to follow the set policies, procedures and guidelines including the Code of Conduct for States of Jersey Employees, Financial Directions and the Public Finances Law.

It is not expected that the full report will be released.

- (c) It is not expected that it will be possible to release the requested information as this could prejudice the commercial interests of the external bodies concerned.
- (d) The review of political involvement is expected to be completed within six to eight weeks of commencement.

Jessica Simor QC has been instructed to undertake a review of political involvement.

The review will:

- Consider the extent to which Ministerial involvement in matters referred to in the Report of the Comptroller and Auditor General, in particular matters identified at 15.2 & 15.3 of the conclusions and the conclusions generally contributed to the deficiencies and failings identified in the report.
- Consider any other matters that the reviewer considers appropriate that arise during the course of the review
- Identify and consider matters relevant to the timeframes in which political decisions were made and which Ministers had responsibility for the Jersey Innovation Fund.

2.3 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR THE ENVIRONMENT REGARDING THE DEVELOPMENT OF A RENEWABLE ENERGY STRATEGY FOR JERSEY: [1(105)]

Question

What progress, if any, has been made in terms of developing a renewable energy strategy in Jersey? Have any targets been set in respect of renewable energy; if not, why not; and, if so, how likely is it that such targets will be met?

Answer

Pathway 2015: An Energy Plan for Jersey, agreed by the States Assembly in May 2014, outlines a goal of sustainable, affordable and secure energy for the Island. Chapter 4 outlines our actions around renewable energy both at the Micro (or domestic/household level) or the utility scale which includes commercial/community scale or utility scale generation (e.g. marine energy such as wind or tidal power or onshore power from our Energy from Waste plant).

My Department continues to develop policies in accordance with the workstreams set out in the Energy Plan to encourage the uptake of renewable energy. Recent examples include the new building bye-laws which help to drive renewable energy solutions in new domestic builds or those undergoing significant refurbishment. The General Development Order now exempts from permission even larger areas of roof coverage by photovoltaic (PV) panels. I am heartened to see the prices dropping for renewable energy solutions such as air source heat pumps or PV or solar thermal panels. As the costs of renewables come even closer to that from conventional power sources such as oil and gas heating, people will continue to make renewable choices for their homes and businesses for both sustainability and economic reasons.

The States of Jersey have incorporated renewable solutions into its own portfolio of buildings. For example St Martin's primary school incorporates heat pumps and PV panels alongside many other

sustainable building solutions like rainwater catchment. The energy performance of the School is being constantly monitored and its operating parameters continue to be improved.

The States of Jersey continues to work on putting in place the legislative and spatial planning framework to enable utility scale marine renewable energy. Whilst any project would be considered on its own particular merit after extensive review and scrutiny, Jersey's waters hold potential for offshore wind projects as well as ultimately tidal stream technology as this reaches the commercial stage. The gift of the seabed from the Queen into the Island's ownership has been helpful in forwarding progress in this area.

Although I have described many areas of progress, currently the Energy Plan does not set renewable energy targets for the first period of the plan to 2020. Instead it concentrates in its' first 5 years on decreasing all forms of energy use to reduce emissions and improve overall energy security and affordability. However, the progress of the Plan is monitored by the Energy Partnership and the first full review of the Energy Plan is due in 2020. If it is thought appropriate and helpful there is the potential to propose renewable energy targets at this point alongside our ongoing work.

2.4 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE DECISION OF JT TO INVEST IN THE ENERGOUS CORPORATION: [1(106)]

Question

As shareholder representative for JT, what involvement, if any, did the Minister have with the decision of JT to invest in the Energoous Corporation?

Answer

In accordance with the Memorandum of Understanding the possibility of business acquisitions or investments of this nature are identified in 2016 Operating Plan. The Assistant Minister for Treasury and Resources received a verbal briefing from the CEO of JT Global further to the Board's approval and in advance of the transaction. This was subsequently supplemented by the provision of internal JT documents and accompanying paperwork.

2.5 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING CONCERNS RAISED, OR COMPLAINTS MADE, ABOUT THE NEGATIVE SOCIAL CONTRIBUTION OF HIGH VALUE RESIDENTS: [1(107)]

Question

How many times, if ever, have concerns been raised, or complaints made, about any negative social contribution made by individual High Value Residents allowed to live in Jersey; and how were any such complaints dealt with?

Answer

While observations and comments are made from time to time in relation to the high net worth initiative and residents - the overwhelming number of which are positive, recognising the considerable social, economic and fiscal value they deliver - no formal complaints have been made to and investigated by the Chief Minister's Office.

2.6 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING BLOOD DONATION BY GAY MEN: [1(108)]

Question

What are the current rules relating to the donation of blood by gay men and what restrictions, if any, are in place? If there are different rules in this area for gay men and heterosexual men, what is the reason for there being different rules; and has the Minister given any consideration to reviewing the rules?

Answer

I can confirm that the Jersey Blood Donor service follows the UK guidance relating to blood donation. This guidance in full can be found using this link:

<http://www.transfusionguidelines.org.uk/dsg/wb>

This guidance covers many aspects of blood donation and seeks to minimise risks to both the donor and the recipient of collecting and processing blood components to ensure that only the highest quality blood components are produced. Of necessity this is selective and the principles of public safety are paramount. There are frequent updates relating to this guidance with 18 being issued in 2016 covering a wide spectrum of issues. The last relevant update relating to homosexual and bisexual individuals was in 2011 and the text is attached at Appendix 1.

All donors, irrespective of age, gender, race or sexual orientation are asked to complete a questionnaire on each occasion before donating. This gives the health professionals prompts to question any aspects that may lead to a risk that would necessitate not taking the donation on that visit – for example, if the donor had visited a country with a known malarial or a viral risk, such as Zika Virus. This includes mandatory deferral of male and female heterosexual partners of individuals with a current Zika Virus incubation risk.

If a male donor answers the questionnaire stating that they have had oral or anal sexual contact with or without protection with another man in the last 12 months, the donation will be declined. This is different for female bisexual or homosexual donors. The reason for this can be found within the guidance and the change notification No 17-2011 states:

“Men who have sex with other men have a higher chance of having an undiagnosed infection which could be passed to anyone receiving their blood. During 2010 and 2011, SaBTO (Safety of Blood Tissues and Organs) commissioned a subgroup to review the donor selection criteria and risks associated with blood donation by men who have had sex with men.

This review considered advances in the sensitivity of testing procedures currently in use in the UK, the prevalence of transfusion transmissible infections in men who are having sex with men, and the current level of compliance with the previous permanent exclusion. This review recommended that the deferral period for men who have had sex with men should be reduced to 12 months after last sexual contact. The recommendations were approved by SaBTO and by the English Department of Health and the devolved authorities in Scotland and Wales.”

Jersey adopted these changes when they were released.

In terms of bisexual and homosexual women the guidance states:

“There is no evidence that there is an increased risk of sexually transmitted infections in homosexual or bisexual females compared to heterosexual females.”

Therefore I can confirm that there are differing selection criteria for homosexual and bisexual men compared to women, but this is in accordance with UK accepted best practice. I can also confirm that I will not be considering any changes to these criteria for the Jersey Blood Donor service and

we will continue to work in line with the UK guidance – making changes only when they make recommendations to do so. This is to ensure that we offer the safest and best quality service to Islanders.

Finally, I would like to take this opportunity to thank all of the Islanders who volunteer as blood donors as they provide critical support to our clinical services. My Department has a duty to maintain a public blood supply and in doing so is reasonably expected to select those donors known to present the least potential risk to patients.

Appendix 1

Date of publication: 20 September 2011 Implementation: 7 November 2011

Change Notification UK National Blood Services No. 17 - 2011

Homosexual and Bisexual Individuals

Applies to the Whole Blood and Components Donor Selection Guidelines only.

1. Female

Discretionary Accept.

Additional Information

There is no evidence that there is an increased risk of sexually transmitted infections in homosexual or bisexual females compared to heterosexual females.

2. Male

Obligatory Must not donate if:

Has had oral or anal sex with another man, even if a condom or other protective was used.

Discretionary If 12 months or more from the last oral or anal sexual contact with another man, accept

See if Relevant Blood Safety Entry

Additional Information

Men who have sex with other men have a higher chance of having an undiagnosed infection which could be passed to anyone receiving their blood. During 2010 and 2011, SaBTO commissioned a subgroup to review the donor selection criteria and risks associated with blood donation by men who have had sex with men.

This review considered advances in the sensitivity of testing procedures currently in use in the UK, the prevalence of transfusion transmissible infections in men who have had sex with men, and the current level of compliance with the permanent exclusion. This review recommended that the deferral period for men who have had sex with men should be reduced to 12 months after last sexual contact. The recommendations were approved by SaBTO and by the English Department of Health and the devolved authorities in Scotland, and Wales.

3. Female Sexual Partners of Men who have Sex with Men

Obligatory Must not donate if:

Male partner has had oral or anal sex with another man, even if a condom or other protective was used.

Discretionary If 12 months or more from the last sexual contact with a man who has ever had sex with another man, accept. There are exceptions so please ask.

See if Relevant Blood Safety Entry

Additional Information

Men who have sex with other men have a higher chance of having an undiagnosed infection which could be passed to their female partner.

Waiting twelve months from the last sexual contact helps to ensure that the infections tested for by the Blood Services will be picked up.

There may be exceptions for female partners of men who have had sex with men. They may be allowed to donate on the basis of an individual risk assessment.

Reason for Change The guidance has been changed in line with recommendations from the Department of Health Committee on the Safety of Blood, Tissues and Organs (SaBTO).

2.7 DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING STATES MEMBERS' DECLARATIONS OF INTEREST IN RESPECT OF INVESTMENT HOLDING COMPANIES: [1(109)]

Question

What consideration, if any, has been given to reviewing the rules regarding States Members' declarations of interest, specifically those provisions which oblige members to declare their ownership of an investment holding company without requiring further elaboration of the investments they actually possess through that company?

Answer

The rules regarding the registration and declaration of interests are set out in Standing Orders 152 to 154 and 106 respectively. Schedule 2 to the Standing Orders specifies which interests must be registered (these being the basis of the declarations made under Standing Order 106). In respect of shareholders, the schedule states:

- (1) An elected member must register the name and address of any company in which he or she, or his or her spouse or civil partner or cohabitee, or both of them, whether jointly or separately, own shares exceeding – (a) 1% or more of the issued share capital of the company; or (b) £25,000 in value.
- (2) When registering the name and address of the company, the elected member must also provide a brief description of the business or purpose of the company.
- (3) For the purposes of this paragraph, a person owns shares if he or she owns them in his or her own name or if the shares are held, on his or her behalf, or for his or her benefit, by any other person.

It is the responsibility of all members to register interests accurately and in a timely fashion and to declare those interests where necessary under Standing Order 106. Complaints that interests have not been appropriately registered or declared can be made to PPC. The Committee has not recently dealt with any such complaints. However, in the light of this written question, the Committee has decided that it would be appropriate to review the rules in relation to holding companies and has asked the States Greffe to prepare a paper comparing the rules in Jersey with those in other jurisdictions.

2.8 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE EXEMPTION OF HOME-CARE AGENCIES FROM THE GOODS AND SERVICES TAX: [1(110)]

Question

What consideration, if any, has been given to exempting home-care agencies not operating under the Nursing and Residential Homes (Jersey) Law 1994 from charging G.S.T.; and will the Minister explain why such agencies are not currently exempted, whereas nursing homes and nursing agencies operating under the Law are exempt?

Answer

It is common practice for consumption taxes to exempt certain goods/services from the scope of the charge where it is considered in the public interest to do so. The supply of medical services is commonly exempted from consumption taxes under this approach (e.g. the EU requires all Member States to exempt the supply of medical services from VAT¹). The EU also requires all Member States to exempt the “services and goods closely linked to welfare and social security work (including those supplied by old people’s homes)” when supplied by “public bodies or other bodies recognised as being devoted to social wellbeing”. Jersey adopted a similar approach on the implementation of GST; exempting those supplies listed in Group 4 of Schedule 5 (medical and paramedical supplies) to the Goods and Services Tax (Jersey) Law 2007².

To ensure that this exemption is sufficiently restricted and unambiguous in its interpretation it applies only to supplies which meet the specified conditions. In particular in sub-paragraphs (d) and (e) the exemption is restricted to persons registered under either the Health Care (Registration) (Jersey) Law 1995 or the Nursing and Residential Homes (Jersey) Law 1994. Furthermore, in the context of sub-paragraph (d) the particular supply has to be made in the course of the practice of the relevant registrable occupation.

Group 4 of Schedule 5 does not give an exemption to all supplies made by agencies registered under the Nursing Agencies (Jersey) Law 1978; although a proportion of the supplies made by these agencies may be exempt if they fall within the scope of the exemption in sub-paragraph (d).

Personal care agencies (i.e. those that provide a range of social care – rather than medical care – from cooking and cleaning, through to assistance with washing, dressing, eating, taking medication etc.) are not required to register under any of the pieces of legislation outlined above; although the majority will fall under the Approved Provider Framework³. Crucially however these personal care agencies are not supplying medical services and hence are not within the scope of the exemption from GST.

The Treasury is aware of the activities being undertaken regarding the future regulation of care homes, care at home and adult day care under the Regulation of Care (Jersey) Law 2014. When the necessary regulations have been drafted the Treasury will give due consideration to whether the exemptions in Group 4 of Schedule 5 should be extended.

¹ See: http://ec.europa.eu/taxation_customs/business/vat/eu-vat-rules-topic/exemptions/exemptions-without-right-deduct_en

² Reproduced in Annex.

³ The Approved Provider Framework for Home Care and Outreach Short Break Services was introduced in 2014 to support the introduction of the Long Term Care Scheme. It applies minimum requirements and standards of safety and quality. In order to receive Long Term Care Benefit, claimants must use an Approved Provider.

2.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE DECISION OF JT TO INTRODUCE A SURCHARGE ON POSTAL BILLING AND PAYMENT BY CHEQUE: [1(111)]

Question

Will the Minister, as shareholder representative, review the decision by JT to impose a surcharge on customers in respect of postal billing and payment by cheque and, if not, why not; and will he explain what consideration, if any, was given to the option of offering a discount for payments made through the mechanisms JT wishes to encourage?

Answer

The Minister for Treasury and Resources has delegated to the Assistant Minister for Treasury & Resources, Connétable John Refault, responsibility for shareholder matters.

Whilst this is an operational issue and one for the Board of Directors of JT Global, the Assistant Minister has maintained contact with JT throughout. Members, on 7th February 2017, will have received an email from the Chief Executive Officer of JT providing a briefing document setting out the background to the changes and the steps being taken to deliver them. Hopefully this will have helped clarify the position.

It is important to stress, that whilst this issue has caused some concern, the Assistant Minister is advised that the total number of queries to JT have numbered 197 over the last two weeks whereas the number of completed forms received to date is 2,688.

In terms of those customers who do have concerns, the Assistant Minister is assured by JT that appropriate mechanisms are in place to deal with them based on their own individual circumstances. It is important to stress that such customers should make direct contact with JT based on the information contained in the letters they have received or will receive from JT over the course of the next few weeks.

On the issue of JT offering a discount, the Assistant Minister is advised that a number of promotions have been run over recent years along such lines, including monthly discounts, and this has resulted in over 70% of customers moving to e-bills and/or direct debit payments JT's only remaining option was to follow the approach of its competitors in applying these charges, although it remains the case that such charges can be completely avoided (which is JT's clear preference).

JT have advised that it continues to supply heavily subsidised line rental of £11.25 per month to 9,390 customers under the PrimeTalk tariff.

The Assistant Minister receives and will continue to receive regular updates.

2.10 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR THE ENVIRONMENT REGARDING AIR QUALITY IN THE TUNNEL: [1(112)]

Question

Will the Minister advise –

- (a) what internationally recognized benchmarks are known to his Department to assess pollution levels in road tunnels, especially those which are used by both pedestrians and road traffic;

- (b) whether Jersey is signed up, either directly or indirectly, to E.U. air quality standards; if so, what those standards are and, if not, why Jersey is not signed up;
- (c) what the Department considers to be the maximum safe level in the Tunnel of harmful gases and fine particles with a diameter of less than 2.5 micrometres (i.e. PM 2.5);
- (d) when the last test of air quality in the Tunnel was done, if ever, and what the levels recorded were; and
- (e) when the warning sign about air quality for pedestrians was removed, why, and when it will be replaced?

Answer

- (a) my department is aware of several internationally recognised benchmarks used to assess pollution levels in Road Tunnels including:
 - World Health Organisation Air Quality Guidelines
 - Tunnel construction guidelines UK 1999
 - Air Quality in and Around Traffic Tunnels – Australian Government National Health and Medical Research Council 2008
 - New South Wales TP11: Criteria for In-Tunnel and ambient air quality
- (b) Jersey is signed up to specific oxides of nitrogen (NO_x) and volatile organic compound (VOC) protocols, which come under the United Nations Economic Commission for Europe (UNECE), and therefore emission inventories for these two pollutants have been generated and are included in the UK emission estimates submitted to the UNECE. However, the emissions are expressed as the UK and “other territories”, and therefore emissions arising from Jersey are not quoted individually. This also means that targets are associated with the UK and other territories, hence there are no targets applied specifically to Jersey alone.

Currently the States of Jersey have obligations under the United Nations Framework Convention on Climate Change (UNFCCC), and include the reduction targets for greenhouse gases in their international commitments.

The States of Jersey have committed through the Air Quality Strategy to achieving standards that are as good as or in excess of those applying in the European Union which includes meeting air quality standards. In addition, the States of Jersey have international obligations under the Climate Change Convention to reduce emissions of greenhouse gases.

The relevant standards are as set out in the EU air quality directive (2008/50/EC).

- (c) This question must be looked at from several angles.

- In determining a “safe” level we must also look at those people exposed and the nature and time of that exposure.
- There is no internationally agreed exposure limit for Carbon Monoxide.
- The data taken from the New South Wales criteria for in-tunnel and ambient air quality suggest a Maximum exposure level of 0.1ppm for an exposure of an hour – most people spend far less time than that in the tunnel. The same study suggests a maximum daily exposure of 25 μgm^{-3} for PM 2.5 and 50 μgm^{-3} for PM10.
- It should be noted that these standards apply to general population exposure rather than ‘hot spots’ or the control of individual point sources.

(d) We have anecdotal evidence of the pollution in the tunnel being tested last century but no data.

(e) The signs outside the Tunnel are managed by the Department for Infrastructure. I have been informed that the signs were taken down as part of a recent refurbishment and replacement signs will be placed outside the Tunnel soon.

2.11 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF POLICY CHANGES WITHIN INCOME SUPPORT: [1(113)]

Question

Will the Minister advise what estimates, if any, she has made of the impact that the following changes would have on her Department, both in financial and policy terms?

- Moving the age at which Income Support and access to housing may be claimed from 25 to 18;
- Recognising an 18 year old as a separate household within a family;
- Allowing Income Support claimants to access higher education without there being any reduction in their Income Support;
- Not removing the component for a young adult who has gone to university; and
- Disregarding the grant received, as income, for young adults within a household who are studying in higher education.

Answer

Income Support is a household benefit, and a fundamental principle of this benefit is that it is paid to support low-income families as a single unit. The total amount of benefit is calculated by adding up ‘components’ that meet different expenses for a household, such as rent and a personal component for each child, adult or young person. So, where a young person lives in a low-income household the Income Support system acknowledges the extra cost to the parents and increases the overall benefit paid to the household. This includes young people who are in further and higher education.

Income Support is designed to support local families and in general is not payable off-island. Most components of Income Support are not paid during term time when the young person is away at university and support for personal expenses is replaced by the maintenance grant from the Education Department. However, Income Support will continue to support the household with the rental cost of keeping a bedroom for the student, and by continuing to pay any personal care or mobility components that a disabled student is entitled to.

The principle of considering the needs of a family unit means that parents with overall incomes too high to qualify for assistance from Income Support themselves are expected to support a young person who lives with them, rather than allowing that young person to claim a tax-funded benefit. Exceptions are made for young people who can't live with their parents, and for young people with a high level of disability or long-term illness. In those cases, Income Support can be paid to the young person directly irrespective of the income of their parents.

In response to the specific bulleted points:

- (a) Social housing policy in Jersey has always restricted the level of assistance available to the under 25s, and Income Support continues to reflect this ongoing policy. Extending the eligibility for support with housing costs to single people aged under 25 would represent a significant increase to the cost of Income Support, and would also put pressure on Jersey's limited social housing stock. Any move in this direction would need to be taken very carefully.

Support with housing costs through Income Support is available to a claimant from school-leaving age if they are unable to live in the family home or have the care of a child. Other young people receive support through the family unit, including housing costs.

- (b) As outlined above, young people are treated as a separate household from their parents if they are unable to live at home or if they have a high level of disability or long-term illness. Young people who are under 25 but are in full-time employment are removed from the parental Income Support claim, so that their earnings do not reduce the amount of Income Support payable to their parents. This is designed to increase the incentives for young people to find work.

Students have always been included in the parental household up to the age of 25, but the States have twice debated the age at which young jobseekers are included in the parental household. A change in 2011 included young jobseekers up to the age of 19 in the parental household, and this was then increased to age 25 in 2015 – bringing the treatment of jobseekers in line with those young people who remain in full-time education. The impact of these changes was to remove support from young people living in better-off households, as in both cases young people living in a low-income household continued to be supported by increased payments as part of the parental Income Support claim. The result of these changes has been positive: an increased motivation for the young person to find work and a steady decrease in the numbers of young people registered as Actively Seeking Work.

Any decision to treat young people as a separate household from the age of 18 would have the effect of paying benefit to people living with parents who are not themselves a low-income household. In a period where overall benefit expenditure has been limited as part of the Medium term Financial Plan, it would be very difficult to justify this change.

- (c) Young people living in an Income Support household are supported to be in full-time education up to the age of 25. This applies to degree-level (or equivalent) courses providing they commenced the course prior to their 22nd birthday. Exceptions are made for vulnerable

young people, and people who are studying on a “critical skills” course designed to meet the needs of Jersey’s economy. For those courses, Income Support will support somebody regardless of their age.

Extending the provision for Income Support to pay for people over the age of 25 to undertake full time higher education would have the effect that fewer people would be expected to find work, and people who would otherwise find employment might choose to study instead. Although some people would increase their potential earnings through education, this is by no means guaranteed, and would have a significant cost to the benefit budget. The mechanism of selecting “critical skills” courses is a good compromise, as it supports educational courses that guarantee paid employment in fields where Jersey has struggled to recruit skilled workers, such as nursing. Many higher education courses are part-time, allowing the claimant to work and study at the same time. There are also increasing opportunities for distance learning, for example through the Open University.

(d) As stated in (c), Income Support is available to people undertaking higher education in Jersey, subject to certain conditions. Income Support cannot be paid off-Island, although students are supported as part of a household claim when they return to Jersey outside term-time, and by their parents receiving a housing component to maintain a bedroom for them. Funding for day-to-day living expenses of students studying outside Jersey is provided through the maintenance grant from the Education Department.

(e) As household income increases, the level of income support reduces as the household need less help with meeting the cost of their basic living costs. Income Support does contain mechanisms to disregard a proportion of certain forms of income from the benefit calculation. This is used in order to encourage households to pursue types of income that increase financial independence such as income earned from employment and old age pensions. The disregard allows people to keep a percentage of these incomes so that they are better off than households who have not worked towards them, which supports the Department’s message of financial independence.

Other forms of income reduce the amount of Income Support received by a household on a pound-for-pound basis, for example, other contributory benefits received by family members. The Education maintenance grant, like the components of Income Support, is designed to pay towards living expenses. If we were to disregard the value of the grant people would effectively be paid twice by different States departments towards the same expense. Aside from increasing the amount of benefit somebody could receive by approximately £92 a week, this would set a very difficult precedent for Income Support when considering other forms of income.

2.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF REDUCED PAYMENTS OF INCOME SUPPORT: [1(114)]

Question

Further to the response to written question 1(9), tabled on 17th January 2017, and the reductions that it described being paid in Income Support, what assessment, if any, has the Minister undertaken of whether such reductions see the claims of those households affected reduced below

the minimum level of income needed for their circumstances and of whether such reductions may thereby cause hardship for these households?

Answer

As stated in answers to the written and oral questions on this subject, there are a variety of different reasons that might affect the level of payments of Income Support benefit. They are not directly comparable, and are made on different legal basis depending on the type of reduction made. Many are carried out at the request of the customer. What can be said is that the impact of any reduction is considered on a claim-by-claim basis by Determining Officers, and there are always options that can be considered where there is a clear risk that the household will not have sufficient income to support themselves.

The caveat to this statement is that in many cases a household's benefit is reduced because of an action they have taken, or have failed to take. In particular, where a household has reduced income because of a failure for an adult member to look for work, this is because a person has chosen to ignore their responsibility to actively seek work and has also ignored a previous written warning from the Department. If this is the case, the person bears responsibility for reducing their household income.

For clarity, the response to this question has been broken down into the list of four areas that has been used in previous questions.

a) Work-related sanctions

For most working age adults, Income Support includes a requirement to be in work, or actively seeking work. The Back to Work teams provide a wide range of support to job seekers and have achieved significant results over the last few years. Alongside a financial incentive for finding work, there is also evidence that a job seeker regime that includes both incentives and financial sanctions is more effective than one that concentrates on one aspect or the other. As such, Income Support now includes a set of phased sanctions that increase in severity for repeated failures to actively seek work.

These sanctions are designed to function as a financial deterrent, so a noticeable impact on household income is inherent to the way they work. Jobseekers are comprehensively warned about the consequences of failing to look for work, and receive a detailed written warning the first time they break the rules. This explains that their benefit is at risk if they do not change their behaviour. The minority who go on to receive a financial sanction have therefore chosen a course of action that will impact their financial circumstances. This is initially for a short period, but it increases with each offence and ultimately for persistent offenders this can remove all entitlement to Income Support.

b) Overpayments

The Income Support system is designed to respond to current need and provides payments in advance to ensure that low income households can meet their basic living costs as they arise. The amount of Income Support received depends on the number of adults and children on the claim, rental and other costs as well as the wages and other income of the household. A change in any of these areas can lead to a temporary overpayment of benefit. Claimants are advised that they should notify the Department as soon as changes in circumstances occur.

When this happens, the revised benefit level is confirmed, the overpaid amount is calculated and ongoing benefit payments are reduced to recoup the extra benefit that has already been paid. In each case, a Determining Officer considers the claim and sets the repayment at a level the household can afford, taking into account the extra payments that have already been received. The repayment levels used do not result in hardship.

c) Household Medical Account payments

Each adult and child component within Income Support includes an allocation for four General Practitioner (GP) surgery visits a year. On top of this, additional components support those with health conditions who need regular GP check-ups. Most income support households receive these amounts as part of their regular benefit payment and are able to budget for their own GP costs.

However, the Income Support system does provide extra support with budgeting for some Income Support claimants. This support is provided through Household Medical Accounts, which are a mechanism for a claimant to allocate a set amount of their benefit each week into the account to ensure that they can meet the cost of GP visits in the future.

The HMA is simply a budgeting tool that allows a household to save small amounts from its own benefit. If the household prefers to manage their GP costs without the HMA, it can be closed.

Loan repayments on Special Payments

As well as providing support with weekly living costs, the Income Support system also helps with the cost of larger, one-off items such as rental deposits and white goods. Most support is provided through an interest free loan with some payments being provided as grants.

If a claimant requests a loan, a repayment rate will be agreed at the start of the loan. The provision of a loan ensures that the claimant is aware of the value of the item, whilst enabling the claimant to spread the cost over a longer time period without incurring interest charges.

The recovery of a special payment loan will cause a small weekly reduction of benefit, but most households appreciate this facility as the alternative to having to find lump sums from their income to meet costs such as a replacement refrigerator. When a household is loaned the money for a rental deposit, they will receive this amount back at the end of their tenancy.

In each case of a special payment loan, a Determining Officer considers the claim and proposes to set the repayment at a level the household can afford. The repayment levels used do not result in hardship.

2.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION REGARDING NEWLY QUALIFIED TEACHERS' SALARIES: [1(115)]

Question

Will the Minister provide a comparison between the earnings of a newly qualified teacher in Jersey during each of the first 5 years of their career under current policy, and what the earnings of a newly qualified teacher during each of the first 5 years of their career will be once the Minister's proposal to reduce the entry level for newly qualified teachers from level 3 (i.e. £38,000) to level 1 (i.e. £33,900) has been implemented?

Answer

Teachers in Jersey are paid according to the following scale and, in general, would advance one level per academic year. To be entitled to an increment, a teacher must have completed at least 26 weeks in the previous 12 months or 0.5 full time equivalent of teaching hours in the academic year. Any increment awarded would be subject to performance review.

Jersey Qualified Teachers' Pay from January 2016		
Main Pay Scale	1	£33,900

	2	£36,097
	3	£38,296
	4	£39,418
	5	£40,546
	6	£41,675
	7	£42,802
	8	£43,926
	9	£45,055
Upper Pay Scale (for extra responsibilities)	1	£46,165
	2	£47,130
	3	£48,089
	4	£49,055
	5	£50,017

A new teachers' typical earnings from the current starting point at MPS 3 would be:

Year 1	£38,296
Year 2	£39,418
Year 3	£40,546
Year 4	£41,675
Year 5	£42,802

This compares to the following earnings if the proposal is implemented (starting from MPS1). This is subject to negotiations with teaching unions.

Year 1	£33,900
Year 2	£36,097
Year 3	£38,296
Year 4	£39,418
Year 5	£40,546

2.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE PUBLICATION OF DECISIONS BY THE HOUSING AND WORK ADVISORY GROUP: [1(116)]

Question

Will the Minister agree to publish figures showing the decisions made by the Housing and Work Advisory Group on licensed and registered employment permissions, grouped by employment sector, on a quarterly basis; and if not, why not?

Answer

The figures are already produced and published quarterly, inclusive of approvals and refusals, by sector, for registered and licenced permissions. The latest figures are available at:

<https://www.gov.je/Government/Pages/StatesReports.aspx?ReportID=2609>

2.15 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING HIS ROLE AND THAT OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES AT A MEETING AT WHICH IT WAS DECIDED TO BREAK THE CONTRACT WITH MR ALWITRY: [1(117)]

Question

Further to the answer to written question 1(72), tabled on 30th January 2017, will the Chief Minister advise members of both his role and that of the Minister for Health and Social Services at the meeting that took place with health officials on, or around, 21st / 22nd November 2012 to discuss the breaking of Mr. Alwitry's contract of employment at the General Hospital; will he further advise on what written evidence, if any, they based their decision to break the contract; and will he undertake to publish this evidence?

Answer

An exhaustive response to this question risks trespassing into territory which is *sub judice*. It is important to distinguish between the roles of two separate organs of administration.

The respective roles were as follows:

Health and Social Services (“HSSD”)

The decision in principle to terminate the contract was taken by the Hospital Managing Director, the Joint Medical Directors, and the HSSD HR Director. The recommendation was made to the HSSD CEO and the Health Minister[s] who concurred with the recommendation.

The HSSD HR Director wrote to the SOJ HR Director explaining the reasons for the HSSD intention to terminate the contract.

States Employment Board (“SEB”)

The members of the SEB were advised by the SOJ HR Director of the day *via* email on 21st November 2012.

The evidence relating to this matter will not be published and no further questions will be answered concerning it because it is *sub judice*.

2.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE STATUS OF THE ZERO-TEN TAX POLICY FOLLOWING BREXIT: [1(118)]

Question

Will the Chief Minister advise what assessment, if any, his Department has made of the likelihood that Jersey could be placed on a new blacklist of ‘tax havens’ due to the Island’s zero-ten tax policy once the United Kingdom has left the European Union?

Answer

On the matter of the proposed listing of non-cooperative jurisdictions by the European Union, we have now received a letter from the Chair of the EU Code of Conduct Group on Business Taxation. The jurisdictions that have been written to by the Chair are those identified through a set of objective indicators (such as strength of economic ties with the EU, financial activity and stability factors) used by the EU Commission in its scoreboarding exercise last September.

The first step will be for the Code Group to undertake a preliminary analysis of the information already available such as information in the public domain, reports in the context of the Global Forum on Transparency and Exchange of Information for Tax Purposes and the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting.

Should it prove necessary, we will be given the opportunity to engage in a dialogue with experts nominated by the Code Group on Business Taxation which will allow us to defend our tax system.

If called upon to do so, we believe we will be able to convince the Code Group that our tax system is not harmful, as was the case when it was previously considered by the Code Group in 2011, and if so we do not see any reason for the Code Group to change that decision as a result of the United Kingdom leaving the European Union. We will be in a better position to assess our position later this year whereupon, if we need to, we will consider what steps, if any, we would need to take to protect the Island's best interests when the United Kingdom leaves the European Union.

Our relationship with the EU is built on the good neighbour policy that we have pursued for many years. Jersey is not in the EU but it recognises that it is part of Europe. A desire to strengthen this relationship led to the setting up of a Channel Islands office in Brussels 5 years ago, ably led by Steve Williams. It is also reflected in an active engagement with EU institutions at both political and official level. Together with the Chief Minister of Guernsey I have visited three times in the past two years, which emphasises the importance we attach to developing our engagement with the European Union.

EU Commissioner Moscovici has commended the Islands for their cooperation and referred to them as important partners of the EU. Our voluntary support of the EU Directive on the Taxation of Savings Income, and in meeting the criteria of the Code Group on Business Taxation, are just two examples of that cooperation which also goes beyond tax matters. Our active cooperation on sanctions implementation, which has been noted and appreciated by the European External Action Service, is another example.

2.17 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE ROLE OF THE ZERO-TEN TAX POLICY AND MEASURES TO ENSURE JERSEY'S TAX NEUTRALITY: [1(119)]

Question

Will the Chief Minister explain the role that the zero-ten tax policy plays in the maintenance of Jersey's tax neutrality; and will he advise whether or not the Council of Ministers has any plan that provides an alternative tax system to zero-ten that would maintain that neutrality in the event that the E.U. indicated that it would impose sanctions against Jersey if the zero-ten policy were maintained?

Answer

Income such as dividends and royalties received in Jersey from other jurisdictions will often have suffered tax in that jurisdiction. If that income when received by a company in Jersey was to be subject to tax in Jersey there would be double taxation and this would seriously detract from Jersey's competitive position as an international finance centre. This problem is avoided in other countries because they have a large number of tax agreements which prevent double taxation. As Jersey has few such agreements the way of avoiding double taxation is to apply a zero rate. Thereby a condition of tax neutrality is obtained.

The retention of the zero tax therefore is important if Jersey is to remain competitive as an international finance centre. As was stated in the Policy Framework for the Financial Services Industry published in 2014 we are committed to providing a tax regime that is competitive and also one that provides the stability and certainty that the business community and investors using Jersey require.

The finance industry has continued to be successful because we are competitive. The fact that employment in the finance industry is as high, if not higher, now than it was at the start of the financial crisis in 2007 is indicative of that success. The finance industry is a source of employment

for thousands of Island residents, and provides well remunerated job opportunities for our young people which otherwise they would undoubtedly have to leave the Island to enjoy.

The European Union has indicated that it will consider what defensive measures or sanctions to apply to those jurisdictions that are on a list of non-cooperative jurisdictions which it is proposed will be published at the end of this year. We firmly believe that we will convince the Code Group that our present tax system is not harmful, as we did when the system was reviewed by the Code Group in 2011, and that we will not be on that list. We are therefore confident that we will be able to continue to give the business community and investors the assurance they require of the continued stability and certainty of our tax regime, and in our view there is no immediate need to plan for the provision of an alternative tax system.

2.18 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE REGARDING THE PRODUCTION OF STATISTICS IN RESPECT OF VISITOR NUMBERS TO JERSEY: [1(120)]

Question

Will the Minister advise whether or not figures published by Visit Jersey to show the number of visitors to Jersey include people coming to do business, people visiting families and friends, and language students; and, if so, will he further advise what steps, if any, he will take to ensure that future publication of such statistics show the number of visitors to be represented by the number of staying leisure visitors?

Answer

All visitors who spend money in the local economy are valued.

Understanding the volume and value of tourism to Jersey is a key requirement for Visit Jersey, the States of Jersey and the wider tourism industry.

This is why EDTSC and Visit Jersey have modernised and enhanced the data collection approach such that it corresponds to international standards, and adheres to the recommendations of the United Nations World Tourism Organisation.

Under the new approach, based on Exit Surveys with representative samples of departing passengers from the Island, Visit Jersey intends to make available statistics on the volume and value of tourism broken down by broad journey purpose and duration of stay.

This means that the following data will be published:

- Holiday visitors who stay overnight
- Holiday day-trip visitors
- Visiting Friends and Relatives (VFR) visitors who stay overnight
- VFR day-trip visitors
- Business visitors who stay overnight
- Business day-trip visitors
- Study visitors who stay overnight
- Study day-trip visitors
- Visitors for other trip purposes both overnight and day-trip

The international standard for defining who is and who is not ‘a visitor’ will be applied, meaning that as such we do not count those who become temporarily resident in the Island to undertake paid employment for a Jersey entity.

The previous approach relying on Visitor Registration Cards purported to show the number of ‘staying leisure visitors’ but captured no data on visitors, regardless of their trip purpose, if they chose to stay in unregistered accommodation, nor did it provide any data on, or insight into the economic value to Jersey of day-trip visitors.

3. Oral Questions

3.1 Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding the impact of the freeze on Income Support basic component levels since 2009 on living standards and disposable incomes: [1(126)]

What is the Minister’s assessment of the impact the freeze on income support basic component levels since October 2009 has had on the living standards and disposable incomes of those poorest households which are dependent on benefits to meet their day-to-day living costs; and what measures, if any, does the Minister have under consideration to help improve living standards for those in relative low income?

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

Income support is made up of many different elements. Since 2009 the targeting of income support has improved significantly and we have seen a reduction in the number of households who are totally dependent on benefits. In 2011 18 per cent of income support households had no other income to call on. By 2015 this percentage was down to 13 per cent. It is true that some components have not been increased but instead improvements have been made to the proportion of wages and pensions retained by the household. Helping people move towards financial independence and helping them to increase their own living standards. Actions within this current Strategic Plan are also helping to improve the quality of life across key areas that affect low income families. Housing; increasing the quality of social rented homes. Jobs; extending Back to Work services. Health; improving health facilities in the community. Education; introducing a pupil premium. I intend to continue work with other Ministers to target support to families that need the most help across the full range of their needs.

3.1.1 Deputy G.P. Southern:

Is the Minister aware that the freezing of what she calls “certain components” like the adult component, the child component, since October 2009, that has resulted in the purchasing power of the benefit being reduced by a massive 17 per cent? People are 17 per cent worse off than they were in the same situation on benefits in 2009. Is the Minister aware of this reduction and the effective disposable income of these households?

Deputy S.J. Pinel:

As I said in my opening remarks, the whole point of income support and the methodology behind Social Security is to make sure that it is targeted and to encourage people back into work. That is not just to support their own financial independence but everybody knows that having a job is better than not having a job at all. It improves social contact, self-esteem and all the things we have been through so many times before. I must slightly correct the Deputy inasmuch as the child component and the rent component have been protected and have increased.

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

On that 17 per cent figure that Deputy Southern quoted about the poorest quintile in our society seeing their standing of living reduced, does the Minister accept that in a rich island that is unacceptable and disgraceful to see the poorest people in our Island, see their standard of living reduced by so much? Does she further accept that her policy to reduce the disregard for certain benefits is going to make this figure even worse?

Deputy S.J. Pinel:

As I said, income support is composed of many different elements and the disregard has increased in a lot of cases from the original 10 per cent to now 23 per cent to encourage people to go to work, so 23 per cent of their earnings are disregarded and the number of people on income support has dropped quite dramatically; the number of households on income support over the last couple of years.

3.1.3 Deputy S.Y. Mézec:

The opposite is the case for people receiving disability benefits or pensions. But I did not get an answer to my question. I said: does she not consider the fact that the poorest quintile in Jersey have seen their standard of living reduced by 17 per cent in a rich Island, is that not absolutely disgraceful that we are letting these poor people in our Island suffer because of the financial incompetence of the Government she is a part of?

Deputy S.J. Pinel:

No, I do not accept that at all. Income support is a hand-up, not a handout as is a well-rehearsed phrase, according to Deputy Southern. No, the income support system is there to benefit people who need help at certain times of their life. But equally we are running a very, very successful Back to Work system, which encourages people back into work, which has been extraordinarily successful.

3.1.4 Deputy M. Tadier of St. Brelade:

The Minister talks about improving the quality of life for the poorest in Jersey. Is she aware that for many people in not social but private rental accommodation who are entirely reliant on income support in many cases their rents are going up above the maximum component allowed by Social Security?

[9:45]

They are being forced either to move property with no guarantee that they will find somewhere cheaper or affordable with all the hassle that relates to that, or start using their living component to pay rents that they cannot afford; a living component which has not gone up, we are reminded, since 2009. Is this acceptable?

Deputy S.J. Pinel:

I am not quite sure what the Deputy means by “living component”. The various components of income support go through the personal component, the adult component, child component, rental component and household bills, all of which are paid in full if somebody is on full income support benefit.

3.1.5 Deputy M. Tadier:

I will explain to the Minister what I mean. I think the bedsit rate is roughly about £130 a week maximum and if the landlord or a new landlord increases that rent to £151 a week the individual is therefore required to find £20 of their own money, which is not covered by income support for rental component and therefore find themselves in increased hardship. Does she understand the point I am making and does she find that acceptable?

Deputy S.J. Pinel:

Yes, I understand the point the Deputy is making but the rental component is devised through the average rental of Andium Homes, the social housing component, and that is what is paid to people in the private sector. In a lot of cases people in the private sector will choose to live somewhere different. If they wish to pay more out of whatever other components they receive, that is their choice. I agree with the Deputy that is not always the case but certainly we cannot control the rents in the private sector.

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

The Minister stated this is a hand-up and not a handout. Does she agree though that unfortunately pensioners who may be spending all of their pension on rent and only have the adult component coming in, which has been frozen at £90.52 since 2009, cannot have a hand-up and they are the ones who are mostly affected?

Deputy S.J. Pinel:

I thank the Deputy. Actually it is £92.12 is the personal income support allowance. Pensioners, I agree, do face sometimes a very difficult time, especially in their older years when they would hope to sort of relax and enjoy themselves. However, we are conducting, as the Assembly and most of the public will know, a review into the Social Security Fund at present, Living Longer Thinking Ahead, doing a massive consultation, which will take about 18 months, into pensions and how we can adjust the culture and help pensioners into the future when pensioners are now claiming the pension for perhaps 30 years when before it might have been 6 years, 10 years. So, yes, we are well ... we have the situation as we see it well in hand and looking forward to the next 40 years as to how we adjust the pension scheme.

3.1.7 Deputy J.A. Martin:

A quick supplementary. Could the Minister, at the beginning she said that they have reduced from 15 per cent to 13 per cent people on income support, and could she then look at that 13 per cent and come back with the figures to tell us how many old age pensioners are on this 13 percent? Because if the figure is not moving that would be the explanation, but can she confirm this please?

Deputy S.J. Pinel:

Yes, I said that in 2011 it was 18 per cent of income support households and by 2015 it was 13 per cent. I think the Deputy is asking for the number of pensioners on income support in that 13 per cent. I will get her those figures.

3.1.8 Deputy G.P. Southern:

The Minister is proud of the rise in the disregard for earned income and the disregard for pensions. Is she aware that the 23 per cent disregard for earned income has not been improved since 2010 and that in fact the disregard at 23 per cent for pensions makes those pensioners on a full States of Jersey pension worse off rather than better off under the old system of a fixed disregard?

Deputy S.J. Pinel:

I think we are straying a bit off the mark here. The Deputy is correct in saying that any new pensioner will be affected by the changes from the previous allowance of £55 to the disregard of £23 but they also have the choice, any pensioner, as to whether they accept ... the people in the current situation accept the new ruling or the disregard. In some cases they will be much better off with the disregard.

3.2 Deputy M.R. Higgins of St. Helier of the Minister for External Relations regarding the recruitment of a Brexit ‘public relations officer’: [1(129)]

Will the Minister advise whether the recent recruitment of a Brexit public relations officer was overseen in any way by an external body; whether it was subject to a competitive interview; how many candidates applied; and how many were interviewed for the job?

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

The ministry followed an open and competitive process for the recruitment of the communications manager for External Relations. The post was advertised in the local newspaper and on gov.je. The ministry received 8 applications for the post and 3 were shortlisted and invited for interview. The recruitment was not overseen by an external body because this is not a requirement for the post of this level under the Government’s recruitment rules. If an internal employee had applied one of the panel members would have been independent from the ministry. On this occasion it was not necessary as all applicants were external. The Government H.R. (Human Resources) Department were involved in the recruitment and fully participated in both the shortlisting interview and selection process.

Deputy M.R. Higgins:

I would like to thank the Minister for his answer because a number of people have expressed concerns to me about it, and now we have the full facts. So I thank him for it.

3.2.1 Deputy M. Tadier:

Would the Minister state to the Assembly whether the other 2 shortlisted candidates were also former establishment candidates in previous elections?

Senator P.M. Bailhache:

That is not a question which I think is appropriate to put to the Minister.

The Deputy Bailiff:

I was about to intervene, Deputy. It seems to me that is inappropriate. It is perfectly acceptable to ask about the process of appointment but not about the identity or nature of the other candidates, it seems to me.

Deputy M. Tadier:

May I ask a supplementary in that case?

The Deputy Bailiff:

A supplementary of the question, yes. I will allow you to ask it. A proper supplementary.

3.2.2 Deputy M. Tadier:

Would the Minister agree with me and accept my congratulations that this is a good example of following Government aspirations for job creation?

Senator P.M. Bailhache:

I am not sure I would necessarily accede to that point of view. This post was created to deal with the pressures caused by the decision of the United Kingdom Government to leave the European Union and I am quite satisfied that the post is necessary and that the official appointed to fill it is an entirely competent individual.

3.2.3 Deputy J.A. Martin:

I am pleased to hear the process was completely open and I am fine with that. My question to the Minister is where does this external public relations officer for External Relations stand with the Communications Unit because I thought the Council of Ministers ... well, I know the Council of Ministers have the whole Communications Unit at their beck and call and to facilitate this sort of thing I would have thought so? Can he explain to me the difference between this appointment and people who work in the Communications Office?

Senator P.M. Bailhache:

I think a number of individuals deal with public relations for different ministries and departments throughout the Government of Jersey. The Communications Department certainly deals with central issues for the Council of Ministers and occasionally for other departments too. This individual or this post has been created in order to deal with a specific challenge, which is to say the challenge of Brexit and explaining to the public the decisions which Government is taking in relation to this momentous event, both for the United Kingdom and for the European Union, and indeed the world at large.

3.2.4 Deputy J.A. Martin:

Can the Minister confirm that this public relations officer does not work under or in the Communications Unit, just so I can be clear?

Senator P.M. Bailhache:

No, this official works for the Minister of External Relations but he will have a responsibility for engaging with a number of other departments in the Government of Jersey in connection with the Brexit process.

3.2.5 Deputy M.R. Higgins:

Just following on from Deputy Martin's line of questioning. If the post was specifically to deal with the Brexit issue, is it a fixed-term contract or on a permanent contract? If not, why not?

Senator P.M. Bailhache:

It is a fixed term contract.

The Deputy Bailiff:

Sorry that was your final supplementary, Deputy.

3.3. Deputy M. Tadier of the Chief Minister regarding whether he would ask Ministers responsible for signing off loans from the Jersey Innovation fund to 'step down': [1(128)]

Given that Senator Ozouf was not the only Minister to have signed off loans from the Jersey Innovation Fund, will the Chief Minister also be asking Senators Farnham and Maclean to 'step aside' from their ministerial duties until the relevant investigation has fully reported back?

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

The Assistant Minister with responsibility for Financial Services, Digital, Competition and Innovation stepped aside after the Comptroller and Auditor General report was published and is therefore sadly no longer an Assistant Chief Minister. This was an honourable action as he was the most recently delegated Minister for Innovation and he did this to allow a review into all actions without fear or favour. The 3 reviews that have been initiated will get to the facts into all aspects of the failings surrounding the Jersey Innovation Fund. The review looking into the political

responsibility will be published, as I have indicated in a written answer this morning, and if the review's findings show that further action is necessary I will consider it at that time.

3.3.1 Deputy M. Tadier:

It is not possible under the States of Jersey Law or under our protocols to suspend a Minister as a neutral act, which one might do to a public employee. But one might assume that what happened with Senator Ozouf is as close to that as we can get; him stepping aside while the investigation takes place. Given the fact that presumably Senators Farnham and Maclean are also honourable men should it not be appropriate given the fact that they have also signed off high level and failed innovation grants, and that they should also step aside from their ministerial duties so that the investigation can not only do its job but be seen to do its job without any of the incumbents who were present during those key moments being seen to be in office?

Senator I.J. Gorst:

Both Ministers that the Deputy referred to are indeed honourable men and they are getting on delivering on behalf of this community. As I said in my opening answer, Senator Ozouf was the person who most recently had political responsibility of being delegated and that is why he chose honourably to step aside. We should now let the reviews take their course and once those reviews are finalised and, in the case of the political one, published, then if further action is required that further action will be taken, as I indicated at the last States sitting.

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

I think the Chief Minister's definition of honourable is very different to mine. Will the Chief Minister explain that in the reviews that he will be conducting these will include statements and commitments made to States Members in the States Assembly and if not, why not?

Senator I.J. Gorst:

They will look at all aspects surrounding the Innovation Fund. That will involve emails, that will involve matters on the public record in this Assembly recorded in Hansard, that will involve statements made externally as well. I would just say that it is easy for Members of this Assembly to criticise others who have responsibility for decisions but I would ask him to withdraw the implication in his statement that the stepping aside of Senator Ozouf was not an honourable action, because it was.

3.3.3 Deputy R. Labey of St. Helier:

Do we understand from the Chief Minister that 3 reviews are underway into the Innovation Fund, but only one will be made public?

[10:00]

Senator I.J. Gorst:

There is one being undertaken by external accountants. That may, as I said in my written answer this morning, or may not be appropriate to be published, dependent on commercial sensitivity, so that will have to be decided when that work is undertaken. The review into actions by staff, it is most unlikely that that will be published because it will be involving individual staff and whether there is any disciplinary processes to be followed. But the political review, I have given the undertaking, as I did from day one, that it is appropriate that that is published and put into the public domain.

3.3.4 Deputy A.D. Lewis of St. Helier:

The Chief Minister will be aware that P.A.C. (Public Accounts Committee) are doing a review into this on the back of the C. and A.G.'s (Comptroller and Auditor General) report and the Council of Ministers' review. They have kindly shared the terms of reference with P.A.C. for which we are grateful. However, one of the items talks about identifying periods in which the different Ministers were responsible for elements of the Innovation Fund, setting it up, administering it and so on. I think Members are perhaps quite confused as to what the time periods were because legislation went through quite late in terms of delegating responsibility to the Assistant Minister. I wonder if the Chief Minister could either today or some other time outline very clearly as to what responsibilities were taken on by whom over what period. I think Members are somewhat confused as to who is responsible for what when.

Senator I.J. Gorst:

I thank the Deputy for his question; indeed, I think his analysis is correct as questions in this Assembly showed at the, not the last States sitting, but the one before that, I think it was. That is part of the work that needs to be undertaken so there is absolute clarity about who had responsibility for what at what point during the period, and it is providing that clarity that is going to help then answer some of the questions around accountability, about what was transferred, how it was transferred and to whom it was transferred. Those issues will, for any Member that is still not clear from the Comptroller and Auditor's report, be clarified through this other work, particularly through the review into political involvement.

3.3.5 Deputy M. Tadier:

In asking this question, I am responding to many members of the public who have spoken to me, and I am sure others, who cannot understand why one Assistant Minister has had to resign but 2 other current Ministers who are also involved in the Innovation Fund debacle have remained in post, so the final supplementary is simply to get more information on the record. Did at any point the current Minister for Treasury and Resources and the current Minister for Economic Development, Tourism, Sport and Culture either offer their resignation or were they asked to resign following the publication of the C. and A.G.'s report?

Senator I.J. Gorst:

The former Assistant Minister offered to resign. That, to my mind, was an honourable action because he at that point was the person who was delegated responsibility for the Innovation Fund. It is not right, while the reviews are now being undertaken, to try and second-guess what the outcome of those reviews will be. Of course the 3 Ministers involved during the course of the Innovation Fund all signed loans agreeing that money should be distributed in a certain way to certain projects. They did that under advice, they did that at the recommendation of the board but these are issues that need to be appropriately considered so that I and other Members can make appropriate decisions once those reports have been published. That is the appropriate way rather than any suggestion of a kangaroo court or a witch hunt which some feel was delivered against the former Assistant Minister inappropriately but he chose that honourable act.

Deputy M. Tadier:

Well, would the Minister answer my question, though? I did ask a specific question about whether the other 2 ...

The Deputy Bailiff:

I am sorry, Deputy, that was your final supplementary. The Minister has answered in the way that he has answered.

3.4 Deputy J.M. Maçon of the Minister for Treasury and Resources regarding the appropriateness of J.T.'s decision to introduce charges for receiving a paper bill and non-direct debit payment services: [1(101)]

As shareholder representative of J.T. (Jersey Telecom), will the Minister, or in this case the Assistant Minister, advise what his assessment is of the appropriateness of J.T. deciding to introduce charges for receiving a paper bill and for non-direct debit payment services; and, in doing so, will he further advise whether such charges are likely to affect disproportionately the more elderly members of the community? Thank you.

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

I have asked my Assistant Minister who has delegated responsibility for J.T. to answer the question.

Connétable J.M. Refault of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):

I have got 2 similar questions following this one and will attempt to deal with a common ground on each rather than repeat the response 3 times. Firstly and importantly, we need to acknowledge that J.T. operate in a competitive environment with 2 other on-Island telephone companies and will always need to deliver services in the most cost-efficient and service-sensitive manner as possible. Dealing directly with the 2 elements of the question, J.T.'s need to reduce its operating losses on the fixed telephone service amounted to £1.7 million per year. £1.2 million of that is in the provision of the heavy-discounted premium for Prime Talk for the elderly and bad debt recovery and loss make up a further £1 million. I can assure Members that it is not about increase of income, it is about good business practice and in reducing costs and losses. Neither the Treasury shareholder nor J.T. are insensitive and do recognise the impact that this may have on J.T. customers, which includes the elderly, and share the Deputy's concerns in this matter. However, given that many of the elderly members of our community enjoy a monthly-reduced line charge of £2.25 while low-income families are required to pay £13.50 for the same fixed-line service, I cannot agree that this charge affects disproportionately the more elderly in our community. Furthermore, I have maintained contact with J.T. and all Members will have received an email from their chief executive on 7th February setting out the rationale for the charges. For ease of reference, I have asked for that email to be circulated in hard form today. Unfortunately, it is on its way to the Chamber now and we should have it within the next half an hour to refresh Members' minds on what the comments were. It details the steps J.T. have taken before contacting their customers and the steps they are putting in place to deal with any individual problems arising. I am assured each case will be dealt with sympathetically and on its individual merits. I urge any Members who do come across customers who do face cost issues to encourage them to contact J.T. directly. If Members wish to take up a particular issue on a customer's behalf, then J.T.'s briefing note referred to earlier sets out how they can do that. Thank you.

The Deputy Bailiff:

I have allowed the Minister to have a more lengthy answer than would normally be the case because he has indicated he is covering ground that will be covered in other questions and so there will be more opportunity for questions but that was obviously a very long answer. Deputy Maçon.

3.4.1 Deputy J.M. Maçon:

I received many phone calls, emails, letters even, about this subject from many elderly members of our community in my constituency and does the Minister feel it right that elderly people in our community who ... for example, he talks about the guidance notes. The guidance notes, for example, refers elderly people to perhaps send an email. Many of them do not have an email

address, some have said: “Well get your neighbour to create an account for you.” Some of them have stressed for data protection security reasons they are not happy with that. Has the Minister gone through the type of procedures that J.T. is giving to help its customers in order to deal with this? It is not satisfactory for the customers at all.

The Deputy Bailiff:

The question was: has the Minister gone through procedures? Minister.

The Connétable of St. Peter:

Sorry, I did not catch the question.

Deputy J.M. Maçon:

Happy to repeat. The procedures that the Minister has outlined, the guidance notes, has he gone through them? Because many customers find them unsatisfactory in what J.T. is recommending elderly people, in order to tackle this problem, is being provided.

The Connétable of St. Peter:

Yes, I have gone through all the details in the briefing note and many more as well. I have spent many hours over the last few days trying to understand fully the rationale behind why these charges are imperative to enable Jersey Telecom, J.T., to fulfil the obligations set for it by this Chamber when it was incorporated some years ago. The Deputy mentions the fact that he has had a number of letters and phone calls. Equally, there have been a number of letters and phone calls, in fact, I have received one only a few moments ago, an email from somebody who could have Prime Talk is saying: “Thank you very much for that 83 per cent discount. I do not mind paying for my paper bill if I want a paper bill because I am getting such a discount already” and 83 per cent is an eye-watering discount to be passed on to them. There will be problems. I have asked J.T.’s senior officers what will they do about people that really have a difficulty, do not have family, do not have friends, do not have access to internet, how they will deal with them. They have said to me, they have assured me, they will find a solution for everybody, including those people who do not maybe have a bank account, they will find a solution that works for them. Thank you.

3.4.2 Deputy M. Tadier:

I am glad to hear the last comments because that certainly was not the case being relayed to these individuals by the staff on the front desk or on the phones. I have a constituent who contacted me who has severe sight loss. She does not have a computer and cannot use a computer as a result of that condition and she says nonetheless when she queried it, she was told: “No, sorry, you have to pay the £1.50 to receive the paper bill” even though she needs a paper bill, ideally with large print, to be able to look at what she owes. People are feeling: “Why are we being charged for the privilege of having to pay our bills?” and I think that is a sentiment being echoed to all of us. So would the Minister find out and ask J.T. to make it known to people what recourse there is in these examples where people have a disability or for whatever reason they do not have a bank account and cannot pay by direct debit?

The Connétable of St. Peter:

In my answer to my last question, I did state I spoke with the senior officers and not necessarily the people on the front desk. The senior officer, the chief executive officer himself, said to me and assured me that they will find a solution for all people that do have a need for a solution, so that is exactly what we are trying to achieve.

3.4.3 Deputy M. Tadier:

A supplementary? Is there not a simpler solution? There is a wider issue here with all the charges that J.T. are putting on with their data cap for broadband which you do not get with Sure, for example, which provides a cheaper service. Is there not a shareholder and also a public interest here that J.T. are perhaps driving away business, that they are not acting in the public interest and they are not acting in the States long-term interest because they will see their loyal, long-term customers being driven away to competitors where they can choose to vote with their feet? Is this something that the Minister will take up directly with J.T. and ask them holistically to look at their strategy for charging?

The Connétable of St. Peter:

C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities) have done that job for us. The Channel Islands Competition and Regulatory Authorities, they are the people who have looked at J.T. and they have opined on these charges. If I can quickly find it: “The C.I.C.R.A.’s view on these charges is as follows. There was a valid argument that such charges improve efficiency of operations and therefore deliver savings to eliminate unfair cross-subsidies between late payers and those that pay on time, for example. It is open to J.T. to introduce such charges outside the price control mechanism.” Going on a little bit further: “Sure also charge for bills. They currently charge £1.50 for sending a paper bill to its customers and £1.50 for accepting payments or you can take the discount and send it directly by email.”

The Deputy Bailiff:

Very well, I have time for a question from Deputy Higgins and then a final supplementary on this question but there are other questions on J.T. coming up later on in the question paper.

3.4.4 Deputy M.R. Higgins:

The Minister, as part of the rationale for J.T.’s action, was the losses they were making in other areas. We know that J.T. has an awful lot of business overseas, in fact, a tremendous amount of business overseas which this House never, ever looks at and has no idea what they are doing. Can he give us guarantees it is not losses in other parts of the operation that they are trying to recoup through this particular method? In fact, will he make sure that J.T. produces some documents to the States to understand its operations overseas and our liabilities and profits?

The Connétable of St. Peter:

I suspect the Deputy has not had an opportunity to read the briefing note. It is very clear where the losses are: it is in the just over £1.2 million of the Prime Talk discount that is affecting their bottom line. With regard to the overseas business, J.T. with a population of 100,000 people have over a million customers, a million customers out there, SIM cards in containers going around the world, which are paying money back here to fund the baseline costs of running the fixed-line network which is not paying for itself because of the massive discount that was going out on Prime Talk. For example, just looking at Prime Talk just for a moment, if J.T. have offered people that want to continue to pay cash, to reduce the exposure to cash by instead of giving them a monthly account, they are prepared to change them to a quarterly account.

[10:15]

Therefore, the charge only applies 4 times a year rather than 12 times a year, reducing their cost from £36 a year for paper and cash payments to £12 a year. There are many ways that we are trying to resolve these situations and it is not true at all that the external operations of J.T. are impacting on the baseline cost of J.T.’s service in Jersey. In fact, they are supporting the costs of the business in Jersey.

3.4.5 Deputy M.R. Higgins:

A supplementary? The Minister wants us to take his statement at face value. I, for one, and other Members, would like to see evidence of that fact. Let us have more information about J.T.'s operations and any profits or losses it is making.

The Connétable of St. Peter:

J.T. publish their accounts every year and they do briefings to States Members, and all those figures and external operations are all contained within them. They are absolutely transparent for people to see in hard copy. Thank you.

3.4.6 Deputy J.M. Maçon:

What has not been mentioned is that part of the fee paid as part of paying your bill to J.T., part of that factors in the cost of the billing process, so presumably with that going to online, those savings will not be passed on to the customer. Therefore, when the Assistant Minister has said: "There will be a solution found", at what cost? Because that is what my constituents are going to want to know, at what cost to them will these alternative solutions be?

The Connétable of St. Peter:

I cannot help Deputy Maçon in detail. I am assured by the chief executive they will find solutions. They will find many ways of working with people. For example, I queried them on what would happen if somebody suddenly lost their job when faced with a large J.T. bill; how would they deal with that? Would they cut them off? "No, we will work with them. If they work with us, we will find a way to extend the payment period over a year or 2 years if necessary to ensure that they are not pushed into hardship and lose that contact via a fixed-line network." I think many Members seem to be under the impression that elderly people cannot use the internet. I know many people who would be quite slighted by that comment. Many people who I meet in my Parish, 80, 90 year-old, almost more literate than I am as they are sitting down all day working on computers. I am afraid that is rather disingenuous to suggest that elderly people cannot use computers. Thank you.

3.5 Deputy T.A. Vallois of St. John of the Minister for Education regarding the use of carry forwards to cover the funding shortfall created by not achieving M.T.F.P. saving for the Nursery Education Fund: [1(121)]

Given his answer to a written question on 30th January 2017, that funding to cover the shortfall created by not achieving the M.T.F.P. (Medium Term Financial Plan) saving for the Nursery Education Fund will be met through carry forwards, will the Minister explain what certainty there is that this money will be available for the 2017/18 academic year and advise exactly from which budgets these carry forwards will come?

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

Thank you to the Deputy to allow me to clarify the issue. We had a meeting of the Council of Ministers last Wednesday where the funding of the £250,000 was verified will be found. I can give absolute certainty to parents that the Nursery Education Fund will remain the same for the next academic year. As the Deputy knows, the processes for all departments' underspends are to be pooled and then reallocated to high-priority projects. The Chief Minister agrees that this is a high priority and the necessary funding will be found through carry forwards. With reference to where the funding will come from, that is a Treasury matter.

3.5.1 The Deputy of St. John:

I thank the Minister for that confirmation and I thank the Council of Ministers for finally approving the funding. My follow-up question is: does the Minister really find it acceptable that we are

towards the end of February, after his department sending out nursery places to parents, and providing no certainty at that point in time that there is availability of funding so those parents have the choice as to whether they use public nurseries or private nurseries?

Deputy R.G. Bryans:

I think the Deputy is aware of the issue with regard to the budgets and where we can find the certainty and at what particular point in time and, as I say, that was resolved in last Wednesday's Council of Ministers' meeting. It is generally the case that most parents will start to look at booking their places on nurseries, whether it is with the private sector or the States sector, in mid-February, end of February. So, again, as we did previously, we wanted to tell parents as quickly as possible what the situation is and I can verify we have now the certainty. Thank you.

3.6 Deputy A.D. Lewis of the Minister for Education regarding the prospect of ensuring that private and public nursery education providers operate on identical supervision ratios: [1(130)]

Given that States-run and private sector nursery education providers operate on different supervision ratios, and the relative impact on costs to private sector providers that this situation entails, what will the Minister do, if anything, to place all provision on an equal footing in respect of such ratios and thereby mitigate the risk of a reduction in local nursery places caused by private nurseries ceasing to operate?

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

Again, thank you to the Deputy for allowing me to clarify the issue once again here in this Assembly. Staff-to-child ratios are primarily in place to ensure children are safe and their individual needs can be met. The ratio is different in school nurseries because they are staffed by qualified teachers who have access to a large support network of staff and facilities in the school around them if needed. We know there are many inconsistencies across early education and we have asked the Early Years and Childhood Partnership to review the whole area. The Childhood Partnership is an independent body and I think I am aware that the Deputy knows that this is a considerable amount of work that we have already begun to do. If we make any changes they must have the needs of the children and families at the centre.

3.6.1 Deputy A.D. Lewis:

I would be curious to know as to what consultation his department has had thus far with the private sector providers with regards to the risks they currently face with regards to the long-term sustainability of their businesses?

Deputy R.G. Bryans:

I think the Deputy is also aware that we have had a considerable number of opportunities to talk to the private sector and we encourage that. In fact, we want to get to a position where we welcome in the private sector's opportunity to work alongside of us. We recognise that there are differences between the way we offer things. We do not offer the same length of care in terms of timing that the private nurseries do. We are subject to the term times and we are subject to school hours. So one of the considerations that is on the table that we are talking to the private sector about is for them to help support and provide holistic resources for the children and the parents.

3.6.2 Deputy J.A. Martin:

I am grateful the Minister confirms there is going to be a complete study on nursery provision from the Early Years and Childhood Partnership. But while this is going on, and it does seem to be a

large piece of work, is the Minister and his department pushing forward to open 3 more public nurseries in Parish schools across the Island? Because this, to me, conflicts with looking at what we need and pushing for what he thinks we need. Can the Minister answer?

Deputy R.G. Bryans:

Thank you to the Deputy. Yes, indeed, we have recently opened up a new nursery at Springfield School, we are looking at a new nursery in Trinity, a new nursery in St. Mary's, and then subsequently in St. Luke's. There is a high demand for these and it is parents that have come to us and asked us to look at these resources. It is within the scope of myself as a Minister to make sure that the schools have that necessary continuity and understanding of their community, so it is with that in mind that we continue on our course. Thank you.

3.6.3 Deputy J.A. Martin:

A supplementary? From memory, when we had the debate on the payment, or the private sector versus public sector, did the Minister not tell the Assembly that the public nurseries, there was not demand, they had many spaces? They had many spaces either in the morning or the afternoon, so which is true? They are either over-full and there is more demand or they are not full. Which is true? Thank you.

Deputy R.G. Bryans:

It is a complex answer to the Deputy's question. There is a demand but it changes. There is a demand for the morning more than the afternoon, that is the differential. But the demand still exists within the community and communities feel that the nurseries attached to the school have a different offering, so it is about choice at the end of the day. Thank you.

3.6.4 Deputy A.D. Lewis:

States nurseries, or early-learning areas through these, cater for early-years learning and they tend to operate term time only and offer often shorter hours than most private sector providers. So without the critical mass provided in the private sector, they may not be able to continue providing the much-needed services that families really want, working families, that is. There is a high proportion of working families in Jersey where both parents are working. So is the Minister not concerned that if there was a reduction in the numbers of places available in the private sector because of legislative issues that this would have a direct impact on our economy and has he ever discussed this with the Minister for Economic Development, Tourism, Sport and Culture?

Deputy R.G. Bryans:

To answer the first part last: no, I have not had a discussion with the Minister for Economic Development, Tourism, Sport and Culture but we have had a round discussion through the Council of Ministers with regard to this. I could just add that the added pressure on nursery businesses is likely to come, strangely enough, from increased competition in its own sector. The number of private nurseries has grown from 22 to 29 since the start of the Nursery Education Fund, so there are about 30 per cent extra nurseries. So it is not the pressure from ourselves and the schools who are just currently on track to open 3 new nurseries, it is from the private sector itself. But we have opened that dialogue and we are doing that review, so we are listening. Thank you.

3.7 Senator S.C. Ferguson of the Chief Minister regarding the availability of the Gazette for people with no access to a computer or the internet: [1(122)]

Further to the answer given on 30th January 2017, for those people - and in particular pensioners - who have no access to a computer or the internet, what specific steps will the Council of Ministers take to make *Gazette* items available once they are no longer printed in the *Jersey Evening Post*?

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

I would like to ask Deputy Wickenden to answer this question, please. Thank you.

Deputy S.M. Wickenden of St. Helier (Assistant Chief Minister - rapporteur):

I would like to thank the Senator for her question. As I mentioned on 30th January 2017, we are piloting an assisted digital programme for Islanders who might need help accessing the *Gazette* and other digital government services as they move online. It is intended that the help will be available through the Parish Halls, Social Security and the library. All public notices will be available online free of charge and every media organisation, including the *Jersey Evening Post*, and Parish newsletters will be able to re-publish that information in their printed publications.

3.7.1 Senator S.C. Ferguson:

A supplementary? Has the ministerial department checked to see what the cost of the scheme is to be carried by Social Security and the Parishes, have they checked to see how many people will be affected and have they checked to see whether the people most affected, those without computers and no access to one, like the change?

Deputy S.M. Wickenden:

The law for official publications was approved in 1960 that said that the *Jersey Evening Post* would be the place where the *Jersey Gazette* would be published. This is putting it directly into a private company and that is the law. It is right that we have changed this law; it is not right that we are putting it to a private company, so it is right that we choose the right medium to do our publications. There is nothing stopping the *Jersey Evening Post* or anyone from publishing in their media for the community, as they are the community paper. We are doing the work on assisted digital, we will be talking to ... I know the Senator is very close to Age Concern and we will be talking to Age Concern and we will be talking to other areas to make sure that what we do is appropriate. There is nothing in this law to stop us from publishing in the *J.E.P.* if we so wish if that is the right medium to do it. But what we need to do in this is change the law because it is not right to have it as it is.

3.7.2 Deputy K.C. Lewis of St. Saviour:

Has the Chief Minister's Department spoken to the *J.E.P.* about this at great length regarding to reducing the advert? We do not need the huge title *Gazette* or the fancy borders, just plain text. Not everybody needs a computer, not everybody wants a computer. Some people like to read a hard copy in the *J.E.P.* of exactly what is happening in their Parishes and Island-wide. Does the Minister not agree?

Deputy S.M. Wickenden:

Yes, we have spoken to the *J.E.P.*, we have consulted them on this change at length. They are aware of it happening. So, have we talked about ... we have not talked about stopping, we have talked about changing the law and what that means. So, have I had a specific conversation around doing a smaller amount of advertising? No, I have not.

3.7.3 Deputy A.D. Lewis:

On the subject of silver surfers, I am impressed by how many people of an elderly generation are accessing the internet.

[10:30]

However, during the issue with the J.T. bills, I got a lot of calls, as other Members would have done, and one of the things that they said to me was they would be very interested in getting online but it was very expensive. Can the Assistant Minister give me any assurance that there is dialogue going on with J.T. to attempt to try and get more of our elderly generation online, educated in it, and access to it at a reasonable price? Because pensioners will see prices advertised for as little as £8 a month from Sky, for example, in the U.K., so more elderly people can get online that want to but they cannot do it so easily here. What dialogue is going on with J.T. to enable elderly people who are concerned about this change and others that may come to get online at an affordable price?

Deputy S.M. Wickenden:

I do not know where this kind of fits in the question. Unfortunately, I have no delegated responsibility in that area to have these conversations so I have not personally had any but I am sure that the Assistant Minister with responsibility for the telecommunications will be doing that.

3.7.4 Deputy A.D. Lewis:

A supplementary? Would the Assistant Minister not be delighted, as he is responsible for digital, to get more people online and should it not be part of his responsibility to do so?

Deputy S.M. Wickenden:

Yes, I would be delighted.

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

Could the Assistant Minister explain exactly where the financing is coming from to put computer terminals and to have staff on standby at the Parish Halls to help those who do not have computers?

Deputy S.M. Wickenden:

Yes, I believe the funds are coming from the I.T. (Information Technology) Department's budget and the e-Government budget.

3.7.6 Connétable J. Gallichan of St. Mary:

The Assistant Minister will be aware that certain legal requirements, for example, for election notices and Parish Assembly notices will continue to be placed in the Parish notice box which is a central point in each Parish. I just wondered, has the Minister given any consideration to perhaps having a *Gazette* point. I remember in olden days when people could not afford newspapers there used to be quite often in some countries pasted up a copy of the newspaper. How about putting a formalised weekly copy of *Gazette* notices in a place in each Parish, for example?

Deputy S.M. Wickenden:

It is a very good idea the Connétable has. Of course, as I said earlier in my question, we need to find the right mediums to make sure that the publications go to the places where they are needed the most. Of course, I will take that into consideration and speak to the Comité des Connétables about the availability to have that happen.

3.7.7 Senator S.C. Ferguson:

Would it be unduly cynical to say is this a way of moving costs, for instance, for the Parish Hall, moving the costs to the ratepayers or to other departments so that the Chief Minister's Department will register a saving?

Deputy S.M. Wickenden:

The public of Jersey ask us, as the States of Jersey with their taxpayers' monies, to spend it in the most appropriate manner and do it in absolutely the right way. What we are doing with the online *Gazette* is making sure that we are spending money appropriately and rightly and targeting in the right way. I do not think that this is moving the cost across. I do not think the Comité des Connétables would allow that to happen, so any dialogue we would have would be talking about funding.

3.8 Deputy J.A. Martin of the Chief Minister regarding the replacement of the Interim Population Policy with a permanent population policy: [1(100)]

When will the Interim Population Policy be replaced by a permanent population policy?

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

I would like to ask Senator Routier to answer this one. Thank you.

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

I am pleased to be able to answer this question. As outlined in the answer to the Deputy's written question which Members will find on their desks, our aim is to finalise the long-term plan before the summer recess, including a debate on a long-term population policy. This of course will be subject to the necessary Scrutiny process. It will be a balanced package, including specific aims for all things that underlie a good population policy such as the skills we need, educational standards and things like traffic volumes and housing supply. In the meantime, we are also continuing to tighten our controls including initiatives to remove permissions, new conditions for employers who are not employing enough local people, criminal record checks, increased fees and even more compliance. Our next round of consultation is coming up early next month and I hope all Members will take part.

3.8.1 Deputy J.A. Martin:

Would the Assistant Minister not agree that to tighten a population policy now without having a population policy in place is, to me, sort of presumptuous at least? Secondly, the Minister does talk about consultation in March or April, so has the population policy that will be presented to the House in quarter 3 been agreed by the Council of Ministers? Thank you.

Senator P.F. Routier:

I think there were about 3 questions there. I will go backwards, I think. The consultation is going to be ongoing with all Members over the next few months, so there is nothing come to the Council of Ministers as yet. We need to get that consultation taking place. Members will have seen the *My Jersey* document which was published in November which the public have said to us the sort of Island they want to live in. So we have got to take note of what is in this document and also to understand how we can develop the population policy. Now I am struggling to remember the other parts of the question. Could the Deputy remind me what they were, please?

Deputy J.A. Martin:

Well the Minister said he was still tightening up on licences and, to me, I said was that not presumptuous that we are going to tighten up on population? Really, I think he has answered the second part; I thought I only asked 2 questions.

Senator P.F. Routier:

Okay. Yes, certainly, with regard to whether it is being presumptuous to tighten up on controls, Members will have seen the population numbers for 2015 of 1,500 people come to the Island and I

have to say that it is more than likely that there will be a similar number for 2016. That is, to my mind, not what our Island needs. Perhaps the business community are looking for that but there is a great number of people who do consider that 1,500 going forward is just too many. We recognise that that is an issue to be addressed and we are doing that on an ongoing basis. We are reviewing permissions from businesses and we believe that the approach we are taking currently is what this Assembly would want us to do.

3.8.2 Senator S.C. Ferguson:

The current policy, so-called, actively prevents established businesses which are not in the finance industry employing off-Island staff who will pay tax. Is M.A.G. (Ministerial Advisory Group) I think it is called, which is a government body, an appropriate body for deciding on which businesses should be supported?

Senator P.F. Routier:

Sorry, was the Senator talking about the H.A.W.A.G. (Housing and Work Advisory Group)?

Senator S.C. Ferguson:

I am talking about whatever the group is called which reviews licences for businesses which is a government body trying to advise businesses who should have extra staff.

Senator P.F. Routier:

That is an excellent question. It is one of the most challenging jobs which any group has to do. The Housing and Work Advisory Group does face that challenge on a regular basis and we have been charged by the legislation which is in place to carry out that function. I have to say that having the Assistant Minister for Economic Development, Tourism, Sport and Culture, the Assistant Minister for Social Security, the Minister for Housing and myself advised by officers, we do find the challenge of making those decisions extremely difficult.

3.8.3 Senator S.C. Ferguson:

Is it an appropriate role for government?

Senator P.F. Routier:

In the early days of establishing the Housing and Work Advisory Group, we did ask the business community if they would be prepared to assist in making those decisions and they declined that offer because they thought they would probably be biased towards their side of it. I think as a community we probably would not want to be too influenced by the business community. It is a balance of what our social needs are and what our business needs are. We need to ensure that we get that good balanced approach.

3.8.4 Deputy G.P. Southern:

The Assistant Minister stood there a minute ago and said the figure for 2016 will likely to be the same, as if nobody was responsible for changing those numbers. What policies does he have under active consideration to ensure that whatever number, whatever working assumption he picks, he meets some of those targets for 2017, 2018 and 2019?

Senator P.F. Routier:

With regard to the years coming forward, that is a debate we are going to have in this Assembly certainly. But with regard to last year, we have been continuing to work to the population remit of how we make judgments about business needs and social needs of our Island and that is what we have been working to. But with regard to future years, we will have that debate in this Assembly.

3.8.5 Deputy G.P. Southern:

The Assistant Minister has not answered the question. The question was, what action is he going to take with whatever number we come to so that you meet those numbers? It is not about deciding the number; that will be debated by this Chamber, but what are you going to do about achieving those numbers in 2017, 2018 and 2019? Is the Assistant Minister completely helpless?

Senator P.F. Routier:

I am not completely helpless at all. Certainly, we are working with the legislation that we have and the legislation we have enables us to control access to housing and access to work and we are working with that. We have seen from the buoyant economy that we currently have been experiencing that this Island is needing to have more people working in our economy and we have been reacting to that and also the social needs of our community. We are needing more nurses, more social workers and that is what we have been reacting to and we will continue to use those mechanisms.

3.8.6 The Deputy of St. John:

Is the Assistant Minister confident that we have the sufficient data set and ability to assess in order to ensure that whatever policy that does come forward is able to be implemented?

Senator P.F. Routier:

We are working with the Statistics Unit. Obviously, they were wanting to have a rolling number which goes forward and they are working to that aim and we are getting to that position. What we currently work with is obviously the manpower returns and the annual figure which the Statistics Unit do produce. We do need more information, there is no doubt about it, to help us make those decisions but as soon as we can get to that position of having a rolling census, e-census, that would make our life a lot easier.

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

The Assistant Minister has just told Members that they are having to work within the legislation that is current. If the legislation is not working, change the legislation. My question to the Assistant Minister is: has any consideration been given, or is there any reason why short-term licences of say 6 to 9 months cannot be used instead for low-paid unskilled workers?

Senator P.F. Routier:

That is exactly what we do, we do issue short-term licences, we issue named licences. Depending on the needs of the business, the current legislation enables us to do that, and that is what we currently do. We do seasonal licences for hospitality industry, for agriculture; that is currently in place.

Deputy J.A. Martin:

Yes, this follows on from Deputy Hilton ...

The Deputy Bailiff:

I am sorry, Deputy, if I could explain. There were a number of Members with lights on. I have already allowed more than twice the nominal time for each question to have a reasonable time to get through and so really I have to draw this question to a close. So final supplementary, Deputy Martin.

3.8.8 Deputy J.A. Martin:

I think this follows on nicely from Deputy Hilton and what Deputy Southern was saying. So is the Assistant Minister telling us that the Interim Population Policy which has never been met is going to bring back more of the same in the permanent population policy or are the Council of Ministers

thinking outside the box and, as Deputy Hilton says, is legislation going to be changed? Thank you.

[10:45]

Senator P.F. Routier:

When we have completed the work with this whole Assembly to understand what we all want, if the legislation needs to be changed then obviously it will be changed. But population is one of the most difficult things to deal with for any community, it really is, because everybody wants different things. On the one extreme you have got the business community who want people to work in their business and we have got other people who are very comfortable in their lives sitting at home thinking: "We do not want any more people in the Island." They are the 2 extremes and we need to be able to find a middle path through it and it is one of the most difficult things that this Assembly will ever have to deal with. I urge Members that we have got the views of the public to what they want. They want a nice place to live, they want green fields, they want a good economy, they want social services, they want all of these things, and you cannot satisfy either one side or the other. We have got to find a middle way through it and that is what we will do by working together to find a way forward. I urge Members to become involved in this and not be critical of everything that this Government is trying to do. It is something we are trying to be very positive about, to have a shared view of where we can go, and I urge Members to become involved.

3.9 The Connétable of St. John of the Minister for Treasury and Resources regarding charges levied by J.T. for customers to receive a paper bill or to pay by cheque: [1(102)]

Will the Minister advise what action, if any, he will take to ensure any charges levied by J.T. for customers to receive a paper bill or to pay by cheque do not discriminate against elderly people who are not computer literate?

The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):

First of all, I will not go through the preamble before, I will go straight into the question but before I do that, we are not discriminating against elderly people, the charges will be rolled out across the board to all J.T. customers with fixed-line services. J.T. management decided to work early on this and inform elderly groups like Age Concern - we met with Age Concern, I believe with Senator Ferguson as well - to advise them of the proposals which they are rolling out first with people on Prime Talk and they will be extended out across the rest of the J.T. fixed telephone network as well. Most of the questions that came up before, and within this particular question as well, we are talking about people who are not computer literate but there is an alternative to computers and it is called direct debit, what they now refer to as smart direct debit. You just set it up with your bank and the company only deducts what is required from your monthly direct debit account so they can avoid charges by doing that. So it is not about computers; there is an option to do it without computers literally by giving your bank the option to do direct debit, what they call smart direct debits. The feeling I think this morning in the Chamber is J.T. is being targeted as being very harsh in the way they deal with their customers. I think it might be useful if I just go through what other people are doing. For example, Sure, they will charge you £1.50 for your bill and £1.50 with paper bill. Airtel will not take cash or cheques; direct debit or you do not have a service. If you want a bill it is £2 for an itemised bill. J.E.C. (Jersey Electricity Company), it is built into your account before you get it but if you want to pay it by direct debit they will give you £1 discount. Jersey Water similarly it is built into your charge when you get it ...

The Deputy Bailiff:

Connétable, you were allowed a lot of leeway in your answer to the earlier question. You have now gone over the time normally allocated for an answer to this one.

The Connétable of St. Peter:

I will look forward to the Constable's supplementary.

3.9.1 The Connétable of St. John:

On the radio, the Assistant Minister said they needed the profits from J.T. to pay for the ageing population. What better way than allowing some of this money to be used for the elderly to reduce the anxiety of having to go online or having to pay the additional charges?

The Connétable of St. Peter:

I think I answered that in my preamble. They do not need to go online, they can do it by direct debit and avoid all the frustration altogether.

3.9.2 Deputy K.C. Lewis:

As billing is already factored into the telephone bills for J.T. this is extra revenue which could surely offset this charge for people who do not wish to have computers. Regarding to direct debit, a lot of people are very traditional and would rather companies, including J.T., did not use their bank account as some kind of self-service buffet that they can dip into once a month. Does the Minister not agree?

The Connétable of St. Peter:

No, I do not agree, and certainly what I do not agree with is the fact that they are already being charged that. The charges have not been included at all. I will take your caution, Sir, as the case is before the Royal Court with C.I.C.R.A. and J.T. over their charging mechanisms. What J.T. are trying to do is get themselves on to a level platform with the other competitors they are working with in Jersey. At the moment, the ruling from C.I.C.R.A. is they are required to decrease their charges by R.P.I. (Retail Price Index) minus 6.5 per cent for the next 2 years to bring them down. But C.I.C.R.A. also acknowledge the fact that they have totally ignored the £1.2 million Prime Talk discounts that is being suffered by J.T. They also do not recognise the other work that has been done by J.T. to provide the panic button that people wear that links for the frail and vulnerable people. J.T. provide that service free of charge to people living in their own homes. These are services which are not provided by any other telephone company in Jersey and the normal line payer are paying for those for them. Thank you.

3.9.3 Deputy R. Labey:

Could I ask the Assistant Minister to clarify a point for me that he made earlier because I was a little confused? Is he really claiming that the fixed-line network does not make a profit for J.T.?

The Connétable of St. Peter:

I have to pass on that one because I have not asked for the profit on that particular line. All I do know is that this issue has been predicated on the decision of C.I.C.R.A. imposing charge reductions on J.T. which is making it non-viable. What the current profit is on it, I do not know. Thank you.

3.9.4 Deputy M. Tadier:

Does the Assistant Minister regret his comments on local radio recently where he essentially said: "Because we get back some shareholder revenue from this, I am quite happy with the £1.50 charges, et cetera, that are being levied by Jersey Telecom"?

The Connétable of St. Peter:

No.

3.9.5 Deputy M. Tadier:

He does not regret it? Does he agree that the public increasingly are seeing these charges because it is an entirely States-owned company as stealth taxes and what the Minister said on the radio is quite right, that these revenues can be considered indirect stealth taxes because he himself said they go to pay for things like elderly healthcare which I am sure the pensioners who have been complaining to all of us will be very pleased and reassured to hear.

The Connétable of St. Peter:

The charges offset losses. The figure that has just come to me that J.T. at the moment lose around about £500,000 a year on the fixed-line network and that will increase with the C.I.C.R.A. decisions. Sorry, I have forgotten the last part of your question, Deputy.

3.9.6 Deputy A.D. Lewis:

Does the Assistant Minister feel that this could have been handled slightly differently? This has taken up a huge amount of management time and resource for a comparable small amount of saving. My understanding of the reason for this was to encourage people to go on to direct debit which saves a lot of time in administration. Could it not have been done a different way like the J.E.C. and like the new water works company did in that they offered a discount to have this alternative method of paying their bill rather than an extra charge? It would have the desired effect of encouraging more people to go online or direct debit but without distressing those that got an extra charge that they did not want to have. Does the Assistant Minister feel that this has been handled in a way that it could have been done perhaps better?

The Connétable of St. Peter:

I think the issue, certainly if you look at it simplistically, that would be a good option. However, to have done that, J.T. would have had to increase its line charges to compensate for the cost of sending out bills and taking payments by cheque or cash. For example, if the banks charged J.T. £1.89 for every cheque that they process, and these are the hidden costs that we do not see, if J.T. were to include those costs on top of your fixed-line network to enable you to give a discount, they would put themselves outside the market against other operators in Jersey and that is what they are trying to get to. There is a level playing field. I have told you what the charges are and how they are embodied with the other operators, J.T. wants to be in that same place.

3.9.7 Deputy A.D. Lewis:

A supplementary? We are talking about a minimal discount of £1.20 to encourage people to go on to direct debit with a huge saving in administration to have people on direct debits, so surely it would have been a saving and you would have achieved the objective without distressing everybody.

The Connétable of St. Peter:

I think what the Deputy is asking: would they absorb that £1.20? They are already losing money on the fixed-line network so, no, they cannot do that.

3.9.8 Deputy J.M. Maçon:

As was explained to me by one of my constituents, her reluctance to go on to direct debit was her concern that she said frequently she has to query the bill raised by J.T., frequently it gets changed and therefore she does not want to go on to direct debit because therefore that opportunity really would not be there or at least the money would have already gone. Therefore, does the Assistant

Minister not acknowledge that for members of our community, direct debit is not an option given that that is the situation?

The Connétable of St. Peter:

Yes, I do acknowledge that there are probably very few people who cannot, for whatever reason, do not have a bank account, cannot access direct debit. As I said in my first answer to the first question, J.T. will find a solution wherever possible but the Deputy does raise a good point. They do have issues sometimes with their billing, and people need to be able to monitor that, and that is something which I have raised with the chief executive and the chief officers only in this last week. Thank you.

3.9.9 The Connétable of St. John:

Does the Minister acknowledge that Jersey Telecom was originally set up using taxpayers' money and as a result it has a social responsibility to the community? Will he therefore ensure that Jersey Telecom is reminded of that when making such changes?

The Connétable of St. Peter:

Absolutely, right. They make £1.2 million worth of social contribution every year for the Prime Talk network. They further support 760 vulnerable and infirm subscribers with what they call the Horizon pendants. That is all free of charge; they do make a social contribution. Thank you.

3.10 Deputy S.Y. Mézec of the Minister for Social Security regarding the financial support available to 18 to 25 year olds who live with their parents and who have a diagnosed mental illness: [1(133)]

What financial support, if any, is available to 18 to 25 year-old persons who live with their parents and who have a diagnosed mental illness that prevents them from becoming financially independent through work; have not made any social security contributions; and do not qualify for one of the higher levels of personal care award?

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

I have previously answered a very similar oral question during the sitting of Monday, 26th September 2016. I explained that a young person who qualifies for one of the higher levels of the personal care award is entitled to make their own income support claim while for those with less serious conditions, financial assistance through the income support scheme is available, providing that they are a member of a low-income household. Alongside financial assistance, Back to Work offer specialist assistance to help people into work. Where long-term illness or disability represents a significant barrier to employment, we have dedicated specialists who have specific experience of working with mental health and other conditions and can support the management of such conditions. We also work closely with colleagues in the health service and the Jersey Employment Trust to determine the best approach for the individual customer. The support is available as needed and is not restricted to people with personal care awards.

3.10.1 Deputy S.Y. Mézec:

A supplementary? Is the Minister aware that there are individuals who do suffer very badly from serious mental illnesses but for whatever reason do not qualify for the personal care award, who, because of their age and the fact that their families are just over the threshold for income support, are not able to receive any support whatsoever, are entirely dependent on their parents who may not be very wealthy, or only just above that threshold for income support, who are left completely unsupported by the State? Does she not agree that scope for who is supported by Social Security

should be increased and that there needs to be a re-look at the criteria for what sort of mental illnesses are able to apply for that personal care award?

Deputy S.J. Pinel:

As I have said, it is people applying for help through income support otherwise we would not necessarily know about them. But I do perceive that as this is the second time the Deputy has asked this particular question that if he has a constituent with a personal issue then perhaps he would like to speak to me or the department privately at a later time.

[11:00]

3.11 Deputy K.C. Lewis of the Chief Minister regarding the level of assistance provided to community banks: [1(135)]

Further to media reports that an estimated 5,000 people are struggling with basic expenses, will the Chief Minister be providing more assistance to community banks?

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

I would like to ask Senator Routier to answer this.

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

When I visited the Community Savings Bank I saw the very valuable service that they provide to those people who have difficulty managing their finances. The charity is very important. It receives financial support including through donations from several organisations and we have offered financial support as it works towards being viable in their own right.

3.11.1 Deputy G.P. Southern:

Yes. Is it not the case that this year the grant to this body was reduced rather than increased and they had to scramble around to find some more private sponsorship?

Senator P.F. Routier:

There is an ongoing discussion between the Treasury Department and the organisation to ensure that they are viable. There is a 2-year deal being used at the current time and I understand that the organisation has had some of that money and there is still some available. So it is a matter of the organisation themselves even looking at their own recent account, the most recently published accounts. They go to the Association of Jersey Charities, Lloyds TSB, KPMG, the Channel Islands Co-op, RBC and also to the Parish of St. Helier, the States of Jersey and Barclays that they have a number of people which they do get funding from in support and it is a matter of mixing all those together to ensure that they are a viable organisation and we will continue to work with them because they are a valuable resource for our community.

Deputy G.P. Southern:

Would the Assistant Minister kindly answer the question which was: has the grant this year been cut, been reduced in some way because I understood it had?

Senator P.F. Routier:

That is incorrect.

3.11.2 Deputy M.R. Higgins:

Do the Council of Ministers take any responsibility for the fact that there are these 5,000 families that are really struggling, and in fact many more, through the policies that have been adopted by the Council of Ministers and will he not give more money to the Community Savings Bank to assist these people?

Senator P.F. Routier:

All the policies which the community ... how they are being supported is across our Assembly with decisions which are made by our whole Assembly and at any time there will be people who are finding it harder to survive. We need to ensure we are giving it as much support as we possibly can. But it must be recognised that the Community Savings Bank is there to assist people in managing their finances, it is not a bank to ... they do do some grants for various things but in general they are there to help them to manage their financial dealings; they provide banking services because sometimes people are not able to get traditional commercial banking facilities. So they are there to support those people into ensuring that they can manage their finances effectively.

3.11.3 Deputy M.R. Higgins:

Supplementary. Can the Minister tell us what he is doing to try and deal with the commercial banks that are refusing people bank accounts? There have been many, many reviews on it and people are finding it difficult either to continue banking with a bank or even get a bank account in the first instance. Surely that is part of the problem because if people can ...

The Deputy Bailiff:

If you could pause a moment, I am not sure that we are quorate. No, we are not quorate. Could I ask Members to return to the Assembly, please?

Senator P.F. Routier:

Can we have an appel, please, Sir?

The Deputy Bailiff:

Yes, the appel is called for. Would you please take the appel? I will ask the Greffier to open the voting for the appel. Could Members signify their presence, please, by pressing the button?

Senator P.F. Routier				
Senator I.J. Gorst				
Senator S.C. Ferguson				
Connétable of St. Mary				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

Deputy M.R. Higgins:

Does the Minister not accept that part of the problem that people are having at the present time in having to use bodies such as the Community Savings Bank are the policies adopted by the commercial banks which are either depriving people of existing accounts or preventing them getting new ones? Can I ask the Minister what he or other Members of the Government are doing to correct that?

Senator P.F. Routier:

The commercial decisions made by the private banks themselves are a business decision which they will make themselves. We know that opening an account can be very difficult in any circumstances and particularly if you are a P.E.P. (politically exposed person), it can be extremely difficult. But that is exactly why the Community Savings Bank is there, it is to support those people who cannot open bank accounts ordinarily in the open market and that is why we must continue to support the Community Savings Bank.

3.11.4 Deputy K.C. Lewis:

I believe I have read reports that said there was a 30 per cent cut last year in the grant to the community bank so 5,000 Islanders are having problems with ordinary everyday expenses. Will the Minister increase support for the community bank? I am not talking about a handout, just helping people over a difficult time and not driving them into the hands of expensive pay day loan companies. Does the Minister not agree?

Senator P.F. Routier:

As I have said right through answering this question, the services which the Community Savings Bank provide are very valuable to those people who do find managing their finances ... and we must continue to support them in doing that. We do not want people to get into a position where they are going to organisations which are charging extortionately high interest rates and that is why if we can all, around this Assembly, promote the work of the Community Savings Bank whenever we meet people who are having difficulties, to suggest to them that they go to the Community Savings Bank because they provide an excellent service.

Deputy K.C. Lewis

The grant was cut by 30 per cent last year, I believe.

The Deputy Bailiff:

I am sorry, Deputy, that was your final supplementary question.

3.12 The Connétable of St. John of the Minister for Environment regarding the legal authority for demanding a 'development levy': [1(103)]

Could the Minister inform the Assembly what legal authority allows the department to demand a development levy on developments and will he advise how this levy is calculated?

Deputy S.G. Luce of St. Martin (The Minister for Environment):

The answer to the Constable's question is that my department has no legal authority to demand a development levy and as a consequence makes no such demands on development.

The Deputy Bailiff:

Supplementary question? No, very well. We come to question ... sorry? **[Laughter]** I wonder if the Minister could come back in because Deputy Higgins has indicated that he does in fact have a question to ask. It would be helpful if Members could indicate a desire to ask a question sooner rather than later, it is much easier to manage. Very well, Deputy.

3.12.1 Deputy M.R. Higgins:

I must say I did indicate before he left the room. The Minister, can he advise the Assembly then if there are any levies, whether it be levies for art or anything else, that are being imposed by his department and again what the legal authority is for those?

The Deputy of St. Martin:

The Deputy refers to Percentage for Art which is a voluntary contribution made by some developments which are large in scale. There is currently a contribution to the eastern cycle track which is agreed between the department and developers, and of course there are obligation agreements, planning obligation agreements, which are mutually agreed between my department and developers which are specific to the areas of the particular development and the infrastructure requirements of that area.

3.12.2 Deputy M.R. Higgins:

Supplementary. If they are voluntary what happens if the developer says no, does he lose his right to build or develop his property or do anything? Is voluntary really voluntary or if he did not do it would he be denied what he wants?

The Deputy of St. Martin:

My understanding is if it was not voluntary it would not be called so.

3.12.3 Deputy G.P. Southern:

It is interesting to get to one's feet when one has been studying the face of the Chief Minister previously. In response to: "Is voluntary really voluntary" the Chief Minister appeared to be shaking his head. Is the Minister sure that his voluntary contribution to art is voluntary?

The Deputy of St. Martin:

I am advised that it is a voluntary contribution and until I am told otherwise I cannot answer that question differently.

3.12.4 Deputy J.M. Maçon:

As a member of the Planning Panel frequently we find ourselves being ... I think we have raised previously with the Minister whether perhaps the scope for things like the eastern cycle track, the contributions for ... an infrastructure contribution which may benefit wider within the community, perhaps a fund set up so that contributions can go into that. Has the Minister had an opportunity to consider such a recommendation?

The Deputy of St. Martin:

Members will know that I have always hinted at, and at the beginning of last year I officially announced that I was looking into a Jersey infrastructure levy which would be a levy on developments which would help pay for essential infrastructure which is not funded. My plans are moving along and currently we are looking at the viability of such a scheme because there is no point in me moving ahead with it if the scheme is not viable. But it would be my intention, if we progress further, to have a small part of any levy which I introduce to go directly to the Parish concerned so that in that way not only would it be a contribution and levy towards essential

infrastructure for everybody, a small part of that could go to the infrastructure of the Parish affected by the development.

3.12.5 Deputy M. Tadier:

Is it fair to say that these voluntary charges could be described as a voluntary contribution which has the consequence of making the department more likely to grant the applicant planning consent; is that a fair description?

The Deputy of St. Martin:

It could be said.

3.12.6 Deputy M. Tadier:

What is the difference between that and what broadly some might call corruption?
[Members: Oh!]

The Deputy Bailiff:

I think I do not allow the use of the word “corruption” in suggesting that the actions of the Planning Department can be considered to be corrupt. Can you rephrase the question and put it in a different way?

Deputy M. Tadier:

I will rephrase that. It does seem that an ordinary bystander might see that, given the fact that it is purely voluntary and it is not a planning obligation as such which also exists separately, I believe, could it not be seen to be you scratch my back I scratch yours? Is that acceptable, Sir?

The Deputy Bailiff:

Minister, do you wish to ...

The Deputy of St. Martin:

The Deputy makes an interesting point and I think I would just like to say this: I do not want to address the specific question directly but what I would say is that my proposals for a future Jersey infrastructure levy would take into account Percentage for Art and would probably do away with it. I think it is really important that developers have more certainty about the costs or levies that may be imposed by Government before they commence a development and I can see the Percentage for Art, in whatever form it comes, being taken away if the Jersey infrastructure levy moves forward.

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

Could the Minister tell the Assembly upon the introduction of an infrastructure levy; would that be voluntary in the same sense that he has been talking about a voluntary scheme, or would it require any legislative changes to take place?

[11:15]

The Deputy of St. Martin:

It most certainly would not be voluntary, it would require legislation. It would be my intention to come back to the House for the House’s agreement before moving forward.

3.12.8 The Connétable of St. John:

The issue of a compulsory infrastructure levy alarms me I think it should remain voluntary. Is that something the Minister would consider?

The Deputy of St. Martin:

No, I think it is important with this type of levy that certainty is what you need and what you require and I think it would be important to fairness to everybody that everybody would be levied on the same basis.

3.13 Deputy S.Y. Mézec of the Minister for Housing regarding measures to prevent letting agents from charging extortionate fees to tenants: [1(134)]

What measures, if any, is the Minister going to take to prevent letting agents from charging extortionate fees to tenants who either wish to end their tenancy early or to assign the remainder of their tenancy to another tenant?

Deputy A.E. Pryke of Trinity (The Minister for Housing):

I am pleased to confirm that I shall be reviewing the review of letting agency fees by the end of this month and this will consider options to clarify the types and levels of fees that letting agencies can charge.

3.13.1 Deputy S.Y. Mézec:

Supplementary. Will this review culminate in a States proposition to introduce legislation that potentially would regulate or even outlaw certain practices which many people might consider to be unacceptable?

The Deputy of Trinity:

Certainly. There are 4 different aspects, a good standard of accommodation is important and also clarity of what letting agencies can charge for and not charge for, and if it does result in legislation being brought forward then that is something that I will consider.

3.13.2 Deputy M. Tadier:

Can the Minister indicate how long this is likely to take because if it is a couple of years it may be something that another Member may need to lodge in the meantime?

The Deputy of Trinity:

Deputy Tadier perhaps does not know me that well. The review is going to go out, as I said, by the end of this month. The report should be ready by the end of May and if legislation does need to come it will definitely be within the States year.

3.13.3 Deputy R. Labey:

Can letting agencies or landlords do what Deputy Mézec is suggesting in his question legally? Are they allowed, within the law, to charge what they like?

The Deputy of Trinity:

As it stands at the moment, yes, they can. There are some regulations under the Consumer Law. If there are issues regarding noise then Environmental Health can check on the state of the place, whether it needs repairs or overcrowding or if the person has been hoarding or lack of repairs then Environmental Health can go in under their legislation. But at the moment, yes, that is why this review is important.

3.13.4 Deputy S.Y. Mézec:

The reason that I am asking this question is because I have encountered an incident where somebody is potentially being charged either around £300 to end a tenancy early or £900 to assign it to somebody else and when I lived in the U.K. I never had to pay a penny to do any of that when I was moving tenancies. The Minister has said that there will be a review, could she indicate before

the Assembly now whether she thinks that sort of practice by charging such an extortionate amount is acceptable, and if she thinks it is unacceptable would she like to send a broader message out to those letting agents that this is a practice that she will seek to stop?

The Deputy of Trinity:

Yes, I know because Deputy Mézec did email me particularly about this incident and there are incidents that do reflect the reasonable costs of services provided and we need to deal with those. But to get the good evidence I need to get it into review to understand how big a problem or how small a problem this is, so that is why this review is important. As I said, it is an important issue because everyone is entitled to a good standard of living but also clarity that if you enter into a lease, that you know exactly what fees, if any, you could be charged. I would also like to mention too that there are good landlords and good letting agencies who do not go into this type of practice so that is why this review is important.

3.14 Deputy G.P. Southern of the Chief Minister regarding measures to meet the targets of delivering £70 million in ‘people savings’ and of re-establishing a partnership with public sector representatives: [1(127)]

Given the refusal of the majority of public sector unions to engage with the States Employment Board over modernisation until their outstanding pay claim is settled, what measures, if any, does the Chief Minister have under consideration in order to meet his targets of delivering £70 million in people savings and of re-establishing a partnership approach with public sector representatives?

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

A meeting has been set up with the Joint Council to hear the employers’ proposals on how to bring the 2015/16 public sector pay review to a close. This does need of course now to be resolved before the unions re-engage on workforce modernisation, post their decision during the previous States sitting. Quite separate from this we strive to work in partnership with the unions to meet our M.T.F.P.2 targets and this will continue so that we can achieve the sustainable public finances that are so critical to our future success.

3.14.1 Deputy G.P. Southern:

Supplementary, if I may. Does the Chief Minister consider that the task of the States Employment Board has been made more difficult by the pre-emptive reduction in teachers’ salaries forced through by the Minister for Education?

Senator I.J. Gorst:

No, I do not. There is a conversation taking place on a trilateral basis, I think the Education Department, members of the Human Resources Department and the unions in that regard and no doubt we are going to have quite a long debate about whether that was the right approach to take or not. But there are all sorts of good reasons why States Employment Board agree with the Minister for Education and agree with the position taken by this Assembly in approving the M.T.F.P.2 that the change is appropriate.

3.14.2 Senator S.C. Ferguson:

Can the Chief Minister explain, in his capacity as chairman of the States Employment Board, why the undertakings given by the S.E.B. (States Employment Board) to the unions prior to the 2014 elections were renegeed on?

Senator I.J. Gorst:

I am not aware of any undertakings that have been reneged on.

The Deputy Bailiff:

Can you clarify, please, Senator?

Senator S.C. Ferguson:

My understanding was that there were certain undertakings with regard to the next salary round which were given particularly to Prospect which then were ignored once the new S.E.B. took its place.

The Deputy Bailiff:

But can you specify what an undertaking was?

Senator S.C. Ferguson:

I regret I have not got the papers on me at the moment.

The Deputy Bailiff:

Does that mean anything to you, Chief Minister? Very well.

Senator I.J. Gorst:

The States Employment Board would argue strongly that that is not the case. In 2014 States employees had a 4 per cent pay rise. As part of that pay rise was the agreement to engage in workforce modernisation so I leave Members to draw the conclusion about who has withdrawn from workforce modernisation post that 4 per cent pay rise.

3.14.3 Senator S.C. Ferguson:

Supplementary. Yes, but did the Minister not supply an employment representative to speak to Prospect and the joint unions without a mandate from the States Employment Board to reach agreement?

Senator I.J. Gorst:

No, the reverse is the case; that officers take and meet, on behalf of the States Employment Board, union representatives and they understand their mandate prior to meeting. Sometimes that mandate is a difficult mandate to deliver because we are working within the bounds that the Council of Ministers proposed to this Assembly but this Assembly then approved.

3.14.4 Deputy M.R. Higgins:

I wonder if the Chief Minister would clarify his figures of a 4 per cent wage award given for the year that he mentioned. But how many years before that did they not receive a penny or below inflation wage increases? Please put it in context, figures on their own mean nothing.

The Deputy Bailiff:

I am sorry, what was the question?

Deputy M.R. Higgins:

I am asking him to put the figure, the 4 per cent figure in context and explain how many years the workforce were not given a pay rise or were given below inflation pay rises before that particular award.

Senator I.J. Gorst:

The Deputy knows that there has been pay constraint for a number of years. I think the year, and I cannot just recall accurately off the top of my head, there was certainly a year where there was no

pay rise, there was a year where there was a nonconsolidated pay rise. So of course it is against a backdrop of pay restraint and pay restraint continues to be delivered and negotiated. But that does not mean, as the Deputy is trying to suggest, that in 2014 there was not a pay rise of 4 per cent because there was.

3.14.5 Deputy S.Y. Mézec:

Does the Chief Minister not accept that the actions that he, and indeed this Assembly, have taken since 2014 have negated the chances of there ever really being any meaningful negotiation and that the restrictions that have been placed by things like the M.T.F.P. have meant that the workers simply feel that there is no chance of any proper collective bargaining as a result of that?

Senator I.J. Gorst:

No, I do not accept that because the States Employment Board only, I think it was back in November now, met with union representatives right across the unions, apart from Prospect who refuse to engage in the workforce modernisation despite the agreement prior to the pay increase, and we together agreed that there were changes that needed to be delivered to workforce modernisation before it could get over the line. We subsequently met with those union representatives and it was only during the course of the last States sitting where there was a vote of no confidence in the States Employment Board that the unions took the decision, which was kindly communicated by Reform Jersey members to this Assembly, that the unions took the decision to withdraw from workforce modernisation. That is where we find ourselves, that is where the States Employment Board want to re-engage with the union representatives to complete the pay award for 2015/16 so that we can move forward importantly with workforce modernisation.

3.14.6 Deputy S.Y. Mézec:

Supplementary. Of course the unions withdrawing from the negotiations had nothing to do with that vote of no confidence that was brought in this Assembly and was down to the fact that they feel that the negotiations they are involved in are completely meaningless. So to that end, would the Chief Minister, if he is even listening - which I suspect he is not - if the Chief Minister is listening, would he be prepared to meet with the heads of these trade unions to be able to talk through their concerns and find a conciliatory way forward that bears in mind the things that they are worried about so that they will come back to the table and achieve what we all hope they achieve which is a meaningful agreement that works in everybody's interests?

Senator I.J. Gorst:

The Deputy should know from his communications that States Employment Board, in the last 3 or probably 4 months now, have met twice with the union representatives and the heads of the union representatives apart from, as I say, Prospect, in order to move workforce modernisation forward. We left that meeting agreeing that the further detail of the extra resource that States Employment Board were prepared to put into workforce modernisation would be worked on by officers and by those union representatives. Of course we would be prepared to meet with them again to understand now what new concerns they may have with regard to workforce modernisation and equally officials will be meeting with union representatives to try and finalise the 2015/16 pay negotiations as well.

3.14.7 Deputy G.P. Southern:

Does the Chief Minister recognise that the effect of what this House agreed to in terms of teachers' salaries is an across the board cut in teachers' salaries?

[11:30]

Senator I.J. Gorst:

The Members, I say opposite, often accuse Ministers of using inappropriate words. It is difficult to interpret the question that the Deputy has just asked me which was that teachers' salaries have been cut when he knows that no existing teacher's salary has been cut. What is being proposed is a reduction - if you want to use the word "cut" you can use the word "cut" - in future teachers' salaries. Let us at least be open about what is being proposed and by whom and what the benefits are as well as, as the Deputy suggests, the negative consequences of any change because I believe, as does the Minister for Education, that there are greater opportunities in the changes that he is proposing than in the current regime.

3.15 Deputy T.A. Vallois of the Minister for Economic Development, Tourism, Sport and Culture regarding increases in input costs for businesses across all sectors: [1(125)]

Given that the recently published Business Tendency Survey identified a trend of continuing increases in input costs for businesses across all sectors, will the Minister advise what work, if any, he or his department have undertaken to identify what these increased costs are largely caused by; and whether, through this work, he has found any evidence that the Government are creating additional costs to businesses?

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

The increase in input costs indicated by the Business Tendency Survey is not surprising given the trends in the exchange rate over the period since the last survey was conducted. Sterling in December 2016 was 15 per cent below its value a year ago on a trade-weighted basis. Such significant depreciation of the exchange rate would be expected to lead to higher import prices and in particular inputs that are imported from the non-sterling area. My department has assumed responsibility for the public sector reform regulation work stream and it intends to produce an outline plan for this work by the end of the first quarter of this year. This work will identify and act upon barriers to enterprise and unnecessary costs to doing business. Until the work is concluded we cannot identify if there are unnecessary costs to doing business as a result of Government policy or regulation but there is always the need to assess whether there are unnecessary costs either because regulations are outdated or the associated costs and benefits have changed over time. In the meantime, my department have been proactive in this area and I can cite the current public consultation underway prior to the production of the new Tourism Law.

3.15.1 The Deputy of St. John:

I thank the Minister for his answer. Given his answer with regards to public sector reform on regulation, can the Minister explain why we are only obtaining results from that at the end of the first quarter and whether he is aware of the regulatory reform work that was done by the Chief Minister 10 years ago which identified issues with regards to regulation back then and whether there is any similarities to that?

Senator L.J. Farnham:

We will certainly be referring to past reports and data collected on this roll. Could the Deputy just repeat the first part of the question?

The Deputy of St. John:

As to why he will only be reporting on the public sector regulation reforms at the end of the first quarter this year.

Senator L.J. Farnham:

It is a work in process that we are hurrying along because we are keen to get a better understanding of what impact Government policy is having perhaps on the cost of business. But I am also mindful of the impact of imposing new costs on business, for example there are some proposed new costs on business lined up and I cite the potential for waste charges as an example. So, yes, there is concern and we are working on it and I undertake to get that work done as quickly as possible.

3.16 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding the financial justification of J.T. for charging for paper bills and for bills paid by cheque or cash: [1(123)]

Aside from J.T., will the Minister advise whether other utilities in which the States has a stake provide a discount on bills paid by direct debit rather than charging for a paper bill; and will the Minister be requiring J.T. to provide the financial justification for its stance on charging for paper bills, bills paid by cheque or cash, and I understand I should also include bills paid online which will also incur ...

The Deputy Bailiff:

I am afraid you cannot move beyond the form of the question but you could perhaps put it in a supplementary.

Senator S.C. Ferguson:

Yes, Sir. It was worth trying.

The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):

First of all I think we need to acknowledge that J.T. operate in a competitive environment with 2 other on-Island telephone companies and their performance needs to be optimised wherever possible. Dealing directly with the 2 elements of the good Senator's question. Firstly, there are 2 utilities: Jersey Water and Jersey Electricity who provide discounts. However, it is wrong to compare them directly to J.T. as they both differ significantly, that they are both only partly owned by the States and, secondly, and most importantly, both of those are monopoly operators; they have no market competitors in Jersey in which consumers would have a choice based solely on prices. Jersey Water provides a discount of £1 for payments made by direct debit. While e-billing is encouraged there is no discount offered for that. Jersey Electricity provides a discount of £2 for direct debits and £1 for e-billing. The net result is the same whether the standard tariff includes all charges and discounts for e-billing and e-payments or additional charges to cover the costs of bills by mail and payment by cash or cheque. Additionally, both Sure and Airtel, J.T.'s direct market competitors, make similar charges for bills by post and on direct debit payments. The financial justification for the proposed charges is due to the additional costs for bad debt management and collection costs of circa £1 million per annum and this is a straightforward administration cost which in efficiency terms can be avoided or reduced significantly. Additionally ...

The Deputy Bailiff:

Connétable, I am afraid you are well past the one minute 30 seconds and, again, this was one of those ones where you were allowed a lot of leeway in the first answer.

The Connétable of St. Peter:

I will pick up the other points later perhaps.

3.16.1 Senator S.C. Ferguson:

Is it reasonable to impose a £1.25 charge for paper invoices and £1.25 payment for cash or cheques or online payments when it represents a significant percentage of a pensioner's phone bill? We have already heard that the Consumer Council quotes pensioners who have got ... the charge represents something like 25 per cent. Is it reasonable? Surely there is another way such as quarterly bills or even 6-monthly bills for people with very small ...

The Connétable of St. Peter:

I will pick up the last part first. Yes, we can do that, certainly quarterly bills is on offer and I am certain that, if it were appropriate for the individual, J.T. would consider a 6-monthly bill as well. Just to go back to also the good Senator mentioned the Consumer Council and the Consumer Council has made a comment on this, if I may: "the Council is committed to ensuring that Jersey's most vulnerable members of society are not left behind" so I am pleased that J.T. has been prepared to engage constructively, listen and adapt. While I appreciate that behaviours change over time, as a States-owned company J.T. has added responsibility to ensure that no customer is unfairly disadvantaged and J.T. stand by that commitment.

3.16.2 Deputy S.M. Brée of St. Clement:

We have had a number of questions this morning relating to the charging policy of J.T. and the Assistant Minister has obviously drawn the distinction between Jersey Telecom and the other utility companies whereby it is wholly States owned. Would the Assistant Minister not agree that, as it is a wholly States owned company, we can give direction, as the shareholder, towards that wholly owned company's social responsibility towards the community as opposed to just worrying about the dividend we receive at the end of the financial year?

The Connétable of St. Peter:

Of course the Minister for Treasury and Resources does have the power of direction although it does not apply particularly with regard to *Jersey Post* so it is one of the early incorporations; I am not sure that is included in their M.O.U. (Memorandum of Understanding). But equally if you were to do that it would have to be in the interests of the people of Jersey, not a very small group of people on their own.

The Deputy Bailiff:

I am afraid that brings the period for questions to an end and accordingly there is no time to deal with the last 2 questions on the list.

Deputy M.R. Higgins:

Can I ask the Assembly if we could extend question time so we do finish the 2 remaining questions as I believe that the public have the right to hear them?

The Deputy Bailiff:

I am not sure that is possible because that would require removal of the Standing Orders which provides for question time of itself and therefore there will be no basis for a question time at all if one extends the time. But I will check, if you wish me to do so, Deputy.

Deputy M.R. Higgins:

I would, Sir, because there are important public issues at stake here in one of these.

Deputy E.J. Noel of St. Lawrence:

If I may help, one of the questions is addressed to myself and I have questions without notice immediately afterwards so I can answer that question then.

The Deputy Bailiff:

Very well, that is helpful. The Minister for Infrastructure of course has questions without notice immediately afterwards so he will be in a position to answer that.

Deputy M.R. Higgins:

I am particularly interested in the one to the Attorney General.

The Deputy Bailiff:

I am sorry, Deputy, it is not possible. There are certain provisions for an extension of time, for example where questions deal with ministerial statements but the question, the Standing Order 63 which provides for the existence of question time at all specifies it has to be for 2 hours and no greater than 2 hours.

Deputy M.R. Higgins:

Can I ask then that this question is put as the first question on the Order Paper for the next sitting?

The Deputy Bailiff:

I think it is a matter for you to re-lodge it straight away and it will then, in the normal course, be placed upon the Order Paper for the next sitting.

Deputy M.R. Higgins:

Thank you.

Deputy M. Tadier:

May I ask a point of order, notwithstanding what some other parliaments in the Commonwealth do and they do lift Standing Orders on a regular basis? Is it not the case that where Standing Orders does not provide for a course of action it is within the Chair's capability to prescribe what happens, and because there is nothing that says what happens when we lift Standing Orders it would be down to yourself, Sir, or any Chair to say: "In this case we will allow 5 minutes for one question to be asked before moving on to questions without notice?"

The Bailiff:

If the Chair construes Standing Orders, Deputy, it has to construe the Standing Orders as a whole. Given that there is a section within Standing Orders that permits the extension of time in certain circumstances it must be presumed that the Standing Orders do not permit the extension of time in different circumstances, and the Chair has previously ruled, on more than one occasion, that to lift Standing Orders means the lifting of the entire Standing Order which removes the possibility of question time in any event because that is provided for in the same Standing Order. So I regret that I cannot allow any proposition to move forward, it would need to be a matter for P.P.C. (Privileges and Procedures Committee) I think to address any difficulties that arise.

4. Questions to Ministers without notice - The Minister for Infrastructure

The Deputy Bailiff:

We now move on to questions to Ministers without notice and the first question is for the Minister for Infrastructure. Deputy Tadier.

4.1 Deputy M. Tadier:

What plans, if any, does the Minister have to start charging for the issuing of bus passes to senior citizens?

Deputy E.J. Noel of St. Lawrence (The Minister for Infrastructure):

At this moment in time I have no plans to start charging for the issuing of bus passes for senior citizens.

4.1.1 Deputy M. Tadier:

Can I just thank the Minister for that answer? I wholeheartedly endorse that position and I hope it never changes I hope that the bus pass remains in place and that there is not even an admin charge that is applied to that for senior citizens.

4.2 Connétable J.E. Le Maistre of Grouville:

Does the Minister in his role as Minister in charge of Property Holdings have a plan for the future use or demolition where necessary of unused States properties?

[11:45]

Deputy E.J. Noel:

Yes, it is very much dependent on any incumbent occupier being that the departments have to free up their buildings for us to reuse. If they can be reused for a States purpose they generally are. Those buildings that are not available or are not necessarily going to be reused for a States purpose we then consider if they can be developed or sold and the proceeds returned to Treasury to be further invested into capital programme.

4.2.1 The Connétable of Grouville:

Supplementary. Does the Minister agree with me that spending money on properties that need demolishing such as Fort Regent, where I notice there is now scaffolding, is that not just a complete waste of money? Should these buildings not be coming down?

Deputy E.J. Noel:

With regards to Fort Regent itself, is the Constable, if I may ask, referring to the swimming pool site? Yes. The swimming pool site needs to be made secure as best as we can to stop members of the public getting inside because the interior of that building is not safe. We need planning permission to be able to drop that building but we also need the budget to do so. The figures that we have been made aware of to demolish the swimming pool site is quite extensive. That building has a substantial amount of asbestos in it and the only safe way to remove that asbestos is effectively to wrap the whole building first before one starts demolishing it.

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

Will the Minister join with me in congratulating the local group Jersey In Transition on their latest survey on cyclists coming into St. Helier on an extremely cold morning, 24th January, the day after which in fact cycling was prohibited on the advice of our Meteorology Department? Almost 400 people, the Minister will know, cycled in one hour into town on this cold morning taking the size of a medium-size car park; they would have taken up that space or several entire roads of on-street parking, and would the Minister, as well as endorsing their work, say what he plans to do to increase the number of people coming into town on bicycles where possible in order to reduce peak hour traffic something towards the target of 15 per cent that he has in his sights?

Deputy E.J. Noel:

I thank the Constable for that question and any Member that has not read the document, I have got the document from Jersey In Transition; I encourage them to read it. For some, it contains no new information, it is information that the department already had and I thank Jersey In Transition for their work. I would like them to work more closely with my department and in fact the Environment Department so we can co-ordinate our resources so there is not duplication. But

having said that, the Constable asks what steps are my department taking to encourage cycling in the Island. We are investing in the cycle networks. It will not go amiss that those Members that venture out towards the west will see the St. Peter's Valley shared path being constructed. Probably also last year, and it has been more successful than we originally anticipated, was the car2cycle scheme. It has been a very good scheme and that has encouraged just around 350 additional cyclists on to our roads on their bikes. I encourage members of the public to take up the last £50,000 of funding, that is some 150 bikes, to do so and to do so quickly so we can encourage even more people to use 2 wheels to work as opposed to 4.

4.4 Deputy J.M. Maçon:

With his Property Holdings hat on, can the Minister explain, only because the police are due to move to their new headquarters, what is happening to the old site? Have there been bids and in particular can he explain whether any bids from the Education Department have gone through for that site?

Deputy E.J. Noel:

The primary school that is adjacent to the fire service and the current police headquarters is a bit landlocked, they could do with some extra space. Unfortunately they have a fire station between them and a space that is becoming available. We will, in short order, be putting a planning application in to drop the old, what I refer to as the St. Helier Girls' site, to drop that building; it is in poor condition, and to create a temporary car park until we have finalised what we are going to be doing with the fire service and what we are doing with the ambulance service and we will not be combining them on the eastern side of the combined site.

4.5 The Deputy of St. Ouen:

The Minister has a fund of £80,000 to devote to good causes following the decision of this Assembly to remove covenants which were formerly charged on La Motte Street School. Can the Minister say what work he has done to provide a good home for that sum of money?

Deputy E.J. Noel:

I just have a slight clarification and correction for the Deputy of St. Ouen. I do not have £80,000 in a pot, it will be coming out of the capital vote for the hub, which is the replacement central office building for the States of Jersey, combining all our activities under one roof and providing, more importantly, a single location for the public to interact with the States for the services that they provide. So that £80,000 will be coming out of the capital for that project and that capital funding has not been arranged yet. But I have not been idle, we have been talking with institutions such as the Bridge about a capital project to the tune of £80,000 that we can do at the Bridge to represent those families, the Janvrins and the Jesse Boot's families; may we long continue the legacy that they left behind them.

4.6 Deputy R. Labey:

Going back to the Fort Regent pool building. Does a strategy of getting planning permission for a replacement building before demolishing the existing building form any part of the Minister's thinking on this?

Deputy E.J. Noel:

It did and I have a letter on file from the previous Minister for Planning and Environment that advised that to be able to protect the value of that site that we needed to submit a planning application for whatever was going to be replacing it on that site. But the condition of that building has deteriorated since then and I will be looking to my fellow Ministers to get the funding required to drop the building hopefully some time between the next 12 to 18 months.

4.7 Deputy A.D. Lewis:

The old subject of sea lettuce. The Minister will be well aware that one of the solutions he had was a trial of a piece of machinery that may have cleared the lettuce during the summer period. What plans has the Minister got for next summer when it is highly likely the reoccurrence of this issue will continue if he has not got access to such a machine? Has he got any thoughts of combatting in another way or is he going to get some other machinery to potentially tackle this issue as and when it occurs next summer?

Deputy E.J. Noel:

The problem is not the machinery, it is not us collecting the seaweed off the beach, it is what do we do with it once we have collected it. We cannot take it to land we have been there, we have seen the problems of doing such at Beauport. We are still pumping out leachate to this day from when we dumped potatoes at Beauport. We had a similar environmental issue up at Crabbé many years ago so we need to learn lessons from the past. We need to find somewhere to put that seaweed. This year we will be trialling, hopefully either a barge or using some local Channel Island vessels to see if we can collect the seaweed and take it out to sea and to dispose of it out at sea. The issue is not being able to collect it, as I said, it is what you do with it once you have got it collected.

4.7.1 Deputy A.D. Lewis:

Supplementary. Is the Minister therefore saying that although he was considering a trial with the equipment I just mentioned, he did not have anywhere to put it therefore why did he consider the trial in the first place with this piece of kit if the situation was the same before with disposing of it?

Deputy E.J. Noel:

Just for the Deputy's benefit, the original trial was a joint venture with our French partners whereby we were going to be utilising their machine to collect it out of the water so it was free of sand and then to ship it to their facility in France for processing. The test was could we get it there within the 36 hours from it coming out of the water to it being processed and that was the test. If we could have done it within the 36 hours then there was a solution to what do we do with the seaweed once it is collected. If we could not have got it there reliably within 36 hours they would not be able to take it.

4.8 Deputy M. Tadier:

Will the Minister state whether the £15 admin charge that is proposed for disabled bus passes will be going to his department or to LibertyBus?

Deputy E.J. Noel:

It will be staying with LibertyBus, they are providing the service to issue the passes. They have bought the passes, they have trained their staff to administer the scheme and the cost will be there to cover that and also to do the auditing of the application form to ensure that the declarations by the medical practitioner are valid.

4.8.1 Deputy M. Tadier:

Given the fact that LibertyBus already issue the senior citizens concessionary pass, which must be more numerous than what is anticipated for this new concession, and they currently receive no money for doing that, why is it proposed that a different methodology go towards funding presumably what will be absorbed by the staff in their daily duties anyway?

Deputy E.J. Noel:

I am advised that there are some additional costs to LibertyBus to carry out this on our behalf. We did cost it up ourselves if we were doing it and it was going to cost at least double that if we had done it ourselves. So I am grateful for Liberty to take this administration burden for us. The rationale for doing this has been in the public domain since 11th August last summer when I signed a public report that set out the criteria of the scheme and the rationale for bringing in a charge to limiting it to make sure that it was no more than the current disabled blue badge scheme which is a £15 charge for a blue badge that lasts 3 years. We are looking at charging £15 to administer the scheme and to issue the pass for those that qualify and again that will last the life of the scheme which is to the end of December 2019. But I would like to state that this is not a free scheme this is costing £1.8 million of taxpayers' money and I am grateful to the Minister for Treasury and Resources for allowing my department to work within the Car Park Trading Fund to provide the funding. This is a scheme that needs to be celebrated; we have finally managed to unlock the conundrum of funding disabled bus passes for those who need it with a disability.

4.9 Deputy K.C. Lewis:

Fort Regent pool again. Having recently been to the area, in recent times I have been in Fort Regent pool area and it is completely and utterly beyond repair but is a complete magnet for young children who try to break into the premises and get on to the roof, et cetera. I did ask a question, I think it was 2007, which was I think 2 Ministers for Planning ago, can the building not be razed to the ground on the assumption that it was still there for planning purposes for any replacement?

Deputy E.J. Noel:

The letter is quite clear that I received from the previous Minister for Planning that if we raze the building to the ground without having obtained planning permission for its replacement we run the risk of losing the potential for building something back on that site. But I have already indicated this morning, the building has now deteriorated to such a state that we have no choice; we are going to have to drop that building sometime in the next 12 to 18 months.

4.10 Deputy D. Johnson of St. Mary:

Following on from the question from Deputy Andrew Lewis, would the Minister confirm that the proposed new sewage plant will itself result in a reduction of nitrates passing into the bay which might itself result in a lessening of the sea lettuce problem?

Deputy E.J. Noel:

Yes, it is correct that providing we can build the plant that we have currently got designed, there will be a reduction in the level of nitrates going into St. Aubin's Bay but our main problem is we need to tackle the nitrates issue at source. When your drinking water is containing 40 to 50 milligrams per litre our licence is for 10 milligrams per litre; we are never going to get to 10 milligrams per litre when our drinking water is between 40 and 50. But yes, the new plant will have a marginal reduction in the amount of nitrates going into the Bay.

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

The Deputy Bailiff:

That brings the time available for questions to this Minister to an end. We then come on to questions for the Minister for the Environment. Senator Ferguson.

5.1 Senator S.C. Ferguson:

Does the Minister have an unpublished policy to treat objections made against a planning application by a group of individuals as an objection made by a single individual and is this to

assist decisions on applications made by wealthy individuals being waved through by individual planning officers under delegated authority rather than being referred to the Planning Applications Committee?

[12:00]

The Deputy of St. Martin (The Minister for Environment):

No.

5.1.1 Senator S.C. Ferguson:

In that case, would the Minister kindly investigate the particular case to which I am referring, and which I will put to him on a note, because it appears that despite the assurances we got that the rules on delegated authority be tightened up, apparently these are being disregarded.

The Deputy of St. Martin:

If the Senator would like to give me the particular details I will gladly look into it.

5.2 Deputy K.C. Lewis:

Further to my question to the previous Minister regarding Fort Regent, if the Minister for Planning and Environment was asked the question, would he give due consideration to the plan of ... assuming that the pool to be there even though it has to be demolished now, assuming that the height, width, et cetera, of any building to replace it? As I say, it is far ... I would have liked to have seen it preserved but it is far too far gone to save now.

The Deputy of St. Martin:

I can advise the Deputy that I have considered that matter quite recently. I reviewed the letter that the Minister for Infrastructure referred to from the previous Minister for Planning and I found that there was no way that I could disagree with that previous letter. It is very difficult to reserve, in the way the Deputy indicates, and once a structure has disappeared it has disappeared, I am afraid, and that is a real challenge to us in this case.

5.2.1 Deputy K.C. Lewis:

Supplementary. Is that on the assumption that should the building come down, which the previous Minister indicated would have to happen within the next 12 to 18 months, that any new application would be considered on its merits and not as a green field site, shall we say?

The Deputy of St. Martin:

Absolutely. That is the case and I would have to say to the Deputy and to Members that if Fort Regent pool comes down every day that goes by when it is not there before a planning application comes back for its replacement is an additional day of potential refusal. It makes the case less and less likely. It is difficult to take but I have to say to Members that is the way it is, that every day that that pool is not there will be a day that members of the public will potentially appreciate the fact that it is not there and there is nothing I think I can do under these circumstances. I cannot treat Fort Regent pool any differently from any other site.

5.3 Deputy R. Labey:

I wonder if the issue of high-net-worth immigrants buying properties in the Island with fields attached and then choosing not to lease those fields to farmers or growers hit the radar of the Land Controls Unit yet.

The Deputy of St. Martin:

I am grateful to the Deputy for that question. I am not aware that it has particularly hit the radar of the Land Controls Unit but what I would say to the Deputy and to Members is that I and the department have the ability to control land that comes up for lease or for sale and it is quite clear from the Jersey Land Law that fields must be leased or sold to *bona fide* farmers and used for agricultural or horticultural purposes. I think there is a term in there about the cultivation and use of good husbandry into the future. So if the Deputy has any particular places that he can think of I would be only too pleased to hear them.

5.3.1 Deputy R. Labey:

Supplementary. Given that crop rotation could contribute to the green leaf goals of the Rural Strategy, should the law that classifies equine use, sole equine use of fields, as agricultural be changed because not many of these beasts are ploughing fields any more, are they?

The Deputy of St. Martin:

Not very many. We do occasionally get one or 2 at Samarès Manor but the Deputy makes a good point, but as in all cases we have to look at both sides of the argument. While on one hand the use of fields for equine would reduce the use of chemicals and nitrates and help with the reduction in potato cyst nematode, which is of great importance to the agricultural community, there is also a contribution from equine being put into the local economy that some might argue is not there from some parts of the agricultural industry these days. I appreciate there is a balance to be struck here but certainly the department is looking, I can tell the Deputy, at some short term leasing of fields to some equine concerns for 2 or 3 years in order to try to reduce potato cyst nematode.

5.4 The Connétable of St. Helier:

Nearly 7 years ago the States debated the 38th amendment to P.48/2011, which I am sure the Minister will remember was the 2011 Island Plan. The amendment to which I refer was the feasibility study into the creation of a country park for St. Helier and I quote: "To promote and enable access to the countryside for the residents of St. Helier through the creation of a St. Helier country park." I would ask the Minister to update the Assembly on how much progress has been made by his department on this proposal.

The Deputy of St. Martin:

I have to tell the Assembly and the Constable specifically that I am afraid that not a great deal of progress has been made in this regard but what I can do is assure the Constable that it is very much in the forefront of my own thoughts and that any applications which would come on the periphery of St. Helier, be that St. Clement, St. Saviour or St. Helier, for an application in a green and open field or an open space would certainly occupy a lot of my thoughts. It is certainly my intention to create a ring around St. Helier that will stay green and open and if further development is to expand from town I would want to see certain areas that are currently green and open preserved in that way for ever.

5.4.1 The Connétable of St. Helier:

Supplementary if I may. I know that the Minister does have officers working on other matters, such as a new al fresco policy. Is this not now 6 year-old commitment by the States one that should be taken up as a matter of priority by his department and would he agree to perhaps form a working group involving the relevant Parishes as well, perhaps lead by one of his officers, to see if we can get the project moving because clearly it will benefit tens of thousands of people once it is created.

The Deputy of St. Martin:

I will discuss that with officers in my next ministerial meeting next Monday and I will report back to the Constable.

5.5 Deputy M. Tadier:

Would the Minister consider, when he looks in the round at the levies that are being proposed for building applications, whether it might be possible that the Percentage for Art, which I understand is currently voluntary, be changed so that there is a fund created for the Percentage for Art which can be used for events, installations, et cetera, not limited to but perhaps including things like Branchage.

The Deputy of St. Martin:

I am happy to consider that but I would have to say to the Deputy that events such Branchage, I would think, would sit very firmly in the hands of the Minister for Culture.

5.5.1 Deputy M. Tadier:

Does the Minister accept that it may be appropriate for the Percentage for Art to sit in Economic Development or similarly it could be established and administered by a third party or a relatively independent person who decides, working with those Ministers, how the money is attributed?

The Deputy of St. Martin:

It is certainly worth consideration but, as I did indicate in a previous answer to a specific question, it will not be my intention to continue with a Percentage for Art per se if the new Jersey infrastructure levy ever came into being. The reason for that levy is to fund essential infrastructure, mainly around St. Helier but in other parts of the Island which is not currently funded.

5.6 The Deputy of St. John:

Given the significant time and effort from voluntary groups and members of the public into what is classed now as the Jersey National Park or Coastal Management Plan, what resources or support does the Minister's department provide for this priority and what priority will he be giving it over the next 12 months?

The Deputy of St. Martin:

My department has recently launched a new Countryside Access Strategy for the Island which is going to link up all the green lanes, the coastal paths, the National Park and other footpaths around the Island purely to try to encourage and move forward with access to the countryside. I want more people to be able to get out there and enjoy the countryside as much as they possibly can. Coastal National Park is something that has been fairly recently formed, it has its own little board of people who are moving forward with it, and I look to integrate the Access Strategy and the National Park together so that the aspirations of both groups can be as one. I cannot remember the figure but I will get it for the Deputy, I put a certain amount of money into the footpath network. There is over 70 kilometres of footpaths around our Island; that needs to be maintained, it needs to be kept safe and in a safe condition. I have indicated that I would like to expand it further so it can be of even more benefit to Islanders but I will find out that number for the Deputy.

5.7 Deputy M.R. Higgins:

Can the Minister advise the States what action, if any, was taken by the Attorney General or the Law Officers' Department against his department and its officers for knowingly and wilfully bringing criminal charges against Jersey residents in the Magistrate's Court without the Law Officers' Department's knowledge, consent or assistance?

The Deputy of St. Martin:

I think I will have to investigate that a bit further. That does not sound like the correct procedure. I was aware, I thought, that all prosecutions would have to go through the Law Officers' Department but I will investigate and get back to the Deputy.

5.8 Deputy A.D. Lewis:

Following on from the question to the Minister for Infrastructure concerning cycle tracks, the Minister just said there are 70 kilometres of footpaths. How many kilometres are there of cycle lanes and what could he do to improve that? Most of the roads follow fields. Is there any possibility that he could assist in a planning manner to create more cycle tracks, perhaps in fields, down the sides of roads? What could he do to help make that happen because we have had a policy to get more people on bikes but we have very few cycle tracks and I would like to know how many kilometres we currently have?

The Deputy of St. Martin:

I do not know the specific answer to answer that question for the Deputy but what I can say to him; we do have an extensive network of green lanes and in the green lanes the priority is cycling, horse riding and walking. I am also committed to funding and starting, I think it is about 5 kilometres of joint paths in the very near future which would involve pedestrians, cyclists and horse riders on cliff paths. I would finally finish by saying to the Deputy, I share his enthusiasm. I very much want to encourage cycling as well and I know that all the work; for example, we have just started on the review of the waterfront masterplan will take into account the work that has been done by Jersey in Transition very recently. We know we have got more cyclists coming into town. We need to find ways for them to stay off the roads, to stay safe and when they get to town be able to cycle around town safely without being involved with traffic.

5.8.1 Deputy A.D. Lewis:

Supplementary. But can the Minister do anything legislatively to provide land and access to land to create cycle tracks to create the environment that he desires because currently it is a very slow moving beast, linking green lanes with tracks and so on. It is not happening. Can he do anything with legislation to encourage that, to create the environments so that it can happen?

The Deputy of St. Martin:

I am not sure that I can do anything with legislation. I am sure it would be possible to bring legislation but I would not want to be imposing cycle tracks on owners of land in the countryside. The one thing I can say to the Deputy is the new Rural Economy Scheme, which is being launched today, is going to encourage field margins and the use of headlands of fields being left quite wild to encourage biodiversity and wildlife. Certainly behind my own intention to where that field margin might be on the south of a field in the shade and less use to farmers, I would encourage them to maybe consider the option of opening up a track or a footpath cycle track on that part of their field.

The Deputy Bailiff:

Do you have an extremely quick question, Connétable of St. Peter?

5.9 The Connétable of St. Peter:

The only question I was going to raise was in regard to the Constable of St. Helier's request for a park. I was just going to ask: is that something that should be addressed by the Regeneration Steering Group?

The Deputy of St. Martin:

Well, it could be. It could also be addressed by the Future St. Helier Group but in either case I will make some waves at the department and get back to the Constable.

The Deputy Bailiff:

Well, that brings the question time allocated to this Minister to an end and we then move on. There is nothing under J and K and we now come on to Public Business.

PUBLIC BUSINESS

6. Minister for Education: vote of censure (P.6/2017)

The Deputy Bailiff:

The first item is the Minister for Education: vote of censure (P.6/2017) lodged by Deputy Southern and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion, to censure the Minister for Education, Deputy Roderick Gordon Bryans of St. Helier, for his failure to maintain and strengthen the public's trust and confidence in the integrity of the States of Jersey by his repeated use of misleading data in debate.

The Deputy Bailiff:

Before I ask the Deputy to move the proposition, may I remind Members that under Standing Orders Deputy Bryans will have the right to speak twice, given that he is the subject of the proposition of censure? As a result once every Member who wishes to speak has spoken I will call upon Deputy Bryans to speak again and it will not be open to any other Member, other than Deputy Southern, to respond at the end of that speech and at the end of Deputy Bryans' final speech I will call upon Deputy Southern to reply.

[12:15]

6.1 Deputy G.P. Southern:

Lest anyone should think so, may I say to start with, that I do not bring this motion of censure lightly. I think it represents a practice increasingly going on in this Chamber where partial and part answers are given which lead to poor decision making on behalf of the States. If I use the word "misleading" at any stage in my speech I, of course, mean "incidentally misleading". I will use the word "openness" and refer to the source of this motion of censure, which is the Code of Conduct for Elected Members and in that Code of Conduct it says under "openness": "Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest or rules on freedom of information, data protection or confidentiality clearly demand." The case I wish to make is that the degree of openness with which the Minister for Education has treated newly qualified teachers' pay has been less than it should have been. By way of example ... I mean my motion of censure started from the understanding I had that a comparison between teacher's pay in Jersey and in the U.K. was a false one and Members will remember the debate about comparing like with like. In this case, scale 1 with scale 1; entry point 3 with entry point 3. The fact that we did not have enough information on that is made completely apparent by the full documentation circulated by the Minister for Education today which shows in detail the differences between teachers' pay in Jersey and teachers' pay in the U.K. So when I was comparing entry point 3 with entry point 3, it was indeed probably not appropriate because we can see that in Jersey we have a main pay scale which consists of 9 points, 9 annual increments, provided you are a competent teacher and not undergoing incompetency procedures. Demonstrate you are a competent teacher, 9 points, 9 years, when salary grows without taking on any further responsibility. That compares in

the U.K. with a 6-point scale and I can see now, with the full documentation in front of me, that you would not want to compare point 3 out of 9 smallish increments with point 3 of 6; it is halfway down the scale, but we were not aware of that. We were not made aware of that at the time. But nonetheless there are still issues I have with the presentation made by the Minister for Education. The first thing to note is that although we have started talking about an £8,000 cut, reduction, in salaries for newly qualified teachers, if one examines the table of main pay scale in Jersey at point 3, £38,296. Take £8,000 off that and where do you end up? You end up off the scale; it is not even scale 1, point 1. If one were to put unqualified teachers on there one would find that it is even below the rate for an unqualified teacher, somebody who is doing it without qualification. So the £8,000 was never realistic. What we are left with now is a reduction to around £34,000 on that scale. So why was I and why were Members led to believe that in comparing point 3 with point 3 or point 3 with point 1 we were not comparing correctly? Because the Minister for Education told us so and if Members will bear with me I can quote Deputy Bryans in some detail. So I said at the time ... no, Deputy Tadier said at the time: "Could he explain [the Minister] why he is being very selective with his use of figures which may unintentionally mislead Members of this Assembly and the public?" Deputy Bryans says: "Yes, I think I have tried to explain this a few times. Since, I think it was 2000, wages were inflated to deal with a recruitment problem back then and they have never been tackled since that point." That raises the issue of recruitment and one of the questions has got to be, do we still have the potential for a recruitment problem, and I will deal with that later when I come to it. But it also says: "Wages were inflated back then and have never been dealt with." Wages were inflated back then at the bottom end, in a conscious decision, to make sure that those people embarking on a teaching career could manage to live with our high rents and high cost of living in Jersey. So the pay awards were deliberately, consciously, weighted towards the bottom end to make sure that people entering teaching could prosper. Deputy Bryans then went on: "Over the last 4 years the starting salary for a teacher in Jersey has been £38,000." That is what I was relating to. So it is comparable in the sense that if you were starting in the U.K. you start on level 1 but here you start on level 3 and I asked: "Is it not the case that in the majority of parts of the U.K., including inner London, a newly qualified teacher will enter the salary point at 3 if they have a 2:2 honours degree or above? Is that not the case elsewhere as well as in Jersey and should the Minister not be comparing like with like and comparing entry point 3 with entry point 3?" To which the Deputy, the Minister, says: "The Deputy is quite correct. If there is an opportunity for students on a degree level to go in at a certain point that is what happens in the U.K." What I was trying to illustrate, exactly what happens in our schools at this moment in time. So the Minister there has said: "I was totally correct to say: 'Should be comparing scale 3 with scale 3.'" The Minister said: "That is the way to do it." It turns out, now, with this fresh information, that both the Minister and I were confused by that. That was a false piece of information, accidentally I am sure; nonetheless one that said: "Compare level 3 with level 3." It turns out that is probably the incorrect thing to do and the Minister was under the impression that that is what we should be doing. So if we were to reduce new teacher's salaries by the amount wished by the Minister what would we end up with? If Members would turn to written question 13 they will see an answer to a question I asked about the detail of what would happen and you can see there the full scale of Jersey qualified teachers' pay, January 2016, ranging from £33,900 to £45,000 at the top of the scale, the main pay scale, and beyond that for the extra responsibilities, for posts of responsibility another 6 point ... 5 point scale going from £46,000 to £50,000. If one were to reduce the salaries of new teachers in Jersey what impact would that have? The answer is illustrated below the table. What would the earnings be in the first 5 years as you go up the scale? I have done the calculation. If we are starting on the main professional scale 3, if you then move to professional scale 1, the £33,900 figure, your earnings over the first 5 years are reduced by £14,500; £14,000 less over the first 5 years of your career than would otherwise have been. One has introduced a 2-tier pay scale between those who started before this change and those who start after.

The Deputy Bailiff:

It sounds like that somebody's phone is sounding. Is someone able to ...?

Deputy G.P. Southern:

I think it is outside. I think it is mine. **[Laughter]** It is not in the Chamber.

The Deputy Bailiff:

Well, Deputy, I do not think you can leave the Chamber mid-proposition, but if you carry on, thank you.

Deputy G.P. Southern:

I was loathe to put it in my pocket because I can always guarantee it is going to go off again in 5 minutes. So someone outside is under strict instructions to hammer it if it goes off again and I do apologise to Members for disturbing not only their flow but my flow. So £14,500 over the first 5 years worse off than would have been the case. One has to ask: is that an appropriate thing to do? The question is: what impact would that have? Has anybody done the research about what the impact might be? How might that affect recruitment and retention? How would that affect the employment of skilled specialist teachers? To examine that one needs to look at what is happening in the U.K. and what is happening here. The marker for "are you able to recruit the right calibre specialist" is how many people, how many teachers, are teaching out of their subject.

Senator P.F. Routier:

Sorry, could the speaker just give way?

Deputy G.P. Southern:

No, I am not going to give way.

Senator P.F. Routier:

It just seems like a wage negotiation on behalf of the unions rather than addressing the proposition.

The Deputy Bailiff:

No, Senator, if the Deputy will not give way then it is not possible to intervene other than on a point of order.

Deputy G.P. Southern:

As I am all too aware of because it happened the last time I tried to intervene.

[12:30]

Nonetheless, it is a very good way of stopping people's concentration. The statements by the Minister are quite positive. In terms of recruitment of staff and the use of specialist teachers in the right subject areas he says: "We recognise this is a massive problem in the U.K." The U.K. has a problem. He then goes on to say: "But at the moment there is no shortage within our own schools but there is definitely a shortage in the U.K." When asked to talk to his head teachers to examine and come to the House with how many subjects are being taught by non-specialist teachers the Deputy was unable to provide the information but he said, and this is back in September 2016: "If that information is available from the heads I will certainly give it to the Deputy". I say: "No ifs no buts, will he ask his head teachers to supply those figures to him and therefore to us?" We need to know what is going on in terms of specialist teaching. Deputy Bryans says: "As I have said before, I will request it of the head teachers. If that information is available I will pass it on to the Deputy." So the Minister is saying there that he does not have the information as to the use of specialist teachers and the absence of specialist teachers in our schools. Their heads know it. Back in

September, I presume he asked. We have yet to see any evidence that we do not have a shortage of specialist teachers being used inappropriately in our schools. So no evidence of that particular aspect of the proposal to reduce salaries. Yet the Scrutiny Panel, the Education and Home Affairs Scrutiny Panel, in their comments on the M.T.F.P. had the following to say: “Evidence from union representatives suggest that it will [the proposal to reduce salaries] negatively impact on recruitment, retention and ultimately the children. Representatives pointed out that the new pay scale would give N.Q.T.s (newly qualified teachers) parity with gardeners in terms of pay leaving them with little chance of paying off large debts incurred while obtaining the academic qualification required of teachers.” The expert engaged by the panel, Professor John Howson, pointed out numerous risks of reducing the starting salaries of N.Q.T.s such as students leaving school in Jersey may decide not to train as a teacher. Supply of N.Q.T.s has not met demand in the U.K. in recent years and a significant risk to recruiting teachers from England. The panel notes that the Minister stated in the States: “That these savings will be subject to negotiations with the teacher unions. During interviews with those union representatives the panel has noticed significant resistance to the change and is concerned that the principle of free collective bargaining upon which much of the employer/employee relationships are based will become a casualty. Any significant dispute between the teachers and the employer will ultimately impact on the children of Jersey.” Yet we have heard this morning that that is exactly what we are heading towards. In addition the unions expressed a concern that there will be a 2-tier system with no guidance having been received on how parity might be restored between teachers starting before and after the introduction of the lower wage. The point of equity between new and old pay schemes raised concerns relating to equal pay for equal work. As part of a modernisation programme the review of policies of terms and conditions are to ensure that policies and terms and conditions meet with the needs of the services, employees are treated fairly and consistently across the States of Jersey, all terms and conditions support the principle of equal pay for work of equal value. It can be argued that this particular change is at odds with the fairly and consistently and equal pay for equal work sections of the workforce modernisation programme. So the invention, the arrival, of a 2-tier system. I return to the matter of: will this proposal threaten recruitment given the situation in the U.K. where we recruit from most often? Again, in the debate on the M.T.F.P., or shortly thereafter, Deputy Tadier was questioning the Minister for Education regarding the recruitment of specialist secondary school teachers. He asks: “What evidence, if any, does the Minister have that the challenges to secondary school teachers’ recruitment in the U.K. in many specialist areas have eased and if none what incentives are there in place to attract such teachers to come and work in Jersey?” Deputy Bryans says: “Thank you to the Deputy. The school workforce census is the main source of information of school staffing in England and the latest figures show there are “reasons to be cheerful” and that is a quote from them. Teacher numbers are up overall and there was a slight increase in the number of recruits. The number of teachers in history, English and P.E. (physical education) is buoyant.” It sounds very positive but it is very partial. The quote is indeed accurate. The latest figures show there are reasons to be cheerful however this is a tiny portion of the quote and the detail needed. Page 5 of the report of the school workforce census does contain the statement: “Overall teacher numbers have increased further by 0.4 per cent” but it is swiftly followed by the following: “Within the secondary phase the total number of full-time equivalent teachers decreased by 2,500, a 1.2 per cent decrease”. Further analysis and expansion on the detail of that report which appeared in *Schools Week* in 2016 contained the following: “There are reasons to be cheerful. Teacher numbers are up for starters but the school workforce census for the last year shows that recruiting and remaining a top quality workforce is still a major challenge.” Unfortunately the bad news outweighs the good. The biggest concern is the number of teacher vacancies. There were 1,030 vacant posts in November 2014 compared to 750 in November 2013. So even though there are more teachers there are more, relatively, unfilled posts. A further 3,210 full-time posts were being temporarily filled by a teacher on contract of one term or less. Almost a

thousand more than in 2013. Finding appropriately qualified staff is more difficult in secondary schools with fewer English, maths and science teachers holding the relevant post-A level qualifications for the subjects they teach. This has led to fewer lessons in those core subjects taught by teachers with relevant qualifications. So the Minister's partial answer: "There are reasons to be cheerful" needed, for the sake of openness and honesty, to be heavily qualified by looking properly at the secondary sector where indeed vacancies and the lack of experienced specialist teachers is still increasing and that is the case and remains the case. So the Minister failed to examine all of the detail, I believe, that he should have done in order that we take a reasoned and reasonable analysis of this particular proposal to cut wages and I believe in doing so he failed in his duty of openness to this House to fully explain and justify what he was proposing. So I maintain this motion of censure.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** It has been seconded.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

The adjournment is proposed. Do Members agree that we adjourn? I will, just before doing so, note the lodging of proposition P.10 Electoral Reform lodged by Senator Farnham. Very well, we stand adjourned until 2.15 p.m.

[12:41]

LUNCHEON ADJOURNMENT

[14:15]

The Deputy Bailiff:

We now continue with Public Business, which is the Minister for Education: vote of censure.

6.1.1 Deputy R.G. Bryans:

Deputy Southern, at the beginning of this motion of censure said: "He did not bring the motion lightly" and I want to assure Members I do not take it lightly either. Journalists use the tried and tested writing method, a metaphor, called the inverted pyramid. In simple terms it aims to tell the heart of the story first, get all of the most salient details into that first paragraph. So in reply to this motion of censure, here are the most important things for you to know. I did not use misleading data. The data is sourced from the U.K. Department for Education, the National Union of Teachers and the N.A.S.U.W.T. (National Association of Schoolmasters Union of Women Teachers) scales of pay, published data. I have not misled this Assembly with the information I provided and I never will. To prove my point please look at the data I have provided, the same data I used last time I spoke on the matter. If you look at it you will see highlighted in green a series of figures that verify the amounts of pay for a newly qualified teacher in various jurisdictions: a snapshot. These are the figures that existed at the time the censure relates to. So if a newly qualified teacher was to finish college, regardless of the level of qualification they had received, they would expect, as an income in the U.K., about £22,000. If they came to Jersey £38,000; a difference of £16,000. This is not about levels but the money in the pocket. A differential has existed for the past 4 years and will continue to be in place. So to repeat, at no point have I ever attempted to mislead this Assembly. Deputy Southern's assumption is incorrect. If there was substance to this censure motion I would, as I have in the past, admit my mistake, apologise to the Assembly and move on. But this is not a matter of misleading, it is a matter of misunderstanding of interpretation. When I became the Minister for Education I said I would be open and transparent. It was a genuine commitment and one that I believe in and have followed through. The department is much more

open with its information in many ways and just 2 weeks ago we had a States Members' briefing which did just that. We set out our priorities, the progress we have made and the problems we encountered and we were commended by the Members who came with the amount we were doing. We do think long and hard about the actions we take. Other departments have praised our iterative approach. Officers research deeply, draw up proposals, discuss them with Ministers, redraft and change if necessary, consult schools and then publish. The whole drive of the department is towards better data in all areas and it is the fundamental principle that we base our decisions on, facts and research, just as you would expect from a team made up of educators and teachers. We admit that we do not always get it right but we are open and willing to be challenged if we do not. If necessary and if possible we are willing to think again. We also have a rigorous Scrutiny Panel that has been good at holding us to account. My door is always open and if anyone wishes to visit the department they would be more than welcome to come and discuss any issues with me. At no point has Deputy Southern, or indeed his colleagues who signed this censure, ever attempted to speak to me over the issue apart from in this Assembly. Deputy Southern's paper of censure includes tables and figures so Members could be easily confused into thinking this is a complex matter of points and pay scales but it is really, as several Members have already said to me, very simple. It is not about levels. It is about money in pockets. Let me explain. Teachers who started in autumn 2014, when I became Minister, were better paid than in any other part of the U.K. It was the same in 2015 and the same in 2016. It will still be the case in 2017 and 2018. Jersey teachers will have more, significantly more, money in their pockets. If you look at 2 teachers with the same skill and experience who have just qualified, one in Jersey and the other in London, the one living here will earn £38,296. In equivalent English schools they will earn £22,467. In London the best they can get is £28,098. The crux of Deputy Southern's argument is that I have not been comparing equivalent figures but I am sorry he is wrong. I have been comparing the starting wage of a newly qualified teacher here and in the U.K. The actual money they have in their pocket and you can see the difference is considerable. There is about £10,000 to £16,000 difference. That is a fact and it is not my fact. It is a fact you can find on the States website where our teachers' pay is clearly published. You can find the facts about U.K. wage rates on the websites of the N.A.S.U.W.T. You can also find those facts in the documentation of the National Union of Teachers. I understand why Deputy Southern and his colleagues are confused. The pay scales of Jersey and the U.K. are not an exact match. If you look at the tables and figures there are some facts that he did not tell you. It is this: in the U.K. the majority of newly qualified teachers start on level 1 of the pay scale. As I said before, that is about £22,500 in their pockets. In Jersey all our newly qualified teachers start on level 3; that is over £38,000 in their pocket. That is a fact, a simple fact that lies at the bottom of this debate. It is wrong to say that we should compare level 3 in Jersey with level 3 in the U.K. One is for a teacher at the start of their career. The other is for a teacher 3 years in. Of course nothing is straightforward. In theory, new teachers in England are eligible to start on level 3. In reality very few of them do. Nothing we found says that anyone but exceptions starts on level 3. This fact is backed up by advice from the National Union of Teachers in their latest guide on N.Q.T. pay and pensions and conditions. It says: "Most new entrants to teaching will normally be placed on the first minimum point of the school's pay scale for teachers on the main pay range." It goes on to explain the possible exceptions. The N.U.T. (National Union of Teachers) says: "Academies are able to set their own pay arrangements although there is no obligation upon them to do so." Most academies do follow the same provision as local authority schools. Our staff have also verified this through recruitment agencies. To reiterate: most U.K. teachers start on level 3; all Jersey N.Q.T.s start on level 3. I was surprised when I read the Hansard report of the previous States question but it suddenly became clear why the confusion has occurred. I misunderstood Deputy Southern's question and he extrapolated my answer. It was a question of syntax. I thought he was asking me to confirm that it is not the case that teachers in England start on level 3. They do not. Having read it again I think he was asking me to confirm

that English teachers also start on level 3. They still do not. I can see that our exchange may have caused confusion but it was absolutely never intended to mislead the Assembly and I hope I have clarified the facts here today. I would like to give the Members a snapshot of what faces N.Q.T.s at the point that they look for employment. A newly qualified teacher is generally in their 20s, mostly single. Therefore, all manner of reasons for choosing where they go for their first job; pay, terms and conditions are certainly one of them. The personal tax situation, accommodation and cost of living will also be given due consideration. The geographic location, the environment, including the quality of the school, the resources, the infrastructure and the general feel of the teaching profession in the area is also part of that focus. All of which Jersey offers a high quality. They could go to Slough, Swindon or Scunthorpe for £22,400 or they could come to Jersey with all it offers for much more, enough to cover the highest cost of living here. Some time ago, I may remind Members, that I mentioned visiting one of our primary schools and in there I mentioned the situation to a teacher who had returned to the Island and I explained to her the situation and she said: "That is amazing. If they have any problems coming here bring them to me and I will explain." She was telling me about the differences between here and the U.K., the resources that were open to her. She recounted a story about how in her first term at one of the schools in the U.K. she had run out of glue, thinking that all she had to do was go to one of the teachers in the line of order and it would be given to her and the teacher said: "No, you will have to wait for a full school year before you get that back again. So the resources were fabulous here", she said. "The I.T. equipment was incredible" and more than that she was really surprised at the sort of *esprit de corps* of the teaching profession. She thought it was fantastic. Teachers' pay is part of a much bigger picture in education. We are directing our spending so that we can get the most for every pound and our children are the beneficiaries and we do everything we can to ensure that they can thrive at school. In some of our schools the wage bill accounts for more than 90 per cent of the expenditure leaving our head teachers with little or no financial flexibility in their budget. Altering the N.Q.T. pay, newly qualified teachers' pay, is one measure that will help us to redress that. I would also like Members to appreciate how I feel about both my role and the teaching profession. I know it sounds counterintuitive for a Minister for Education to want to reduce teachers' pay but I must remind Members that this is part of a bigger complex plan to improve what we do for our children and redirect funds where they are needed most. As a Minister, it is my role to look at the budget and decide where the money is best spent. I absolutely support our teachers. I go into the schools all the time. I know how vital they are to the well-being, the education and success of our children and that is why the change is limited which is why I have put all my passion and energy into protecting our front line services. We are no longer looking at savings of £8,000 per teacher. After consultation with the union we are now proposing a simple change, to start using levels 1 and 2 in our pay scales again. This will still mean our new teachers in future start on £33,900, not £38,000. Still well above their friends in England. In fact still above inner London, Guernsey, the Isle of Man, Wales, Scotland and the rest of the U.K. We still value teachers. We are still paying them more. We recognise how important they are but this measure will make a saving and enable us to fund more nursery places, more higher education and more resources in our schools. If we need to recruit secondary teachers in a specific specialist area then that is where the funding should go as an incentive. So to be clear, we are not dropping N.Q.T. pay below the U.K. level. We are not cutting the pay of any existing teacher. We are not changing the top end of the scale. I have not used incorrect data. It came from the unions, and I have not and never will knowingly mislead this Assembly. **[Approbation]**

[14:30]

Finally, I hope I have convinced Members that I am still the same Minister for Education they placed their faith in at the start of this term of office. **[Approbation]**

6.1.2 Connétable M.P.S. Le Troquer of St. Martin:

I think of figures all the time. Working in a Parish, I have a very limited budget and I have to think of those figures. This is what the debate or the proposition today should be about. I think I wanted to speak today because Deputy Southern does mention me in his censure request today: the wonders of Hansard. The Deputy, of course, is always noted for doing his homework. It is unfortunate that the debate today comes immediately after the no confidence vote we had 2 weeks ago, but at least it has been brought immediately and we have not had to wait like we did to put the Minister out of his misery quicker. Just a couple of things I would like to have said, especially as one of those was possibly misled in the Minister's comments back in September. I believe the whole issue revolves around 2 little words: "up to" and those are words that I have seen and I have read several times. To me, the words "up to" mean just that and not necessarily applicable to everyone. That is the extremes and the variations and that is what Deputy Southern has picked up, obviously, and the Minister gave all those figures to us. Examples you may read in newspapers: "Income tax to rise", and then at the end of the "rise" there is a question mark. It is easy to get misled just by looking at a headline: "Italian lakes holiday £950" and then you see "up to" or "during the week starting in November", these little pieces that were inside the proposition. In my mind "up to" means anything and on that day it meant the optimum and the maximum. I was not confused with what the Minister put at that time. If you take out those 2 words, it is quite different: "Newly qualified teachers starting work in Jersey currently earn £16,000 or 70 per cent more than their counterparts in the U.K." Just taking out those 2 little words "up to", they are not there, then it is a statement that is being made. I confess to Deputy Southern that I did not use those 2 little words when I spoke in that debate and the Deputy has picked that out. I think we all have to accept that new teachers are going to earn less in the future. Is that something to censure the Minister, especially as all Members were able to question the Minister on the day and the Deputy repeatedly questioned the Minister and we were hearing the answers from the Minister? Again, is it enough to censure the Minister today, who wishes to use that money to reinvest in more and highest quality, highest calibre teachers in core subjects, sciences, mathematics and the like, and where he and the department find themselves struggling? The Minister has also replied in his comments on page 4, I think, following the advice from *The Times Educational Supplement* about qualified teachers' pay scales, a document that states: "Newly qualified teachers usually start on point M1, although other teaching experience may push you higher up the scale." The Minister then goes on to state that that is the exact position he finds himself in and that this Island wishes to take with newly qualified teachers to ensure that N.Q.T.s are paid a fair and substantial salary and are rewarding some that have been encouraged to take on extra responsibilities. So, really, I just wanted to say that those 2 little words "up to", this morning when the Deputy put the proposition to the Assembly, I think it started to move away about what the debate was going to be about or the censure motion. It started talking about teachers' wages and that was not what it should have been about. It is about a vote to censure. **[Approbation]** I will not be supporting the vote to censure the Minister.

6.1.3 Deputy A.D. Lewis:

Of all the propositions for censure that I have either been here for or have heard and read about in the media, I am afraid this must be one of the weakest. **[Approbation]** It is a parliamentary vehicle that should be used wisely and carefully and it should be there. I can think of many occasions in recent times where a censure could have been brought and possibly won with this particular Government. This is not one of them. I am afraid that I cannot support this. The speech that the Minister gave I thought was ... okay, it was more than we needed for the purpose of this censure motion, but it just demonstrated just how hard his department and the Minister are working on trying to achieve all sorts of things in education. They should be applauded, not censured. We have an obligation. In the Strategic Plan, the Council of Ministers have said that they have to and will push forward public sector reforms. This is part of it. Having money spent well, wisely, well-directed, which is what the Minister was talking about, is essential in order to make sure our front

line services are sustained. That is exactly what the Minister is doing. That is what he should be applauded for, not vilified for it. This is not the occasion to censure on this particular issue. On the figures on page 4 of the proposition, even if you take those figures into account there is still a saving of over £7,000. This is exactly the sort of thing that should be going on so we redirect those funds at things like specialist teachers. We have a fantastic education system but it could be a lot better, and that is what he should be focusing on, the Minister and his officers. His officers have spent hours on this censure, hours of officer time, which could be spent on policy making and doing things that really need to be done in the interests of our young people and education. That is what that time should be spent on, not preparing the Minister's defence on a censure of this nature. I cannot possibly support this and I would urge Members to not support it either. This is not the time. This is not the place. Well, it is the place but it is certainly not the time for a censure. I will leave it at that, but it just is not the thing to do and I would urge Members to vote against it.

6.1.4 Deputy M.R. Higgins:

The point I am just going to make is we are living in a new world and the new world is ... it could have been heralded - or maybe even preceded by others - by Donald Trump and alternative facts or an alternative truth. Unfortunately, there is far too much information that comes out of the Council of Ministers, whether it be education or anywhere else, which has a particular spin on it or at times could be described as alternative facts. In fact, I often think they operate in an alternative reality. I think it is absolutely vital that when Ministers speak we get full information and accurate information, and unfortunately it is not the case that we do. So I think if nothing else this particular proposition should be seen as a shot across the bows of Ministers that you are going to be watched for every word and every statement you make. Make them correct because if you do not, you are going to have to face the consequences.

6.1.5 Deputy S.M. Brée:

I think it is important that we look at the wording of the proposition as lodged by Deputy Southern. This is not about whether you agree that newly qualified teachers' pay should be reduced, increased, stay the same. This is not about the work that the Education Department do. This is a very clear motion of censure. I think we should possibly think about it more as a court case. We have heard the evidence for the prosecution as given by Deputy Southern. We have heard the evidence given by the defendant, and the question is: are we sure beyond all reasonable doubt, firstly, that the Minister gave us incorrect information; and secondly, he intended to mislead by giving that information? I am afraid that purely based on that criteria alone I do not believe that this motion of censure has been proven. Therefore, I think it is wrong that we should be spending time in this Assembly on a motion of censure that is not proven. **[Approbation]** Irrespective of your views of the Minister for Education or, indeed, the Council of Ministers or any other policy that comes forward, I think it is very important that we focus our attention on the wording of the proposition. Do we as an Assembly believe that the Minister has failed to maintain and strengthen the public's trust and confidence in the integrity of the States of Jersey by his repeated use of misleading data in the debate? Well, I for one do not agree with the motion of censure and, therefore, I do not believe it has been proven and, therefore, I will not be supporting it.

6.1.6 Deputy K.C. Lewis:

I will be very brief. I have criticised the Minister in the past regarding the teachers' money, but I do not think it is enough for a censure motion. I think the Minister should just consider this as a shot across the bow. There was something on the radio this morning that did make me smile when I heard that a senior officer in America had resigned because he accidentally gave incomplete information to the President, which did appeal to my sense of humour. But this is no laughing

matter. The teachers should be given an absolutely decent wage to come to Jersey, but I do not feel it is enough for a censure motion so I will not be supporting it.

6.1.7 Deputy M. Tadier:

The analogy of the courtroom is an interesting one, and I would suspect that rather than the beyond reasonable doubt test being applied it would be one of the balance of probability. I think that Members will no doubt be using that. On the balance of probability, from what they have heard from Deputy Southern and then what they have heard from the Minister for Education, in their minds was a censurable act committed in the information that was conveyed? I think that this debate has been useful because it seems to have taken a censure motion to get the figures and the clarification that the Deputy was after into the public domain. I do appreciate that there has been confusion, which has been alluded to by my colleague on the right and by the Minister. I noticed that the Minister in his defence said: "My door is always open and you can always come and talk to me." To be fair to the Minister, he is by no means the worst culprit of the current collection of Ministers that we have, and I do agree with the comments that Deputy Andrew Lewis said, that there are many censure motions that could be brought for this Government which would be even more compelling than this one. I do not disagree with that. I think we do live in an age of collective responsibility. We do live in an age where we are seeing increasingly, even today during Question Time, scenarios where Ministers ... some of them because others do give very concise answers which do seek to address the question posed. Other Ministers do not even answer the question and then when we come back, of course, saying: "Sir, the Minister has not answered our question" we are told, of course, the Ministers can address the question in any way that they wish to. There is a general malaise in this Assembly and with politics, but not exclusive to Jersey, that on so many issues incomplete answers, obfuscation, opaque answers are given, which do not address the underlying issues. So it stands to reason that while the Minister for Education's door may metaphorically always be open, at no point do I recall after these questions were being asked the Minister coming over to our benches and saying: "Look, what is it you are trying to get at? What is it that you do not understand that you are saying that I am misleading the Assembly with?" Because these charges were brought several times on the floor of the Assembly saying that the Minister has not answered the question, he is being misleading, inadvertently misleading, and this motion of censure was by no means the first port of call. There were ample opportunities in the meantime for the Minister to have cleared this up and those opportunities were not taken. I think Members are probably right that there ... in my mind, there are certainly other arguments why the Minister might not have my full confidence and that may well be more of an issue of confidence than an issue of censure, but broadly speaking I do not believe ... and it is difficult to divorce, of course, these particular answers from the wider context of what he is trying to do. We have been told by the Government and by this Minister by extension that they are investing in education. We know that is proven not the case. They have not been investing in education because the Scrutiny Panel themselves have told us that no extra money is going into education. It is simply that they are not having their budgets cut quite as much as other departments are.

[14:45]

My concern is that the Minister is not looking out for the best interests of our students because we know that pupils, whether at primary or at secondary school, it is not the building in which they get their education. The key factor and the critical factor in the educational outcomes, along with home prospects and home conditions, is, of course, who teaches them. I do not think it is possible for this Minister to preside over a policy where he is reducing teachers' pay, where we are making it less attractive for teachers to come back to the Island compared to what it is now and expect that in the future the educational outcomes that we have for our children in an already very divided education system will produce those outcomes. Now, I leave those thoughts with Members to decide whether

those comments are more directed at a vote of no confidence or a vote of censure, but certainly in my mind I have concerns about where our Education Department is going and the policy and the direction that it might lead for our current pupils, which should be in the forefront of all of our minds.

6.1.8 Deputy S.Y. Mézec:

I described the initial proposed cuts to N.Q.T. salaries as the intentional degradation of what is a noble profession, and I stand by that comment 100 per cent. I think it is a mistake to be doing this. Because of my interest in it as a subject, I have paid attention to questions when they have come up in this Assembly on this subject and also on the Scrutiny Panel quarterly hearings, the Scrutiny Panel on which I serve. I recognise the justification for this cut that we have now been given as being distinct to the one that I remember being given right at the very beginning of this. It is for that reason that I will be, of course, supporting this vote of censure against the Minister. He is now saying that we will be using entry point levels 2 and 1 in the future, which I think, while I do not agree with it, if that is the way to proceed with it, it seems to me that that is the way that you would do it rather than cutting the value of what entry point level 3 is. That I think is an argument that is distinct from what we were initially told right at the very beginning and I think what the trade unions have said - and he did wave his document from the N.U.T. - in Jersey about this cut has certainly not been supportive of it and they have been making their comments saying that this will negatively impact on the recruitment of teachers into the Island and that the 2-tier system it will create in our education system will be damaging for morale in the teachers' workforce. We want our teachers not only to be well qualified but to be paid properly for that job, to love their job and to be in the best personal circumstances to do their job well when they are in the classroom with those students so that we get the best outcomes for those students. This particular policy will not deliver that and I simply do not believe all of the excuses that are given about how somehow this is going to improve teacher recruitment and how we are going to improve our education system by doing this. I simply do not believe that. I think it is a nonsensical argument. What frustrates me the most ... the Scrutiny Panel did confirm that the initial so-called investment that was proposed in the Education Department was no investment at all. It was simply a rearranging of how monies are spent and it bugs me when Ministers will say: "No, we are investing in education because, look, we are doing this pupil premium. Is that not brilliant?" Well, yes, of course, the pupil premium is brilliant. I, of course, completely support the concept of that scheme and want it to be rolled out to an even greater degree than is currently being proposed, but I do not see how you can call something investment when you are taking from the people who will benefit from this other form of investment to fund that investment. That to me is not real investment. If you are going to be trying to improve services, be they in the form of pupil premium or in extra support for people who have care requirements, you do not take the money to fund that from those people. You take it from the people who are most able to pay in society and do it in a progressive way because there are unintended consequences from reducing support from those people. That is what I see here. I think by degrading this noble profession we are doing our education system and the young people of this Island no favours whatsoever. I think the argument in favour of this cut has been made most coherent today. The case that the Minister made today was clearly the best case in favour of it that he has made. I do not agree with it, but it is I think the most logical case he has made for it. It has not been the case he has made up until now and I think that that has poisoned this entire debate and I think it is a very sad episode for this Government that we are inflicting such a far-ranging cut to those teachers on the basis of an argument that has been flimsy and inconsistent up until now. So, I will be supporting the motion of censure.

6.1.9 Senator I.J. Gorst:

I am pleased to follow the last speaker because I was starting to find myself unsure about why this vote had been brought in the first place when I heard the mover of the proposition and even more so when I hear the third and second signatories to this proposition trying to say that the Minister had not explained the rationale for the change in approach in the first place. I was in the Assembly while he was making the case for the changes in his budget and he did make those changes clear. He did publish the details of the bands and it was quite clear, I think, to all Members that supported that change in his budget what was happening, the rationale for why he was making that change, and what he was potentially going to be able to do with that money to deal with the very issues that I know the mover of the proposition in the first place has about recruiting in areas which are difficult to recruit to. This rapidly has become a debate not about the information that the Minister supplied to this Assembly. I think Members who made their decision during the initial debate can account for why they made that decision, but as far as I am concerned the information was available and it has turned into a debate about whether the measure itself is an appropriate measure. Then we have also revisited this issue which the Scrutiny Panel said that if you take out the money that the department has been given for growth in numbers, if you suddenly take those millions of pounds out, and you look at the efficiency savings that the department has been asked to make, then there is the suggestion that the department has no growth. That was an argument that we had at the time. I do not accept the premise that you can simply take out millions of pounds that were given to the department for growth in demographics and one of the reasons I do not accept that is because that is not the practice elsewhere in the world. If we look across the water to our rather more northern than our near neighbours, our neighbours further to the north, we see there headmasters of various schools writing to their local authority complaining that they do not have money for demographic growth, that they are having to teach a greater number of students with a reduced budget. That is not the case. The Minister for Education and his department are delivering for pupils in our system. The point about pupil premium and is that being applied appropriately and should more money in due course be required, it is largely a case of looking at models which have worked elsewhere to raise standards, seeing if that model can work in Jersey and, having implemented it, then reviewing it in due course to see if it is raising standards, if it is creating greater opportunities for those pupils. I have no doubt whatsoever that it will need to be refined in due course to make sure that those pupils in the most vulnerable situation are being supported financially appropriately with this extra money. I am fortunate. I get to visit schools not only in my official capacity but also in my personal capacity. I have nothing but praise for what I see happening in our schools day in and day out. **[Approbation]** I know first-hand some of the pupils in some of those schools are not always easy to handle and do require great support and care. I congratulate those teachers and those institutions that I know from a first-hand perspective because they are doing a fantastic job. For many parents up and down this Island, they are the first choice for their own children. They are not a second choice or a choice because they cannot afford some other education. They are absolutely a first choice and those schools and the department that supports them and the teachers in those schools should be proud of the service that they are providing to our children and to future generations. So it is this Minister and his department - I see he is shaking his head now - that in my mind has rightly started talking about standards and improving the outcomes for all students right across the ability range and making sure that our education system delivers for each child, whether they can afford an education or their parents can afford to supplement the education or not. I want him to carry on doing that work. I think he is doing an excellent job and I think that even as the mover indicated in his opening speech ... Deputy Southern, some of the things he does he has passion and you sense a real desire for achieving something in his opening words. He did not have that this morning and I think he would be the first to acknowledge that. In fact, he even started his opening words with a suggestion that he was not quite sure whether it was 3 out of 6 increments or 3 out of 9 increments and how you should really manage that but, as I say, the debate has moved on from the information because the information

that was provided was right and what is being proposed I think is fair. The Minister should be allowed to get on with transforming the education system for the benefit of all of our pupils. That is about raising standards. It is about making sure that the curriculum is fitted to the purpose of this Island. That is not just about the economy, it is also about culture and heritage. It is about making sure that the French that is being taught in our schools is up to the appropriate standard. Only last week I was in the Confucius classroom at Hautlieu and there I saw inspirational students preparing themselves for the success not only of themselves but also this Island into the future. He should be congratulated, not censured, congratulated. **[Approbation]**

The Deputy Bailiff:

Does any other Member wish to speak on the proposition? Very well, then once I call on Deputy Bryans there will be no further opportunity for any other Member to speak. Deputy Bryans.

6.1.10 Deputy R.G. Bryans:

I will be brief because I believe this has run its course and I do not want to prolong the debate. I first of all just thank Members who have given me their support. I feel very humbled by that. That is something I will carry with me as I carry on with what I am doing. I just want to say 3 things. First of all, the data, because there has been a lot of reference to data, from Deputy Higgins in particular. This data is published and freely available on union websites in the U.K., on the Department of Education website in the U.K., and on our own States website. Education is still, as the Chief Minister has already said so I am not going to reiterate it, a high priority for this Government and remains so. Lastly but not least, I have the highest respect and the deepest admiration for the teaching profession on this Island and just like the Chief Minister said, I think they do a fantastic job. **[Approbation]**

6.1.11 Deputy G.P. Southern:

Thanks to all of those who spoke and contributed to this debate. Since we are into the practice of praising teachers, I too believe that teachers do an excellent job currently and that they are going to do an excellent job even when we cut their wages, I am sure.

[15:00]

But that is what will happen. They will be paid less. There will be a 2-tier system in our teaching force and that is to be straightforward on that. Interesting the points that Deputy Bryans made. He failed to address the case that we need to pick up specialist teachers and how many non-specialists are teaching A-level subjects in secondary. We have been promised those numbers for the last 4 or 5 months now. We have not seen them. He failed to make that case on the non-specialist teaching and it was a vital piece of information in terms of the overall picture: can we afford to reduce teachers' wages? He did mention the academies and in my research I have been looking at job vacancies and job adverts in particular from academies. It looks like academies have something like an additional £1,600 to £2,000 for specialist teachers that they want to attract and to make sure that the service that they are doing is correct. Deputy Bryans also talked about a misunderstanding when he said of my version it should be comparing level 3 with level 3. He said: "The Deputy is quite correct. I do not understand where the confusion came from in that." It was a very clear statement and Deputy Bryans said I have it right. The Constable of St. Martin had an interesting phrase. Apart from his reference to "up to" being key words in any statement, he also said: "And I suppose we will have to get used to all teachers earning less in the future." Well, it is very easy for us to get used to it; perhaps less easy for those teachers to get used to it. Interestingly, Deputy Bryans today said that he had discussed this with the unions, whereas a fortnight ago he said it was not raised with the unions; it was not raised with N.A.S.U.W.T. when they had their national officers over here. Deputy Higgins correctly said, I think, we should look at this as a shot across the bows for all Ministers to pay attention to make sure that they are giving a full picture. The

incomplete information is almost as misleading as misinformation when it occurs. The most spectacular piece of incomplete information is reproduced on page 9 of my report and it is absolutely crystal clear that what was given was a partial case. The Minister said, quoting the school workforce census: “The latest figures show there are reasons to be cheerful’ and that is a quote from them.” He did not go on to say what the rest of this article said, which was: “... there are reasons to be cheerful. Unfortunately, the bad news outweighs the good. The biggest concern is the number of teacher vacancies. Although there are more teachers, there are relatively more unfilled posts.” Then it went on to talk about posts filled by temporary contracts, *et cetera*. The fact is there is a crisis in teacher recruitment in the U.K. and there is serious danger that that crisis will occur here. We do not have the data on which to be confident that cutting teachers’ pay is the right way to go because of that recruitment and retention element. So, I maintain the proposition and call for the appel.

The Deputy Bailiff:

The appel is called for. I invite any Members not in the Chamber to return to their seats. I ask the Greffier to open the voting.

POUR: 4		CONTRE: 40		ABSTAIN: 1
Deputy G.P. Southern (H)		Senator P.F. Routier		Senator S.C. Ferguson
Deputy M. Tadier (B)		Senator A.J.H. Maclean		
Deputy M.R. Higgins (H)		Senator I.J. Gorst		
Deputy S.Y. Mézec (H)		Senator L.J. Farnham		
		Senator 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. 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 E.J. Noel (L)		
		Deputy J.M. Maçon (S)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		
		Deputy A.D. Lewis (H)		
		Deputy of St. Ouen		
		Deputy R. Labey (H)		
		Deputy S.M. Wickenden (H)		

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

[Approbation]

7. Draft Bank (Recovery and Resolution) (Jersey) Law 201- (P.134/2016)

The Deputy Bailiff:

The next item is the Draft Bank (Recovery and Resolution) (Jersey) Law - P.134/2016 - lodged by the Chief Minister. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Bank (Recovery and Resolution) (Jersey) Law 201-. A Law to provide for bank recovery and resolution and connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

This draft law was developed to ensure that Jersey has an up-to-date bank resolution regime in line with international standards. In simple terms, the law aims to reduce the bad things that can happen when a bank fails. Firstly, it enables banks to continue to offer key services to members of the public even if there is a failure. Secondly, it enables a newly created Resolution Authority to save banks without the taxpayer footing the bill. Thirdly, the law protects the man in the street's deposits if there is a failure by creating a new insolvency regime for banks. Members will recall that during the height of the financial crisis of 2008-2009, a number of banks were in difficulty. The likes of the Bank of America and Wells Fargo were bailed out under the \$700 billion Troubled Asset Relief Programme in the United States. English banks and building societies like Nationwide and HBOS were bailed out under the U.K.'s bank rescue package. Governments around the world struggled because they had to pay so much money to stop the banks going under. Initially, Governments did not act but losses arose in the cases of Northern Rock and Lehman Brothers. These failures created or contributed to widespread financial contagion, so Governments realised that they had to bail out banks to stop the entire financial system from collapsing. Jersey had many banks that failed overseas but we did not have any issues in Jersey. Other Governments had to, of course, bear the cost of problems arising in their own countries. These failings made states determined not to repeat past errors. Consequently, the G20 formed the Financial Stability Board. This went on to formulate and publish its key attributes for effective resolution regimes for financial institutions and I shall refer to them in future as "key attributes." Under this framework, many jurisdictions have implemented resolution regimes which provide tools for addressing banks in financial difficulty. This draft law draws mainly from the European Union's Bank Recovery and Resolution Directive, referred to as the B.R.R.D., which was agreed in 2014, and the United Kingdom's special resolution regime, which of course is still being developed but has the main blocks in place. In larger jurisdictions, similar laws aim to reduce the reliance on Governments bailing out banks. Here in Jersey our banks are subsidiaries or branches of larger overseas banks. Therefore, in Jersey it is likely that the law will be used to act side by side with larger jurisdictions who are taking resolution actions. The draft law aims to ensure that Jersey is sufficiently well equipped to be able to (a) assist a foreign jurisdiction in respect of a resolution action being taken on a bank conducting business in Jersey that is a branch or a subsidiary; and (b) deal with a scenario in which a bank in Jersey were to fail and stand-alone powers were needed to resolve the

local business, either of course as a result of the home jurisdiction taking action which does not satisfactorily deal with the local business or because Jersey is the home jurisdiction of the bank in difficulty. What does this mean in practice? Well, perhaps assisting a foreign jurisdiction is the simplest. Imagine that the U.K. resolution authority acts to resolve ABC Bank. There is a branch in Jersey. The Jersey branch is the subject of Jersey law. Jersey would normally, however, recognise the U.K. actions. This would prevent action being taken in Jersey against the branch that could frustrate the actions to save the bank in the United Kingdom. The alternative is taking resolution action in Jersey to save a Jersey bank. The resolution authority will consider if the bank can be let go without widespread financial contagion. The presumption is that banks will be allowed to fail. In that case, the bank winding-up process will be used. If, however, a bank needs saving there are various tools available to a resolution authority. These include the sale of business tool, the bail-in tool, the bridge bank tool and the asset separation tool. The tool that a resolution authority, of course, is most likely to apply would be the bail-in tool. The resolution regime aims to minimise the risk that the costs of the resolution of a failing bank are borne by Jersey taxpayers. The bail-in tool achieves this by ensuring that shareholders and creditors of a failing bank suffer appropriate losses and bear costs arising from the failure of the bank, sometimes commonly referred to as taking a haircut. The bail-in tool does not apply to claims of retail customers or those that are secured or otherwise guaranteed. However, in order to ensure that a bail-in tool is effective, the draft law seeks to apply to as wide a range of the liabilities of a failing bank as possible. A tool in practice would normally be used over a weekend. The bank then hopefully would reopen for business on Monday fully recapitalised. People with deposits in the bank will then be able to carry on their normal lives on Monday because the bank has been made strong again. It is a general principle of the key attributes and of the B.R.R.D. that a public administrative authority should be entrusted with the necessary public administrative powers to perform various functions and tasks under a resolution regime. The draft law creates a new resolution authority to exercise these powers. I would like to make it clear that at this stage no decision has been made on the question of whether the authority will be the J.F.S.C. (Jersey Financial Services Commission) or a new body. We are currently discussing the matter with the Commission and they are amenable to exploring that possibility further. It is important to get the law into force so that we can in future deal with bank failures and then the body will be appointed. This draft law also creates a new insolvency process. In the event that the Jersey resolution authority takes a decision to stabilise a bank normal insolvency proceedings will be excluded. If the resolution authority decides that it is appropriate to wind up a bank, the Jersey resolution authority would apply for a bank winding-up order under the new insolvency process. The main changes from the existing normal insolvency proceedings are protections for retail depositors, i.e. the man on the street as they are sometimes referred to. Provisions ensure that depositors who are eligible for compensation under the deposit compensation scheme receive pay-outs promptly or have their accounts transferred to another bank. Otherwise the bank winding-up procedure is modelled on existing insolvency law and practice set out in the Companies (Jersey) Law 1991 (Jersey Companies Law) under the framework of principles and objectives established in the U.K.'s Bank Insolvency Procedure.

[15:15]

This draft law may seem to be a tome but it has been subject to full consultation with the public, with the banking industry and with the Jersey Financial Services Commission. The Law Officers have approved the penalties in the draft law and given, as one would normally expect, advice that the draft law is compatible with the Human Rights (Jersey) Law. Officers and the former Assistant Minister have engaged with the Scrutiny Panel and briefed them throughout the development of this law. I propose the principles of the law to the Assembly.

The Deputy Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? The Deputy of St. John.

7.1.1 The Deputy of St. John:

I would just like to ask the Chief Minister a question with regards to the legislation that is coming forward. Under the financial and manpower implications it states that there are no consequences on the public purse with regards to this legislation. However, if we look under Article 16 it refers to this annual administration levy, which it suggests that banks in Jersey may be required to pay an annual administration levy which would be split as necessary in order to fund the Jersey Resolution Authority's expected recurring administrative costs. So I would like to know from the Chief Minister, should the banks decide or should there be a decision that the banks will not pay some form of levy where will the money come from in order to pay for the Jersey Resolution Authority and how would the legislation therefore be enforced?

7.1.2 Deputy M.R. Higgins:

Will the Chief Minister ... he mentioned about home and host sort of institutions, does Jersey currently have any banks for which we are the home jurisdiction? I know the British Bank in the Middle East was at one point, I do not know if it still is or it has gone or whatever. Secondly, he has made various references to the Depositor Compensation Scheme and he has obviously alluded to what has been going on in the U.K. On 30th January 2017 the U.K. depositor compensation level went up to £85,000, whereas I think the Jersey one is £50,000. Is he also planning on bringing proposals forward to raise the level of compensation for Jersey retail deposits to the £85,000 level as well?

The Deputy Bailiff:

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

7.1.3 Senator I.J. Gorst:

Perhaps I can deal with Deputy Higgins first. There is no current proposal to increase the amount payable from the Depositor Compensation Scheme, however I think it would be, in light of the changes in the U.K., appropriate to consider it but that is not part of this legislation. In answer to the Deputy of St. John, she raises a very good question, it is framed in the term "may". Consultation and work has been ongoing with the banks. They are aware that they will have to pay this levy and they are amenable to doing so but further consultation will be required when we know the final costings of running the authority. We expect currently it might be in the region of up to £250,000. What we would have to do is agree with the banks how it should be levied and it would probably be levied in a similar way to the Depositor Compensation Management Scheme levy, which is just a broad set amount per bank despite the size because it is just administratively easier to do it that way, but we will make sure that we have that conversation and get agreement. But the banks know that they will be paying and, as far as I am concerned, who would be the appointed Minister, that is a prerequisite that they will be paying the levy to pay for the setting up of the authority. For all the reasons that I said in my opening comments, this will bring us into line with the international standard in this area and it is appropriate that we approve this legislation to create this authority in due course. I commend the principles to the Assembly.

Deputy M.R. Higgins:

Could I ask a point of clarification? First of all the Minister did not answer my second question about whether we were a home jurisdiction for any bank. In other words, we are responsible for the bank rather than the bank's subsidiary. That is one. It is also a point of clarification because he mentioned about how the banks could be amenable, can he confirm that the banks were not

amenable when it came to funding the Depositor Compensation Scheme, so if the bank failed the initial funds would be paid out from the States Strategic Reserve rather than the banks by way of a levy. They opposed that quite vociferously. Is that not correct?

Senator I.J. Gorst:

I do apologise about the home jurisdiction question. There are no current banks where Jersey would be considered to be the home jurisdiction but home jurisdiction is an interesting term in that a bank may be a worldwide bank but the U.K. could still be considered to be the home jurisdiction for its operations either in the U.K. and the Channels Islands or even wider afield in Europe. So the U.K. would be considered the home jurisdiction for some of our banks but as far as I am aware there is no banks that we would be considered the home jurisdiction for. There is no point in us going over history. The world has moved on. There is a recognition that there is a need to maintain our competitive advantage, to have a Depositor Compensation Scheme that is structured in the way that the law says it should be structured. This does not change that. This shows that the banks are willing to pay this levy, that they understand that we have to show ourselves to be able to comply with the international standards right across financial services.

The Deputy Bailiff:

Do you call for the appel?

Senator I.J. Gorst:

May I, Sir? Thank you.

The Deputy Bailiff:

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

POUR: 40		CONTRE: 1		ABSTAIN: 0
Senator P.F. Routier		Deputy of St. John		
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				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy M. Tadier (B)				

Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

Deputy Brée, does your panel wish to call this matter into scrutiny?

Deputy S.M. Brée (Chairman, Economic Affairs Scrutiny Panel)

No, Sir, we do not.

The Deputy Bailiff:

Chief Minister, how do you wish to propose the Articles?

7.2 Senator I.J. Gorst:

It is quite detailed so I will be doing them in sections and I hope that the Assembly will bear with me. If I do 1 to 3 to start with. Article 1 sets out definitions for certain terms used in the law, many of these are in effect linking the terms of the draft law into other laws. Article 2 sets out the circumstance in which a bank is deemed to be failing or likely to fail and Article 3 creates the scope of the draft law and it provides that the law applies to a bank registered in Jersey under Banking Business (Jersey) Law 1991 or a holding company or a subsidiary of such a person, if such are Jersey companies. I propose those Articles.

The Deputy Bailiff:

Are Articles 1 to 3 seconded? **[Seconded]** Does any Member wish to speak on the Articles 1 to 3? Those in favour of adopting Articles 1 to 3, kindly show. Those against? Articles 1 to 3 are adopted.

7.3 Senator I.J. Gorst:

I propose now parts 2 and 3 which are Articles 4 to 22 and I am proposing to take the schedules at the end so if you are happy with that approach?

The Deputy Bailiff:

Yes.

Senator I.J. Gorst:

Even though they are linked through to other Articles. So Article 4 provides for the creation of the Resolution Authority as a body corporate. Article 4(1) establishes a general principle of independence of the authority. Consequently, the authority shall be independent of the Minister

and of the States and neither the Minister nor the States shall be liable for any act or omission or debt or other obligation of the authority. Article 7 sets out the functions of the authority. These are to make preparations to facilitate the resolution of banks, to administer the resolution of banks to carry out such functions in relation to bank resolution or recovery, or such incidental or ancillary matters as are required or authorised by the law or regulations made under the law and to carry out such other functions as are conferred on it by the law or any other enactment. Article 10 says a key provision, this limits the liability of the authority and other persons acting for the authority who are performing any duty or exercising any power on behalf of the authority. The exclusion from liability is only excluded if there is actual omission. If the act or omission is in bad faith then that is important, and I will come back to that. It also excludes liability of the States or any Minister in respect of any delegation of functions to the authority. Articles 15, 16, 17 and 18 provide for the funding of the authority. As we have just said in the principles, there is a second fund created if a bank fails. Article 22 provides for the establishment of a Jersey Bank Resolution Fund for the purpose of paying for the costs of applying the resolution tools and the Jersey Bank Resolution Fund mirrors the structure of the Depositor Compensation Fund. The fund will be controlled, managed and administered by the authority and, as we have also said, the authority has the power to recover from a bank that has failed any funds paid out of the fund in respect of the bank. I propose therefore Articles 4 to 22.

The Deputy Bailiff:

Are Articles 4 to 22 seconded? **[Seconded]** Does any Member wish to speak on Articles 4 to 22? Those Members in favour of adopting Articles 4 to 22, kindly show. Those against? Articles 4 to 22 are adopted.

7.3 Senator I.J. Gorst:

Now I will go on to part 4, which is Articles 23 to 27. Article 23 requires a Jersey bank to draw up and submit to the Commission for approval a recovery plan setting out measures to be taken by the Jersey bank if the bank starts to run into trouble but is not insolvent. It is envisaged that all banks will have to submit recovery plans. It is expected that many banks, of course, will submit parts of their overall group plans and that the principle of proportionality will be followed. Article 24 requires the authority, in consultation with the Commission, the Home Resolution Authority and other relevant resolution authorities to draw up resolution plans for Jersey banks. Not all banks will have to prepare plans, it depends on the necessity of such based on the systemic importance of the Jersey bank or the Jersey bank's group. Where the authority is required to draw up a resolution plan, which includes within its scope branches or subsidiaries of a Jersey bank in jurisdictions other than Jersey the authority must have regard to the potential impact of the resolution measure in such other jurisdictions. Article 26, the authority must, in consultation with the Commission, set for each Jersey bank a minimum requirement for its own funds and eligible liabilities. I propose Articles 23 to 27.

The Deputy Bailiff:

Are Articles 23 to 27 seconded? **[Seconded]** Does any Member wish to speak on Articles 23 to 27? Those in favour of adopting those Articles, kindly show. Those against? Those Articles are adopted.

7.4 Senator I.J. Gorst:

Now I go on and propose part 5, which is Articles 28 to 50. Article 28 sets out the notification requirements for the management of a bank to notify the Commission and the authority if the bank is failing or likely to fail. On receiving a notification that a bank may be failing or likely to fail the authority must determine whether the resolution conditions are met in respect of that bank. Where the authority determines that the resolution conditions are met in relation to a bank, the authority

must give notice of that determination as soon as practicable to relevant persons, including the Commission, the Jersey Depositor Compensation Board and the Minister. Article 29 sets out the powers of the authority which may be exercised individually or in any combination for the purpose of enabling the authority to achieve the resolution objectives. Article 31 gives the authority or commission the power to take early intervention measures where the authority or commission is satisfied that a bank infringes or is likely, in the near future, to infringe various capital requirements. It is expected that a holistic view will be taken having regard to the strengths and powers of the relevant resolution authority and having regard to the guiding principles, including the best economic interests of Jersey.

[15:30]

Article 33 sets out the resolution objective which the authority must consider in exercising the resolution powers and resolution tools in respect of a bank. The authority must exercise the resolution powers that best achieve the resolution objectives that are relevant in the circumstance. Article 34 sets out the resolution conditions which must be met in order for resolution action to be taken. Those conditions are (a) the bank is failing or likely to fail; (b) having regard to timing and other relevant circumstances it is not reasonably likely that any action will be taken by or in respect of the bank that will prevent the failure or likely failure of the bank within a reasonable timeframe; and (c) the taking of resolution is in the public interest of Jersey. Further principles are set out in Article 35, these include that the shareholders shall bear the first losses, also that no person should bear greater losses than would have occurred had the bank been wound up under relevant insolvency proceedings unless it is in the public interest. This is known as the “no creditor worse off” principle and it is a key protection for creditors. Article 38 makes provision for the authority to seek funding under the government financial assistance tool in extraordinary circumstances if a systemic risk crisis exists. However, in order to safeguard the public it cannot be requested unless the bank’s shareholders and the creditor will suffer at least 8 per cent of the total liabilities. A request can be refused and this follows the European directive and the English Resolution Law. Before any resolution action is taken a fair and realistic valuation of the assets and liabilities of the bank is required to be carried out. The valuation will be an integral part of the decision made by the Jersey Resolution Authority as to whether or not to apply a resolution tool. Under Article 44 the authority must carry out a pre-resolution valuation of the assets and liabilities of the bank by an independent valuer or it may rely on a pre-resolution valuation carried out by another relevant resolution authority. In practice, it is likely that valuation exercises will be carried out on a global level by one firm of accountants. The purpose of the pre-resolution valuation will inform the decision of whether the resolution conditions or the conditions for the write-down or conversion power are met. If the resolution conditions are met it will inform the decision on which resolution tools should be used. I just want to double-check that I have ... Okay, I maintain Articles 28 to 50.

The Deputy Bailiff:

Are Articles 28 to 50 seconded? **[Seconded]** Does any Member wish to speak on Articles ... Deputy Higgins.

7.4.1 Deputy M.R. Higgins:

Perhaps the Minister can provide us with some information. Very often when a bank fails the regulatory authority are among the last to find out. In fact, it used to be a joke years ago when I was in the Financial Services Commission that the first time that you find that a bank has failed is when you read it in the *Financial Times*. Because although you have M.O.U.s with different governments and the bank heads, the chances are a crisis will be perpetuated where they think they can sort it out and they leave it and leave it and the banks goes down. Can the Minister tell us what M.O.U.s or other mechanisms are in place so we do get early warning that a bank is in trouble

rather than it just happening? Secondly, can he tell me what requirements there are in Jersey for the different Tier 1 capital requirements for the banks and so on so that we can see whether they have been complying or are we relying on other member states who have much bigger regulators who are going to try and tip us of that there is a problem?

7.4.2 Deputy J.A. Martin:

I just have 2 questions. One on Article 40 where the Minister speaks about the new law must be compliant with the Competition (Jersey) Law 2005 except where a derogation for Competition (Jersey) Law is required. I can understand it talks about delay. Can the Minister please give me a ballpark of what sort of delay might be applied for to then override, or not comply, with the Competition (Jersey) Law? On 43(1) the authority may appoint a special manager to replace the management of a bank in resolution. Could that manager be another person who was maybe not management in the bank but has, as 42(2) requires, the skills and the necessary knowledge for that position, because it does talk about the possibility the term will be a year further down the Article? So that is just 2 questions on those 2 Articles.

The Deputy Bailiff:

Does any other Member wish to speak on Articles 28 to 50? I call on the Chief Minister to respond.

7.4.3 Senator I.J. Gorst:

The world has moved on and the way that regulators regulate banks and the flow of information between banks and regulators has changed dramatically from the world that Deputy Higgins is referring to, which led to the financial crisis. I am not sure it is fair to say that regulators only found out about failing banks from reading it in the *F.T. (Financial Times)*. But what these new rules and regulations do, and the setting up of these new authorities do, mean that authorities can be a little bit more proactive so it is not just when a bank is failing, but it is where regulators think that there might be actions taking place which may lead to failure in due course. The Deputy will know that from reading the various Articles and the ability to intervene in those various Articles. But they need to act together in a co-ordinated way and this is what these regulations do there. It will allow the Jersey Authority to act in concert and in co-ordination with be it the home jurisdiction regulator and authority. That is probably the most likely way that this law will be enacted and that we will see the Resolution Authority act in concert with, most likely again, the U.K. Authority, although it may be other authorities. This piece of legislation is about allowing, because while it is not fair to say anymore that regulators hear what is going on in a bank on the front page of the - I was going to say the *J.E.P.*, that is a slip of the tongue - *Financial Times*. It is absolutely the case that governments looking on how they handled the banking crisis in the great financial crisis would admit that they should have acted sooner, faster and intervened earlier, and this is why there are derogations, particularly around the Competition Law that Deputy Martin spoke about, so that they do not have to have regard to those competitive elements. Their regard primarily is ensuring that they can deal with a failing bank either through allowing it to wind up if it is not systemically important in all the test that the law says they should look at or resolving it in order largely to protect the man in the street's deposits. That is what this is all about. At the same time ensuring that the taxpayer does not have to put their hands in their pocket to bail out those banks. They are the premise that this legislation is based on and is trying to achieve. The Deputy also asked a question about bringing a manager in from outside of the failing bank or the bank to be resolved and it is expected that those managers would be from outside the institution and not from within the institution. I am not sure that there are any more questions but I maintain Articles 28 to 50.

The Deputy Bailiff:

Very well, those in favour of adopting those Articles 28 to 50, kindly show. Those against? Articles 28 to 50 are adopted.

7.5 Senator I.J. Gorst:

Thank you, we will move on to part 6 which is 51 to 89. Article 51 gives the authority the power to apply the sale of business tool to a bank by effecting a compulsory sale of all or part of their business. This may be done by transferring the shares of the bank or through property transfer instruments. A bridge bank may be created as well in order to or alternatively to hold critical functions and assets such as depositor's protected deposit prior to being sold if no purchaser can be found quickly. Article 58 provides for the application of the bridge bank tool by permitting the authority to own a company already set up for this purpose and giving it powers to transfer rights and liabilities to the bridge bank. The asset separation tool is designed to work like a bridge bank, however a bridge bank holds assets that are designed to be sold and kept. The asset management vehicle is normally a vehicle to hold assets that are being liquidated. Typically they hold bad assets which need to be taken off a failing bank in order for the bank to survive. Article 63 provides for the authority to apply the assets separation tool to a bank in resolution. The bail-in tool is the one that oversees resolution authorities such as in the U.K. are most likely to use and the same is expected to apply to the Jersey Authority. Article 65 provides for the application of the bail-in tool in a number of ways but principally it will be used to recapitalise a bank. The resolution regime aims to minimise the risk that the cost of the resolution of the failing bank are borne by Jersey taxpayers. The bail-in tool is intended to achieve this objective by ensuring that shareholders and creditors of a failing bank suffer appropriate losses and bear an appropriate part of the costs arising from the failure of the bank. This is done by writing down the value of shareholdings to zero. Creditors receive a reduction in the amount that the banks owe them and shares in place of the amount their claims have been reduced. As in B.R.R.D., the bail-in tool does not apply to claims that are of retail customers that are secured, collateralised or otherwise guaranteed under Article 65(7). In order to ensure that the bail-in tool is effective and achieves its objectives, this draft law seeks to apply to as wide a range of unsecured liabilities of a failing bank as possible. Article 73 gives the authority acting in agreement with and under the direction of the Minister to apply the government financial assistance tool to a bank by providing extraordinary public financial support to the bank. This power is highly unlikely to be used for all the reason as the basis and the premise for the creation of these authorities in the first place. Article 74 gives the authority the power to issue a mandatory reduction instrument. This is used to write-down or convert relevant capital instruments or other liabilities of a bank in resolution into shares of the bank. The authority may only exercise the write-down or conversion power after carrying out a pre-resolution valuation or a provisional valuation if applicable. Articles 76 to 85 contain the resolution safeguards designed to protect shareholders and creditors as I referred to earlier. Article 76 provides for fair treatment of shareholders and creditors in the case of partial transfers and application of the bail-in tool. It ensures that they will be treated at least as well as they would have been in an insolvency. That is an important protection and safeguard. Article 77 is another important provision. It makes provision for a difference of treatment valuation to be carried out. This valuation will compare the treatment that shareholders and creditors have been afforded. It will consider the treatment that they would have received under normal insolvency proceedings. The purpose of this valuation is to ensure that people are treated fairly. So this is the primary safeguard to, after the event, look to see that those individuals who might have had assets written down or liabilities amended, whether after the event the decision at the time was right and they were not worse off than they would have been had the bank failed.

[15:45]

Article 78 provides the remedy for shareholders and creditors. They are entitled to the payment of the difference from the resolution fund if, on application of a resolution tool to a bank, they incur losses that are greater than they would have incurred under relevant insolvency proceedings. So that is saying that if that measure found that they had been treated in an unfair manner or disadvantageous manner then they would be rectified financially for that, or financial rectification would be provided. Article 88 requires that the Authority submits a report to the Minister with respect to any resolution action taken in respect of a bank. The report must include a summary of the financial information relating to the resolution of the bank, including the findings of each of the valuations carried out. The Minister must lay the report submitted to him or her before the States as soon as practicable after it is submitted. Article 89 provides for the recognition of foreign resolution actions and for the circumstances in which the Authority may refuse to recognise a foreign resolution action. I, therefore, propose Articles 51 to 89.

The Deputy Bailiff:

Are Articles 51 to 89 seconded? **[Seconded]**

7.5.1 Deputy M.R. Higgins:

Could I ask the Minister to explain further Article 56 which it says allows for the delay of disclosure of information to the public on application of the sale of the business tool. That is the first one. The second one is Article 73, the Minister said that this gives the Authority, acting in agreement with or under the direction of the Minister, to apply the government financial assistance tool to a bank by providing extraordinary public financial support to the bank for the purpose of resolving the bank. Now, the Minister when he was speaking said it is highly unlikely. If it is highly unlikely, why have you got the clause there saying that there will be a provision that if necessary it can be applied to the bank? If that provision is there, what is the cap on how much money the Government would be expected to provide, or is it unlimited?

7.5.2 Senator I.J. Gorst:

Perhaps I could take the final question first. The requirement to call upon the government assistance tool would need to come back to this Assembly for agreement because it would require changes to the Public Finances Law, so that is the safeguard. This law is saying in principle it is a tool which should be in place which may be required in exceptional circumstances. I could think of exceptional circumstances: it might be that local people would lose their houses because of the loans that they have got against them if this tool were not in place. So there may be exceptional circumstances that the Minister would want to consider in order to deliver that type of safeguard above and beyond the safeguard which is about depositor protection. It meets the international standard. Other resolution authorities have the ability to call upon this government funding tool and, therefore, it is appropriate that we do. In our system, however, we also have that safeguard of needing to, as I understand it, amend the Public Finances Law to allow for it in due course. So there will be further conversation and consultation which will need to take place in that regard, but it needs to be there for extremely exceptional circumstances. But, bearing in mind, as the Deputy knows, one of the main purposes of the Financial Stability Board that the G20 set up, and then the E.U. (European Union) in their directive created, and the U.K. in their resolution authority, is about ensuring that we have got systems in place so that we do not need the taxpayer to bail out banks into the future in the way that we did in the past. So the entire basis of these resolution authorities, and this law, is to try and avoid that eventuality.

Deputy M.R. Higgins:

Obviously the Minister has not answered the first one about the need to keep information from the public, which was Article 56. Further, in his answer to Article 73, he mentioned that it would have to be brought back to this House and changes made to the Public Finances Law. Well, as law

changes could take a year is that not sort of leaving it rather late if we have a bank failure and we have to use that provision that you are going to have to try and change the law at that point?

Senator I.J. Gorst:

Article 56 is a difficult one and I do not expect the Deputy to accept it. But there will be some decisions that the Authority needs to make, and commercial decisions that will need to be had that it would be appropriate that in the first instance that information is not put into the public domain. Some of that is the deals that might be struck with certain asset classes that the bank is holding, or people who have got assets that are being held by the bank. Deals like that do have to be made from time to time in order to safeguard the general operation of the bank, and that provision is in there to allow that again to take place. The Public Finances Law, I am not sure I can win on that argument because on the one hand I am saying there is a safeguard that it would need to come back on, the other in answer to the question that the Deputy seemed to be suggesting that it should not be there, and now he is criticising me or Treasury for saying that it is an extra safeguard and it might take a long time to come forward. That is just the way it is. We are moving forward, these things do take time because they are technical and they need to be given appropriate consideration.

Deputy M.R. Higgins:

Can I just say I am not arguing one way or the other, I am just trying to clarify ...

The Deputy Bailiff:

No, Deputy, you cannot say it, I am afraid. Seeking a point of clarification is one thing but making a point of your own is a different thing. Those in favour of adopting Articles 51 to 89 ... the appel is called for. I invite Members to return to their seats. If Members have had the opportunity of returning to their seats I ask the Greffier to open the voting.

POUR: 27		CONTRE: 3		ABSTAIN: 0
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator A.J.H. Maclean		Deputy M.R. Higgins (H)		
Senator I.J. Gorst		Deputy S.Y. Mézec (H)		
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. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy A.D. Lewis (H)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				

Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

7.6 Senator I.J. Gorst:

I am slightly astounded by that last vote, but there we are. I will move on to Articles 90 to 142. In the event that the Resolution Authority takes a decision to stabilise a bank using the stabilisation tools, normal insolvency proceedings - including the bank winding-up procedure - will be excluded. However, if a decision may be made to let a bank fail because for example it has no retail depositors and is not systemically important, then the Resolution Authority would apply for a bank winding-up order under this new procedure. Article 90 provides for an application for an order for the winding up of the bank to be made on any one of 3 grounds: firstly that the bank is unable or likely to become unable to pay its debts; secondly that the winding up of the bank would be in the public interest; or thirdly that the winding up of a bank would be fair. Articles 91 to 104 deal with practical matters such as notice; rights to be heard; the decision of the Court and the winding up orders that may be granted; turning off other insolvency procedures in respect of banks; the appointment of a bank liquidator, their objectives, powers; and the creation of the bank liquidation committee. Articles 105 to 127 deal with various matters including powers to disclaim onerous property; leases; the power the seek directors from the Court; the termination of the bank liquidator’s appointment; reclaiming sums if the bank entered into transactions at an undervalue of gave preferences unfairly to certain creditors; responsibility for wrongful trading; fraudulent trading; a duty to co-operate with the liquidator; and the reporting of misconduct by the liquidator to inappropriate parties for action to be taken. Articles 126 to 142 provide for matters including the distribution of the bank’s property; the paying of interest on debts; the enforcement of a liquidator’s duty; the retention and disposal of records; provisions relating to the disclosure of information; creditor’s meetings; the determination of a bank winding up; and the final dissolution of the bank and the assistance of foreign authorities. I propose Articles 90 to 142.

The Deputy Bailiff:

Are Articles 90 to 142 seconded? **[Seconded]** All those in favour of adopting Articles 90 to 142 kindly show. Those against? Those Articles are adopted.

7.7 Senator I.J. Gorst:

Could I now propose parts 8 and 9. Articles 143 to 163 deal with the investigation of wrongdoing in a bank and restrictions on the disclosure of information. They are standardised provisions taken from the Companies Law and the regulatory laws. The provisions include the appointment of inspectors; the powers of inspectors; the ability to apply to the court of penalties if a person refuses to comply with the inspectors; the making of public statements; production of reports; and which information is privileged. I propose Articles 143 to 163.

The Deputy Bailiff:

Are those Articles seconded? **[Seconded]** Those Members in favour of adopting Articles 143 to 163, kindly show. Those against? Those Articles are adopted.

7.8 Senator I.J. Gorst:

If I may then finally propose part 10 which is Articles 164 to 178, and the Schedules to the draft law as well. Thank you.

The Deputy Bailiff:

Are those Articles seconded, and the schedules? **[Seconded]** Those Members in favour of adopting Articles 164 to 178 and Schedule 1 and Schedule 2, kindly show. Those against? Those Articles and the Schedules are adopted. Do you wish to propose the matter in Third Reading, Chief Minister?

7.9 Senator I.J. Gorst:

If I may, thank you.

The Deputy Bailiff:

Is the law seconded in Third Reading? **[Seconded]**

7.9.2 Senator I.J. Gorst:

I thank the Dean for his very kind comments. I know that Members find it sometimes uncomfortable when there is a very detailed piece of legislation, as we have just been through. I think it shows us 2 things: the first is, if I build on the words of the Dean, it shows that we have some exceptional people working for us ensuring that we can put in place legislation and then act upon that legislation to meet relevant international standards that even some large countries struggle to deal with appropriately. There are a former members of staff, members of staff back at Cyril Le Marquand House, people from private practice who have been brought in on secondment to help with the delivery of this piece of legislation, and I thank them for their effort.

[16:00]

Today we have seen also that I have had to step into the shoes - and I do not mind doing so because I share responsibility or have done for financial services - of the former Assistant Minister, Senator Ozouf, and again we see another excellent piece of work that he has driven to the point of not quite completion but it is completed or at least this part of the legislation completed today. So I thank all of those involved in getting us to this point. What it also shows to us I think - my second point - is that the way that we deal with second readings and we scrutinise detailed important legislation, which in this instance I congratulate the Scrutiny Panel for because I know that they have tested officers, they have worked hard with officers to get us to a good point today. But that means there are 5 or 6 members of the Scrutiny Panel who are *au fait* and understand the reasoning and the work that has gone into this, together with the officers. But the majority of Members in the Assembly, because we do not have Legislative Committee scrutiny like there are in other parliaments, find that sometimes it is difficult to manage these detailed pieces of legislation. I think that we need in our system to address that particular issue because it cannot be right that 5 Scrutiny members, the Minister and their Assistant, are the only ones who have a good understanding of really important pieces of legislation like this and we need to correct it. But all of those involved, the Scrutiny Panel and the officers, the former Assistant Minister, I thank them for their input into getting us where we are today, not to mention the law officers. Thank you. Could we have the appel please?

The Deputy Bailiff:

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

POUR: 30		CONTRE: 2		ABSTAIN: 0
Senator P.F. Routier		Deputy of St. John		
Senator I.J. Gorst		Deputy M.R. Higgins (H)		
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. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

8. Draft The Law Society of Jersey (Amendment No. 4) Law 201- (P.136/2016)

The Deputy Bailiff:

Very well, the next item of Public Business is the Draft The Law Society of Jersey (Amendment No. 4) Law - P.136 of 2016 - lodged by the Chief Minister. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft The Law Society of Jersey (Amendment No. 4) Law 201-. A Law to amend further the Law Society of Jersey Law 2005. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

I would like to ask Senator Bailhache to present this law, thank you.

8.1 Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):

This draft law has been under development for quite some time, having initially arisen out of a judgment of the Royal Court in 2011, and then a report by a local practitioner on behalf of the Law Society which was published in 2012. The primary aim of the amendment is to improve the procedures for dealing with complaints against Jersey advocates and solicitors. The legislation has been taken forward by the Law Officers' Department, acting on behalf of the Legislation Advisory Panel, which I chair, and the Law Society has been very closely involved throughout the process. The draft has been the subject of extensive consultation with the judiciary and with the legal profession. The opportunity has been taken in this amendment to introduce a change to the law to allow for the recognition of legal services bodies, which will be legal firms incorporated as limited liability partnerships. This change was again promoted by the Law Society and the Financial Services Unit within the Chief Minister's Department as a means of improving the efficiency of the

provision of legal services in the Island, but also to ensure that such legal services bodies are amenable to the disciplinary jurisdiction of the Law Society and of the Royal Court. The full details of the draft law can be found in the comprehensive report of the Chief Minister, but I will highlight a few aspects of those issues during the second reading of the Bill, assuming that Members approve the principles. It is important that the Island's legal profession is a properly regulated institution and that Islanders have an avenue by which to complain of instances where a professional has fallen below the high standards which the Law Society and indeed society in general expects the legal profession to maintain. I move that the principles of the Bill be adopted.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Those in favour of adopting the principles ... Deputy Labey.

8.1.1 Deputy R. Labey:

I just worry that this legislation has come about through, we learned, consultations with the Legislation Advisory Panel, the Law Officers' Department, the Law Society, and has been subject to consultation with members of the legal profession and no one else outside of the legal profession, maybe outside of the Island. I do not have anything against lawyers or the legal profession, some of my best friends are lawyers, I do not want to add to the onerous law of the relevant Scrutiny Panel but I do feel this should be scrutinised to just check. Because it all appears very in-house and I think we should be very careful about that.

8.1.2 Senator P.M. Bailhache:

It is true that the amendment to the law has been almost exclusively examined by different lawyers, but I would add that the members of the Legislation Advisory Panel, who are not all lawyers, have examined the draft as it has gone through its different processes. But of course, as with any amendment to any law, one tends to consult initially with those who have a particular expertise in the subject of the legislation in question. Then the Bill or draft law comes to this Assembly and it becomes open to scrutiny by any Member of the Assembly. I do not know whether the Scrutiny Panel wishes to scrutinise the legislation, I would certainly have absolutely no objection to that if the Scrutiny Panel desired to do so. But at the end of the day it is a matter for Members to examine the proposed amendments to the law on their merits and to take a decision, so I maintain the principles of the Bill.

The Deputy Bailiff:

Those Members in favour of adopting the principles of the Bill, kindly show. Those against? Well, the principles are adopted. The question of scrutiny now arises, Corporate Services Scrutiny Panel, Deputy Le Fondré?

Deputy J.A.N. Le Fondré of St. Lawrence (Chairman, Corporate Services Scrutiny Panel):

Yes, having had some requests from Members we are going to call it in, thank you.

The Deputy Bailiff:

When would you anticipate being able to report on it then and bring it back to the Assembly?

Deputy J.A.N. Le Fondré:

It will have to be at the latest date possible. I have not got the date in front of me but ...

The Deputy Bailiff:

That is in 4 meetings' time?

Deputy J.A.N. Le Fondré:

Yes, exactly.

The Deputy Bailiff:

That would be the sitting on 2nd May, so your proposal is to bring it back on 2nd May?

Deputy J.A.N. Le Fondré:

I make the point if we can do it earlier we will do but we will go for 2nd May.

The Deputy Bailiff:

Very well, the matter has been called in by the Scrutiny Panel. Do Members agree that the Scrutiny Panel may revert by no later than the sitting on 2nd May?

9. Draft States of Jersey Police Force (Chief Officer and Deputy Chief Officer) (Jersey) Regulations 201- (P.139/2016)

The Deputy Bailiff:

We now move on to the Draft States of Jersey Police Force (Chief Officer and Deputy Chief Officer) (Jersey) Regulations - P.139 of 2016 - lodged by the Minister for Home Affairs. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft States of Jersey Police Force (Chief Officer and Deputy Chief Officer) (Jersey) Regulations 201-. The States, in pursuance of Articles 9 and 33 of the States of Jersey Police Force Law 2012, have made the following Regulations.

The Deputy Bailiff:

I understand, Connétable, that in the absence of the Minister you will be the rapporteur for this piece of legislation.

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

Members who were serving in the Assembly at the time will recall that in May 2012 the States Assembly adopted the States of Jersey Police Force Law 2012. Article 9 of that law provided for the Assembly, by Regulations, to prescribe the manner in which the Chief and Deputy Chief of Police may be appointed, and the circumstances and manner in which they may be suspended and dismissed from office and by whom. It also provided that the Regulations could cover disciplinary arrangements and matters relating to the handling of complaints against both the Chief and Deputy Chief. These draft Regulations, therefore, make provision for the appointment, suspension and removal of the Chief Officer and the Deputy Chief Officer of the States of Jersey Police. In addition, the draft Regulations establish procedures for dealing with complaints and conduct which may give rise to criminal or disciplinary proceedings. In essence, the Regulations provide structure for dealing with these matters where previously no structure has been in place. In terms of appointments, the draft Regulations allow for the Minister for Home Affairs to appoint a Chief Officer or Deputy Chief Officer of the States of Jersey Police. Importantly, this can occur only after consultation with the Jersey Police Authority, and having given at least 2 weeks' notice to this Assembly. This is consistent with the decision made by the Assembly in February 2010, that was P.205 of 2009, with certain appointments being made by the Assembly, as agreed, the Minister would be required to present a report in relation to the proposed appointment which could not then be confirmed for at least 2 weeks. The draft Regulations also set out the procedures for suspending or removing the Chief or Deputy Chief Officer from post. By way of example, the Regulations

would allow the Minister to suspend the Chief or Deputy Chief in order to maintain public confidence or to avoid prejudicing an investigation being conducted under these Regulations. The procedures for suspension are also set out and require, unless in exceptional circumstances, an investigating panel to make a report before a suspension can take place. The draft Regulations also lay down the procedure for dealing with complaints against the Chief or Deputy Chief by any member of the public. These might relate both to the manner in which either have carried out their functions under the law, or an allegation of either a criminal or disciplinary offence. Provision is also made for dealing with conduct matters which have not been the subject of a complaint but, nevertheless, indicate that a criminal offence may have been committed or that there would be justification in bringing disciplinary proceedings.

[16:15]

It is important to be clear that while a police officer cannot make a complaint as defined in the Regulations, against the Chief or Deputy Chief, the Regulations do allow for concerns raised by a police officer to be investigated. While the arrangements in these Regulations for the suspension or removal of the Chief and Deputy Chief are specific to those officers only, the procedures with regard to complaints and conduct matters would make the Chief and Deputy Chief subject to the same discipline code as all other States of Jersey police officers. Members should also note, as highlighted in the report, that the 1999 Police Complaints and Discipline Law is currently being reviewed and it is expected that the discipline code will be updated to align with best practice elsewhere in the British Isles. These draft Regulations have been subject to broad consultation with the Jersey Police Authority, the Jersey Police Complaints Authority, the States of Jersey Police Association, Her Majesty’s Inspectorate of Constabulary, and with the States of Jersey Human Resources Department. I am, as ever, grateful to the Scrutiny Panel for their involvement during 2016 when these draft Regulations were being prepared for lodging with the Assembly. I hope that Members will welcome these draft Regulations as they set out a clear procedure where currently none exists. They represent an important and essential development in our policing legislation and I commend them to Members and move the principles of the draft Regulations.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Will those in favour of adopting the principles kindly show ...

The Connétable of St. Lawrence:

Sir, may we have the appel please?

The Deputy Bailiff:

The appel is called for. I invite Members not in the room to return to their seats. I ask the Greffier to open the voting.

POUR: 31		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. John				
Connétable of Trinity				

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

The Deputy Bailiff:

This is a matter that falls under the agency of the Education and Home Affairs Scrutiny Panel. Deputy Maçon, does your panel wish to call it in?

Deputy J.M. Maçon (Chairman, Education and Home Affairs Scrutiny Panel):

No, thank you.

The Deputy Bailiff:

How do you wish to deal with the Regulations in Second Reading, Connétable?

9.2 The Connétable of St. Lawrence:

I am happy to take them *en bloc*, or if Members prefer I am of course able to break them into a logical breakdown.

The Deputy Bailiff:

Well, it is entirely a matter for you.

The Connétable of St. Lawrence:

May I suggest *en bloc* then, please.

The Deputy Bailiff:

Very well. Do you wish to speak to them before proposing them *en bloc*?

The Connétable of St. Lawrence:

Only again to commend them because they are putting in place a structure which has been noticeably lacking and which is obviously needed.

The Deputy Bailiff:

Are Regulations 1 to 38 inclusive seconded? **[Seconded]** Does any Member wish to speak on the Regulations? Deputy Higgins.

9.2.1 Deputy M.R. Higgins:

Obviously reading through the proposition it refers to the role of the Police Complaints Authority. When the Minister mentions that the discipline code is going to be changed and everything else, does she have any plans for changing the powers of the Police Complaints Authority, which to be perfectly honest I see as very deficient in the sense that when it is referred to them there is supposed to be a member of the panel oversee the investigation but they do not oversee the investigation, they get a copy of the report at the end which they tend to endorse. So rather than having any real, effective oversight of the investigation it is not doing so and I think that is a major failing of the panel. Equally, recently I have had a case where the panel have gone back on their own words in what they were doing and have resulted in an injustice, which I hope will come before the States Complaints Board. Because the panel has definitely ... I was going to use the term "misacted" but it is not a correct term - they have not acted in the best way and have not reached it in a *bona fide* way. So I have concerns about the operation of the Police Complaints Authority and its investigation role, and I would ask if the Minister is planning to look at the powers of the Police Complaints Authority.

The Deputy Bailiff:

Does any other Member wish to speak on the Regulations in Second Reading? Then I call on the Connétable to reply.

9.2.2 The Connétable of St. Lawrence:

I thank the Deputy for his comments. Of course the Police Complaints Authority are an independent panel approved by this Assembly. However, I recognise that Deputy Higgins has raised concerns previously about some of the investigations undertaken by the authority and I say to him again that he is always welcome to come and speak to the Minister and myself with his concerns. I would not rule out that a review of the conditions that are imposed upon the Authority, however, the work reviewing the discipline code of 1999 has begun and I will make representations to the officers who are undertaking it in the first stages. I hope that satisfies the Deputy.

The Deputy Bailiff:

All those in favour of adopting Regulations 1 through to 38 inclusive, kindly show. Those against? The Regulations are adopted. Do you wish to deal with the matter in Third Reading?

9.3 The Connétable of St. Lawrence:

Yes, please, if I may just say a few words before the Assembly I hope adopts the draft Regulations in Third Reading. I would just like to thank Members for their support and, as we heard the Dean suggest to the Chief Minister earlier, that he offer some thanks to those who had prepared the law that the Chief Minister put before the Assembly earlier. I also wish to make some thanks to those who have helped or prepared these Regulations. Firstly to the law draftsman for the time and effort that she has put into this piece of legislation. I extend my appreciation also to the relevant individuals in the Law Officers' Department, to the members of the Jersey Police Authority, 2 of whom of course sit in this Assembly, and to the members of the Police Complaints Authority, the States of Jersey Police Association, and the States of Jersey Human Resources Department. My gratitude and that of my department goes to the Scrutiny Panel, as mentioned earlier, for their involvement in the early stages of the development of these Regulations and, as Members know, we work very closely and the Scrutiny Panel are always aware of the work which that is being undertaken by the department. We passed the States of Jersey Police Force Law in 2012, which was nearly 5 years ago, and some might say that we have taken our time to bring these Regulations to the Assembly and I probably cannot disagree with that. Nevertheless, I am pleased that we have

now fulfilled the provision made under the primary law those many years ago. I move the Regulations in Third Reading and ask for the appel please.

The Deputy Bailiff:

Are the Regulations seconded in Third Reading? [**Seconded**] Does any Member wish to speak in Third Reading?

7.9.1 The Dean of Jersey:

About an hour ago I received an email from a friend of mine, a member of the congregation, who said: “I hope you are enjoying every word of the Chief Minister’s speech” because he said I helped to write the law. It did just strike me that we sit here, sitting after sitting, enjoying the fruit of people who work for the States producing this, which will give people great comfort. I want to ask if the Chief Minister will join me in thanking them for all their work from which this Island benefits so much. [**Approbation**]

9.3.1 The Deputy of St. John:

I would just like to say thanks to the Home Affairs Department and the Minister for Home Affairs and the Assistant Minister, as a member of the Education and Home Affairs Scrutiny Panel, for the engagement and the work with us with regards to keeping us informed, specifically of changes in legislation. This is a new structure that is going to be implemented and all we ask as a Scrutiny Panel is that it is kept a close eye on and that it is assessed to ensure that it keeps up to date and moves forward going into the future. So thank you to the department and we look forward to it working in an efficient and effective manner for the public.

The Deputy Bailiff:

Does any other Member wish to speak in Third Reading? I call upon the Connétable to reply.

9.3.2 The Connétable of St. Lawrence:

I thank the Acting Chair for her comments of course, and of course it will be her panel who will keep that close eye on these Regulations as we move forward. I think it is now time to ask for the appel.

The Deputy Bailiff:

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

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

10. Draft States of Jersey Police Force (Police Negotiating Board) (Jersey) Regulations 201-(P.140/2016)

The Deputy Bailiff:

The next item of Public Business is the Draft States of Jersey Police Force (Police Negotiating Board) Regulations - P.140 - lodged by the Minister for Home Affairs. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft States of Jersey Police Force (Police Negotiating Board) (Jersey) Regulations 201-. The States, in pursuance of Article 11 of the States of Jersey Police Force Law 2012, have made the following Regulations.

10.1 The Connétable of St. Lawrence (Assistant Minister for Home Affairs - rapporteur):

These draft Regulations make updated provision with respect to the Police Negotiating Board, which was originally established under Article 11 of the Police Force (Jersey) Law 1974. The board was retained through transitional provisions in the schedule to the States of Jersey Police Force Law of 2012. These draft Regulations replace that transitional provision. Article 11 of the 2012 Law provides that the States may make Regulations prescribing the constitution of a body to negotiate with, and make non-binding recommendations to, the States Employment Board regarding the terms and conditions of police officers and to prescribe the way in which the body must carry out its functions. These draft Regulations designate the board first established in the 1974 law to carry out the functions described in Article 11 of the 2012 Law. The draft Regulations include a schedule setting out the constitution of the board and the manner in which it carries out its functions. These are similar to the provisions in the equivalent schedule to the 1974 Law, schedule 2. Again, these draft Regulations have been subject to consultation with the Jersey Police Authority, the States of Jersey Police Association, and the States of Jersey Human Resources Department. I think it is fairly clear that these draft Regulations do not represent any significant change and are just a means of ensuring that updated provision is made for the Police Negotiating Board through Regulations made under the 2012 Law. I am happy to move the principles of the draft Regulations.

The Deputy Greffier of the States (in the Chair):

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? Very well, if no Member wishes to speak on the principles I ...

The Connétable of St. Lawrence:

I call for the appel please.

The Deputy Greffier of the States (in the Chair):

The appel has been called. Members are invited to return to their seats, and I ask the Greffier to open the voting.

POUR: 34		CONTRE: 0		ABSTAIN: 0
Senator A.J.H. Maclean				
Senator I.J. Gorst				
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. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
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 J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Greffier of the States (in the Chair):

This falls to the Education and Home Affairs Scrutiny Panel. Do you wish to scrutinise this matter, Chairman?

Deputy J.M. Maçon (Chairman, Education and Home Affairs Scrutiny Panel):

Thank you, no.

The Deputy Greffier of the States (in the Chair):

How do you wish to propose the Regulations, Minister?

The Connétable of St. Lawrence:

En bloc, please.

The Deputy Bailiff:

You are proposing the Regulations *en bloc*, Connétable?

The Connétable of St. Lawrence:

Yes, thank you.

The Deputy Bailiff:

Do you wish to speak to them?

The Connétable of St. Lawrence:

I do not believe that we have asked yet for a seconder, sir.

[16:30]

The Deputy Bailiff:

Thank you very much, Connétable. Are the Regulations seconded? **[Seconded]** Does any Member wish to speak on the Regulations? Those in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted. Do you wish to deal with the matter in Third Reading, Connétable?

The Connétable of St. Lawrence:

Yes, please.

The Deputy Bailiff:

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

11. Senators and Deputies: candidates' qualifications (P.1/2017)

The Deputy Bailiff:

The next item is Senators and Deputies: candidates' qualifications - P.1/2017 - lodged by Deputy Tadier. I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion - (a) that the requirement that Senators and Deputies must be British citizens should be removed; (b) that candidates for election as Senators or Deputies must have been ordinarily resident in Jersey for at least 5 years in total and for a period of 6 months up to and including the day of the election; and (c) to request the Privileges and Procedures Committee to bring forward the necessary legislative changes so that the new arrangements take effect in time for the elections due in 2018.

11.1 Deputy M. Tadier:

Just to start off by putting this proposition in context. The first thing to say is that progress happens at different speeds in different parts of the world, but I think that ultimately it is governed by some

kind of historical imperative, if not an invisible hand that seems to direct democracy. I will ask some rhetorical questions but, as I have said, progress does happen at different stages. I do not know if anyone knows what the first country in the world was to allow the franchise for women, some will no doubt know but it was New Zealand in 1893. More recently, Saudi Arabia only in 2011 has allowed the franchise for women, and in 2015 the world saw and Saudi Arabia saw its first female councillors being elected in some regional elections, unprecedented but nonetheless progress which happens at different rates in different parts of the world. Some people may have heard of Nancy Astor or Constance Markievicz, who were the first female M.P.s (Member of Parliament) elected in the U.K. The latter did not take up her seat, she was a member of Sinn Féin, but the first person to have been elected, then Nancy Astor the first woman to take her seat in the House of Commons in 1919. Surprisingly, I was never taught at school and did not find out until today that there is a significant name, Ivy May Forster, and I do not know if any Members of this Assembly have heard of a Mrs. Ivy May Forster but she was the first Deputy or the first female States Member ever to be elected after the Second World War. It is certainly not something I was taught and it goes to show that we never stop learning. We are of course not here to talk about women's votes or women's representation in Parliament, but I think it shows that there is a wider context for this because the norms change all the time. There would have been people no doubt in New Zealand or in Jersey in 1919 when we were ahead of the French neighbours who only introduced suffrage for women after the Second World War who might have found that controversial. There was a time when it was accepted that women could not vote because they were not full human beings, they did not have the same mental capacity as men, they were just part of the ownership of their husbands; ideas which I hope that we universally find objectionable today, if not slightly risible, perhaps disturbing. But there was a time when that was the case. Similarly, I think there are norms which change and this is one of the ideas that I am seeking to have a change today, namely the chief one is an in principle decision of this Assembly that people who do not happen to have British citizenship should not be excluded from standing for this esteemed, or let us just say, for this Assembly, for the want of not wanting to mislead or be called up by anybody. But this Assembly should really have the option and the public should have the option of voting for people who do not necessarily have a British nationality. The second one is more a contextualisation of the fact that we live in what seems to be an increasingly polarised world. I am not just talking about economically but increasingly we see a rise of fascism - I think it is fair to say that, I do not want to trivialise the word "fascism" - we are seeing a type of fascism, you could call it, an extremism where there are some very complex problems that the world is facing which are economic, which may be cultural, which may be to do with globalisation, and the tectonic plates have changed resulting in some very interesting but also disturbing results throughout the planet. We do see even in Jersey, whether it is on social media primarily, but also people we talk to sometimes, coming out with increasingly disturbing points of view that I suspect they would not have been coming out with previously. Although, again, we are not here to talk about freedom of speech, it is not the fact that people should not have freedom of speech; it is what people seem to believe. We hear some very racist views coming out overtly, which I think we should all take the opportunity to distance ourselves from because I do not think that represents most of the right minded people who live in Jersey, irrespective of what their backgrounds are. So that does provide some of the context for the debate. Now, to turn specifically to the wording of what I am seeking to debate and propose today. Just to clarify, I did consider, in consultation with the Greffier, whether it would have been possible just to present this as an amendment to the law, to have the law there with the amendment ready to go. I thought it was important that we do treat this as an in principle debate, because I think there are perhaps 2 separate strands to it. The first of which though I think is that it must be right in this day and age that the requirement for Senators and Deputies only to be British citizens should be removed. Now, what this does not do, this does not stop or prevent British citizens from being able to access this Assembly. It does not mean that

Jersey people who have been born here, who by extension are British citizens, will be affected adversely in any way whatsoever. It simply means that those residents who are currently living in Jersey, who have made Jersey their home, who have chosen to move here and who might want to present themselves for election if they want to stand for an election - and first and foremost if they can pass the electoral test, which is a very high bar anyway - so if they present themselves and the public say: "Yes, we would like you to serve in this Assembly" then there should be no reason that those individuals should be prevented from doing so. I think there is a whole series of precedent why we might want to do this. Perhaps to pre-empt some of the arguments that will come back, we will hear arguments saying that: "Well, other countries have nationality requirements, it is not unusual, it is not untoward for any national parliament to restrict membership of their Assemblies to those who have a particular citizenship or nationality of that country." That is absolutely true, and there is nothing illegal under the Human Rights Law that says that Jersey cannot maintain the *status quo*. But, similarly, there is nothing to stop us changing it. There are many other jurisdictions - and it is not easy to always do the research - that have a variety of different approaches, many of which take on board a length of residency requirement rather than necessarily purely a nationality one. It is also interesting to note that of course in this day and age of internationalism, which perhaps we are seeing some rollback certainly in the European context of that idea. In the U.K. the current practice is that you have to either be a British citizen, a Commonwealth citizen, or a European citizen to be able to stand for election. But in our sister island, as I understand, in Guernsey - not to hold them up as any kind of paragon of democracy, although they seem to have fared better on electoral reform and done it more quickly than we have - there does not seem to be any restriction for who can stand for office in terms of nationality over there. There have been recent changes. Some people might remember, because it is in quite recent history and I remember growing up starting to get interested in politics in Jersey that before 1994 it was not even possible for non-British Jersey residents to have the vote. So you had a scenario where somebody who had moved from the U.K., made Jersey their home, after a couple of years could take part in local elections, absolutely, I have got no problem with that. But you would have perhaps his neighbour who had been a longstanding Jersey citizen, a farmer, somebody who had perhaps married a Jersey girl and lived over here, raised a family, could not vote for how his taxes and how his social security money might end up being spent, and later on his G.S.T. (Goods and Services Tax) -but of course that was not here at the time. That was considered completely wrong, it was completely disparate, and so the States in their wisdom at that time said: "Of course, we will extend the franchise to non-British people so that they can vote and be put on a fair footing" and there was a 2-year residency requirement for that, which is in the Election Law. I have started off my proposition with a quote from the Legislation Committee of 2000. They said in a report: "There is no reason to think that a determination of fact can be reached more objectively or intelligently by a person who holds a British passport than it can by a person who does not." I think it is a truism; I think most people would tend to agree with that. That was in the context of jury service, so there was a *Projet de Loi* which came forward, an amendment to do with the criminal law which was brought by the Legislation Committee in 2000, and that gave the ability for non-British nationals to serve on a Jersey jury. Of course in that context it is not necessarily that jury service was seen so much as a right rather than it should be something that should be extended to non-Brits as part of the civic responsibility. So if you are a Jersey resident then you might be called up to perform jury service and it does not depend on your British status, which was previously the case. Although we can make different arguments for saying that is not the same thing, I think the fundamental point that the Legislation Committee are drawing our attention to is the fact that you are not a British citizen does not mean that you are mentally less capable, it does not mean that your ideas are any less good, it does not mean that you cannot have a valuable contribution to Jersey, including as a States Member. There were of course the changes that happened in 2004, which are listed in the report, to do with the States of Jersey Police. Now, prior

to 2004 there was an ambiguity in the law as to whether non-British nationals could serve in the States of Jersey Police. In reality it was the practice that recruitment only took place among British nationals, but on 27th January 2004 the Home Affairs Committee lodged an amendment and they said: "The principal purpose of the draft law is to remove any ambiguity concerning the ability of a person who is not a British national to take the oath for office as a member of the States of Jersey Police Force." It places beyond doubt that the oath may be taken by persons who are not British nationals, while preserving the association with the Crown. So a similar setup to what we might envisage as States Members, that you get sworn in and you affirm or take the oath and you become, in this case, a States Member but in that case it was the States of Jersey Police. Absolutely no practical problem with that. But of course there are both philosophical reasons why one might want to do that as well as practical reasons. I am sure the Minister for Home Affairs, or indeed the Police Chief might tell you that on a practical level it is very helpful to have members of the police force who may not be British nationals, they might be dual nationals, who speak Portuguese, speak Polish as their first language, their native tongue, and it is good on both a practical level but also the fact that the police force should reflect - to a greater or lesser extent, hopefully to a greater extent - the public which it is trying to serve and protect. Exactly the same laudable principles which we should be espousing and aspiring to as a States Assembly. We should - and of course we do, to a limited extent - come from different backgrounds. We are, to a certain extent, representative of society, but we have a 100 per cent quota that requires all Members to be British citizens.

[16:45]

I am suggesting that we should remove that. Of course, it does not stop British citizens applying. I strongly would imagine that British citizens would still have a strong advantage when it comes to seeking election and by changing this *status quo* does not mean, I do not think, that we would automatically be inundated with candidates who did not have a British nationality requirement because, of course, there are other criteria that are not legal requirements but which are practical requirements for anybody who might want to stand for office. What it seeks to do is simply to remove that and, hopefully, somewhere down the line we would see a more representative States Assembly. I found out more recently that the States of Jersey Police is mirrored by the Honorary Police and perhaps there are others in here who might have seen that come in on their watch because I know that in the context of the Honorary Police Law it is also the case that non-British citizens may stand and become elected, a Centenier, for example, or serve as a Constable's officer as a Vingtenier. I think the arguments for that would remain exactly the same as they do for the States of Jersey Police. I would like to hear from some of the Constables who might have worked alongside Honorary Police who are in that former camp, who are not necessarily British nationals or who are foreign nationals of a different community who have made Jersey their home and how they provide a valuable service and a valuable contribution to their own Honorary Police forces. There are a couple of projects and pieces of work, I should say, that have led to this as well. It is to be noted that there was a review of the public elections, which came under P.P.C. in 2013. They did look at the issue of British nationality and that was part of a wider review into public elections legislation and procedures. On the subject of the nationality test, the sub-committee has the following to say: "In most other jurisdictions there is a nationality requirement for candidates for national parliaments, for example, in the United Kingdom and in France." Of course, I have clarified that the United Kingdom is wider in that it catches European nationals and Commonwealths; as somebody from India, Australia, *et cetera*, as well as Europe could stand for election in the United Kingdom for the House of Commons. However, as voters of all nationalities are not allowed to vote in Jersey, subject to a resident's requirement, the sub-committee decided to test the Assembly's view in relation to elected Members. I think this never came to be debated for various reasons but the point is that their argument showed that there was merit in bringing forward their recommendation 33, which said: "The sub-committee decided to recommend the States of

Jersey Law be amended to provide that there should be no citizenship requirement to stand as a candidate for Senator or Deputy for the States and that the resident's requirement should mirror that of Article 5(1) in the Public Election Law.” More recently there was a C.P.A. (Commonwealth Parliamentary Association) benchmarking survey that I took part in and which was chaired capably by Deputy Brée and at the time it had Senator Zoe Cameron, who obviously is no longer with us, and Deputy Maçon. We looked at this more in the round and it was difficult, of course. The benchmarks were not specific and could not always be answered with a simple yes or no. But one of the ideas was whether or not there was a restriction on candidate eligibility that shall not be based on religion, gender, ethnicity, race or disability. Clearly, on the surface we apply with that, we get on with that. We do not restrict anyone on the basis of religion, gender, ethnicity, race or disability but part of the consequence we considered of having an exclusive British clause in that, which meant that anyone who was not a British citizen could not become a States Member, meant that in reality you were excluding people who came from a different background. In the Jersey context the very long-standing indigenous were Portuguese and Polish communities, as well as others that have come to Jersey or pre-existing French, Italian, European citizens who have made Jersey their home. I think this is some of the context in the historical background. It is not something that is simply being plucked out of the air. It is something that has been given consideration. My concern is that I can understand that people think there should be some kind of citizenship or at least a residency test. As I have said in the past, it is not unusual for certain countries to require a residency period for their elections and even in presidential elections, which vary quite widely. The practices are so diverse and the norms are so diverse in different countries it is difficult to find the information in an easily presentable way. But I certainly think that in the Jersey context we do have a type of Jersey citizenship, if you like. We have a requirement that says that you need to be 5 years in Jersey before you can access jobs, by and large, and without that you need to get special permission, you need to have a licence. We also have housing regulations that restricts the housing market for a period of 10 years. We are not going to get into that debate. We might have different opinions of whether those figures are right, whether they are the right lengths or whether they work effectively. But the point is we do have a period which says once you have been here for 5 years you can work in Jersey. Paradoxically, you have to stay here for 5 years without working before you can have the right to work. Good luck on paying your rent for those 5 years but people clearly do have certain jobs they can work in. Somebody coming from the U.K., let us call it a Scottish person but it could easily be an English, Welsh or Irish, could come over to Jersey; within 2 years they can stand for the States, even though they cannot work for the States. We could not employ that individual because they do not have their 5 years' residency, yet they could become a member of the S.E.B. and they could employ people who work for the States, even though they themselves do not have 5 years' residency. That is a little bit bizarre, you could argue. If it is the argument that people are saying: “I think it is right that people should have a nationality of the country in which they live. They should have the citizenship of the country in which they live.” I am saying, okay, I do not necessarily agree that that should be the pre-eminent test but if that is something you feel is very important, then we need to make sure that we have a Jersey citizenship requirement, a residential citizenship requirement for anybody who moves to Jersey, irrespective of whether they are British or Portuguese or from a different part of the world. Yet, they should not just be able to stand for election willy-nilly. They should be a Jersey resident and the way we would do that is by supporting, in principle, part (b) which says that you should have to be here 5 years to be a Jersey resident. The point is Jersey's States Assembly is the Assembly for Jersey. Clearly, it is not the Assembly for the U.K., it is not the Assembly for Great Britain, it is the Assembly for Jersey and, therefore, any nationality requirement or citizenship should be tied to Jersey residency, rather than British nationality *per se*, which does not correlate. In summing up, I would like to ask ourselves the question: do we have any non-British friends? Hopefully, we all do. Some of my best friends might not be lawyers but some of my best friends are non-British people,

including some very good friends at the Alliance Francaise, who I think do a great job for both Jersey and for France in representing France over here and promoting their culture. Is it conceivable that there is somebody out there in the Jersey population who does not have British nationality but that would make a great politician? Is it possible that there is somebody out there who is interested in politics and has got some great ideas, who has made Jersey their home but just does not have British nationality, who does not have the £1,236 lying around in their bank that it takes to do the British nationality test, as well as the other money that you need to do that, to buy the books, to sit the exams, to pay for the ceremony, that goes with all of that? Is it possible that there is somebody out there who just because they are not British could still make a good politician, irrespective of what colour or politics that might be? Is it likely, in a population of over 100,000 and growing, that there are people out there who could make good politicians? I would say the answer to all those 3 questions is yes. I think it is both possible, likely and conceivable that there are some great people out there who are interested in politics, who do not have a lot of money, who would want to put themselves forward for election. The argument will come back if they are so keen to be a States Member and represent Jersey then they should at least have to become a British national. They should at least show their commitment to Jersey. They should at least save enough money to be able to pay for that test and to go through it. It seems to me that what we are saying is if you are a rich foreign national and you have enough money in the bank to sit this test and you can pass it and, by the way, I certainly do not think I could pass the British nationality test if I were to sit it and certainly not without a lot of revision. I do not know if any of us being given a copy of it could pass that test, ironically, even though we are not just British citizens, we are States Members here. I do not think we could pass that test offhand. I would be very surprised. We are saying that if you are a poor foreigner working in Jersey and you might have been here all your life, chances are that you are not going to have that money to ever be put into a position. We might say, well, there are charities out there; there is Caritas, there are groups that you might be able to go to to get this sorted. But I do not think that help is being offered by the Minister. I think the arguments have to be philosophical ones. But in the 21st century, in the new world, in the cosmopolitan Jersey that we live in... and Jersey has always been a melting pot, it has always been somewhere that has welcomed people from around the world and to make people make their homes in Jersey. We know that half of the population is not born in Jersey, half of the population, therefore, will have been and it is that kind of culture, as well as economy, that we live in. I think this has to be the correct proposition that we should be adopting today. Just on a practical side, I have decided that I would take (a) and (b) separately. My preference is that, of course, (a) should be the one we focus on, that is what I would like. I would like (a) to go through. I would be happy if (a) and (b) went through together but I would not be particularly pleased if (b) went through on its own and (a) was rejected. Therefore, if (a) does happen to be rejected, which I hope obviously is not the case, that I will seek to withdraw part (b) but obviously be in the hands of the Assembly. I suppose, just to sum up, this seeks to be a middle road because there are out there some people who I think do not represent society. I think they tend to have objectionable views. There are racists out there. There are also jingoists and there are people who perhaps live in a bygone age where nationality is not quite... do not realise that it is not as important as it might once have been in this modern or globalised society of which Jersey is a microcosm. I maintain the proposition and I think we can carry on with that part.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] The Connétable of St. John.

11.1.1 The Connétable of St. John:

I have heard some propositions in my day, a very short day it is, but this one does not take the cake, it takes the entire sweet trolley. If you wish to be on the Committee of the St. Helier Yacht Club

you have to be a member of the club. If you want to be on the Council of the Royal Jersey Agricultural and Horticultural Society you have to be a member of the society. In the same way, if you wish to be in this Assembly then you need to show commitment and be part of the society and be a British citizen. This morning I attended the prayer breakfast and I was very interested to hear the Bailiff say that one should take, if I am allowed to quote this: “You should take things to the extreme to test the feeling.” If one took that to the extreme we could have 49 Russians or 49 North Koreans or 49 anybody sitting in this Assembly. That is theoretically possible. It may not happen, I hope it would not. But that is taking things to the extreme to stress test this argument.

[17:00]

I would urge Members to remember the common sense that our forefathers had in drawing up this regulation. If you want to be part of Jersey’s society, then you should be a British citizen and put your citizenship where your vote is.

11.1.2 Senator P.M. Bailhache:

I am very happy to follow the Constable of St. John, although I do not think that his rendition of what the Bailiff said at the prayer breakfast this morning was exactly what the Bailiff said, but we can leave that, I think. I do agree with the substance of what the Constable has said, although, I must say, that much of the speech of Deputy Tadier in terms of speaking of a unified community, welcoming the different national communities that exist in Jersey, is, of course, something to which I and, I am sure, most, if not all, Members of the Assembly will subscribe. But that is not the point. The point is that we are a national parliament. We are not a municipal authority or a local council. We are a national parliament. I cannot think of any other national parliament in the world in which Members who are non-nationals can seek election. The Deputy referred to Guernsey as being the exception to this norm and he may be right but I would like him to explain why because I looked at the Guernsey Legal Resources website, which is the equivalent to the JLIB website in Guernsey and looked at the Reform Law of 1948. Article 8 of that says: “Any person of full age shall be eligible to hold the office of Conseiller or of People’s Deputy provided that (a) he be a British subject.” Perhaps that has been changed in Guernsey but if that is the case I am not aware of it. It is true that we allow non-nationals to vote and, in that respect, we go very much further than almost any other country in the world. Many countries do allow non-citizens to vote in regional or local electorates but none, to my knowledge, allow non-nationals to vote in national elections. If the rest of the world does not allow non-nationals to vote in elections to their parliament, we need to ask why that is the position. It seems to me that the primary reason is that it is a question of loyalty, to whom do you owe your loyalty? For most people you are loyal to your own country and not to any other country. We are all fortunate in this Assembly to have lived through an extensive period of peace and not to have experienced that which previous generations experienced of war with other countries in Europe. Members might perhaps like to ask themselves: what would have been the position had the proposition of Deputy Tadier resulted in legislation allowing non-nationals to be Members of the States? Some German nationals had been Members of the Assembly in 1939 when defence regulations were in contemplation, which would have imposed some inhibition, even internment on enemy aliens. It does seem a bizarre prospect that an enemy alien could be a Member of this Assembly and have the right to vote on whether or not inhibitions could be imposed upon nationals of that country. The simple answer to Deputy Tadier is that a non-national can become naturalised as a British subject. If he or she is naturalised as a British subject he has to take an oath of loyalty to the Crown and he or she is perfectly logically eligible, in my view, then to serve as a Senator, Deputy or Connétable in this Assembly.

11.1.3 The Connétable of St. Martin:

The debate is warming up, I think, nicely. No one has approached me or complained to me that they were unable to stand as a candidate for election but I thank the Deputy for bringing the matter to this Assembly for debate. He has alerted me to something that I think I should have been more aware of and probably all Members were aware of it. It is just me. It is something we do not give thought about. A British citizen comes over to the Island, spends 2 years settling in, finds a job, finds a home to live in, makes new friendships. It is unlikely there is going to be an election during that time anyway. It is just unfortunate if there was, as we recently had. But then they can stand for election. I have friends on the Island from many countries, many nationalities, some are French, some are Portuguese, others are Italian, and they have been on the Island for very many years, many decades. They have worked hard and paid their taxes to this wonderful Island, to our wonderful Island, played an important part in the community. They can vote in our elections but they cannot stand for election. On an Island that is so diverse and a cosmopolitan Island, if you like, cosmopolitan society, we say: "Thank you very much for coming. You are now entitled to vote, you have been here 2 years but you cannot stand yourself." It just does not stack-up. The argument today, the debate we have today, therefore, is to convince me why this restriction should remain in place. Senator Bailhache has just explained. The U.K. may have declined the change themselves but as I am often reminded of, we are not part of the U.K. The recent media article about the existing restrictions are scrapped, it could open the door for thousands of Islanders, minority groups, to stand for election. So what? Good luck to any candidate. They will need it. The door was open already to thousands of non-Islanders, but who happen to be British with their 2-year residency. Do we favour them anymore than someone who has dedicated his or her life, committed themselves working hard on the Island, but who happens to be Portuguese or Italian? Surely not. Of course not. We have not had thousands of British candidates who have been over here 2 years standing for the position, and non-British, I should say. I beg your pardon. Non-British candidates standing for election for Connétable. If they do, good luck to them too. Probably because it takes 30 years to get used to the intricacies of a Parish life. Goodness me, I am still learning them. I had to wait a little while after I retired from the police force because I still came from the police force. Sometimes it takes you 30 years to stick a flower on a Battle of Flowers float in a Parish. **[Laughter]** But of course we have to live in our Parish, unlike the Senators and Deputies of course. Some of my great grandparents would have been unable to stand for election in Jersey because they were French. But their children and their grandchildren and their great grandson - and note the word "great", myself - we are able to stand for election. I really need convincing today to vote against this proposition, to allow the current restrictions to remain in place. I am not sure the 5-year is the right time, 10 years to buy a house, I do not know. However, I understand the comments made by the Deputy about income support and the right to work at 5 years. I can see the Deputy's point. He has picked a sensible figure and explained in his opening speech. I suppose the argument against the proposition is that non-British residents - I know Senator Bailhache spoke about it too - could seek the dual nationality, seek to become ... the Constable of St. John I think did too. Seek to become a British citizen and I believe you are able to do that after 5 years or 3 years if you are married to a British citizen. I stand to be corrected on that. Again, I am not sure of the intricacies of the ... I tried looking it up last night on the States website on how you do it and what test you might have to pass to get it. Maybe that is where a comments paper may have assisted. One issue that the Deputy may wish to address in his summing up, I do not think he has done so already, but my understanding of this proposition is that the Deputy is seeking to delete Article 7(1)(b) of the States of Jersey Law and amend 7(1)(i) to allow all to stand. Surely as a consequence, I am not sure if this is right, this will affect the British citizens who have not long been resident. I may have misunderstood it. But if that was a result of approving the proposition today then will it not disqualify some British citizens who have already resided here for one, 2 or 3 years who may have been thinking for standing for election in 2018? I think they then become barred from standing if this was approved. The proposition is also brought

by a private Member rather than P.P.C. so I assume there is little appetite for P.P.C. or some of the Committee for this proposition. That is no criticism of P.P.C. We have no comments from them to offer reasons why they have not brought it themselves or why we should not support it or support it. But I am sure some Members might contribute during the debate. I know they have a huge workload, and it is not because of a lack of urgency, because I believe it is an important issue. I am sure there are issues too that the Deputy will have thought of. Would candidates have to speak English? Would we need translators and headsets in this Assembly? Obviously not if they are dual nationality of British citizenship because they need that standard of English. But as it stands today, we advise that there is no financial or manpower implications to the proposition. I look forward to the remainder of the debate and the Deputy summing up. But I am very minded to support this proposition today.

11.1.4 Deputy M.J. Norton of St. Brelade:

Firstly, thank you to Deputy Tadier for bringing what is a very interesting debate and proposition for this Assembly. He is of course right. Foreign nationals in Jersey do play a very active role in our lives and every aspect of it. They can vote and do ... after 2 years. Jury service, police service, many other services, they pay tax, contribute to social security. All the things you might expect and, yes, the British test, which I have had one or 2 dummy runs on recently, I can tell you is extremely difficult. Of the 3 times I have taken the dummy test I have failed twice. Maybe it is just a reflection on me. It is interesting to follow Senator Bailhache who of course strongly advocates, to be associated with this Assembly one should be holder of a British passport. If the same is true to support the States and its work and our official functions I will be amending the invites to be for one and not one plus one in future. I do not think that is the case. I do know people that would make good States Members. I do know people who speak better English than me, that can spell better than me, that have legal qualifications, that would make very good States Members. I do know nationals who have been here 10 years and have contributed to tax during all of that time and have voted in 2 elections. So as you might imagine, this for me is something that I am very much minded to support. We do live in a multicultural society even here in sheltered Jersey. I did look at the proposition in great detail, at (a), (b) and (c). What concerns me, and I am deeply disappointed by it, because I want to support this; and in answer to the Connétable of St. Martin's point regarding the 5-year residency (b) states: "Candidates for election as Senator or Deputy must have been ordinarily resident in Jersey for at least 5 years in total and for a period of 6 months up to and including the day of the election." So 5 years in total. Not 5 years consecutively. Five years in total. So you have done 10 summer seasons of 6 months and you have been here for the last 6 months.

[17:15]

You are still not entitled to work under your 5-year residency rule. The Control of Housing and Work Law says you have to be here for 5 years continually, without gaps. For anyone that has had anything to do with the housing and work control laws they will tell you that there are many people that will claim they have been here for 5 years only to find they have been here for 6 months at a time and gone back home and come back. They have not done 5 years joined-up. The proposition itself outlines very clearly that the reason that 5 years was chosen was we do not have our own nationality as such, and I quote: "We do have our own legally recognised measures of what constitutes and confers rights as a Jersey citizen under the Control of Housing and Work Regulations. The rule of thumb [it is more than the rule of thumb, it is the law] is that after 5 years [and that is 5 years of continual residency proven] you are entitled to work and claim benefits." Now if that is what is being voiced that is not what is being proposed regrettably - and I say that regrettably - in this proposition. Let me repeat. In the proposition: "Senators or Deputies must have been ordinarily resident in Jersey for at least 5 years in total [that is not the same] and for a

period of 6 months up to and including the day of the election.” So in your past, if you have been back and forth and you can add it up to 5 years and you have been here for 6 months, which is less than a U.K. passport holder - you have got to be here for 2 years - it does not work. I am deeply disappointed in that because that is the big flaw in this proposition. The actual thrust of this proposition I really do support. The problem is that part (a): “The requirement that Senators and Deputies must be British citizens should be removed”, well that stands on part (b). How long? Five years? Five years joined-up? Six months? Two years? It does not follow. It needs some work. The idea is fairly right as far as I am concerned, and we will all have our different views on that, but it just does not add up. Even if you look at what was the comments from the CPA benchmarking survey done by Members of this Assembly, and circulated to States Members on 25th May 2016, and I quote from them: “Candidates currently have to be British citizens. Members consider that 5 years’ residency should be sufficient.” Five years residency. Not 5 years added up from lots of bits of time that you were in Jersey. But 5 years continuous so that you do get exactly the same entitlement as you do from the Housing and Work Law, which is 5 consecutive years. Unfortunately, although I know some very capable candidates who do not hold a British passport, and I do not for one minute believe you should have to hold a British passport, let me make that perfectly clear. But for the reasons of the faults in the proposition I regrettably cannot support it.

Deputy M. Tadier:

May I ask a question of the Attorney General at this point?

The Bailiff:

What is the question?

Deputy M. Tadier:

The question is just to refer to the point that Deputy Norton has raised, and I think what we need is a definition of “ordinarily resident” because the Election Law or the 2005 Law talks about being 2 years ordinarily resident and what I am obviously seeking to do is change the 2 years to 5 years and so keeping the same wording. Would the Attorney General be able to indicate what he understands would be meant by being here for 5 years ordinarily resident?

The Bailiff:

Do you want to have time on that, Attorney?

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

I could answer first thing tomorrow.

The Bailiff:

We have 2 other speakers tonight, I was going to give you at least 5 minutes.

The Attorney General:

Or now. In that case, I will deal with the question now, if I may. I hope that all Members have in front of them or at least near hand what Article 7 of the current law says because it is worth comparing the proposition with the current provision in Article 7 of the States of Jersey Law because the relevant part of Article 7(1)(b) is: “A requirement that the Senator or Deputy is a British citizen who has been ordinarily resident in Jersey for a period of at least 2 years up to and including the day of the election; or ordinarily resident in Jersey for a period of 6 months up to and including the day of the election, as well as having been ordinarily resident in Jersey at any time for an additional period or additional periods that total at least 5 years.” It seemed to me, it is a matter for the Assembly, that (1)(b)(ii) that I have just read is very similar indeed to paragraph (b) of the proposition that: “Candidates for election of Senator and Deputies must have been ordinarily

resident in Jersey for at least 5 years in total and for a period of 6 months up to and including the day of the election.” The term “ordinarily resident” is not I think defined itself in this law, although doubtless it may be defined in other laws, which I can look at in a moment. To assist the Assembly, it seems to me that the proposition in sub-paragraph (b) is very similar to what is found in Article 7 in the way I have described.

Deputy M.J. Norton:

May I also ask a question of the Attorney General at this time? Could we confirm the Control of Housing and Work Law, which is alluded to in the proposition where it says: “The recognised measure of what constitutes and confers is a right of a Jersey citizen under the Control of Housing and Work regulations is that after 5 years you are entitled to work and claim benefits.” I feel fairly certain that you have to be here for 5 continuous years to qualify for that and I wonder if the Attorney General can confirm that. Thank you.

The Attorney General:

That is right in relation to that particular statute for the purpose of being entitled to work. It is someone who has lived in Jersey for 5 consecutive years immediately before the date the card is issued.

The Bailiff:

Attorney, perhaps you could help the Assembly with whether that means the same as “ordinarily resident”.

The Attorney General:

I will come back to that in a moment if I may, if I ascertain that there is a definition in a statute that is useful to draw to the attention of the Assembly.

Senator P.F. Routier:

Should I propose the adjournment?

Deputy J.A. Martin:

No, I wanted to speak.

The Bailiff:

Senator, you were standing a moment ago. Do you wish to speak in the debate?

Senator P.F. Routier:

No, I was just sensing the time and the advice needed from the Attorney General about the appropriateness of adjourning, but I understand that the Deputy on the other side has a 5-minute speech which ...

The Bailiff:

I have 3 Members wishing to speak so far. If you are not proposing the adjournment we will ... Deputy Martin.

11.1.5 Deputy J.A. Martin:

Sorry, I am champing at the bit because I want to try and be helpful because I, like Deputy Norton, read this earlier and I am the member of the sub-committee who made the recommendation. I asked Deputy Wickenden to pass me his little tablet so I could look up Article 5(1)(c) and what part (b) is missing is the “ordinarily resident for 2 years up to and including the election day.” So then if you read it, I wrote down I know people who are here from 1975 to 1980 or 1985 to 1990, great,

they were here 5 consecutive years - Deputy Norton's example was probably worse - but then you come back 6 months ago or 6 months prior to the election, live here and if you pass this today we are passing that. Any time in the last, whenever this goes back, of 5 years and it does not have to be consecutive, even if you were consecutive. Having said that, I was on the sub-committee and if they had brought it as mirroring the law I probably would have supported this. I feel in the same way as Deputy Norton. I take issue with the Constable of St. John. I normally agree with him but he said to be here and live here you have to be part of society and be a British citizen. Well, we have some really outstanding members of our society who are not British citizens and where would I be? I was 15 years in Jersey when I was allowed to stand for the seat because I am a British citizen. Somebody did approach me last year and I gave her all the information and never once thought ... I knew she was Irish, did not know she was Republic Irish and when she went down to get her nomination form she was very upset to find out she would not have time, but she would have had to change her nationality. She had been serving in honorary capacities and been here most of her adult life and probably longer than me. As I say, I keep this brief, but it is a shame ... and I was concerned as well when Deputy Tadier said he can take (a) on its own and pull (b). Well, I could never support just (a) on its own. The anomaly again is though the Constables have no residency tests. I think when Deputy Higgins tried to bring it in line the Constables themselves were against being brought into line with the residency test. So I am slightly confused by comments but I really want to support something that is workable and is fair. It might need to be that everybody has a certain amount of time. But at the moment I leave it there and I think the Attorney might need to look into a few more bits overnight.

The Attorney General:

I can answer now, if it answers the Assembly. The term has not been defined in statute but has been considered by the House of Lords in a case called *ex parte Shah* in 1983: "An ordinary residence is established if there is a regular habitual mode of life in a particular place for the time being whether of short or long duration, the continuity of which has persisted apart from temporary or occasional absences. A person can be ordinarily resident in more than one country at the same time. Residence is proven more by evidence of matters capable of objective proof, that is to say like where someone lives, rather than evidence as to a state of mind." When we go back to the wording of Article 7(b)(ii) it is plain that one can be ordinarily resident in Jersey if one does not spend all one's time living here. I hope that assists.

Deputy M. Tadier:

May I ask a supplementary? Presumably the idea of "ordinarily resident" is well accepted because it is something that we already use, and the Constables use. When registering people to vote they have to say: "I have been here in Jersey ordinarily resident for 2 years." They sign a form and declaration and that is either taken on trust or if there is any doubt in that it is up to the Processing Department, probably the Parish Halls, to verify that fact. So the idea of ordinarily resident is a well-established one.

The Bailiff:

That sounds more like a speech than a question.

Deputy M. Tadier:

I am asking a question, Sir, it has a question mark at the end. Would the case not simply be that changing this adopting part (b) would mean that we change the 2 years ordinarily resident to a 5-year higher bar of ordinarily resident?

The Attorney General:

In general terms, yes.

Senator I.J. Gorst:

Could the Attorney General confirm, which I think was what Deputy Norton was driving at, that the term “ordinarily resident” is different from being “continuously resident” for a set period of time, as required under the Housing and Work Law?

The Attorney General:

Yes, that is correct as well.

Senator P.F. Routier:

I propose the adjournment, Sir.

The Bailiff:

Before we get to that can I just announce to Members that the Draft Employment of States of Jersey Employees (Amendment No. 8) (Jersey) Regulations - P.11 - has been lodged by the States Employment Board? The adjournment is proposed. The States now stand adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:30]